

**TITLE 128
PROCEDURAL RULE
WEST VIRGINIA BOARD OF REGENTS**

**SERIES 35
ANNUAL LEAVE, SICK LEAVE, MILITARY LEAVE AND OTHER LEAVES**

§128-35-1. General.

1.1. Scope. -- Policy regarding annual leave, military leave, leave of absence without pay, sick and emergency leave, and witness and jury leave for employees of the state system of higher education.

1.2. Authority. -- W. Va. Code §18-26-8

1.3. Filing Date. -- April 21, 1987

1.4. Effective Date. -- June 20, 1987

1.5. Repeal of former rule - Revises and replaces Policy Bulletin No. 35 effective December 24, 1985

§128-35-2. Leave entitlement.

2.1. Persons employed in the state system of higher education subsequent to January 31, 1974, shall be entitled to annual leave, military leave, leave without pay, sick and emergency leave, and witness and jury leave as hereinafter provided.

§128-35-3. Leave policy option.

3.1. Persons presently employed in the state system of higher education have the option, effective February 1, 1974, of electing to accept the leave policy hereinafter provided or of electing to retain coverage under the designated pre-existing leave policies of the Board of Governors or the State Board of Education, as the case may be. Such election shall be made by each individual on or before June 30, 1974, by giving written notice to the institution in the manner prescribed by the President of the institution. The option to elect shall pertain in full to the leave policy hereinafter defined or to the pre-existing policies. Individual elements may not be elected from among the several leave policies. An employee's election of a leave policy shall be effective from the date written notice is received by the institution from the individual.

§128-35-4. Annual leave.

4.1. It is the desire of the West Virginia Board of Regents that employees of the Board shall earn annual leave with the length of leave based on the level of position, responsibility, service and other factors.

4.2. Except as otherwise provided herein, employees of the Board of Regents shall accumulate and receive annual leave with pay as follows:

(a) Non-classified employees and Faculty with twelve-month (12) contracts shall be eligible for twenty-four (24) days leave per year, calculated at the rate of 2.00 days per month from the date of employment.

(b) Faculty on less than 12-month appointments have their holidays scheduled in accordance with the approved academic calendar and as such, do not accrue annual leave days.

(c) All other full-time, regular employees in classified positions shall be eligible for annual leave with pay on the following basis:

(1) Less than five (5) years' service: One and one-fourth (1.25) days per month;

(2) Five (5) to ten (10) years' service: One and one-half (1.50) days per month;

(3) Ten (10) to fifteen (15) years' service: One and three-fourth (1.75) days per month;

(4) Fifteen (15) or more years' service: Two (2.00) days per month.

(d) No person who is earning a higher accumulation than is authorized under this policy shall be reduced to comply with this policy. However, upon leaving the position the proper accumulation rate shall thenceforth apply.

(e) Term of service described in (c) above shall be total service and does not require continuous service to fulfill the required term.

(f) Non-faculty employees working at least one-half time (1040 hours) on a regular and continuing basis, but less than full-time, shall accumulate annual leave on a pro rata basis.

(g) Annual leave shall not be accorded emergency or short-term employees or students employed on a part-time basis.

(h) A holiday occurring during an employee's leave period shall not be considered as a day of leave.

(i) Accumulated annual leave for continuing employees may be extended beyond that earned during a period of one (1) year by written approval of the President, but in no case shall it exceed twice the amount earned in any twelve (12) month period.

(j) An employee is entitled to accumulated leave at termination of service, but in no case may this exceed the limits set in (i) above. Leave time may not be earned during a terminal leave period.

(k) Annual appointment periods of nine (9) months or more shall be credited for one (1) year of service for annual leave calculation purposes.

§128-35-5. Other conditions.

5.1. Annual leave at the request of the employee may be granted to an employee because of illness, provided all earned sick leave has been used.

5.2. Calculation of annual leave shall be based on years of service to the State of West Virginia, regardless of the location of the employee's work.

5.3. Annual leave shall be arranged to fit operating schedules. However, consideration should be given to an employee's request. Leave may not be taken before it is earned.

5.4. In the event of an employee's death, accumulated leave will be credited to the employee's heirs or estate.

5.5. Classification record. -- Each institution under the Board of Regents shall keep on file a record showing classification of each employee and current leave status.

5.6. Annual leave may be transferred from other agencies of state government to Board of Regents institutions. Any request for transfer of annual leave must be made within thirty (30) calendar days of the

time the employee commences work at the Board institution. Certification of the balance which existed in the losing state agency must follow the request for transfer and bear the signature of an officer from that agency.

