

## **5.6 LEAVES OF ABSENCE**

### ***5.6.1 Notification of Absence/Leave Request***

All employees must “report off” work for any absence. An employee is required to notify his/her supervisor or designee of his/her absence 30 minutes prior to the start of their shift or earlier if possible. If the employee’s supervisor or their designee is not available, the employee shall leave a message on the employee “call off” line. Failure to do so may result in denial of leave for the period of absence, the absence may be determined to be unexcused and without pay and may result in disciplinary action in accordance with the Board’s disciplinary policy.

Leaves for other than illness, disability, or death of a member of the immediate family may be granted based upon the operational needs of the program. Requests for leaves are to be submitted to the department director on the EMR-2 form with other applicable documents attached. Except as otherwise noted, requests for leaves are to be submitted one (1) week in advance.

Employee may take personal leave in one hour increments. Vacation leave may be taken in quarter hour increments. Paid leaves will only be charged to employee with regard to scheduled workday.

The superintendent/designee shall be the authority to approve or disapprove applications for leave and maintains the right to investigate any absence from work.

When an employee, whose position requires a substitute, requests and has leave approved, that employee will not be eligible to return to work prior to the end of the approved leave unless specifically approved by the superintendent/designee.

When an employee fails to return to work upon the expiration of an authorized leave of absence, that employee shall be considered to have resigned from the position effective the initial date of the leave.

Granting absences for other than approved paid leaves will not be done except in most extraordinary situations which are beyond the employees control.

### **5.6.2 Sick Leave / Use & Abuse**

***Use of sick leave:*** The generous provision of accrual of up to fifteen (15) days per year allows for use only with good reason as set forth in related policies. The absences of an employee, which are verified by a physician, generally are not questioned. However, an employee who cannot document medical reasons is expected to have good attendance. The use of sick leave in a pattern, as an example showing many Friday or Monday and/or pre/post holiday absences, will

be investigated for possible abuse of sick leave, despite the provision of a physicians documentation.

*Absence for medically verified reasons and for reasons protected by the Family and Medical Leave Act is not held against an employee. For instance, an employee who must take an extended absence for surgery and recuperation is not regarded as having poor attendance provided the employee's record is otherwise good as set forth above. The same principle applies if the reasons(s) for absence is (are) for other allowable purposes or if medical or other reasons necessitate frequent short absences.*

Sick leave is administered in accordance with O.R.C. 124.38 for all employees. An employee may request sick leave for absences resulting from illness as described below, provided the employee follows the "Notification of Absence" policy outlined in this manual. Sick leave may be requested for the following reasons:

1. Illness or injury or conditions of the employee or a member of the employee's immediate family
2. Exposure of employee or a member of the employee's immediate family to a contagious disease which would have the potential of jeopardizing the health of the employee or the health of others
3. Death of a member of the employee's immediate family
4. Medical, dental or optical examinations or treatment of employee or a member of the employee's immediate family

Pregnancy, childbirth and/or related medical conditions

For purposes of this policy, "immediate family" is defined as: mother, father, brother, sister, child, spouse, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, legal guardian or other person who stands in the place of an employee's parent.

The superintendent or designee may require an employee to furnish a satisfactory written statement signed by a physician to justify the use of sick leave for three (3) or more consecutive days of absence. If medical attention is required, a certificate from a licensed physician stating the nature of the illness may be required to justify the use of sick leave. (R.C. 124.38)

For each completed hour of active pay status, an employee earns .0575 hours of sick leave. For the purposes of this section, active pay status is defined as hours worked, hours on paid vacation, hours on holiday leave, hours on paid sick leave and hours on paid compensatory time. Simply, if pay is received for a bi-weekly pay period, that pay

period is active pay status.

Part- time employees accrue sick leave on a proportionate basis to the hours paid each pay period.

The amount of sick leave time any one employee may accrue is unlimited.

Sick leave shall be charged in minimum amounts of quarter hours.

Employees absent on paid sick leave shall be paid at the same basic hourly rate as when they are working.

Request to use sick leave with no available balance:

- If request is for an approved Family Medical Leave that is on file an employee can supplement with vacation in-lieu of sick.
- If sick time is not for an approved Family Medical Leave that is on file the employee may be required to use their vacation / personal leave to keep in active pay status and will be subject to disciplinary review.
- In addition to the above, if sick time is requested and no accrued leave is available the employee will have their pay reduced for the missed time and shall be subject to disciplinary review

Sick leave time used by an employee is considered non-work time for purposes of calculating overtime pay or compensatory time accrual.

