

Professional Personnel

Teacher Qualifications

A teacher, as the term is used in this policy, refers to a District employee who is required to be certified under State law. The following qualifications apply:

1. Each teacher must:
 - a. Have a valid Illinois certificate that legally qualifies the teacher for the duties for which the teacher is employed.
 - b. Provide the District Office with proof of certification by the end of the first week of school, each school year.
 - c. Provide the District Office with a complete transcript of credits earned in institutions of higher education and, annually by July 1, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
 - d. Notify the Superintendent of any change in the teacher's transcript.
2. The following teachers must be "highly qualified" as defined by State and federal law: (a) newly hired teachers who will work in a program supported with Title I funds, and (b) by the end of the 2005-2006 school year, all teachers of core academic subjects. Teachers are generally considered to be highly qualified if they: (a) have a bachelor's degree; (b) have full State certification according to criteria adopted by ISBE; and (c) have demonstrated subject-matter competence in the area(s) taught according to criteria adopted by ISBE. "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. Current teachers in rural schools assigned to multiple core subjects who are "highly qualified" in one subject have until the end of the 2006-2007 school year to be "highly qualified" in the remaining core subjects. Newly hired teachers teaching multiple core subjects who are "highly qualified" in one assignment have three years from the date of hire to become "highly qualified" in the others, provided they receive high quality professional development and mentoring for each subject. Rural school districts are defined as school districts with 600 or fewer students and are eligible to participate in the Small Rural School Achievement program.

The Superintendent or designee shall:

1. Develop and implement a plan to ensure that all teachers who teach core academic subjects are "highly qualified," as defined in this policy, not later than the end of the 2005-2006 school year;
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I money are notified: (a) of their right to request their students' classroom teachers' professional qualifications, and (b) whenever their child is assigned to, or has been taught for 4 or more consecutive weeks by, a teacher who is not highly qualified.

LEGAL REF.: Sections 1111 and 1119 of the No Child Left Behind Act of 2001, codified at 20 U.S.C. §§6311 and 6319.
34 C.F.R §200.55, 56, and 57.
105 ILCS 5/10-20.15, 5/21-1, 5/21-10, 5/21-11.4, and 5/24-23.
23 Ill.Admin.Code Part 25.
"Illinois Criteria for Meeting the NCLB Requirements for Highly Qualified Teachers," adopted by ISBE 6-17-03.

CROSS REF.: 6:170 (Title I Programs)

Professional Personnel

Terms and Conditions of Employment and Dismissal ¹

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. ²

Duty-Free Lunch

Teachers employed for at least 4 hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer. ³

Holidays

Teachers shall be paid for, but shall not be required to work on, legal school holidays. ⁴

School Year and Day

Teachers shall work according to the school calendar adopted by the School Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days. ⁵

Teachers are required to work the school day adopted by the School Board. ⁶ The District accommodates employees who are nursing mothers according to provisions in the Nursing Mothers in the Workplace Act. ⁷

¹ State or federal law controls this policy's content. This policy contains items 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. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the current Professional Agreement between the Classroom Teachers' Association and the School Board."

² This paragraph is consistent with the IASB's "Foundational Principles of Effective Governance." Boards have 3 options for using this paragraph: (1) use it as an introduction to the rest of the policy, (2) use it alone leaving the specific other topics for administrative implementation, or (3) do not use it.

³ 105 ILCS 5/24-9.

⁴ 105 ILCS 5/24-2. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on "Good Friday" unconstitutional.

⁵ 105 ILCS 5/10-19.

⁶ The length of the school day is left to the board's discretion absent an individual or collective bargaining contract. With several exceptions, the student attendance day must include at least 5 class hours of direct teacher supervision (105 ILCS 5/18-8).

⁷ 820 ILCS 260/1 et seq. The following is for an administrative procedure or staff handbook:

An employee who is a nursing mother may take reasonable unpaid breaks each day to express breast milk. The employee's supervisor shall help the employee arrange a break schedule accommodating the nursing mother while minimizing disruption. The break time must, if possible, run concurrently with any break time already provided to the employee. The supervisor shall make reasonable efforts to provide a location, in close proximity to the work area, other than a toilet stall, where an employee can express her milk in private.

An employer is not required to provide break time if to do so would unduly disrupt its operations. A school employer would find this difficult to demonstrate. Thus, the sample AP omits this provision. La Leche's web site contains additional information on breast feeding and a summary of legal ramifications, <http://www.laleche.org>.

Salary

Teachers shall be paid according to the salary schedule adopted by the School Board, but in no case less than the minimum salary provided by The School Code. ⁸ Teachers shall be paid at least monthly on a 10- or 12-month basis. ⁹

Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments. ¹⁰ In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

Dismissal

The District will follow State law when dismissing a teacher. ¹¹

⁸ 105 ILCS 5/10-20.7, 5/10-21.1, and 5/24-1. Minimum salary is found in 105 ILCS 5/24-8. The board's authority to set salaries has been significantly eroded by mandatory collective bargaining (115 ILCS 5/1 et seq.).

⁹ 105 ILCS 5/24-21.

¹⁰ Districts are required to have a policy on the distribution of the listed assignments (23 Ill.Admin.Code §1.420(d); inclusion in a collective bargaining agreement, however, should fulfill this requirement.

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. Betebanner v. Bd. of Educ., 84 N.E.2d 569 (Ill.App.4, 1949); Dist. 300 Educ. Assoc. v. Bd. of Educ., 334 N.E.2d 165 (Ill.App.2, 1975); Lewis v. Bd. of Educ., 537 N.E.2d 435 (Ill.App.5, 1989).

