

## General Personnel

### Abused and Neglected Child Reporting <sup>1</sup>

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child shall immediately report such a case to the Illinois Department of Children and Family Services on its Child Abuse Hotline 800/25-ABUSE or 217/524-2606. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made. All District employees shall sign the *Acknowledgement of Mandated Reporter Status* form provided by the Illinois Department of Child and Family Services (DCFS) and the Superintendent or designee shall ensure that the signed forms are retained. <sup>2</sup>

Any District employee who discovers child pornography on electronic and information technology equipment shall immediately report it to local law enforcement, the National Center for Missing and Exploited Children's CyberTipline 800/843-5678, or online at [www.cybertipline.com](http://www.cybertipline.com). The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. <sup>3</sup>

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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.

<sup>2</sup> The Abused and Neglected Child Reporting Act requires school personnel to make an immediate report to DCFS; it states that they "may also notify the person in charge of [the] school," (325 ILCS 5/4). The sample policy makes the report to the superintendent or building principal mandatory in order to keep the administration informed. Of course, the administration may not force the staff member to change or modify his or her report (325 ILCS 5/4).

Abuse and neglect are defined in 325 ILCS 5/3. Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the child's welfare. Neglect may be generally understood as abandoning a child or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's welfare.

Reports should include, when known, the child's name and address, parents or other custodian, and condition including any evidence of previous injuries or disabilities, plus any other helpful information. Any person required by law to report child abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching certificate may be suspended for willful failure to report suspected child abuse or neglect as required by law (105 ILCS 5/21-23, amended by P.A. 96-431).

School personnel are granted broad immunities against civil and criminal claims when they file a child abuse or neglect report in good faith, even if it proves groundless. Such immunities are not available, however, to the individual who knowingly files a false report.

<sup>3</sup> The Reporting Act requires an electronic and information technology equipment worker or the worker's employer to report a discovery of child pornography depicted on an item of electronic and information technology equipment (325 ILCS 5/4.5, added by P.A. 95-944). Consult the board attorney to determine whether any district employees fit the definition of an *electronic and information technology worker*, i.e., are "persons who in the scope and course of their employment or business install, repair, or otherwise service electronic and information technology equipment for a fee."

The paragraph exceeds the newly added requirements by requiring *all* district employees to report a discovery of child pornography on electronic and information technology equipment. This furthers the National Center for Missing and Exploited Children's public policy goal of "empowering the public to take immediate and direct action to enforce a zero tolerance policy regarding child sexual exploitation."

Similar to school personnel who are mandated reporters, electronic and information technology equipment workers and their employers have broad immunities from criminal, civil, or administrative liabilities when they report a discovery of child pornography as required under 325 ILCS 5/4.5, except for willful or wanton misconduct (e.g. knowingly filing a false report). Failure to report a discovery of child pornography is a business offense subject to a fine of \$1001.

District employees who are not information and technology equipment workers who, in good faith, make a report also receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purpose of any proceedings, civil or criminal, good faith of the person making the report is presumed. Id.

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. 4

The Superintendent shall notify the State Superintendent and the regional superintendent in writing when he or she has reasonable cause to believe that a certificate holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child. The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the certificate holder. 5

The Superintendent or designee shall provide staff development opportunities for school personnel working with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect. 6

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. 7

LEGAL REF.: [105 ILCS 5/10-21.9.](#)  
[325 ILCS 5/4-et seq.](#)

CROSS REF.: 2:20 (Powers and Duties of the School Board), 5:20 (Sexual Harassment), 5:100 (Staff Development Program), 5:150 (Personnel Records), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

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4 325 ILCS 5/4, amended by P.A. 95-908, requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. For more information, see policy 5:150, *Personnel Records*.

5 105 ILCS 5/10-21.9(e-5), amended by P.A. 96-431, requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

6 While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12 authorizes boards "[t]o provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting and prevention of child abuse and neglect." The drill during such training should be: "If in question, report." Of course, a board could extend the training opportunity or make participation mandatory, depending on any applicable collective bargaining agreement, by replacing this sentence with:

Option 1: The Superintendent or designee shall provide staff development opportunities for all school personnel working with students, in the detection, reporting, and prevention of child abuse and neglect.

Option 2: All District employees working with students shall participate in a meeting that specifically addresses and reviews the reporting requirements of the Abused and Neglected Child Reporting Act.

7 325 ILCS 5/4, amended by P.A. 95-461. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

## General Personnel

### Staff Development Program <sup>1</sup>

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for certificated staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every 2 years, the in-service training of certificated school personnel and administrators ~~shall include training~~ on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. <sup>2</sup>

~~The staff development program shall provide, at a minimum, once every 2 years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct.~~ <sup>3 4</sup>

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<sup>1</sup> State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements (105 ILCS 5/24-5). Failure to meet professional growth requirements is considered remediable. *Morris v. ISBE*, 555 N.E.2d 725 (Ill.App.3, 1990).