### **Abuse of Sick Leave**

An employee fraudulently obtaining sick leave, or anyone found falsifying sick leave records, shall be subject to disciplinary action up to and including termination in accordance with policies outlined in this manual. The superintendent or designee may require from the employee such verification as is appropriate to substantiate the employee's request for sick leave if the superintendent or designee has a reasonable basis for requiring such verification.

Sick leave is to be saved as much as possible for the employees use if he/she suffers a major health condition so the employee can continue to be paid while on leave. If accrued, sick leave can then act as short-term disability coverage by insuring continued payment of wages while on a longer leave. If a full time employee finds the need to request and qualify for a Family Medical Leave, and that leave extends the full twelve weeks, that equates to 480 hours.

Altering a physician's certificate or falsification of a written, signed statement shall be grounds for immediate dismissal.

Employees who transfer between county departments or agencies, or who are reappointed or reinstated, will be credited with the unused balance of sick leave,

provided the time between separation, reappointment or transfer does not exceed ten (10) years. It is the employee's responsibility to request that sick leave from prior services be transferred, and to provide documentation concerning the balance to be transferred.

Employees may be required to document sick leave and other absences in accordance with the Board's Family and Medical Leave Act policy.

### ***5.6.3 Retirement/Separation - Sick Leave***

#### ***Separation***

A full time employee with at least one (1) calendar year of service with the Board and who qualifies under paragraph two (2) below may convert all or part of any accumulated sick leave up to 60 days to a cash benefit upon separation.

Converted sick leave shall be paid at 50% of the employee's hourly rate of pay at the time of separation.

To qualify for this severance benefit, the employee must have at least ten (10) years service with the State of Ohio, any political subdivision of the state or any combination of such service. In addition, the employee must have separated voluntarily and have applied in writing at least thirty (30) days in advance of separation.

Employees not meeting criteria in paragraph two (2) above may request transfer of sick leave balance to new employer.

Payment for sick leave will eliminate that amount from all sick leave credited at that time.

#### ***Retirement***

***Sick Leave*** - Upon retiring from active state or county services after ten or more years with the state or any of its political subdivisions, an employee may elect to be paid in cash for accrued but unused sick leave credit. The maximum payment allowed is 50% of sixty days. Conversion of sick leave upon retirement exhausts the employee's entire sick leave balance. Sick leave conversion does not apply to any termination or separation other than retirement (Reference: R.C. 124.39(B)). Converted sick leave shall be paid at the employee's hourly rate of pay at the time of separation. The total value of sick leave as severance pay shall be taken as a lump sum payment. Converted sick leave is subject to PERS or STRS retirement deductions.

Such payment may be made more than once to any employee. That is, an employee who returns to state or county service after retiring may accrue and use sick leave as before, but at the time of their second retirement they may only convert any portion of unused sick leave that does not exceed, for all payments, the value of thirty (30) days of accrued but unused sick leave.

Employees not meeting criteria above may request transfer of sick leave balance to a new employer.

Upon the death of an employee, unused accumulated sick leave shall be paid to the employees spouse, children, or parents, if any, in that order, or to his/her estate. Payment for accumulated sick leave at the time of death shall be based on the employee's straight time hourly rate at the time of death at the same rate as for conversion leave at separation.

#### ***5.6.4 Family and Medical Leave***

The Erie County Board of Mental Retardation and Developmental Disabilities shall comply with Public Law 103-3, Family and Medical Leave Act of 1993, to provide family and medical leave as specified in the legislation. Eligible employees shall be provided up to a total of twelve (12) weeks of a combination of paid and unpaid leave each year ("year" as defined by the Board) in connection with specific qualifying events. Employees shall be provided employment in an equivalent position with equivalent conditions of employment upon the return from Family and Medical Leave. The Board shall maintain records of the utilization of Family and Medical Leave in compliance with requirements of the Department of Labor.

***Qualifying Events*** - In order for family and medical leave to be made available, one of the following "qualifying events" must occur:

1. The birth and first year care of the employee's child
2. The placement of a child with the employee for adoption or foster care
3. A serious health condition of an employee's spouse, child or parent
4. A serious health condition that makes the employee unable to perform the essential functions of the position of such employee

Entitlement for childcare ends after the child reaches age one (1) year or twelve (12) months after the date of adoption or foster placement. The childcare entitlement applies to step-parents and persons acting "in loco parentis" as well as to biological and adoptive parents.

