

LAKE HAVASU UNIFIED SCHOOL DISTRICT #1

AGENDA ACTION ITEM

TOPIC: SECOND PRESENTATION/REVIEW OF REVISED POLICY GCCA
PROFESSIONAL/SUPPORT STAFF SICK LEAVE

SUBMITTED BY: Denise Miner, Director of Personnel/Technology

DATE FOR BOARD CONSIDERATION: June 20, 2017

RECOMMENDATION:

It is recommended that the Board approve the second presentation of revised Policy GCCA Professional/Support Staff Sick Leave.

RATIONALE:

Per Arizona School Boards Association Policy Services Advisories, dated February 2017 (received March 15), the following policy revisions are being presented:

Policy Advisory No 571 Policy GCCA—Professional/Support Staff Sick Leave

Proposition 206, which is also referred to as the Healthy Working Families Initiative, incorporated changes to a number of statutes in Title 23, Labor. Both minimum wage and earned paid sick time requirements were addressed.

The increased minimum wage portion of Proposition 206 is included in this discussion as information useful to the district, not as a policy addition. A.R.S. 23-363 is applicable to employees, including student employees, and affects wages as follows:

Employers shall pay employees no less than the minimum wage, which shall be not less than:

\$10 on and after January 1, 2017.

\$10.50 on and after January 1, 2018.

\$11 on and after January 1, 2019.

\$12 on and after January 1, 2020.

This advisory focuses on the statutory language pertaining to earned paid sick time which was added to A.R.S. 23-364 and A.R.S. 23-371 through A.R.S. 23-375.

Corresponding changes have been made to policy GCCA—Professional/Support Staff Sick Leave.

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Approved for Transmittal to Governing Board


Superintendent

LAKE HAVASU UNIFIED SCHOOL DISTRICT #1

AGENDA ACTION ITEM

TOPIC: FIRST PRESENTATION/REVIEW OF REVISED POLICY GCCA
PROFESSIONAL/SUPPORT STAFF SICK LEAVE

SUBMITTED BY: Denise Miner, Director of Personnel/Technology

DATE FOR BOARD CONSIDERATION: May 9, 2017

RECOMMENDATION:

It is recommended that the Board approve the first presentation of revised Policy GCCA Professional/Support Staff Sick Leave.

RATIONALE: (continued from page 1)

It's important to be aware of the fact that the new statutory provisions require that sick leave may be used for diagnosis, care, or treatment of any mental or physical illness, injury, or health condition of the employee or for care of a family member; and is to be interpreted broadly to include adopted and foster children and domestic partners.

Additionally, substitute teachers are included in the application of sick leave; however, the specifics are unclear until the state gives definitive guidance.

Policy GCCA includes specifics pertaining to sick leave use, including an expanded definition of "family member" as delineated in A.R.S. 23-371.

Whatever terms the district uses to reference earned paid sick time, including sick leave, general leave, paid leave and paid time off (PTO), are included in the requirements of statute and this policy unless the district's legal counsel determines otherwise. The ASBA Policy Manual uses the term sick leave and earned paid sick time as interchangeable terms.

A.R.S. 23-371(D) D. "Earned paid sick time" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 23-373 of this article, but in no case shall this hourly amount be less than that provided under the Fair Labor Standards Act of 1938 (29 United States Code section 206(A)(1)) or section 23-363, Arizona Revised Statutes.

Proposition 206 will be reviewed by the Arizona Supreme Court in the near future. Nevertheless, the requirements pertaining to earned paid sick time, including sick leave, general leave, paid leave and paid time off (PTO) are not effective until July 1, 2017. Districts' current policies will be in effect until and including June 30, 2017.

There has been no changes to this policy since the first reading on May 9, 2017.

Approved for Transmittal to Governing Board


Superintendent

GCCA ©
PROFESSIONAL / SUPPORT
STAFF SICK LEAVE

Sick leave for District personnel is a designated amount of compensated leave that is to be granted to a staff member who, through personal or family illness, injury, or quarantine, is unable to perform the duties assigned. ~~Family, for purposes of sick leave, shall include:~~

- ~~_____ Spouse _____ Grandparents~~
- ~~_____ Children _____ Grandchildren~~
- ~~_____ Parents _____ Like relations created by marriage~~
- ~~_____ Siblings _____ (e.g., stepchild, father-in-law, et cetera)~~

~~Family illness, for purposes of sick leave, shall not exceed a period of three (3) days, unless an approval is granted by the Superintendent.~~

~~Sick leave is only for the purpose of recuperative activities, e.g., obtaining medical care or treatment, procuring medications or other prescribed materials, convalescing at home or at a medical facility, or other therapy or activity prescribed by the employee's physician or health practitioner, with verification required if requested by the Superintendent. The District may, at District expense, require the employee to submit to medical or psychiatric examination by a physician or psychiatrist selected by the District to determine 1) whether or not the continued use of sick leave is appropriate or 2) whether return to duty is appropriate.~~

~~Sick leave may include other excused absences, such as medical, dental, or optical examination or treatment impossible to schedule on nonduty days.~~

Each staff member hired beginning July 1, 2016, shall be credited with a sick leave allowance of five (5) days or six (6) days as determined by the length of the employee's work assignment. One (1) additional sick day will be added for each subsequent year of service up to the maximum of ten (10) or twelve (12) days, also determined by the length of the employee's work assignment.

Each staff member, hired prior to the 2016-17 school year, shall be credited with a sick leave allowance up to ten (10) or twelve (12) days, as determined by the length of the employee's work assignment.