§128-35-6. Military leave.

6.1. An employee who is a member of the National Guard or any reserve component of the armed forces of the United States shall be entitled to and shall receive a leave of absence without loss of pay, status, or efficiency rating, for all days in which engaged in drills or parades ordered by proper authority, or for field training or active service for a maximum period of thirty (30) calendar days in any one (1) calendar year ordered or authorized under provisions of state law. The term "Without Loss of Pay" shall mean that the employee shall continue to receive normal salary or compensation, notwithstanding the fact that such employee may receive other compensation from federal sources during the same period. Furthermore, such leave of absence shall be considered as time worked in computing seniority, eligibility for salary increase, and experience with the institution. An employee shall be required to submit an order or statement in writing from the appropriate military officer in support of the request for such military leave. The terms of this policy shall not apply under the provisions of any Selective Training and Service Act, or other such Act whereby the President may order into active duty the National Guard and the reserve components of the armed forces of the federal government.

§128-35-7. Leave of absence without pay.

7.1. A full-time regular employee, upon application in writing and upon written approval by the institutional President, may be granted a continuous leave of absence without pay for a period of time not to exceed one (1) year, provided, if granted because of illness, all sick and annual accumulated leave have been used.

7.2. The President, at his discretion, may require the written approval of the supervisor before accepting the written application of an employee for a leave of absence without pay.

7.3. The President, at his discretion, shall determine if the purpose for which such a leave is requested is proper and within sound administrative policy.

7.4. At the expiration of leave of absence without pay, the employee shall be reinstated without loss of

any rights, unless the position is no longer available due to a reduction in staff caused by curtailment of funds or a reduced workload. Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of employment by the institution.

§128-35-8. Sick and emergency leave.

8.1. Eligibility and allowance. -- All full-time employees of the Board of Regents and employees who work more than one-half time on a regular and continuing basis, shall be eligible to receive and accumulate sick leave with pay. Full-time employees shall accumulate sick leave with pay at the rate of 1.5 days for every employment month or a major fraction thereof. Part-time employees working more than one-half time shall accumulate sick leave on a pro-rata basis. Faculty on nine (9) month appointments do not accrue sick leave days. Arrangements can be made for coverage of classes or duties.

8.2. Sick leave with pay may be accumulated without limit.

8.3. Sick leave may be used by the employee when ill or injured, when a member of the immediate family is seriously ill, or when death occurs in the immediate family. For the purpose of administering this leave policy, the immediate family is defined as: The father, mother, son, daughter, brother, sister, husband or wife, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, step-mother, stepfather, stepchildren, or others considered to be members of the household and living under the same roof.

8.4. Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom shall be, for all job-related purposes, temporary disabilities and shall be treated the same as any other off-the-job illness or disability would be treated for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth, the same criteria shall be used as would be used in the case of another type of off-the-job illness or disability.

8.5. Sick leave for more than five (5) consecutive days shall not be granted to an employee for illness without satisfactory proof of illness or injury, as evidenced by a statement of the attending physician or by other proof satisfactory to the institution. An employee having an extended illness or serious injury shall, before returning to duty, obtain medical clearance to help insure adequate protection.

8.6. The institution may require evidence from an employee for verification of an illness or other causes for which leave may be granted under this policy, regardless of the duration of the leave.

8.7. In cases where all accumulated sick leave has been used and annual leave is available, it shall be the option of an employee; (1) to use any accumulated annual leave until it has also expired, rather than being removed from the payroll; or (2) to retain the accumulated annual leave for use after return to work, but be taken off the payroll immediately after the accumulated sick leave has expired.

8.8. On-the-job injuries or occupational illnesses which involve no more than three (3) days of disability leave or absence from work shall not be charged against the employee's accumulated sick leave. If on-the-job injuries or illnesses require a leave beyond the three (3) day period, the employee may have the option of either of the following: (1) Using earned and accumulated sick and annual leave until both may be exhausted and receiving any additional benefits adjudged to be due under the West Virginia Compensation Law; or (2) reserving for future use any earned and accumulated sick and annual leave and receiving only Workmen's Compensation benefits for which adjudged eligible.

8.9. An employee is required to notify his supervisor immediately if ill or unable to work for any reason. The notification shall be given to the immediate supervisor prior to the employee's normal starting time and should include the approximate length of absence. Following two (2) written warnings, failure to report off from work shall be a basis for disciplinary action, which may include suspension, demotion or discharge.

