

Summers County Board of Education

Scope: This policy is enacted to establish leaves available to employees of the county board.

Authority: W.Va. Code §18A-4-10; W.Va. Code §21-5D-1, et seq., W.Va. Code §18A-2-2a; W.Va. Code §18A-2-6a; W.Va. Code §18A-5-3; W.Va. Code §18A-5-3a; W.Va. Code §18A-5-4; W.Va. Code §18A-4-4a; W.Va. Code §6C-2-3; W.Va. Code §6-5-12; W.Va. Code §15-1F-1, W.Va. Code §15-1F-1a, W.Va. Code §18A-2-8; and Family and Medical Leave Act of 1993.

Adopted: August 27, 1981.

Amended: August 27, 1992; October 28, 1993; July 23, 2003; August 12, 2021; March 24, 2022.

Reviewed: February 11, 2004; May 9, 2012; March 27, 2013; November 13, 2013; August 8, 2017; August 8, 2019; June 10, 2021; March 10, 2022.

PERSONAL LEAVE POLICY

The Summers County School System expects employees to be present and on time. Employees who are punctual and come to work regularly set good examples for our students. This also creates an environment that is conducive to the “teaching and learning” process. All employees are expected to work the number of days listed on their contract or use approved leave as outlined in this policy. In an effort to clarify the relationship between the board and its employees, and particularly with respect to absences during contractual periods, the following policy is hereby adopted. This policy shall be modified in succeeding years, as the board deems necessary.

1. At the beginning of his/her employment term a *regular full time employee of the Summers County Board of Education shall be entitled annually to at least one and one-half days personal leave for each employment month in the employee’s employment term. This leave will accumulate indefinitely and shall be transferable within the State of West Virginia.

*REGULAR FULL TIME EMPLOYEE (for interpretation of personal leave law only) shall be defined as any person employed by the Summers County Board of Education who has a regular position or job throughout his/her employment term, without regard to hours or method of pay.

2. An employee shall qualify to use any or all personal leave accumulated if he/she is absent from duties due to personal sickness or personal accident. These days will be deemed as sick leave days (PERS). If the employee is absent for three consecutive days or longer, a doctor’s excuse shall be required. An employee shall also be required to provide a physician’s excuse anytime there is reasonable suspicion that there has been an abuse of sick leave, including a pattern of sick leave use or the use of sick leave on days in proximity to weekends or holidays.
3. Absences without pay may be necessary in emergency or unusual/extraordinary situations, and when all other eligible leave, including personal leave, has been exhausted. The Summers County Board of Education will permit, but does not encourage, such absences without pay subject to the following restrictions:

- The employee notifies the Superintendent, in writing, at least 24 hours in advance or as soon as practicable, if all other leave has been exhausted, and if the absence is to be without pay;
 - The employee must provide the reason, rationale and doctor's excuse for the request;
 - The approved leave may only be on a temporary basis until FMLA or a Board approved medical leave can be established;
 - The employee must receive approval prior to the absence;
 - The use of short-term, unpaid absences as addressed in this policy does not apply to situations involving Board-approved unpaid balances, such as Family and Medical Leave, which must be approved and processed in accordance with state and federal law, and Board policy;
 - The use of absences without pay does not apply for leave involving vacations or personal trips;
 - Any employee's abuse or misuse of absences without pay will be subject to disciplinary action.
4. An employee shall qualify to use accrued personal leave for absence caused by death in the immediate family. These days will be deemed as bereavement days (BER). The immediate family is defined as: any relative with whom the employee may be living or the father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandmother, grandfather, grandson, granddaughter, niece, nephew, aunt, uncle, foster parents, foster children and current spouse's relatives in same relationship.