***Qualified Employee*** - A Board employee must meet the following criteria to be a "qualified employee" eligible for family and medical leave:

1. An employee must have been employed by the Board for more than twelve (12) months of active service

2. An employee must have worked more than 1,250 hours in the previous twelve (12) months

An employee who received a salary among the top ten (10) percent of the Board's work force may be exempted if certain test criteria are met.

**Coverage Period** - A qualified employee is entitled to take up to a total twelve (12) weeks of a combination of paid and unpaid leave per year (as defined by the Board) for a qualifying event.

Leave under qualifying events 1 or 2 shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the Board agree otherwise.

Leave taken under qualifying events 3 or 4 may be taken intermittently or on a reduced leave schedule when medically necessary. If an employee requests intermittent leave or leave on a reduced leave schedule under qualifying events 3 or 4, the Board may require such employee to transfer temporarily to an available alternative position offered by the Board for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee. Upon return to work from such leave, the employee shall be returned to the employee's former position, or an equivalent position.

**Benefits** - Qualified employees who take family and medical leave under this provision are entitled to the continuation of health care benefits during the period of family and medical leave not to exceed a total of twelve (12) weeks of paid/unpaid leave per year (as defined by the Board). The Board will continue to pay the Board's share of the health insurance premium for up to twelve (12) weeks. The Board is entitled to recover the premium paid by the Board for maintaining health insurance coverage for the employee if the employee fails to return after the expiration of the family and medical leave to which the employee is entitled under this act for a reason other than:

- the continuation, recurrence, or onset of serious health condition that entitles the employee to leave under qualifying events 3 and 4, or
- other circumstances beyond the control of the employee.

**Restrictions** - Qualified employees do not accrue seniority or benefits, other than health care benefits during the time of family and medical leave unless they are on an approved paid leave of absence such as sick leave or vacation leave. If both parents are employed by the Board and qualify during a period for family and medical leave, the combined amount of leave for both persons for birth, adoption, foster placement or family illness is limited to twelve (12) weeks. Leave for personal illness or to care for a sick child or spouse is not limited to a combined amount of twelve (12) weeks in case of spouses being employed by the Board.

***Designation of Leave*** - It is the responsibility of the Board, through the superintendent or designee, to designate employee absences as FMLA leave or not FMLA leave. This is the case whether or not an employee wishes to have absences designated as FMLA leave, and whether or not the employee has requested FMLA leave. The Board may request from the employee, and the employee shall provide to the Board, such information as is reasonably necessary for the Board to determine whether an employee absence qualifies for FMLA leave. The Board shall act reasonably in determining whether an absence qualifies for and/or is designated FMLA leave.

***Notifications and Time Frames*** - The qualified employee shall give the Board at least thirty (30) days notice of the date family and medical leave is to begin, when possible. In the case of adoption or an unexpected birth or placement, the employee shall provide as much notice as possible.

The qualified employee shall provide the Board certified information from the health care provider of the employee, employee's spouse or family member upon requesting utilization of Family and Medical Leave under qualifying events 3 or

4. Such certification shall include:

- a. date the condition began
- b. anticipated duration of the condition
- c. necessity of the leave
- d. inability of the employee to perform job functions (if the employee claims a serious health condition)

Upon return to work, the qualified employee shall provide the Board certified information from the health care provider of the employee of his/her ability to resume work. If state or local law requires that a public health official examine an employee as a condition for returning to work, the employee must fulfill this obligation.

The Board may, at its expense, request a second or third opinion from a health care provider.

***Combination of Benefits*** - Employees must apply for and utilize any accrued paid leave prior to being eligible for unpaid family and medical leave. A total of twelve (12) weeks of paid and unpaid leave is allowed during any year as defined in this policy

***Definition of "Year"*** - For purposes of the Board's Family and Medical Leave Act policy, a "year" means a "rolling twelve month period measured backward from the date an employee uses any FMLA leave." This rolling twelve (12) month period means that each time an employee takes FMLA leave, the remaining leave balance would be any balance of the twelve (12) weeks which has not been used during the immediately preceding twelve (12) months. For example, if an employee has taken eight (8) weeks of leave during the past twelve (12) months, an additional four (4) weeks of leave could be taken. If an employee used four (4) weeks beginning February 1, 1996, four (4) weeks beginning June 1,

1996, and four (4) weeks beginning December 1, 1996, the employee would not be entitled to any leave until February 1, 1997. However, beginning on February 1, 1997, the employee would be entitled to four (4) weeks of leave, on June 1 the employee would be entitled to an additional four (4) weeks, etc.