¹¹ State personnel laws include:

Non-tenure Teacher Discharge	105 ILCS 5/24-11
Reduction in Force	105 ILCS 5/24-12
Tenured Teacher Discharge Where Cause Remediable	105 ILCS 5/24-12 (prior warning required) 105 ILCS 5/24-12 (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Where Cause Irremediable	105 ILCS 5/24-12 (no prior warning required) 105 ILCS 5/24-12 (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Unsatisfactory Evaluation	105 ILCS 5/24A-5 (participation in remediation plan) 105 ILCS 5/24-12 (no prior warning required if causes were subject of prior remediation plan) 105 ILCS 5/24-12 (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Educational Support Personnel Employees (non-certificated)	105 ILCS 5/10-23.5
Probationary Teacher (non-tenure teacher)	105 ILCS 5/24-11

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. Central City Educ. Assoc. v. IELRB, 599 N.E.2d 892 (Ill. 1992). Districts should contact their attorneys on this matter.

Volunteer firefighters may not be fired for responding to an emergency (P.A. 93-1027).

The successful dismissal of a professional employee requires early assistance from the district's attorney. The plethora of recent decisions includes:

1. Baird v. Warren Community Unit School District No. 205, No. 03-3630 (7th Cir., 2004)(because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity);
2. Joliet Township High School District v. ISBE, 770 N.E.2d 711(Ill.App.3, 2002)(a teacher's misuse of sick leave was remediable misconduct for which a warning was required before the teacher could be dismissed);
3. Community Consolidated School District No. 54 v. Spangler, 767 N.E.2d 452 (Ill.App.1, 2002)(teacher failed to satisfactorily complete remediation plan; hearing officer found that the unsatisfactory rating was unwarranted because the offenses were not serious);
4. Lifton v. Board of Education of City of Chicago, 318 F.Supp.2d 674 (N.D.Ill., 2004)(issuance of warning resolution was not pretext for retaliating against teacher for exercise of her free speech rights and she was not entitled to due process before issuance of warning);

Evaluation

The District's teacher evaluation system will be conducted under the plan filed with the Illinois State Board of Education. **12**

On an annual basis, the Superintendent will provide the School Board with a written report which outlines the results of the District's teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/18-8, 5/24-2, 5/24-8, 5/24-9, 5/24-21, 5/24A-4, and 5/24A-5.
820 ILCS 260/1 et seq.
Cleveland Board of Education v. Loudermill, 105 S.Ct. 1487(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions)

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5. Younge v. Board of Education of City of Chicago, 788 N.E.2d 1153 (Ill.App.1, 2003)(reporting to work under the influence of marijuana was irremediable);
 6. Buchna v. ISBE, 795 N.E.2d 1045 (Ill.App.3, 2003)(district required to rate teacher's performance according to statutory classifications of "excellent," "satisfactory," and "unsatisfactory").

12 All certificated school district employees must be evaluated and remedial action taken when appropriate (105 ILCS 5/24A-1 et seq.). Each school district must develop "in cooperation with" its teachers or, where applicable, the exclusive bargaining representative of its teachers, an evaluation plan for all tenured teachers. The term "teacher" includes administrators.

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Professional Personnel

Resignations and Retirement

Tenured teachers may resign at any time with consent of the School Board or by written notice sent to the School Board Secretary at least 30 days before the intended date of resignation. No teacher may resign during the school term in order to accept another teaching position without the consent of the School Board.

Probationary teachers may resign during their contract period only with the School Board's consent.

Professional Personnel

Substitute Teachers ¹

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold a valid teaching or substitute certificate. Substitute teachers with a substitute certificate may teach only when an appropriate, fully-certificated teacher is unavailable. ²

A substitute teacher may teach only for a period not to exceed 90 paid school days or 450 paid school hours in any one school district in any one school term. However, a teacher holding an early childhood, elementary, high school, or special certificate may substitute teach for a period not to exceed 120 paid school days or 600 paid school hours in any one school district in any one school term. ³

The School Board annually establishes a daily rate of pay for substitute teachers. No fringe benefits are given substitutes.

LEGAL REF.: 105 ILCS 5/21-9.
 23 Ill.Admin.Code §1.790.

¹ State or federal law controls this policy's content.

² Required by 105 ILCS 5/21-9.

³ 105 ILCS 5/21-9, as amended by P.A. 93-679.

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Professional Personnel

Maintaining Student Discipline

Maintaining an orderly learning environment is an essential part of each teacher's instructional responsibilities. A teacher's ability to foster appropriate student behavior is an important factor in the teacher's educational effectiveness.

When a student's behavior is unacceptable, the teacher should first discuss the matter with the student. If the unacceptable behavior continues, the teacher should consult with the Building Principal and/or discuss the problem with the parent(s)/guardian(s). A teacher may remove any student from the learning setting whose behavior interferes with the lessons or participation of fellow students; a student's removal must be in accordance with Board policy and administrative procedures.

Teachers shall not use disciplinary methods which may be damaging to students, such as ridicule, sarcasm, or excessive temper displays. Corporal punishment (including slapping, paddling or prolonged maintenance of a student in physically painful positions, and intentional infliction of bodily harm) may not be used. Teachers may use reasonable force as needed to keep students, school personnel, and others safe, or for self-defense or defense of property.

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Professional Personnel

Suspension Without Pay

The School Board may suspend without pay (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor
- Violation of Board policy or Administrative Procedure
- Conduct that disrupts or may disrupt the educational program or process
- Conduct that violates any State or federal law that relates to the employee's duties
- Other sufficient causes

At the request of the professional employee within 5 calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the teacher of the alleged charges and the date and time of the hearing. At the pre-suspension hearing, the teacher or his/her representative may present evidence.