105 ILCS 5/2-3.60 directs ISBE to require that districts provide a continuing education program for teachers. This policy applies the rationale behind that requirement to all staff. Note that determining the program's goals is board work.

<sup>2</sup> This paraphrases 105 ILCS 5/10-20.36. The topic covered in this paragraph must be in a board policy (*Id.*). A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

<sup>3</sup> 105 ILCS 5/10-22.39 (e), amended by P.A. 96-431, requires boards to conduct this in-service, but the language of this paragraph is not required to be in board policy. This is an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally and ethically with students. See also 5:120, *Ethics* and footnote 8 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

<sup>4</sup> Following are 2 optional paragraphs that paraphrase in-services that *The School Code* requires school districts to provide its entire staff but are not required to be in board policy. 105 ILCS 5/10-22.39 lists other in-service training requirements that are not required to be in policy. They include training to acquire a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and in grades 7-12, training to identify the warning signs of suicidal behavior in adolescents and teens along with appropriate intervention and referral techniques.

The first optional paragraph lists 2 ways of stating that an in-service training must occur for school personnel who work with students who are parents, expectant parents, or victims of domestic or sexual violence; these in-services are required at least every 2 years. 105 ILCS 10-22.39(d), amended by P.A. 95-558.

- LEGAL REF.: 105 ILCS 5/2-3.60, 5/10-22.39, 5/10-23.12, 5/24-5, and 110/3.  
745 ILCS 49/4 ~~et seq.~~, Good Samaritan Act.
- CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Hazardous and Infectious Materials), 5:90 (General Personnel - Abused and Neglected Child Reporting), 5:120 (Ethics), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day)
- ADMIN PROC.: 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

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Alternate 1: At least every 2 years, the Superintendent or designee must arrange an in-service for school personnel who work with students; the in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth. The in-service shall include: (a) communicating with and listening to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connecting youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implementing the School District's policies, procedures, and protocols with regard to such youth, including confidentiality.

Alternate 2: At least every 2 years, the Superintendent or designee shall arrange an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

The second optional paragraph restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automatic external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automatic external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are certified in CPR (745 ILCS 49/10); persons performing automatic external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

105 ILCS 5/3-11 contains requirements that the regional superintendents must include during teachers institutes. P.A. 95-969 added instruction on prevalent student chronic health conditions beginning in school year 2009-2010, and P.A. 96-431 added training committed to educator ethics and teacher-student conduct.

## 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>

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.

~~The School As a condition for paying sick leave after 3 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 require a physician's 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 advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a 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, that of a spiritual adviser or practitioner of such person's the employee's faith, as a condition for paying sick leave after 3 days absence for personal illness, or as it deems necessary in~~

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<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. 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 a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation, 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 149/1), Local Government Disaster Service Volunteer Act (50 ILCS 122/1), Organ Donor Leave Act (5 ILCS 327/1), and Civil Air Patrol Leave Act (820 ILCS 148/1, added by P.A. 95-763).

<sup>2</sup> The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A. 96-367 and P.A. 96-51. 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.

~~other cases.~~ If the Board or Superintendent requires a certificate during a leave of less than 3 days ~~, it~~ 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. <sup>3</sup>

#### Sabbatical Leave <sup>4</sup>

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

#### Personal Leave <sup>5</sup>

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 3 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 5 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 <sup>6</sup>

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.

#### Child-Rearing Leave <sup>7</sup>

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

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<sup>3</sup> 105 ILCS 5/24-6, amended by P.A. 96-51.

<sup>4</sup> State law provides guidelines for sabbatical leaves but does not require boards to offer them (105 ILCS 5/24-6.1).

<sup>5</sup> State law does not address personal leave.

<sup>6</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>7</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).



exceed 3 semesters), provided the request complies with this policy. Nothing in this ~~policy section~~ shall prohibit a professional staff member from ~~utilizing using paid~~ sick days ~~during a disability due to pregnancy~~. as provided in this policy. <sup>8</sup>

A teacher must 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. <sup>9</sup> 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. <sup>10</sup>

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 <sup>11</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>12</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>13</sup>

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

#### School Visitation Leave

An eligible professional staff member is entitled to 8 hours during any school year, no more than 4 hours of which may be taken on any given day, to attend school conferences or classroom activities

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<sup>8</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. Consolidated High School Dist. 230, 983 F.2d 790 (7th Cir., 1992); 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. Consolidated High School Dist. 230, Supra.

<sup>9</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>10</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>11</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 325/1); 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>12</sup> Required by 105 ILCS 5/24-13.