***Leave Management Program*** - An employee, who has exhausted his/her sick leave balance and has used or is not eligible for Family and Medical Leave, and has in fact exhausted all accrued paid leave, and still continues to be unable to perform their duties in their present status of employment will have their situation reviewed by the appointing authority for a determination of continued employment.

At minimum, all absences without approved leave will require detailed explanation by the employee and supporting documentation. Employees are expected to improve their attendance and sick leave balance. Employees who continue to have absence without leave will meet with their supervisor and the superintendent to determine their fitness for continued employment.

### ***5.6.5 Personal Leave with Pay***

Each full-time employee who has worked at least three (3) months with the Board will be granted paid personal leave according to the schedule below. These personal days will be placed to the employee's credit on the first day of each program year. Personal leave may not be accumulated and may only be used during the program year in which it is granted.

- Twelve (12) month full time employees shall be authorized a maximum of three (3) days personal leave per year.
- Twelve (12) month part time employees shall be authorized personal leave per year based on a pro-rated basis.
- Nine month employees, who are not eligible to earn vacation, shall be granted two (2) personal days per year.
- **Substitute, seasonal, temporary and contracted employees are not eligible for personal leave.**

Personal leave, as described in this policy, must be taken in minimum of 1 hour increments.

Except in emergencies, the employee must submit a written request and receive approval from their department head at least 48 hours prior to the requested date of leave before using this benefit. Approval of personal leave shall be based on the ability of the program to maintain adequate programming to the enrollees. All personal leave requests must be submitted on the standard leave form.

For purposes of this policy, program year is defined as the period between July 1 of any year and June 30 of the following year.

Personal days may not be used in the last two (2) weeks of employment or on scheduled inservice days.

In general, no more than 20% of any employees in any one classification in any one work assignment will be permitted leave at a given time. A supervisor may grant leave to more than 20% of the employees if the additional leave does not adversely affect the enrollees or Board programs and training.

### ***5.6.6 Professional Leave***

An employee of the Board may be granted professional leave at the discretion of the department director to attend professional meetings, conferences, workshops, courses, etc. Professional leave is intended to allow employees to receive specialized training and information without loss of pay and to stimulate and support their professional growth.

Professional leave days are approved at the discretion of the department director.

The Board will not reimburse employees for overnight stays in neighboring counties. To be reimbursed for overnight stays within Ohio, the event must be more than a two (2) hours drive from Erie County.

Employees requesting leave to travel outside the State of Ohio must have Board approval prior to the date(s) of the conference. Leave requests must be approved by the superintendent through regular channels at least five (5) days in advance of the Board meeting which is scheduled prior to the dates requested.

Scheduled staff development days in the Board approved calendar will not count as professional leave days for the purpose of this policy.

### ***5.6.7 Vacation***

All regular full-time employees (2080 annual work hours) earn vacation leave according to their years of service with the State of Ohio or any political subdivision of the state. (Except for classified employees who have retired according to the provisions of any retirement plan offered by the state and have returned to public service after June 24, 1987. Such employees will not receive service credit for service prior to retirement with the State of Ohio or any political subdivision of the state. Vacation for unclassified employees is defined in their employment contract.)

“Seasonal (9-month) full-time, substitute, temporary and contracted employees are not eligible to earn and accrue vacation. Part-time staffs, that work a full calendar year, shall be eligible to earn and accrue vacation on pro-rated basis.”