Suspension With Pay

The School Board or Superintendent or designee may suspend a professional employee with pay (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the professional employee to present the allegations and give the professional employee an opportunity to refute the charges. The professional employee will be told the dates and times the suspension will begin and end.

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 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 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, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than 3 days for personal illness, the District shall pay the expenses incurred by the employee.

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 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).

² 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.

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. ³

Sabbatical Leave ⁴

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

Personal Leave ⁵

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 ⁶

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 ⁷

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

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

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

⁵ State law does not address personal leave.

⁶ 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).

⁷ 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 section shall prohibit a professional staff member from using paid sick days as provided in this policy. ⁸

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. ⁹ 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. ¹⁰

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 ¹¹

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 ¹²

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 ¹³

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 related to the teacher's child, if the conference or activity cannot be scheduled during non-work hours. ¹⁴ Professional staff members must first use all accrued vacation leave, personal leave,

⁸ 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*.

⁹ 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.

¹⁰ 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 . . .

¹¹ 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).

¹² Required by 105 ILCS 5/24-13.

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

¹⁴ 820 ILCS 147/15.

compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. ¹⁵

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

Leaves for Victims of Domestic or Sexual Violence ¹⁷

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. ¹⁸ 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.*). ¹⁹

¹⁵ *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.

¹⁶ 820 ILCS 147/1.

¹⁷ 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.

¹⁸ 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.

¹⁹ 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.

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,²⁰ (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²¹ 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 5/24-6.2.²²

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)

²⁰ Required by 105 ILCS 5/24-13.

²¹ 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*.

²² Required by 105 ILCS 5/24-6.2.

Professional Personnel

Student Teachers ¹

The Superintendent is authorized to accept students from university-approved teacher-training programs to do student teaching in the District. The Superintendent or designee shall be responsible for screening potential student teachers and for their orientation, assignment, and training program.

Student teachers should be assigned to supervising teachers whose qualifications are acceptable to the District and the students' respective colleges or universities. ²

LEGAL REF.: 105 ILCS 5/10-22.34.

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This sample policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions which exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current Professional Agreement between the Classroom Teachers' Association and the Board of Education."

² The law requiring criminal background records checks for school district applicants for employment is silent regarding student teachers. 105 ILCS 5/10-21.9, as amended by P.A. 93-909. As student teachers are not employees, this legislation does not apply to them. At a minimum, districts should ask relevant teacher preparation institutions what type of background checks they performed on their students.

Educational Support Personnel

Employment At-Will, Compensation, and Assignment ¹

Employment At-Will ²

Unless otherwise specifically provided, District employment is at-will, meaning that employment may be terminated by the District or employee at any time for any reason, other than a reason prohibited by law, or no reason at all. ³ Nothing in School Board policy is intended or should be construed as altering the employment at-will relationship.

Exceptions to employment at-will may include employees who are employed annually, have an employment contract, or are otherwise granted a legitimate interest in continued employment. The Superintendent is authorized to make exceptions to employing non-certificated employees at-will but shall maintain a record of positions or employees who are not at-will and the reason for the exception.

Compensation and Assignment

The School Board will determine salary and wages for educational support personnel. Increments are dependent on evidence of continuing satisfactory performance. An employee covered by the overtime provisions in State or federal law, shall not work overtime without the prior authorization from the employee's immediate supervisor. ⁴ Educational support personnel are paid twice a month. The Superintendent is authorized to make assignments and transfers of educational support personnel.

¹ State or federal law controls this policy's content. This policy contains items 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.

A collective bargaining agreement may contain provisions that supersede this policy, in which case, the policy might state: "Please refer to the current bargaining agreement between the Educational Support Personnel and the School Board."

² Illinois law does not specifically create a protected property interest in continued employment for non-certificated employees, except in a reduction in force. However, whether an employee is actually employed at-will depends on the specific facts. This determination is important because the dismissal of an employee having a protected property right in continued employment requires a notice and hearing. Cleveland Board of Educ. v. Loudermill, 105 S.Ct. 1487 (1985). See also Baird v. Warren Community Unit School District No. 205, No. 03-3630 (7th Cir., 2004) (because school board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-certificated employees not covered by a contract are annually employed. In other words, the exception out numbers the rule. This is a good assumption because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, or an oral promise. Arneson v. Board of Trustees, McKendree College, 569 N.E.2d 252 (Ill.App.5, 1991). Keeping accurate records of which positions or employees are at-will, will help determine the level of due process needed in the event of a dismissal. Consult the district's attorney for help determining which employees are employed "at-will."

A district, by policy or handbook, may not take-away a previously given a property interest in continued employment to current employees; only those employees hired afterwards could be affected. Duldulao v. St. Mary of Nazareth Hospital, 483 N.E.2d 956 (Ill.App.1, 1985); Kaiser v. Dixon, 468 N.E.2d 822 (Ill.App.2, 1984).

For a discussion of prohibited dismissal reasons, see 5:10, *Equal Employment Opportunity and Minority Recruitment*. Volunteer firefighters may not be fired for responding to an emergency (P.A. 93-1027).

³ 105 ILCS 5/10-23.5. For more information on RIF, see policy 5:290, *Employment Termination and Suspensions*.

⁴ For information regarding overtime, see IASB sample policy 5:35, *Compliance with Fair Labor Standards Act*.

LEGAL REF.: 105 ILCS 5/10-22.34 and 5/10-23.5.
Cook v. Eldorado Community Unit School District, No. 03-MR-32 (Ill.App.5, 2004).
Duldulao v. St. Mary of Nazareth Hospital, 483 N.E. 2d 956 (Ill.App.1, 1985),
aff'd in part and remanded, 505 N.E.2d 314 (Ill. 1987).
Kaiser v. Dixon, 468 N.E. 2d 822 (Ill.App.2, 1984).

