

## Personnel Leaves and Absences

### Sick Leave

Full time and permanent part-time professional staff will earn sick leave at the rate of one prorated day per month worked cumulative up to 480 hours based on prorated scheduled hours for personal sickness in the immediate family. Example: 40 scheduled hours/week = 480 hours maximum accumulated leave; 36 scheduled hours/week = 432 hours maximum accumulated leave.

Sick leave is defined to include illness of an employee, or serious illness requiring bedside or household attention by the employee, for spouse, child, son-in-law, daughter-in-law, parents (or foster parents), mother-in-law, father-in-law, grandparents, grandchildren, or siblings. Guidelines for the use of sick leave are as follows:

- a. For full time and permanent part-time employees, the sick leave entitlement shall be directly proportionate to the length of the workday and year.
- b. An employee may be required by the Board to furnish satisfactory medical proof of illness or disability. In the event of hospitalization, or personal sick leave extending beyond three (3) consecutive days, a written release from the employee's attending physician may be required before the employee may return to his/her workstation. The written release must state that the employee is physically capable of assuming his/her duties without the probability of recurring harm to the employee, other employees or students.

If an employee receives an injury on the job or has an injury that affects job performance and necessitates that the employee be absent from work, a written release from the employees attending physician will be required before the employee may return to work. The release must state that the employee is physically capable of assuming the duties without the probability of recurring harm to the employee, other employees or students.

In the event the employee's absence is due to work-related illness or injury for which the employee is receiving Workers Compensation benefits, the employee will be entitled to utilize accumulated sick leave only in the amount equivalent to the difference between the Workers Compensation benefit received and the regular salary the employee would have received had he/she elected to take sick leave. For purposes of calculating the amount of sick leave used, any payment used to supplement the Workers Compensation benefit which is less than one-half day's salary shall

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count as one half day's sick leave, and any sick leave paid in excess of one-half day's shall count as a full day's sick leave for each day the benefit is received. In the event of payment of sick leave prior to a determination by Workers Compensation that an individual is entitled to an award of Workers Compensation to the employee for wages, which determination is made retroactive, the employee will be given the option of repaying to NWBOCES any overpayment received by the employee for sick leave or having NWBOCES withhold future sick leave payments until the overpayment is made up.

c. A written notice of accumulated sick leave shall be given to each employee at the beginning of the school year.

d. NWBOCES will buy back unused sick leave based upon the following conditions:

- Buy back upon termination of full-time/part-time employment.
- Mandatory buy back of any accumulated hours beyond maximum hours per Policy 5007a-R.
- Rate of buy back shall be set at 1/2 of hourly rate of pay.
- Buy back a maximum of 1/2 of accumulated sick leave.
- Must have 3 years or more of unbroken service with NWBOCES to be eligible to participate in the buy back plan.
- Accumulation of sick days will be in accordance with Board policy on Sick Leave.

#### Maternity/Child Rearing Leave

Maternity child rearing leave will be treated the same as family medical leave under the Family Medical Leave policy.

A medical examination may be requested at any time the administration feels it necessary for the purpose of determining when a pregnant employee should begin her maternity leave or when she should be allowed to return to work following her pregnancy.

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## Unpaid Leave

In the case of absence from work of any professional employee for any reason except approved paid leave as provided for in these policies, there shall be deducted from the next installment of the employee's salary an amount in direct proportion to the number of days absent to the respective contract; i.e., school year of 185 days the deduction shall be 1/185<sup>th</sup> of the contract salary for each day of unapproved absence. The cost of the health insurance/TSA benefit paid by NWBOCES on behalf of the employee (employer's share) will be deducted from the appropriate paycheck based on actual cost for the days the employee is absent in excess of accumulated leave.

## Military Leave

Military leave entitlement shall be as follows:

1. Any member of the Wyoming National Guard or United States military forces reserve who is an employee of NWBOCES shall be given a military leave of absence with pay, at the regular salary or wage which the employee receives, not to exceed fifteen (15) calendar days in any one (1) calendar year to attend duly authorized encampments, training cruises and similar training programs, in addition to any other leave or vacation time to which the person is otherwise entitled. In the event an employee requests military leave, the Administrative Director may request a letter from the commanding officer stating that this special training is necessary and required for the applicant and that such training cannot be obtained at any other time.
2. Subject to subparagraph (a) below, any employee of NWBOCES who has been employed for one (1) year and who is a member of the National Guard or any other component of the military forces of the State, a member of the reserve forces of the United States, or who is inducted into military service of the United States is entitled to leave of absence from his employment, without pay, but without loss of seniority, status, efficiency rating, vacation, sick leave or other benefits, while he/she is engaged in military training or service ordered or authorized by proper authority pursuant to law exceeding fifteen (15) days in any calendar year. Such leave is in addition to any other military leave or vacation time to which the officer or employee may be entitled by law if the required military service is satisfactorily performed, which is presumed unless the contrary is established.
  - a. Upon completion of the service described in this paragraph 2, the employee shall be reinstated to the employment position held at the time of entry into service or a position of like status and pay if available, subject to the following conditions:

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(i) The position has not been abolished or the term thereof has not expired;  
(ii) He/she is not physically or mentally disabled from performing the duties of the position;  
(iii) He/she makes written application of reinstatement to the appointing authority within thirty (30) days following release from the military services or within ninety (90) days after discharge from hospitalization or medical treatment which immediately follows the termination and results from the service but not to exceed one (1) year and ninety (90) days after termination of service notwithstanding hospitalization or medical treatment;  
(iv) He/she submits an honorable discharge or other release by proper authority indicating his/her military service was satisfactory; and  
(v) Military service does not exceed four (4) years plus any period of additional service imposed by law.

1. Upon reinstatement, the employee shall have the same rights with respect to accrued and future seniority, status, vacation, sick leave and other benefits, as if he/she had been employed during the time of the leave. During the absence the NWBOCES may discontinue its shares of payments for Social Security, insurance of any type, and Wyoming State retirement, unless the employee or the Wyoming Retirement System, pursuant to rules established by the Wyoming Retirement System, elects to contribute to the State retirement plan during his/her absence, in which case the NWBOCES will contribute its employer share.
2. Any employee shall have the right to maintain any group life, health or accident insurance which other employees are participating in by furnishing to the NWBOCES such sum as would equal that which would have been deducted from his/her compensation for such coverage had he/she not been placed on military leave. The employee must notify NWBOCES of his/her election to continue insurance or plan coverage at the time he/she enters service in the uniformed services.
3. The above-described military leave shall be requested through the immediate supervisor and shall be granted by the Administrative Director or his/her designee. The request shall be accompanied by a copy of the official orders to active duty. The vacancy created by this leave may be filled by a substitute provided by NWBOCES.

#### Family and Medical Leave

Pursuant to the provisions of the Family and Medical Leave Act (P.L. 103-3), the NWBOCES hereby adopts the following policy relating to family and medical leave for eligible employees.

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## Benefits

Eligible employees are entitled to a total of twelve (12) weeks of unpaid leave per year (beginning July 1 of each year) for the following four leave situations:

1. the birth and first-year care of a child;
2. the adoption or foster placement of a child;
3. the "serious health condition" of an employee's spouse, parent or child; and
4. the employee's own "serious health condition".

For purposes of the benefits referred to above, a serious health condition means "an illness, injury, impairment, or physical or mental condition that involves:

1. in-patient care in a hospital, hospice, or residential medical care facility; or
2. continuing treatment by a health care provider that results in a period of incapacity of more than three (3) consecutive calendar days and involves either two (2) or more treatments by a health care provider, or treatment by health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider. Over-the-counter medications, bed rest, taking of fluids, exercise, and other activities that can be initiated without a visit to a health care provider do not constitute continuing treatment. Serious health condition does cover conditions such as asthma and diabetes even if the episode of incapacity does not last more than three (3) days."

For purposes of the benefits referred to above which pertain to leave for the care of a child, the term "child" shall mean a son or daughter which is either a biological, adopted, or foster child, a step-child, a legal ward, or a child or a person standing in loco parents, who is:

1. under eighteen (18) years of age; or
2. eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

## Eligible Employee

To be eligible for leave under this policy and to be considered an eligible employee, an employee must have been employed:

1. for at least twelve (12) consecutive months or
2. for at least 1,250 hours of service within the previous twelve (12) month period. Time paid (i.e., sick leave, vacation leave, etc.) will not be counted in calculating hours of service.

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In the case of employees only employed for nine (9) months or one hundred eighty (180) working days out of each twelve (12) month period, this will require that they be employed for at least 1,250 hours of service during those one hundred eighty (180) working days, or whatever number of working days are actually worked during the twelve (12) month period.

Any eligible employee who is entitled to the leave referred to above shall be entitled to continuation of health benefits and all other insurance benefits, as well as accrual of sick leave and/or other leave benefits during the period of leave, under the same terms and conditions as are provided to the employee prior to taking the leave. Any increase in premiums or deductibles that apply to active employees shall also apply to employees on FMLA leave. Any employee who fails to pay his required share of premium may be dropped from coverage under the group health plan. NWBOCES shall provide the employee a notice that coverage will be dropped at least fifteen (15) days before coverage will cease.

Any employee who is eligible for this leave and takes the leave is entitled to an equivalent position with equivalent pay, benefits, and conditions of employment upon return to employment so long as the employee can continue to perform all the essential functions of the position.