<b>BI-WEEKLY</b>				
YEARS OF VACATION	ACCRUAL RATE		ANNUAL	ANNUAL
<u>PUBLIC SVS. (1)</u>	<u>(per hour worked)</u>		<u>WORK HOURS</u>	<u>HOURS</u>
<u>EARNED</u>				
1-7	.0385	x	2080	80.60
8-14	.0577	x	2080	119.60
15-24	.0769	x	2080	161.20
25 +	.0962	x	2080	200.20

*Footnote 1: The Attorney General's Opinion, 89-096 clarified that individuals whose first employment with a county occurred on or after July 5, 1987 shall only have county service counted as service for the purpose of computing vacation. Previous state, township or municipal services are not counted.*

*Footnote 2: The above chart has been modified to clarify the Attorney General's Opinion 94-008 that states an employee must have completed eight (8) years (or fifteen or twenty-five respectively) of service to begin accruing at the higher rate.*

The service required in each instance need not be continuous. Completion of a total of one year of public service as defined in O.R.C. 9.44 is required before eligibility for any vacation leave is established. No further eligibility requirement need be met and vacation leave may be used as it is accrued with approval of the department director and consistent with the other sections of this manual pertinent to vacation.

Vacation is credited each bi-weekly pay period at the maximum rate of 3.1 hours per pay period for those entitled to 80 hours of vacation per year; at 4.6 hours for those entitled to 120 hours per year; at 6.2 hours for those entitled to 160 hours per year; and at 7.7 hours for those entitled to 200 hours per year.

Full-time seasonal employees (full time employees scheduled to work less than 12 months per year) accumulate vacation prorated to bi-weekly hours for the hours actually worked. Full time seasonal employees are not entitled to accumulate vacation benefits during the period they are not scheduled to work. Full-time seasonal employees may be required to use some or all of accrued vacation time during periods when the relevant Board program is on break.

Nine month staff that follow a program calendar are not eligible for vacation but do get paid for holidays that occur on days they are scheduled to work .

Seasonal & temporary employees are not eligible for vacation but do get paid for holidays that occur on days they are scheduled to work.

***Carry-over to following year*** - Employees may carry forward accumulated vacation up to a maximum accumulation of three times their annual accrual amount. **Once the maximum accumulation has been reached, no further vacation will be credited.**

Days designated as holidays, listed as non-scheduled work days for the employee, or emergency days declared by the Governor are not charged to vacation leave regardless of the day of the week on which they occur.

Vacation leave is earned during the time the employee is on active pay status. It is not earned while on unpaid leave of absence or unpaid military leave.

Vacation time used by an employee is considered non-work time for purposes of calculating overtime pay or compensatory time accrual.

Part-time employees are entitled to vacation leave and shall earn vacation on a prorated basis. If part-time employees subsequently become full-time employees their part-time service will count in determining the total amount of service.

Upon separation or termination from county service, an employee is entitled to compensation for any earned but unused vacation leave credit at the time of separation/termination. However, no payment will be made to employees having less than one year of public service. Upon termination all accumulated vacation will be paid to the employee at the employee's current hourly rate at the time of separation. Vacation severance pay is not subject to PERS retirement deductions.

In the case of the death of an employee, any earned but unused vacation leave shall be paid to the date of death in accordance with R.C. 2113.04 to the deceased employee's estate.

Vacation may be used in quarter hour increments.

Employees are generally not eligible to take vacation or personal leave in the last two (2) weeks of employment.

### **Request and Approval**

Vacation leave will normally be granted on a first request basis and must conform to program operation schedules. The Board reserves the right to approve vacation consistent with program needs including approval consistent with program operation schedules. In general, no more than 20% of any employees in any one classification in any one work assignment will be permitted leave at a given time. Vacation may also be denied on designated in-service days.

Vacation shall be requested in writing on the Board's leave request form at least 48 hours in advance (this requirement can be waived at the discretion of the supervisor for non-sick documented emergencies.) Requests for vacation must be submitted to and approved by the employee's immediate supervisor.

### ***5.6.8 Military Leave***

Such leaves may be granted in accordance with the provision of Ohio Revised Code. Refer to O.R.C. 5903.03, 5903 – 124.29 and 5923.05.

### **5.6.9 Court Leave/Jury Duty**

Court leave with pay shall be granted to employees summoned for jury duty during normal working hours by a federal, state or any other court of competent jurisdiction. In cases where the employee's absence will create a hardship on the agency or jeopardize the safety of students or clients, the employee will be requested to ask to be excused from jury duty. However, if an employee cannot get released from jury duty, he/she cannot be penalized.