~~Each staff member shall be credited with a sick leave allowance at the rate of _____ (____) days per month up to ten (10) or twelve (12) days, determined by the number of months employed:~~

- ~~_____ Twelve (12) month employment twelve (12) days~~
- ~~_____ Ten (10) month employment ten (10) days~~

The unused portion of such allowance shall accumulate without limit, to a maximum of _____ () days, at which time no more sick leave can be accumulated. As accumulated sick leave days are used and drop below () days, an eligible employee may again accumulate sick leave up to the maximum limit.

When a staff member exhausts all days of accumulated sick leave, an unpaid leave of absence must be requested, pursuant to District policy.

Sick leave of any staff member who does not serve a full school year shall be prorated, at the rate of one (1) day per month.

~~Sick leave may be used for childbirth during the time the physician verifies that the employee is physically unable to perform her normal duties. If the an employee does not wish to return to her duties following childbirth, an extended leave of absence must be requested, consistent with existing District policy.~~

~~A staff member who is or will be the father or the grandparent of a newborn child will be allowed two (2) days of sick leave for the birth. In the event of medical complications, more than two (2) days of sick leave may be allowed.~~

Upon request, the staff member shall inform the Superintendent of the following:

- A. Purpose for which sick leave is being taken.
- B. Expected date of return from sick leave.
- C. Where the staff member may be contacted during the leave.

~~Any employee who can be shown to have willfully violated or misused the District's sick leave policy or misrepresented any statement or condition will be subject to discipline, which may include reprimand, suspension, and/or dismissal.~~

Use of Earned Paid Sick Time

Earned paid sick time shall be provided to an employee by an employer for:

- A. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
- B. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care;

C. Reasons related to child care, domestic violence, sexual violence, abuse or stalking, and legal services as described in A.R.S. 23-373.

Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time, which is .5 (1/2) day.

For earned paid sick time of three (3) or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by A, B, or C, above. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section

As defined in statute (A.R.S. 23-371), "family member" means:

- A. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
- B. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee's spouse or domestic partner was a minor child;
- C. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;

- D. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
- E. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Notice:

- A. Employers shall give employees written notice of the following at the commencement of employment or by July 1, 2017, whichever is later: employees are entitled to earned paid sick time and the amount of earned paid sick time, the terms of its use guaranteed in statute, that retaliation against employees who request or use earned paid sick time is prohibited, that each employee has the right to file a complaint if earned paid sick time as required by statute is denied by the employer or the employee is subjected to retaliation for requesting or taking earned paid sick time, and the contact information for the commission where questions about rights and responsibilities under can be answered.
- B. The required notice required shall be in English, Spanish, and any language that is deemed appropriate by the Industrial Commission of Arizona.
- C. The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.
- D. The Industrial Commission of Arizona shall create and make available to employers, in English, Spanish, and any language deemed appropriate by the commission, model notices that contain the information for employers' use in complying with the statute.
- E. Employer violation of the notice requirements shall be subject to a civil penalty as prescribed in A.R.S. 23-364.

Accrual:

- A. Employees of an employer with fifteen (15) or more employees shall accrue a minimum of one (1) hour of earned paid sick time for every thirty (30) hours worked, but employees shall not be entitled to accrue or use more than forty (40) hours of earned paid sick time per year, unless the employer selects a higher limit.
- B. Employees of an employer with fewer than fifteen (15) employees shall accrue a minimum of one hour of earned paid sick time for every thirty (30) hours worked, but employees shall not be entitled to accrue or use more than twenty-four (24) hours of earned paid sick time per year, unless the employer selects a higher limit.

- C. Earned paid sick time shall begin to accrue at the commencement of employment or on July 1, 2017, whichever is later. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.
- D. An employee may use earned paid sick time as it is accrued, except that an employer may require an employee hired after July 1, 2017, to wait until the ninetieth calendar day after commencing employment before using accrued earned paid sick time, unless otherwise permitted by the employer.
- E. Employees who are exempt from overtime requirements under the Fair Labor Standards Act of 1938 (29 United States Code section 213(A)(1)) will be assumed to work forty (40) hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty (40) hours, in which case earned paid sick time accrues based upon that normal work week.
- F. Earned paid sick time shall be carried over to the following year, subject to the limitations on usage indicated above for employees of employers with fifteen (15) or more employees and employees of employers with fewer than fifteen (15) employees. Alternatively, in lieu of carryover of unused earned paid sick time from one (1) year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of earned paid sick time that meets or exceeds the requirements in statute that is available for the employee's immediate use at the beginning of the subsequent year.
- G. If an employee is transferred, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued and is entitled to use all earned paid sick time as provided in this section.
- H. When there is a separation from employment and the employee is rehired within nine (9) months of separation by the same employer, previously accrued earned paid time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.
- I. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.
- J. At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under this article is not required to provide additional paid sick time.

Nothing in statute shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

Retaliation Prohibited

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected in statute.

An employer shall not engage in retaliation or discriminate against an employee or former employee because the person has exercised protected rights. Such rights include but are not limited to the right to request or use earned paid sick time pursuant to the statute; the right to file a complaint with the commission or courts or inform any person about any employer's alleged violation; the right to participate in an investigation, hearing or proceeding or cooperate with or assist the commission in its investigations of alleged violations and the right to inform any person of his or her potential rights.

It shall be unlawful for an employer's absence control policy to count earned paid sick time taken as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

Protections of this section shall apply to any person who mistakenly but in good faith alleges violations of this policy based on the supporting statutes.

Adopted: ~~date of Manual adoption~~ August 16, 2016, June 20, 2017

LEGAL REF.:

A.R.S.

15-187

15-502

23-363

23-364

23-371

23-372

23-373

23-374

23-375

CROSS REF.:

GCBA - Professional Staff Salary Schedules