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment) 5:35
(Compliance with the Fair Labor Standards Act), 5:290 (Educational Support
Personnel - Employment Termination and Suspensions), 5:310 (Educational
Support Personnel - Compensatory Time-Off)

Educational Support Personnel

Duties and Qualifications ¹

All support staff: (1) must meet qualifications specified in job descriptions, (2) must be able to perform the essential tasks listed and/or assigned, and (3) are subject to School Board policies as they may be changed from time to time at the Board's sole discretion.

Paraprofessionals and Teacher Aides ²

"Paraprofessionals" and "teacher aides" are noncertificated personnel with instructional duties; the terms are synonymous. Service as a paraprofessional or teacher aide requires a "statement of approval" issued by the Illinois State Board of Education (ISBE).

A paraprofessional or teacher aide in a targeted assistance program that is paid with federal funds under Title I, Part A, or in a school-wide program that is supported with such funds, shall hold a "statement of approval," issued by the ISBE, for this purpose. ³

Individuals with only non-instructional duties (e.g., providing technical support for computers, providing personal care services, or performing clerical duties) are not paraprofessionals or teacher aides and the requirements in this section do not apply. In addition, individuals who are completing their clinical experiences and/or student teaching do not need to comply with this section, provided they otherwise qualify for instructional duties under ISBE rules. ⁴

Noncertificated Personnel Working with Students Performing Non-Instructional Duties

Noncertificated personnel performing non-instructional duties may be used:

1. For supervising study halls, long distance teaching reception areas used incident to instructional programs transmitted by electronic media (e.g., computers, video, and audio) detention and discipline areas, and school-sponsored extracurricular activities; ⁵
2. As supervisors, chaperones, or sponsors for non-academic school activities; or ⁶
3. For non-teaching duties not requiring instructional judgment or student evaluation. ⁷

Nothing in this policy prevents a noncertificated person from serving as a guest lecturer or resource person under a certificated teacher's direction and with the administration's approval. ⁸

Coaches and Athletic Trainers

Athletic coaches and trainers shall have the qualifications required by any association in which the School District maintains a membership. ⁹ The coach for an extracurricular athletic activity sponsored or sanctioned by the Illinois High School Association (IHSA) at or above the ninth grade level must have completed the IHSA's educational program and competency testing on preventing abuse of

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.

² 23 Ill. Admin. Code §25.510.

³ 23 Ill. Admin. Code §25.510(d).

⁴ 105 ILCS 5/10-22.34(d); 23 Ill. Admin. Code §25.520.

⁵ 105 ILCS 5/10-22.34(a)(2).

⁶ 105 ILCS 5/10-22.34a.

⁷ 105 ILCS 5/10-22.34(a)(1).

⁸ 105 ILCS 5/10-22.34b, last paragraph.

⁹ A district should consult the handbooks and by-laws of the appropriate associations, e.g., the Illinois High School Association, the Southern Illinois Junior High School Athletic Association, and the Illinois Elementary School Association.

performance-enhancing substances. ¹⁰ Regardless of whether the athletic activity is governed by an association, the Superintendent or designee shall ensure that each athletic coach: (1) is knowledgeable regarding coaching principles, (2) has first aid training, and (3) is a trained Automatic External Defibrillator user according to rules adopted by the Illinois Department of Public Health. ¹¹ Anyone performing athletic training services shall be licensed under the Illinois Athletic Trainers Practice Act, be an athletic trainer aide performing care activities under the on-site supervision of a licensed athletic trainer, or otherwise be qualified to perform athletic trainer activities under State law. ¹²

Bus Drivers

All school bus drivers must have a valid school bus driver permit. ¹³ The Superintendent or designee shall inform the Illinois Secretary of State, within 30 days of being informed by a school bus driver, that the bus driver permit holder has been called to active duty. ¹⁴ New bus drivers and bus drivers who are returning from a lapse in their employment are subject to the requirements contained in Board policy 5:30, *Hiring Process and Criteria* and Board policy 5:285, *Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers*.

LEGAL REF.: No Child Left Behind Act of 2001, 20 U.S.C. §6319(c).
34 C.F.R. §§200.58 and 200.59.
105 ILCS 5/10-22.34, 5/10-22.34a, 5/10-22.34b, and 25/1.5.
625 ILCS 5/6-104 and 5/6-106.1.
23 Ill.Admin.Code §§25.510, 25.520.

CROSS REF.: 4:110 (Transportation), 4:170 (Safety), 5:30 (Hiring Process and Criteria), 5:35 (Compliance with the Fair Labor Standards Act), 5:285 (Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers), 6:250 (Community Resource Persons and Volunteers)

¹⁰ Required by 105 ILCS 25/1.5, added by P.A. 96-132.

¹¹ Optional and may be amended. The first requirement identifies a basic competency and the second two requirements are intended to ensure coaches are trained emergency responders. For AED training program requirements, see Automated External Defibrillator Act (410 ILCS 4/15) and Automated External Defibrillator Code (77 Ill.Admin.Code Part 525).

¹² 225 ILCS 5/3 and 5/4.

¹³ The regional superintendent is authorized to conduct school bus driver instruction courses and investigate whether persons hired to operate school buses have valid school bus driver permits (105 ILCS 5/3-14.23).

School bus driver permits are issued by the Secretary of State (625 ILCS 5/6-106.1). Districts must conduct a pre-employment interview with bus driver candidates, distribute bus driver applications and medical forms, and submit the applicant's fingerprint cards to the State Police for criminal background investigations. Districts must also certify in writing to the Secretary of State that all pre-employment conditions were completed, including an Illinois-specific criminal background investigation through the State Police and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information (*Id.*). The applicant presents this certification to the Secretary of State when submitting the school bus driver permit application (*Id.*).