Court leave with pay shall be granted to employees subpoenaed to appear before any court or other body authorized by law to require attendance of witnesses during normal working hours where the employee is not a party to the action. An employee who is the appellant in an action before the State Personnel Board of Review or the claimant before the Bureau of Workers Compensation for a Board-related claim, and who is in active pay status at the time of the scheduled hearing or examination, shall be granted leave with pay for purposes of attending such hearing or examination during a normally scheduled work day.

Any compensation or reimbursement received, related to jury duty or for court attendance compelled by subpoena, must be remitted to the personnel office when such duty was performed during normal working hours.

An employee who is appearing before a court or other authorized body in a matter in which he/she is a party to the action, except as noted, may request vacation time or personal time. Such instances would include, but not be limited to, criminal or civil cases, traffic court, divorce proceedings, custody or appearing as directed as a parent or guardian of juveniles. (*Reference: R.C. 124.135; Ad. Code 123:1-34-03*)

### **5.6.10 Holidays**

Full-time, permanent employees are entitled to the following legal holidays (R.C. 325.19):

New Year's Day	First day of January
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Fourth Monday in May
Independence Day (12 mo. only)	Fourth Day of July
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	Eleventh Day of November
Thanksgiving Day	Fourth Thursday in November
Christmas Day	Twenty-fifth day of December

Holidays will also include any other day designated for County employees by an act of the President of the United States, the Governor of this State, or the Board. (Currently this includes Good Friday, the Day after Thanksgiving, Christmas Eve, and New Year's Eve.)

Other non-required work days when employees are not required to report for work shall be specified in the calendar adopted annually by the Board. Employees shall not be paid for non-scheduled work days.

Holidays may be observed on days other than traditionally designated in order to be consistent with the schedules of local schools and businesses as well as other non-scheduled work days. In such cases, changes will be reflected on the program calendars adopted by the Board.

When a holiday (*such as Veteran's Day and Columbus Day*) is scheduled on the program calendar to be celebrated at other times, the employee is not eligible for compensatory time off for working on the actual holiday. The floating of the holiday on the program calendar is not mandatory and the employee may elect to celebrate the floated holiday on the actual day. The employee must notify their supervisor of that intent at least one week prior to the holiday. In such cases these employees will be required to work on the day that the floated holiday was scheduled.

Unless otherwise noted on the program calendar, if a holiday falls on Sunday, it will be observed on the following Monday and if it falls on a Saturday, it will be observed on the preceding Friday.

Full-time employees who work a schedule other than Monday through Friday will receive compensatory time for any holiday observed on their regular day off based upon their regularly scheduled hours. Such time must be taken in the work week in which the holiday occurs, unless otherwise approved by the superintendent.

Part-time employees are entitled to holiday pay for only that portion of any holiday for which they would normally have been scheduled to work.

If a holiday occurs while an employee is on vacation or sick leave, such vacation or sick day will not be charged against his/her vacation leave or sick leave.

In order for an employee to be eligible for a paid holiday, they must be on active pay status the work day before and after the holiday.

### ***5.6.11 Religious Holidays***

It is the policy of the Board, in a flexible and fair manner, to permit and assist employees to observe religious holidays that have not been granted by law. While the granting of leave for such holidays may not always be possible, efforts will be made to accommodate the needs of the employee.

Employees observing religious holidays on days other than the already approved holidays may apply for administrative leave with pay for the observance of a maximum of two (2) religious holidays per program year. Request for such leaves must be submitted two (2) weeks in advance.

The time granted for administrative leave with pay for religious holidays is to be made up by being assigned work within the agency at times when the employee would not normally be scheduled to work.

Except by special permission, the employee will be assigned to work this make-up time in advance of the religious holidays to be taken. The time will be banked for use during the program year. Selection of time to work as make-up must be approved in writing by the superintendent/designee.

### ***5.6.12 Assault Leave***

An employee who is physically injured due to an assault by a person enrolled or appearing for evaluation to be enrolled in a program or service operated by the Board may apply for assault leave to be used in lieu of sick leave and may be granted such leave subject to the following conditions and limitations.

#### **Conditions:**

1. The injury must have resulted from an actual or attempted assault by an enrollee or applicant on the agency premises and/or during an agency function when the employee is working in an approved and proper manner or has gone to the aid of an employee being assaulted or in need of assistance to effectively restrain an enrollee or applicant.
2. The incident that resulted in the injury must have been reported to the building administrator at the time of its occurrence and an incident report submitted within the established guidelines for incident reports.
3. The employee with an injury or suspected injury must have been seen by a doctor within 24 hours of its occurrence.
4. The doctor's written authorization must be submitted to return to work.
5. If a doctor is seen during the employee's workday and the doctor authorizes the employee's immediate return to work or return on the following day, the doctor's written authorization must be as specified in item 6 below.