The number of days allowed is restricted in each event by the Board of Education as follows:

Spouse, Son, Daughter, Parents	10 days
Brother, Sister	5 days
All Others	2 days

5. An employee shall qualify to use a maximum of three days (for each occurrence) for absences caused by illness in the immediate family. These days will be deemed as family days (FAM). If the illness is life threatening and involves the employee's spouse, parents, or child, the employee shall qualify to use any or all personal leave accumulated.
6. Of the personal leave days accrued each year by an employee, four days shall be personal leave without cause days (not to exceed the total amount of leave to which he/she is entitled) and these days will be referred to as Personal Leave Accrual days (PL). These days may be taken without regard to the cause for the absence, except that personal leave without cause may not be taken on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, provided, however, that notice of such leave day shall be given to the employee's principal or supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, such notice shall be given as soon as reasonably practicable. The use of such day may be denied if, at the time notice is given, either fifteen percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously notified the principal or immediate supervisor of their intention to use that day for such leave.

Such leave shall not be used in connection with a concerted work stoppage or strike. Any person requesting to use any or all of these four days shall do so in writing on the prescribed form which

should be attached to the yellow absence form and turned in to the finance office with the semi-monthly payroll.

Each employee shall be entitled to carry over up to four (4) unused personal leave without cause days each year; provided, that an employee may not accrue more than eight (8) personal leave without cause days in any one fiscal year. Unused personal leave without cause days which cannot be carried over due to the carryover limitation will be credited to the employee's total accumulated personal leave with cause days.

7. If an employee should use personal leave which he has not yet accumulated on a monthly basis and subsequently leave his/her employment, he/she shall be required to reimburse the board for the salary or wages paid to him/her for such unaccumulated leave.
8. Any employee on an unpaid leave of absence retains his/her accumulated personal leave, but while on the unpaid leave of absence does not accrue any additional days for personal leave, nor may the employee be paid for illness beginning and ending during said leave of absence.

Upon retirement, no employee will be paid for unused accumulated personal leave. Use of accumulated personal leave for other purposes shall be determined by the West Virginia Consolidated Public Retirement Board (www.wvretirement.com).

9. Use of leave due to pregnancy may be charged to personal leave under the same conditions applying to any illness.
10. The superintendent, as chief school administrator and secretary of the Summers County Board of Education, is authorized to attend all legal proceedings that he/she deems necessary to uphold the rights of the board of education. These shall include but are not limited to grievance hearings and hearings before the courts. In addition, the superintendent is authorized to permit other employees to attend the proceeding when that person(s) has knowledge of, or expertise in, the matter to be heard or discussed. All such requests being made by the superintendent will be made in writing and a copy of the request will be filed with the employee's appropriate payroll. In attending to these matters, the superintendent and accompanying personnel, will be deemed to be performing a job-related function and will attend these matters without loss of pay or work time.
11. All employees who are members of the national guard or any military reserve unit of the United States Armed services, shall be entitled to leave of absence from their respective offices or employment without loss of pay, on the days during which they shall be engaged in drills, parades or other duty, during business hours ordered by proper authority, or for field training or active service of the state for a maximum period of thirty days in any one calendar year. The term "without loss of pay" means that the officer or employee shall continue to receive his/her normal salary or compensation, notwithstanding the fact that such officer or employee may have received other compensation from federal or state sources during the same period. Benefits of this section shall not accrue to individuals ordered or called to active duty by the President.
12. The superintendent may provide release time for any professional serving as a mentor, on the staff development council, on curriculum teams, or professional support teams. In attending to these matters personnel shall be deemed to be performing job related functions, and shall attend these

meetings without loss of pay or work time. The superintendent may also provide release time for service personnel when authorized by state code or state board policy.