A school bus driver operating a school bus at the time of an accident is deemed by the implied consent law to agree to submit to tests at the direction of a law enforcement officer of the driver's breath, blood, or urine to determine the presence of alcohol, or other drugs, in the person's system (625 ILCS 5/6-516).

Anyone driving a bus chartered to transport students to or from interscholastic athletic or interscholastic or school sponsored activities must have a valid school bus driver permit; this does not apply to any driver employed by a public transportation provider when the bus is on a regularly scheduled route for transporting other fare paying passengers (625 ILCS 5/6-104(d-5)).

¹⁴ This sentence is optional but the notification is required by 625 ILCS 5/6-106.1(h), added by P.A. 96-89. "Active duty" is defined in the statute as active duty pursuant to an executive order of the U.S. President, an act of the Congress, or an order of the Governor. Upon notification, the Secretary of State will characterize the permit as inactive until a permit holder renews the permit pursuant to 625 ILCS 5/6-106.1(b).

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Educational Support Personnel

Drug and Alcohol Testing For School Bus and Commercial Vehicle Drivers

The District shall adhere to federal law and regulations requiring a drug and alcohol testing program for school bus and commercial vehicle drivers.

This program shall comply with the requirements of the Code of Federal Regulations, Title 49 § 382 et seq. The Superintendent or designee shall adopt and enact regulations consistent with the federal regulations, defining the circumstances and procedures for the testing.

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Educational Support Personnel

Employment Termination and Suspensions

Resignation and Retirement

An employee is requested to provide 2 weeks' notice of a resignation. A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least 2 months before the retirement date.

Non-RIF Dismissal

The District may terminate an at-will employee at any time. The Superintendent or supervisor may recommend an employee's discharge subject to the School Board's approval.

Reduction In Force and Recall

The School Board shall use a seniority list to determine the order of dismissal if it reduces educational support personnel or discontinues some type of educational support service. The seniority list, categorized by positions, shall show the length of continuing service of each full-time educational support employee. The employee with the shorter length of continuing service within the respective category of position shall be dismissed first.

Written notice will be given the employee by certified mail, return receipt requested, at least 30 days before the employee is removed or dismissed, together with a statement of honorable dismissal and the reason therefor.

Any vacancies for the following school term or within one calendar year from the beginning of the following school term, shall be offered to the employees so removed or dismissed from that category of position provided they are qualified to hold such positions.

Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit. Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the third business day following the last day of employment.

Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct, or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay (1) when the employee is exempt from the overtime provisions of the federal wage and hour laws, or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.

Educational Support Personnel

Schedules and Employment Year

The Superintendent shall supervise a process for setting work schedules and an employment year for educational support employees in accordance with State and federal law, Board policy, and applicable agreements and shall:

1. Assign each employee one supervisor who will establish a work schedule, including breaks, as required by building or District needs, work load, and the efficient management of human resources;
2. Allow for the ability to respond to changing circumstances by altering work schedules as needed; and
3. Consider the well-being of the employee. The Superintendent's approval is required to establish a flexible work schedule or job-sharing.

Breaks

An employee who works at least 7.5 continuous hours shall receive a 30-minute duty-free meal break that begins within the first 5 hours of the employee's workday. The District accommodates employees who are nursing mothers according to State law.

LEGAL REF.: Fair Labor Standards Act, 29 U.S.C. §207 et seq.
820 ILCS 105/1 et seq. and 260/1 et seq.
105 ILCS 5/10-20.14a, 5/10-22.34, and 5/10-23.5.

CROSS REF.: 5:35 (Compliance with the Fair Labor Standards Act)

Educational Support Personnel

Compensatory Time-Off ¹

This policy governs the use of compensatory time-off by employees who: (1) are covered by the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, and (2) are not represented by an exclusive bargaining representative. ²

Employees may be given 1-1/2 hours of compensatory time-off in lieu of cash payment for each hour of overtime worked. Other than as provided below, at no time may an employee's accumulated compensatory time-off exceed 240 hours, which represents compensation for 160 hours of overtime. ³ An employee whose work regularly includes public safety, emergency response, or seasonal activities may accumulate a maximum of 480 hours of compensatory time, which represents compensation for 320 hours of overtime. ⁴ If an employee accrues the maximum number of compensatory time-off hours, the employee: (1) is paid for any additional overtime hours worked, at the rate of one and one-half times the employee's regular hourly rate of pay, and (2) does not accumulate compensatory time-off until the employee uses an equal amount of accrued time-off. ⁵

¹ The federal Fair Labor Standards Act (FLSA) regulates the use of "comp-time" (29 U.S.C. §201 *et seq.*). In order for a district to offer comp-time, it must have a compensatory time-off policy or the topic must be covered in an applicable collective bargaining agreement. 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. School officials should consult with their attorneys before adopting this policy.

The terms "comp-time" and "compensatory time-off" mean paid time-off that is earned and accrued by a non-exempt employee in lieu of overtime pay for hours worked over 40 hours. Compensatory time-off in lieu of overtime pay must be at the premium rate of 1.5 hours of compensatory time for each hour of overtime worked (just as the monetary rate for overtime is calculated at 1.5 times the regular rate of pay). As a condition for using comp-time in lieu of overtime pay, the employer and employee must have an "agreement or understanding" before the work is performed. Further, the employee's decision to accept comp-time must be made freely. For employees represented by an exclusive bargaining agent, the agreement to use comp-time must be between the district and the bargaining agent.