6. If it is necessary for the employee to be absent, the employee shall promptly notify the department director of the nature of the injury and the probable extent of the absence. A statement by the examining physician certifying the nature of the injury, the necessity for the employee to be absent and the date of the employee's ability to return to normal duties without restrictions must be submitted at the time of the employee's return to duty.
7. The employee must cooperate fully with any investigation and action arising there from unless otherwise advised by his/her own counsel.

**Limitations:**

If the conditions above that are applicable in a given instance are met in full, the agency shall:

1. Provide full payment for each full or partial day of such absence for which there is no payment by Workers Compensation to a maximum of two (2) work days per incident. If the absence exceeds five (5) work days, the employee must apply for Workers Compensation. If a subsequent award by Worker's Compensation is made effective to the first day of absence for an injury resulting in absence, assault leave paid to the employee shall be returned to the agency by subsequent deductions from the employee's regular pay.
2. Charge the absence as assault leave which shall not be deducted from the employee's accumulated unused sick leave and/or vacation leave and, during the assault leave time, the employee shall continue to accrue such leaves.
3. Provide all other benefits to which the employee is entitled during the term of absence for assault leave.

The appointing authority shall have the right to require a physical examination by a doctor that the appointing authority shall appoint. The Board shall pay the cost of such examination.

### ***5.6.13 Administrative Leave with Pay***

Employees may be granted leave with pay for purposes directly related to the function of the agency or to the functions of the employee's position. Administrative leave with pay may only be granted by the superintendent.

### ***5.6.14 Calamity Days and Program Closings***

The superintendent/designee has the authority to delay opening, dismiss early or to close the agency, either partially or totally, due to any condition that may pose a threat to the health and safety of agency clients and staff.

A calamity day shall be considered a regular work day subject to all applicable policies.

The superintendent/designee shall determine if employees must report to work and, if so, under what attendance conditions. Employees that are on prearranged leave shall be, charged for that leave on calamity days per increment requested *prior* to announcement of calamity day, this includes a call off to the 199 line *prior* to announcement of calamity day. Employees at work and sent home due to a calamity will have the balance of their day paid via calamity. If an employee reported to work and left *prior* to the announcement of a calamity day, he or she shall be, charged whatever leave they were using for the day per increment requested.

Notwithstanding the above, a calamity day or day when a program(s) is closed is a paid workday. Staff shall not report to work on calamity days unless directed to do so by the superintendent or designee. If an employee shows up to work without being directed to do so, and stays, there will be no *additional* pay to already declared calamity day.

Employees who are in a non-pay status before and after a calamity day will not be paid for the calamity day or day when a program is closed.

Every effort will be made to decide and communicate decisions on closing to bus drivers by 6:00 a.m. and to radio stations by 6:30 a.m. Except for bus drivers, official notification authorizing closing shall be announced on local radio stations. A list of stations carrying the closing announcements will be provided to staff each Fall.

Closing the program early will only be considered in the most serious conditions, as it may be difficult for families to insure supervision for the children or adults on such short notice.

In severe inclement weather conditions, a bus driver may use his/her discretion in determining if an individual client or portion of a route can be driven, if the route must be canceled, if an alternate route should be driven, or if the route must be delayed. In each case, the driver must contact the transportation coordinator by radio to explain the conditions for his/her decision.

### ***5.6.15 Funeral Leave***

An eligible employee may be granted use of sick leave upon approval of the superintendent or designee for a maximum of five (5) working days in the event of a death of each immediate family member. For purposes of this policy, "immediate family" is defined as: mother, father, brother, sister, child, spouse, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, legal guardian or other person who stands in the place of an employee's parent. For purposes of funeral leave only, "immediate family" may also include the grandparent of the employee's spouse or the birth parent of an employee's child. (Reference: Ad. Code 1233:1-32-05(A)(4))

### ***5.6.16 Leave for Volunteer Firefighters and Volunteer Providers of Emergency Medical Services***

This policy covers an employee who is absent from or late to work because the employee is responding to an emergency as a volunteer firefighter or a volunteer provider of emergency medical services and such response occurs prior to the time the employee is to report to work. If the employee follows the procedures set forth in this policy, the employee will not be penalized in any way for the time missed from work. However, the time worked is considered personal time and the employee will need to cover such leave pursuant to the Board's leave policy (for example, vacation leave, leave without pay, etc.).