13. Any employee who is subpoenaed to appear as a witness, but not as a defendant, in any criminal proceeding in any court of law may make such appearance without loss of pay. The board shall pay to such employee the difference between the witness fee, exclusive of travel allowances payable for such an appearance by the court, and the amount of salary due the person for the time he/she is absent from employment by reason of answering such subpoena.
14. Any employee who is required to serve on any jury during the period of his/her contract with the board unless excused therefore by judge of the court may make such appearance without loss of pay. In the case of service on a jury the board shall pay the difference between that allowed for such jury service and the amount of salary due the person for such period of time.
15. Personal leave may not be taken for periods of less than one-half day at a time.
16. If schools have been closed, time lost by closing the school shall be counted as days of employment and as meeting part the requirement of the minimum term. During those days that the superintendent closes schools, principals and head custodians shall be responsible for checking their buildings. Also, the superintendent may provide appropriate alternate work schedules for professional, auxiliary, and service personnel affected by the closing of any school or schools under any or all of the above provisions.
17. Personal leave shall be restricted while receiving temporary total disability, which is the result of a compensable injury, from a claim filed against and billed to the Summers County Board of Education. If an employee is awarded compensation, the employee shall receive personal leave compensation only to the extent required so that when added together the compensation benefit and personal leave equal the amount of pay regularly paid to the employee. If personal leave compensation, equal to the employees regular pay, is paid prior to the award of the worker's compensation benefit, such amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal to the amount of personal leave compensation required to compensate the employee's regular rate of pay.
18. Upon written request, the Summers County Board of Education may grant a leave of absence to an employee, holding tenure status, for not more than one (1) year and not less than one (1) semester, or the remaining portion thereof.

A leave of absence may be granted for the following reasons:

- (a) Advanced study and graduate work, provided the employee on leave pursues college training relevant to education as a teacher, or to improve him/herself in his/her service classification.
- (b) Prolonged illness provided the employee presents a written statement from a physician that continued employment will be detrimental to that individual's health and meets the requirements set forth in this policy.

- (c) Other requests will be considered by the Superintendent and his/her staff and a recommendation will be made to the Board based upon what is best for the students and the school system as a whole.

Leaves-of-absence are granted from the school system and not from the position or school. An employee, who is on leave of absence for less than one year, shall be entitled to return to the same position held before the leave. An employee who is on leave of absence for one year or more shall be entitled to a position, but not necessarily the one he/she held previously.

19. An employee who is absent for any reason other than these stated above will be absent without leave. Also, any employee who fails to fulfill his contract with the board, unless prevented from doing so by personal illness or other just cause, as contained in said personal leave policy, or unless released from such contract by the board, shall be subject to disciplinary action up to and including termination pursuant to W. Va. Code § 18A-2-8.
20. Personal leave (with per days restriction) may also be granted to employees for exposure to a contagious disease and determination by his/her supervisor that the presence on duty of the employee may jeopardize the health of others (not to exceed days accumulated).
21. Forms for applying for personal leave shall be furnished by the board of education. These forms shall be completed by the employee and returned to his/her PRINCIPAL the day said employee returns to work.
22. The Parental Leave Act (W. Va. Code § 21 -5D-1, et seq.) requires that the Board allow at least up to 12 weeks of unpaid leave in any 12-month period, following the exhaustion of all annual and personal leave, for eligible employees who must miss work because of one of the following circumstances:
 - (a) because of the birth of a son or daughter of the employee
 - (b) because of the placement of a son or daughter with the employee for adoption
 - (c) in order to care for the employee's son or daughter, spouse, parent or dependent who has a serious health condition

The Board shall consider employees to be entitled to parental leave in accordance with the definitions, criteria and notice procedure set forth in the Parental Leave Act. No policy, procedure or action by the Board shall constitute a waiver of the requirements of the Parental Leave Act. The following explanation of the Parental Leave Act is provided for general information only. Any specific questions or requests for parental leave should be directed to the Department of Human Resources

23. In compliance with the Family and Medical Leave Act of 1993 ("FMLA"), the board shall provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least

one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

Unpaid leave shall be granted for any of the following reasons:

- (a) to care for the employee's child after birth, or placement for adoption or foster care;
- (b) to care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- (c) For a serious health condition that makes the employee unable to perform the employee's job.

The employee shall be required to provide advance leave notice and medical certification. Taking of leave may be denied if the following requirements are not met:

- The employee shall provide 30 days advance notice when the leave is "foreseeable."
- The employee shall provide medical certification to support a request for leave because of a serious health condition, and the board may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

The following job benefits and protections apply with respect to the FMLA:

- For the duration of FMLA leave, the board shall maintain the employer's portion of the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, the employee shall be restored to his/her original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA shall not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- The dishonest use of sick leave for purposes other than injury or illness will result in disciplinary action up to and including termination of employment.