This leave is not to be considered as leave in addition to other leave granted to the employee by NWBOCES policy for which the employee is otherwise eligible, but is intended only to supplement that leave to the extent it does not otherwise provide for twelve (12) weeks of leave. In other words, to the extent that any eligible employee would be entitled to receive sick leave, or personal leave pursuant to other applicable NWBOCES policies, then the eligible employee must use the sick/personal leave benefits granted under other applicable NWBOCES policies and only in the event that it does not provide the eligible employee with twelve (12) weeks of leave would the employee be able to use the leave granted under this policy. The leave for which the eligible employee may qualify under the provisions of this policy will not exceed twelve (12) weeks inclusive of the leave utilized under other NWBOCES policies for any of the above described leave situations. (For example, if due to the illness of an employee, an employee desires to take leave for a period up to twelve (12) weeks and the employee has available six (6) weeks of sick leave which could be utilized for this leave, then the employee would be required to use the six (6) weeks of available sick leave and thereafter would qualify for six (6) weeks of unpaid leave pursuant to this policy.

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If the employee had available up to twelve (12) weeks of personal/sick leave which could be utilized, then this policy would not apply.)

LIMIT ON CHILD CARE BENEFIT

The family leave benefit applicable to the birth, adoption, and foster placement for child care ends after (1) the child reaches age one; or (2) twelve months after adoption or placement. When both spouses are employed by NWBOCES, the combined amount of leave for birth, adoption, and illness of a parent may be limited to a total of twelve (12) weeks. This limitation is not applicable to leave for personal illness and illness of a spouse or child.

PLANNED MEDICAL LEAVE

In the event an eligible employee requests leave due to a serious health condition or to care for someone with a serious health condition, and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period during which the leave would extend, NWBOCES may require that such employee elect either:

1. to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment, or
2. to transfer temporarily to an available alternative position offered by NWBOCES for which the employee is qualified and that (1) has equivalent pay and benefits; and (2) better accommodates recurring periods of leave than the regular employment position of the employee.

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## DUTIES OF EMPLOYEE

In any case in which the reason for leave is due to the necessity of the employee to care for the spouse, son, daughter, or parent of the employee or because of the serious health condition that makes the employee unable to perform the functions of his/her position, the employee

1. shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of NWBOCES, subject to the approval of the health care provider; and
2. shall provide NWBOCES with timely notice, such notice to be not less than thirty (30) days before the date the leave is to begin, of the employee's intention to take leave under such provision, except that, if the date of the treatment requires the leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

## CERTIFICATION

NWBOCES may require that a request for leave to care for a relative with a serious health condition or because of the employee's own serious health condition be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the Administrative Director.

Certification provided under this section shall be sufficient if it states:

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1. the date on which the serious health condition commenced; and
2. the probable duration of the condition; and
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition; and
4. if applicable, a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and
5. in the case of the employee's own serious health condition, a statement that the employee is unable to perform the functions of the position of the employee; and
6. in the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment, and a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule.

Second Opinion: In any case in which NWBOCES has reason to doubt the validity of the certification provided by the employee for leave for medical care or for medical reasons, NWBOCES may require, at the expense of NWBOCES, that the eligible employee obtain the opinion of a second health care provider designated or approved by the NWBOCES concerning any information certified under this section for such medical leave.

In any case in which the second opinion described above differs from the opinion in the original certification provided under this section, NWBOCES may require, at the expense of NWBOCES, that the employee obtain the opinion of a third health care provider designated or approved jointly by NWBOCES and the employee. The opinion of the third health care provider shall be considered to be final and shall be binding of NWBOCES and the employee.

NWBOCES may require that the eligible employee obtain subsequent recertification on a reasonable basis.

#### DESIGNATION OF LEAVE AS FAMILY MEDICAL LEAVE

Once NWBOCES learns that the employee is taking leave for family medical leave qualifying reason, the employer will give notification to the employee that the leave is designated as family medical leave within two (2) business days after the determination is made. The notice should be in

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writing, however, it may be given orally if confirmed in writing no later than the next regular pay day (unless less than a week remains until the next pay day). If the employee is out for a FMLA qualifying reason and NWBOCES does not learn of the reason until the employee returns, the employee must give notice within two (2) days of his return and NWBOCES will give notice of any FMLA designation within two (2) days thereafter. NWBOCES may also provisionally designate leave as FMLA qualifying leave while awaiting receipt of medical certification or a second or third medical opinion. Failure of NWBOCES to designate leave as family medical leave shall not prevent NWBOCES from making such a designation and implementing it retroactive to the first date of leave should NWBOCES subsequently discover the leave qualified or discovered that the notice referred to herein had not been sent to the employee.

PENALTY FOR FAILURE TO RETURN

NWBOCES may recover the premium that NWBOCES paid maintaining coverage for the employee under NWBOCES's group health insurance plan during any period of leave under this policy if:

1. the employee fails to return from leave after the period of leave to which the employee is entitled has expired; and
2. the employee fails to return to work for a reason other than (1) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave either to care for an individual or on account of the employee's own serious health condition, or (2) other circumstances beyond the control of the employee.

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