<sup>13</sup> State law provides guidelines for Dept of Defense leaves but does not require boards to offer them (105 ILCS 5/24-13.1).

related to the teacher's child, if the conference or activity cannot be scheduled during non-work hours. <sup>14</sup> 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. <sup>15</sup>

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. <sup>16</sup>

#### Leaves for Victims of Domestic or Sexual Violence <sup>17</sup>

~~Any professional staff member may take 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>18</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>19</sup>

#### 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 a teacher who is an ~~elected to serve as an~~ officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,<sup>20</sup> (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System ~~to attend meetings and seminars as described~~ in accordance with 105 ILCS 5/24-6.3,<sup>21</sup> and (3) a paid leave of absence for the local association president of a State teacher

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<sup>14</sup> 820 ILCS 147/15.

<sup>15</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>16</sup> 820 ILCS 147/1.

<sup>17</sup> Required by the Victims' Economic Security and Safety Act, 820 ILCS 180/, amended by P.A. 96-635, and 56 Ill.Admin.Code §280. While the law applies to all school districts (820 ILCS 180/10(10), the leave is only available to employees working for employers with at least 15 employees (820 ILCS 180/20(a)(2), amended by P.A. 96-635). The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements; all districts must post this notice in a conspicuous place where notices to employees are customarily posted.

<sup>18</sup> If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employees at least 15 but not more than 49 employees, an employee is entitled to a total of 8 work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2), amended by P.A. 96-635.

<sup>19</sup> The Victims' Economic Security and Safety Act, both before and after its amendment in 2009, stated 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), amended by P.A. 96-635). Section 25 of P.A. 96-635 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, amended by P.A. 96-635). Contact the board attorney for advice resolving this ambiguity.

<sup>20</sup> Required by 105 ILCS 5/24-13.

<sup>21</sup> Required by 105 ILCS 5/24-6.3. P.A. 96-357 added a leave for an elected trustee for the Ill. Municipal Retirement Fund. See 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*.



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. **22**

LEGAL REF.: 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.  
820 ILCS 147/1 et seq. and 180/1 et seq.

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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**22** Required by 105 ILCS 5/24-6.2.

## Educational Support Personnel

### Sick Days, Vacation, Holidays, and Leaves <sup>1</sup>

Each of the provisions in this policy applies to all educational support 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>

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. <sup>3</sup>

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. The Superintendent and/or designee shall monitor the use of sick leave.

~~The School As a condition for paying sick leave after 3 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 require a physician's 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~~

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<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. 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 educational support 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. 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 a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation, 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 149/1), Local Government Disaster Service Volunteer Act (50 ILCS 122/1), Organ Donor Leave Act (5 ILCS 327/1), and Civil Air Patrol Leave Act (820 ILCS 148/1, added by P.A. 95-763).

<sup>2</sup> This section contains the minimum benefits provided by 105 ILCS 5/24-6, amended by P.A. 96-367 and P.A. 96-51. 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.

<sup>3</sup> As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

physician licensed under the Medical Practice Act, (3) an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a 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, ~~that of a spiritual adviser or practitioner of such person's the employee's faith, as a condition for paying sick leave after 3 days absence for personal illness, or as it deems necessary in other cases.~~ If the Board or Superintendent requires a certificate during a leave of less than 3 days ~~, it 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

Vacation 5

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. 6

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4 105 ILCS 5/24-6, amended by P.A. 96-51.

5 State law does not require districts to give employees vacations.

6 Required by 820 ILCS 115/5.

## Holidays <sup>7</sup>

Unless the District receives a waiver or modification of The School Code pursuant to Section 2-3.25g, allowing it to schedule school on a holiday listed below, District employees will be paid for, but will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

## Personal Leave <sup>8</sup>

Full-time educational support personnel have one paid personal leave day per year. – The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal 3 days before the requested date.
2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last 5 days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

## Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Illinois Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. <sup>9</sup>

## Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. <sup>10</sup>

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<sup>7</sup> Found in 105 ILCS 5/24-2. A State-mandated school holiday on "Good Friday" is unconstitutional according to Metzl v. Leininger, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate, e.g., through surveys, that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

<sup>8</sup> State law does not address personal leave.

<sup>9</sup> Required by 105 ILCS 5/24-6.3, amended by P.A. 96-357. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Professional Personnel - Leaves of Absence*.

<sup>10</sup> Military leave is governed 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 325/1); 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).

Granting General Assembly leave to ESPs is optional.

2. School Visitation Leave. **11**
3. Leaves for Victims of Domestic or Sexual Violence. **12**

LEGAL REF.: 20 ILCS 1805/30.1 et seq.  
105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.  
820 ILCS 147 and 180/1 et seq.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Professional Personnel - Leaves of Absence)

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**11** 820 ILCS 147/1. See policy 5:250, *Leaves of Absence*, and administrative procedure 5:250-AP, *School Visitation Leave*.

**12** Required by Victims' Economic Security and Safety Act, 820 ILCS 180/, amended by P.A. 96-635, and 56 Ill.Admin.Code §280. Important information about this leave is discussed in the footnotes in policy 5:250, *Professional Personnel - Leaves of Absence*.