For non-exempt employees who are not covered by a collective bargaining agreement, the "agreement or understanding" concerning comp-time must be between the district and employee. See exhibit 5:310-E, *Agreement to Receive Compensatory Time-Off*. If the district had a regular practice of comp-time before April 15, 1986, that is deemed an "agreement." Notice to the non-exempt employees that comp-time will be given in lieu of overtime pay for overtime through bulletin board notices is sufficient to constitute an "agreement or understanding," provided that the decision to accept compensatory time-off is made freely.

² See IASB sample policy 5:35, *Compliance with the Fair Labor Standards Act*.

³ This sample policy contains the maximum hours that the FLSA allows an employee to accumulate. It is a ceiling that an employee may hit several times, but never go over without using some of the time-off. A board may forfeit flexibility and set this ceiling lower.

⁴ "Seasonal activities" include activities during periods of significantly increased demand, that are of a regular and recurring nature. A seasonal activity is not limited strictly to those operations that are very susceptible to changes in the weather. However, mere periods of short but intense activity do not make an employee's job seasonal. However, the 480-hour accrual limit will not apply to office personnel or other employees who may perform such seasonal activities only in emergency situations, even if they spend substantially all of their time in a particular workweek engaged in such activities.

⁵ The Fair Labor Standards Act permits a school board to require that employees reduce their accumulated compensatory time or face having their supervisor schedule the compensatory time-off for them. *Christensen et al. v. Harris County et al.*, 529 U.S. 576, 120 S.Ct. 1655, 146 L.Ed.2d 621. Such an optional provisions follows:

Notwithstanding the above and in order to avoid hardship to the District, an employee's supervisor may require the employee to reduce accumulated compensatory time, or schedule the compensatory time-off for the employee, so that the employee does not accumulate more than 75 hours of compensatory time, which represents compensation for 50 hours of overtime.

An employee who has accrued compensatory time-off shall be permitted to use such time in at least half-day components provided such requests do not unduly disrupt the District's operations. ⁶ The employee's supervisor must approve a request to use compensatory time-off.

Upon termination of employment, an employee will be paid for unused compensatory time at the higher of:

1. The average regular rate received by such employee during the last three years of employment; or
2. The final regular rate received by such employee.

Compensatory time-off is time during which the employee is not working and is, therefore, not counted as "hours worked" for purposes of overtime compensation.

LEGAL REF.: Fair Labor Standards Act, 29 U.S.C. §201 et seq.; 29 C.F.R. Part 553.

CROSS REF.: 5:35 (Compliance with the Fair Labor Standards Act), 5:270 (Employment At-Will, Compensation, and Assignment)

⁶ Optional.

Educational Support Personnel

Evaluation

The Superintendent is responsible for designing and implementing a program for evaluating the job performance of each educational support staff member according to standards contained in Board policies as well as in compliance with State law and any applicable collective bargaining agreement. The standards for the evaluation program shall include, but not be limited to:

1. Each employee shall be evaluated annually, preferably before the annual salary review.
2. The direct supervisor shall provide input.
3. The employee's work quality, promptness, attendance, reliability, conduct, judgment, and cooperation shall be considered.
4. The employee shall receive a copy of the annual evaluation.
5. All evaluations shall comply with State and federal law and any applicable collective bargaining agreement.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:150
(Personnel Records)

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves ¹

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 ²

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. ³

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.

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 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

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. 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).

² 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.

³ 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."

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 3 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

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

Holidays ⁷

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.

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.

⁷ 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.

Personal Leave 8

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. 9

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. 10
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)

⁸ State law does not address personal leave.

⁹ 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*.

¹⁰ 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.

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*.

General Personnel

Responsibilities Concerning Internal Information

District employees are responsible for maintaining: (1) the integrity and security of all internal information, and (2) the privacy of confidential records, including but not limited to: student school records, personnel records, and the minutes of, and material disclosed in, a closed School Board meeting. Internal information is any information, oral or recorded in electronic or paper format, maintained by the District or used by the District or its employees. The Superintendent or designee shall manage procedures for safeguarding the integrity, security, and, as appropriate, confidentiality of internal information.

LEGAL REF.: 20 U.S.C. §1232g.
 45 C.F.R. §164.502.
 5 ILCS 140/1 et seq.
 50 ILCS 205/1 et seq.
 105 ILCS 10/1 et seq.
 820 ILCS 40/1 et seq.

CROSS REF.: 2:140 (Communications To and From the Board), 2:250 (Access to District
 Public Records), 5:150 (Personnel Records), 7:340 (Student Records)

General Personnel

Solicitations By or From Staff

District employees shall not solicit donations or sales, nor shall they be solicited for donations or sales, on school grounds without prior approval from the Superintendent or the building principal.

CROSS REF.: 8:90 (Parent Organizations and Booster Clubs)

General Personnel

Personnel Records

The Superintendent or designee shall manage the maintenance of personnel records in accordance with State and federal law and School Board policy. Records, as determined by the Superintendent, are retained for all employment applicants, employees, and former employees given the need for the District to document employment-related decisions, evaluate program and staff effectiveness, and comply with government recordkeeping and reporting requirements. Personnel records shall be maintained in the District's administrative office, under the Superintendent's direct supervision.

An employee will be given access to his or her personnel records according to State law and guidelines developed by the Superintendent. No one else may have access to an employee's personnel files and personal information except for: (1) a supervisor or management employee who has an employment or business-related reason to inspect the record, or (2) anyone who has the employee's written consent.

The School District will only confirm position and dates of employment when requested for information about a District employee. An employee who would like the District to release additional information about their employment must submit a written request in writing to the Superintendent or designee.

LEGAL REF.: 820 ILCS 40/1 et seq.
23 Ill.Admin.Code §1.660.

