

## **Professional Personnel**

### **Leaves of Absence**<sup>1</sup>

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**<sup>2</sup>

**Please refer to the following current agreement, individual administrator employment contracts or annual salary/benefit letters provided to union-exempt staff:**

**Collective Bargaining Agreement Between The Board of Education Oak Park District 97 and The Oak Park Teachers' Association IEA-NEA**

**Comment [KAS1]:** The policy, Legal References, and footnotes are updated to address the Child Bereavement Leave Act, 820 ILCS 154/, added by P.A. 99-703 and the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17.

**Comment [KAS2]:** Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> 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 Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current *[insert name of professional CBA]*."

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 (P.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/).

<sup>2</sup> The provisions in this section are required by 105 ILCS 5/24-6. 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, eff. 1-1-17. 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 (biological, adopted, stepchild, or legal ward), 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.

#### Child Bereavement Leave <sup>4</sup>

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.

**Comment [KAS3]:** The Child Bereavement Leave Act is managed here to acknowledge that it exists, but that requests will be governed by the law. Footnotes explain that to trigger the Act, an employee requesting the leave must be an eligible employee under FMLA.

**Comment [KAS4]:** P.A. 99-703 requires employers to offer this unpaid leave.

#### Sabbatical Leave <sup>5</sup>

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

#### Personal Leave <sup>6</sup>

**Please refer to the following current agreement, individual administrator employment contracts or annual salary/benefit letters provided to union-exempt staff:**

**Collective Bargaining Agreement Between The Board of Education Oak Park District 97 and The Oak Park Teachers' Association IEA-NEA**

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<sup>3</sup> 105 ILCS 5/24-6.

<sup>4</sup> Child Bereavement Leave Act (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 f/n 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.

<sup>5</sup> State law provides guidelines for sabbatical leaves but does not require boards to offer them (105 ILCS 5/24-6.1).

<sup>6</sup> State law does not address personal leave.

Leave of Absence Without Pay <sup>7</sup>

**Please refer to the following current agreement, individual administrator employment contracts or annual salary/benefit letters provided to union-exempt staff:**

**Collective Bargaining Agreement Between The Board of Education Oak Park District 97 and The Oak Park Teachers' Association IEA-NEA**

Leave to Serve as an Election Judge <sup>8</sup>

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.

Child-Rearing Leave <sup>9</sup>

**Please refer to the following current agreement, individual administrator employment contracts or annual salary/benefit letters provided to union-exempt staff:**

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<sup>7</sup> 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).

<sup>8</sup> This paragraph restates 10 ILCS 5/13-2.5, amended by P.A. 98-691. 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, board policy 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

<sup>9</sup> The School Code does not address child-rearing. The Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, 29 C.F.R. §825.200, 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., 1993).

### Leaves for Service in the Military <sup>13</sup>

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 <sup>14</sup>

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.

### Leave for Employment in Department of Defense <sup>15</sup>

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

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<sup>10</sup> 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 School Dist.* 212, 939 F.2d 440 (7th Cir., 1991); *U.S. v. Consol. High School 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 School Dist.* 230, *Supra*.

<sup>11</sup> 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.

<sup>12</sup> 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 . . .

<sup>13</sup> Required by: the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Military Leave of Absence Act (5 ILCS 325/), added mandatory leave for "other training or duty required by the United States Armed Forces" and requires the public employer to make up the difference between military pay and regular compensation; Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301).

<sup>14</sup> Required by 105 ILCS 5/24-13.

<sup>15</sup> State law provides guidelines for Dept of Defense leaves but does not require boards to offer them (105 ILCS 5/24-13.1).

### School Visitation Leave

**Please refer to the following current agreement, individual administrator employment contracts or annual salary/benefit letters provided to union-exempt staff.**

### **Collective Bargaining Agreement Between The Board of Education Oak Park District 97 and The Oak Park Teachers' Association IEA-NEA**

### Leaves for Victims of Domestic or Sexual Violence <sup>19</sup>

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic or sexual violence, or (2) has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual 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.<sup>20</sup> Neither the law nor this policy creates a right for an employee to take unpaid leave that 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.*). <sup>21</sup>

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<sup>16</sup> 820 ILCS 147/15.

<sup>17</sup> *Id.* The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, board policy 5:330, Educational Support Personnel - *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

<sup>18</sup> 820 ILCS 147/.

<sup>19</sup> Required by the Victims' Economic Security and Safety Act, 820 ILCS 180/, ~~amended by P.A. 98-766~~, and 56 Ill.Admin.Code §280. While the law applies to all school districts (820 ILCS 180/10(10), ~~amended by P.A. 99-765, eff. 1-1-17~~, the ~~leave is only available to employees working for employers with at least 15 employees~~ 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, eff. 1-1-17~~. 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 [www.illinois.gov/idol/Employers/Documents/flsposter.pdf](http://www.illinois.gov/idol/Employers/Documents/flsposter.pdf) ~~www.illinois.gov/idol/EmployerInformation/Pages/posters.aspx~~). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

<sup>20</sup> 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~~ 8 work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2).

~~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, eff. 1-1-17~~.

<sup>21</sup> The Victims' Economic Security and Safety Act states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the Family and Medical Leave Act (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 or sexual violence]," (820 ILCS 180/25). Contact the board attorney for advice resolving this ambiguity.

#### 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,<sup>22</sup> (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,<sup>23</sup> 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. <sup>24</sup>

LEGAL REF.: 10 ILCS 5/13-2.5  
20 ILCS 1805/30.1 et seq.  
[820 ILCS 154/](#)  
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.  
820 ILCS 147/ and 180/.

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

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<sup>22</sup> Required by 105 ILCS 5/24-13.

<sup>23</sup> Required by 105 ILCS 5/24-6.3. See 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

<sup>24</sup> Required by 105 ILCS 5/24-6.2.