

Professional Personnel

Leaves of Absence 1

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave 2

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may

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¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (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; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A. 100-513. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

Consult the board attorney about the Employee Sick Leave Act. 820 ILCS 191/~~added by P.A. 99-841~~. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave to care for an ill or injured family member or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an licensed advanced practice registered nurse ~~who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice registered nurse to perform health examinations~~, (4) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. ⁴

Child Bereavement Leave ⁵

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 *et seq.*) to take child bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Child Bereavement Leave Act. Child bereavement leave allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, (2) making arrangements necessitated by the death of the staff member's child, or (3) grieving the death of the staff member's child, without any adverse employment action.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child. However, in the event of the death of more than one child in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Child Bereavement Leave Act. This policy does not create any right for an employee to take child bereavement leave that is inconsistent with the Child Bereavement Leave Act.

Sabbatical Leave ⁶

Sabbatical leave may be granted in accordance with the School Code.

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³ The School Code does not state a time limit for how sick leave must be taken, including for birth. Some employees and unions have taken the position that the 30 days of sick leave for birth can be used consecutively before and after an intervening summer break. However, an Illinois appellate court found that to interpret 105 ILCS 5/24-6 to allow sick leave for birth to be taken over such a long break was unreasonable and not a fair reading of the statute. *Dynak v. Bd. of Education of Wood Dale Sch. Dist. 7*, 2019 IL App (2d) 180551. Consult the board attorney regarding requests for sick leave when the timing involves an intervening school break.

⁴ 105 ILCS 5/24-6.

⁵ Child Bereavement Leave Act, 820 ILCS 154/ ~~added by P.A. 99-703~~. These paragraphs discuss child bereavement leave. 820 ILCS 154/5 ~~added by P.A. 99-703~~, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 *et seq.*). See fn 1 above.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her child, as defined by 820 ILCS 154/ ~~added by P.A. 99-703~~. However, that 60 day limitation does not apply where more than one child dies in a 12-month period. There may be times where an employer may want to grant more than 10 unpaid work days, e.g., when a deceased child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

⁶ State law provides guidelines for sabbatical leaves but does not require boards to offer them. 105 ILCS 5/24-6.1.

Personal Leave 7

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal three days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last five days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

Leave of Absence Without Pay 8

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

Leave to Serve as an Election Judge 9

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same Election Day.

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⁷ State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave a year.

⁸ State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. 105 ILCS 5/24-13.

⁹ This paragraph restates 10 ILCS 5/13-2.5. The statute does not state whether the notice requirement is *calendar days* or *business days*. Support for it being *calendar days* is found in 10 ILCS 5/1-6; support for it being *business days* is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

Child-Rearing Leave 10

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave exceed three semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. 11

A teacher ~~must~~ should request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.¹² The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. 13

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

Leaves for Service in the Military 14

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

General Assembly Leave 15

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

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¹⁰ The School Code does not address child-rearing. FMLA grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. *McWright v. Alexander*, 982 F.2d 222 (7th Cir. 1992).

¹¹ Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. *Maganuco v. Leyden Comm. High Sch. Dist. 212*, 939 F.2d 440 (7th Cir., 1991); *U.S. v. Consol. High Sch. Dist. 230*, 983 F.2d 790 (7th Cir. 1993); *E.E.O.C. v. Elgin Teachers' Ass'n.*, 780 F.Supp. 1195 (N.D.Ill. 1991). A sick leave bank exclusion of maternity benefits violates Title VII. *U.S. v. Consol. High Sch. Dist. 230, supra*.

¹² The length of the notice - here 90 days - is not covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

¹³ For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

¹⁴ Required by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating leave for *active service*, and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

¹⁵ Required by 105 ILCS 5/24-13.

Leave for Employment in Department of Defense 16

The Board may grant teachers a leave of absence to accept employment in a Dept. of Defense overseas school.

School Visitation Leave

An eligible professional staff member is entitled to eight hours during any school year, no more than four hours of which may be taken on any given day, to attend school conferences, behavioral meetings, or classroom activities/academic meetings related to the teacher's child, if the conference or meeting activity cannot be scheduled during non-work hours.¹⁷ Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. ¹⁸

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. ¹⁹

Leaves for Victims of Domestic Violence, ~~or Sexual Violence~~ or Gender Violence 20

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic violence, ~~or sexual violence~~, or gender violence, or (2) has a family or household member who is a victim of domestic or sexual ~~such~~ violence whose interests are not adverse to the employee as it relates to the domestic violence, ~~or sexual violence~~, or gender violence. The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.²¹ Neither the law nor this policy creates a right for an employee to take unpaid leave that

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¹⁶ State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. 105 ILCS 5/24-13.1.

¹⁷ 820 ILCS 147/15, amended by P.A. 101-486, eff. 8-1-20.

¹⁸ *Id.* The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

¹⁹ 820 ILCS 147/. Parents of children with serious health conditions may also be eligible to use FMLA leave for individualized education program (IEP) meetings. See U.S. Dept. of Labor Wage and Hour Division Opinion Letter, FMLA 2019-2-A (8-8-19), available at: www.dol.gov/whd/opinion/search/index.htm?FMLA.

²⁰ Required by the Victims' Economic Security and Safety Act, (VESSA) (820 ILCS 180/, amended by P.A. 101-221, eff. 1-1-20, and 56 Ill.Admin.Code §280). Gender violence means: (1) one or more acts of violence or aggression that is a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221, eff. 1-1-20. Sexual violence is not specifically defined in VESSA. While the law applies to all school districts (820 ILCS 180/10(10), amended by P.A. 99-765), the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)), amended by P.A. 99-765. The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws* at:

www2.illinois.gov/idol/Documents/flsposter.pdf#search=Your%20Rights%20Under%20Illinois%20Employment%20Laws www.illinois.gov/idol/Employers/Documents/flsposter.pdf). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

²¹ If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2).

exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 et seq.). ²²

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,²³ (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²⁴ and (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. ²⁵

LEGAL REF.: 10 ILCS 5/13-2.5
~~20 ILCS 1805/30.1 et seq.~~
105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.
[330 ILCS 61/, Service Member Employment and Reemployment Rights Act.](#)
820 ILCS 147/, School Visitation Rights Act.
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.

Commented [DJ1]: Repealed by P.A. 100-1101.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

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If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2) ~~amended by P.A. 99-765.~~

²² VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the FMLA. 820 ILCS 180/20(a)(2). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of ~~domestic violence, or~~ sexual violence, or gender violence]," 820 ILCS 180/25 amended by P.A. 101-221, eff. 1-1-20. Contact the board attorney for advice resolving this ambiguity.

²³ Required by 105 ILCS 5/24-13.

²⁴ Required by 105 ILCS 5/24-6.3. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

²⁵ Required by 105 ILCS 5/24-6.2.