CROSS REF.: 2:250 (Access to District's Public Records), 7:340 (Student Records)

General Personnel

Administrative Procedure - Personnel Records

Pre-employment records include:

- job application forms
- transcripts
- previous work experience
- references
- such other relevant information as the District desires of applicants for screening purposes

The District retains solicited applications and supporting documents for 2 years from the application dates. Unsolicited applications and supporting documents are not retained.

Employment records include:

- dates of employment
- records maintained pursuant to regulations of the Internal Revenue Service
- records maintained for the Illinois Teachers' Retirement System or the Illinois Municipal Retirement System
- criminal background investigation papers
- form I-9 required by the Immigration and Naturalization Service under the Immigration Reform and Control Act
- payroll information and deductions
- credit release information
- sick leave data
- leaves of absence data
- vacation data (where appropriate)
- valid certificate for services being performed
- transcripts of graduate work completed after the effective date of employment credit for in-service work completed
- employment health and medical records
- supervisory evaluations
- promotions
- disciplinary actions
- personal leave
- awards received
- letter of resignation or retirement
- notice of discharge
- any additional information the Administration deems to be relevant to the person's job and continued employment in the District

This information shall be maintained permanently for all employees and former employees of the District unless the Local Records Commission's approval is obtained to dispose of them.

An employee is granted access to his or her personnel records at least two times in a calendar year at reasonable intervals unless otherwise provided for in a collective bargaining agreement. Access to the employee's personnel records shall be according to the following guidelines:

1. The employee must submit a written request to inspect his or her personnel records to the Superintendent or the Superintendent's designee.
2. The Superintendent or designee will provide the employee the opportunity for inspection within 7 working days after the request. If such deadline cannot reasonably be met, the District will have an additional 7 days to comply.
3. The employee will inspect the personnel record at the District's administrative office during normal working hours or at another time mutually convenient to the employee and the Superintendent or the Superintendent's designee.
4. Inspection of personnel records will be conducted under the supervision of an administrative staff member.
5. Neither an employee nor his or her designated representative will have access to records which are treated as exceptions in the Illinois Personnel Record Review Act discussed below in Item 12.
6. The employee may copy material maintained in his or her personnel record. Payment for record copying shall be based on the District's actual costs of duplication.
7. The employee may not remove any part of his or her personnel records from his or her file or may not remove any part of his or her personnel records from the District's administrative office.
8. Should the employee demonstrate his or her inability to inspect his or her personnel records in person, the District will mail a copy of (a) specific record(s) upon written request.
9. Should the employee be involved in a current grievance against the District or involved in any other contemplated proceedings against the District, the employee may designate in writing a representative who has the authority to inspect the personnel records under the same rights as the employee.
10. If the employee disagrees with any information contained in the personnel record, a removal or correction of that information may be mutually agreed upon by the employer and employee. If agreement cannot be reached, the employee may submit a written statement explaining his or her position. The District will attach the employee's statement to the disputed portion of the personnel record and the statement shall be included whenever that disputed record is released to a third party as long as the disputed record is part of the employee's personnel file. Inclusion of any written statement attached to the disputed record in an employee's personnel file without any further comment or action by the District will not imply or create any presumption that the District agrees with the statement's contents.
11. The District will not gather or keep a record in an employee's personnel file of an employee's associations, political activities, publications, communications or nonemployment activities,

unless the employee submits the information in writing or authorizes the District in writing to keep or gather such records; provided, however, that nothing herein shall be construed to prohibit the District from gathering or keeping records in an employee's personnel file concerning activities that occur on the employer's premises or during the employee's working hours which interfere with the performance of the employee's duties or activities, or the duties or activities of other employees, regardless of when and where occurring, which constitute criminal conduct or may reasonably be expected to harm the District's property, operations or educational process or programs, or could, by the employee's actions, cause the District financial liability.

12. When the District receives a written request for personnel records from a third party, the District shall review the requested records and, before releasing the records to the third party to inspect and copy such records, the District shall delete disciplinary reports, letters of reprimand or other records of disciplinary action which are more than four years old, unless the release is ordered to a party in a legal action or arbitration.

Before the District divulges disciplinary reports, letters of reprimand, or records of other disciplinary action which are less than four years old to a third party, to a party who is a part of the employer's organization, or to a party who is a part of a labor organization representing the employee, the District will provide the employee with a written notice. The written notice to the employee will be mailed to the employee's last known address and will be mailed on or before the day the information is divulged to any of the aforementioned parties.

No such written notice will be required if the employee has specifically waived written notice as part of a written, signed employment application with another employer; the disclosure is ordered to a party in a legal action or arbitration; or information is requested by a government agency as a result of a claim or complaint by an employee, or as a result of a criminal investigation by such agency.

Section 10 of the Illinois Personnel Record Review Act provides that the right of the employee or the employee's designated representative to inspect his or her personnel records does not extend to:

1. Letters of reference for that employee.
2. Any portion of a test document, except that the employee may see a cumulative total test score for either a section of or the entire test document.
3. Materials relating to the employer's staff planning, such as matters relating to the District's development, expansion, closing or operational goals, where the materials relate to or affect more than one employee, provided, however, that this exception does not apply if such materials are, have been or are intended to be used by the employer in determining an individual employee's qualifications for employment, promotion, transfer, or additional compensation, or in determining an individual employee's discharge or discipline.
4. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

5. Records relevant to any other pending claim between the District and employee which may be discovered in a judicial proceeding.
6. Investigatory or security records maintained by the District to investigate criminal conduct by an employee or other activity by the employee which could reasonably be expected to harm the District's property, operations, or education process or programs, or could by the employee's activity cause the District financial liability, unless and until the District takes adverse personnel action based on information in such records.