8.10. Students employed on a part-time basis through campus and federal work programs are not eligible for sick leave provisions.

8.11. Accumulated sick leave may be transferred with an employee from other agencies of West Virginia where eligibility exists for PEIB. Certification of

the balance which existed in the losing agency must accompany the request for transfer and bear the signature of an officer of that agency. A request for transfer must be made within three (3) years from the last day of employment with the other agency.

8.12. Sick leave provisions are contingent upon continued employment. When the services of an employee have terminated, all sick leave credited to the employee shall be considered ended as of the last working day with the institution, and no reimbursement shall be provided for unused sick leave. Employees who resign in good standing and are later re-employed may have their accumulated sick leave reinstated.

8.13. Each institution shall maintain a sick leave record on each employee for computation, audit, and research purposes. Faculty will report illnesses that cause absence from classes as early as possible.

8.14. Special emergency leave with pay may be granted by the President of the institution to those regularly employed in the event of extreme misfortune to the employee or the immediate family, provided annual leave is not available. The leave should be the minimum necessary, and in no case may it exceed five (5) days within any fiscal year. Typical events which may qualify an employee for such leave are fire, flood, or other events (other than personal illness or injury, or serious illness or death in the immediate family) of a nature requiring emergency attention by the employee.

8.15. The maximum charge against sick leave will be two hundred sixty (260) work days per confinement, at which time disability retirement should be considered.

§128-35-9. Witness and jury leave.

9.1. Upon the application in writing, a permanent, probationary, provisional, or temporary employee of the Board of Regents may be granted leave as indicated hereinafter in this section. Annual leave will not be charged under the provisions of this section.

9.2. When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness for the Federal Government, the State of West Virginia, or a political subdivision thereof, the employee shall be entitled to leave with pay for such duty and for such period of required absence.

9.3. When attendance in a court is in connection with an employee's usual official duties, time required in going and returning shall not be considered as absence from duty.

9.4. When an employee serves upon a jury, or is subpoenaed in litigation, the employee shall be entitled to leave with pay for such duty and for such period of required absence.

SPECIAL NOTE: This section of the policy is effective as of enactment on February 3, 1976.

§128-35-10. Leave records to be maintained by each institution.

10.1. A complete leave record and file shall be maintained by each college and university for each employee. This record shall disclose at all times accrued leave, as well as leave that has been used. The leave record and file for persons employed prior to February 1, 1974, shall include the signed statement of the employee, giving notice of the leave policy elected by the individual.

WEST VIRGINIA BOARD OF REGENTS

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January 16, 1987

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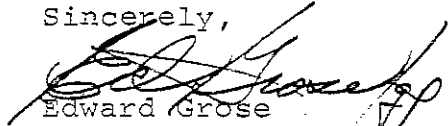
Mr. Rich O. Hartman
Director
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Secretary of State's Office
State Capitol Building
Charleston, WV 25305

Process papers

Dear Mr. Hartman:

With regard to the enclosed change in Policy Bulletin No. 35, it was my understanding when we discussed the computerization of the West Virginia Code of State Regulations that you would require notification of the changes which have been made in one of our existing Policy Bulletins, not the entire Bulletin. If this is a misunderstanding on my part, please let me know and I will comply with your instructions.

Sincerely,



Edward Grose
Vice Chancellor
Administrative Affairs

EG:gjp

Enclosure

Policy Bulletin No. 35
WV Board of Regents
Procedural Rule, 18-26
Series I, Sec. 4

4.2(F)

~~f 4.2.6~~ Non-faculty employees working at least one-half time (1040 hours) on a regular and continuing basis, but less than full-time, shall accumulate annual leave on a pro rata basis.

correction made

Clarification of language in Section 4, paragraph 4.2.6 of
P.B. #35 approved on 1/5/87 by the WV Board of Regents.

FILED

1987 JAN 21 PM 7:06

WV BOARD OF REGENTS
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Policy Bulletin No. 35
WV Board of Regents
Procedural Rule, 18-26
Series I, Sec. 4

4.2.6 Non-faculty employees working at least one-half time (1040 hours) on a regular and continuing basis, but less than full-time, shall accumulate annual leave on a pro rata basis.

Clarification of language in Section 4, paragraph 4.2.6 of P.B. #35 approved on 1/5/87 by the WV Board of Regents.