Procedures to be followed:

#### **1) Notification of volunteer status**

An employee, who is a volunteer firefighter or a volunteer provider of emergency medical services, shall notify the Erie County Board of Mental Retardation and Developmental Disabilities Personnel Office in writing within thirty (30) days of obtaining such position. The written notice must be signed by the chief of the volunteer fire department or the medical director or the chief administrative of the cooperating physician advisory board of the emergency medical organization with which the employee serves. The employee shall also notify the Board of any changes in the employee's status as a volunteer, including when the employee's status as a volunteer is terminated.

#### **2) Employee notification of absence due to an emergency**

The employee must make every reasonable effort to notify the Board prior to his/her absence or tardiness due to the need to respond to an emergency. If notification is not possible, the employee shall submit to the Board a written

explanation from the chief of the volunteer fire department or the medical director or the chief administrator of the cooperating physical advisory board of the emergency medical organization with which the employee serves, explaining why prior notice was not given.

At the request of the Board, the employee dispatched to an emergency which results in time missed from work shall submit to the Board a written notice from the chief administrator of the cooperating physician advisory board of the emergency medical organization with which the employee serves indicating that the employee responded to an emergency and listing the time of that response.

For purposes of this policy, “emergency” means going to, attending to, or coming from a fire, hazardous or toxic materials spill and clean-up, medical emergency, or other situation that poses an imminent threat of loss of life or property to which the fire department or provider of emergency medical services has been or later could be dispatched.

- 3) Time missed is not counted as an absence for disciplinary purposes. An employee serving as a volunteer pursuant to this policy who is absent from or late to work because the employee is dispatched to an emergency prior to the time the employee is to report to work and who follows the above notification procedures, shall not have such absences counted for purposes of the Board’s disciplinary procedures.
- 4) Absence due to an employee responding to an emergency is an absence for personal reasons. Any time missed by a volunteer due to an emergency shall be handled according to the Board’s policy regarding employees who are not at work due to personal reasons.

### ***5.6.17 Sick Leave Donation***

Employees of the Erie County Board of Mental Retardation and Developmental Disabilities may voluntarily donate leave directly to a fellow employee who is otherwise eligible to accrue and use sick leave pursuant to the provisions of Section 124.391 of the Revised Code and this rule.

***Receiving Leave*** – To receive donated leave an employee must:

- have a serious illness or injury or have a member of their immediate family who has a serious illness or injury as defined by the Family Medical Leave Act (FMLA)
- have no accrued leave or is projected to exhaust accrued leave as a result of a serious illness or injury
- have applied for any paid leave, worker’s compensation, or benefits program for which the employee is eligible
- have applied for Family and Medical Leave

- have completed one (1) year of service with the Erie County Board of Mental Retardation and Developmental Disabilities
- have provided written verification that the catastrophic illness exists
- agree to accept the leave under the terms of this policy and complete an “*Application to Receive Donated Leave*”
- Sick leave is considered sick leave and will not be converted to a cash benefit to the employee.
- A Certification of Health Care Provider is on file to document an approved Family Medical Leave.
- Donated leave may only be used in conjunction with the Family Medical qualifying injury or illness, and will only be released as needed.
- For intermittent use as defined in Board policy, a physician’s note will be required to obtain the donated leave. Intermittent leave is defined on the Certification of Health Care Provider Form.

***Donating Leave*** – Employees may donate leave if the donating employee:

- voluntarily elects to donate leave and does so with the understanding that donated leave will not be returned
- donates a minimum of one (1) hour
- donates only the amount needed
- retains a sick leave balance of at least 80 hours. Sick leave shall be donated in the same manner in which it would otherwise be used.
- is not to be reimbursed or compensated in any way for leave that is donated.
- Completes an “*Application to Donate Leave*”

***Administration*** – The sick leave donation program shall be administered on a per occurrence basis. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Donated sick leave shall be considered sick leave and shall never be converted to a cash benefit to the employee.

When an application to donate leave is received, only the amount of time needed will be transferred to the record of the designated employee.