General Personnel

Release Of Credit Information

The School District will only confirm employment when requested for credit information about a District employee.

An employee wanting employment and salary or wage information released must request so in writing and an administrator must sign the released materials.

General Personnel

Copyright

Works Made for Hire

The Superintendent shall manage the development of instructional materials and computer programs by employees during the scope of their employment in accordance with State and federal laws and School Board policies. Whenever an employee is assigned to develop instructional materials and/or computer programs, or otherwise performs such work within the scope of his or her employment, it is assured the District shall be the owner of the copyright.

Copyright Compliance

While staff members may use appropriate supplementary materials, it is each staff member's responsibility to abide by the District's copyright compliance procedures and to obey the copyright laws. The District is not responsible for any violations of the copyright laws by its staff or students. A staff member should contact the Superintendent or designee whenever the staff member is uncertain about whether using or copying material complies with the District's procedures or is permissible under the law, or wants assistance on when and how to obtain proper authorization. No staff member shall, without first obtaining the permission of the Superintendent or designee, install or download any program on a District-owned computer. At no time shall it be necessary for a District staff member to violate copyright laws in order to properly perform his or her duties.

LEGAL REF.: Federal Copyright Law of 1976, 17 U.S.C. §101 et seq.
105 ILCS 5/10-23.10.

CROSS REF.: 6:235 (Access to Electronic Networks)

General Personnel

Temporary Illness or Temporary Incapacity

A temporary illness or temporary incapacity is an illness or other capacity of ill-being that renders an employee physically or mentally unable to perform assigned duties. During such a period, the employee can use accumulated sick leave benefits. However, income received from other sources (worker's compensation, District-paid insurance programs, etc.) will be deducted from the District's compensation liability to the employee. The School Board's intent is that in no case will the employee, who is temporarily disabled, receive more than 100 percent of their gross salary.

Those insurance plans privately purchased by the employee and to which the District does not contribute, are not applicable to this policy.

If illness, incapacity, or any other condition causes an employee to be absent in one school year, after exhaustion of all available leave, for more than 90 consecutive work days, such absence may be considered a permanent disability and the Board may consider beginning dismissal proceedings subject to State and federal law, including the Americans with Disabilities Act. The Superintendent may recommend this paragraph's use when circumstances strongly suggest that the employee returned to work intermittently in order to avoid this paragraph's application.

Any employee may be required to have an examination, at the District's expense, by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervisor to perform health examinations if the examination is job-related and consistent with business necessity.

LEGAL REF.: Americans with Disabilities Act, 42 U.S.C. §12102.
105 ILCS 5/10-22.4, 5/24-12, and 5/24-13.
Elder v. School Dist. No.127 1/2, 208 N.E.2d 423 (Ill.App.1, 1965).
School District No. 151 v. ISBE, 507 N.E.2d 134 (Ill.App.1, 1987).

CROSS REF.: 5:30 (Hiring Process and Criteria), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

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General Personnel

Family and Medical Leave

Leave Description

Eligible employees may use unpaid family and medical leave, guaranteed by the federal Family and Medical Leave Act, for up to a combined total of 12 weeks each year, beginning September 1 and ending August 31 of the next year.

Other available paid vacation, personal, or family leave will be substituted for family and medical leave necessitated by birth, adoption/foster care placement, or a family member's serious health condition. Other available paid vacation, personal, or sick leave will be substituted for family and medical leave necessitated by a family member's or employee's own serious health condition. Any substitution required by this policy will count against the employee's family and medical leave entitlement. The District will pay family leave or sick leave only under circumstances permitted by the applicable leave plan. Use of family and medical leave shall not preclude the use of other applicable unpaid leave that will extend the employee's leave beyond 12 weeks, provided that the use of family and medical leave shall not serve to extend such other unpaid leave.

Family and medical leave is available in one or more of the following instances:

1. the birth and first-year care of a son or daughter;
2. the adoption or foster placement of a child;
3. the serious health condition of an employee's spouse, parent, or child; and
4. the employee's own serious health condition.

Employees may take an intermittent or reduced-hour family and medical leave when the reason for the leave is 3 or 4, above, with certain limitations provided by law.

Within 15 calendar days after the Superintendent makes a request, an employee must support a request for a family and medical leave when the reason for the leave is 3 or 4, above, with a certificate completed by the employee's or family member's health care provider. Failure to provide the certification may result in a denial of the leave request.

If both spouses are employed by the District, they may together take only 12-weeks for family and medical leaves when the reason for the leave is 1 or 2, above, or to care for a sick parent.

Eligibility

To be eligible for family and medical leave, an employee must either:

1. Have been employed by the District for at least 12 months (the 12 months need not be consecutive) and have been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave, or
2. Be a full-time classroom teacher.

Notice

If possible, employees must provide at least 30 days' notice to the District of the date when a leave is to begin. If 30 days' notice is not practicable, the notice must be given within 2 business days of when the need becomes known to the employee. Employees shall provide at least verbal notice sufficient to make the District aware that he or she needs a family and medical leave, and the anticipated timing and duration of the leave. Failure to give the required notice may result in a delay in granting the requested leave until at least 30 days after the date the employee provides notice.

Continuation of Health Benefits

During a family and medical leave, employees are entitled to continuation of health benefits that would have been provided if they were working.

Return to Work

An employee returning from a family and medical leave will be given an equivalent position to his or her position before the leave, subject to the District's reassignment policies and practices.

Classroom teachers may be required to wait to return to work until the next semester in certain situations as provided by law.

Implementing Procedures

The Superintendent shall develop procedures to implement this policy consistent with the federal Family and Medical Leave Act.