

IV. Leaves

A short video by IEA Deputy General Counsel Paul Klenck about various leave laws affecting educational employees is found on the IEA Learning Portal: [Illness, Incapacity and Fitness for Duty](#). A one-page summary of some leave laws is part of the handouts from this course.

A. Sick Leaves

Illinois law requires school districts and community colleges to provide full-time teachers and other employees who work 600 or more hours in a school year at least 10 full days of paid sick leave each school year. Sick leave is typically awarded at the beginning of each school term. It may be used for personal illness, serious illness or death in the immediate family or household, or birth, adoption or placement for adoption. The School Code provides that an employee may use at least 30 sick leave days for birth or adoption, and a longer period may be negotiated in local collective bargaining agreements. Unused sick leave may be accumulated to at least 180 days. The amount of sick leave awarded each year or unused leave allowed to accumulate may be increased by the collective bargaining agreement or by board policy. A teacher may not be dismissed or have his or her tenure status affected by temporary physical or mental incapacity.

Federal law requires that persons who are disabled because of pregnancy, childbirth, or related medical condition must be treated the same as other employees. Thus, a woman who is medically unable to work following childbirth is entitled to use accumulated sick leave for this purpose. Sick leave may not be used for an extended maternity leave unless provided for by a collective bargaining agreement, board policy, or allowed for other non-medical leaves.

A school board may, but is not required to, pay employees for unused sick leave when they leave employment. Employees covered by the Illinois Teachers' Retirement System (TRS), the State Universities Retirement System (SURS), and the Illinois Municipal Retirement Fund (IMRF) may credit unused sick leave to increase service credit to enhance retirement benefits and eligibility.

TRS members receive service credit at retirement for unused, uncompensated sick leave. The amount of service credit available can be determined by dividing the number of reportable sick leave days by 170. TRS members may receive up to a maximum of two years of credit. SURS members may receive a maximum of one year of additional service credit for 180 or more days of unused, uncompensated sick leave days. IMRF members may receive a maximum of one year of additional service credit for 240 days of unused, unpaid sick leave days.

B. Family and Medical Leave Act (FMLA)

In general, the FMLA entitles eligible employees to take up to 12 workweeks of job-protected unpaid leave (or to substitute accrued paid leave) per year for the birth and care of a newborn

child, adoption or placement of a child for adoption or foster care, care of a family member (child, spouse or parent) with a serious health condition, or the employee's own serious health condition that makes it impossible for him or her to perform the job. Employers covered by the law are required to maintain any pre-existing health coverage during the leave period and, once the leave period is concluded, to reinstate the employee to the same or equivalent job. All school districts are covered by the law, although not all educational employees are eligible. To be eligible, the employee must have worked for the employer for at least 1250 hours during the preceding 12-month period and the employer must have at least 50 employees. Teachers are presumed to have met the 1250-hour requirement.

The FMLA also provides the same type of leave and protections for military families. An employee can take up to 12 workweeks of job-protected unpaid leave per year for any "qualifying exigency" arising out of an employee's spouse, son, daughter, or parent being called into active military duty in a foreign country (in regular or reserve components of the Armed Forces) to address such issues as attending military sponsored functions, making appropriate financial and legal arrangements, and arranging for alternative childcare. Similarly, an employee who is the spouse, son, daughter, parent or next of kin of a "covered service member" may take up to 26 weeks of unpaid leave per year to care for the service member with a serious injury or illness including veterans who were members of the Armed Forces within the preceding 5 years of being treated for an injury or illness that occurred or was aggravated.

C. Victims Economic Security and Safety Act (VESSA)

VESSA permits employees who are victims of domestic or sexual violence, or who have family or household members who are victims of such violence, to take up to twelve (12) weeks of unpaid leave in any twelve (12) month period to seek medical help, legal assistance, counseling, safety planning, and other assistance. The Act also prohibits employers from discriminating against employees who are victims of domestic or sexual violence or who have family or household members who are victims of domestic or sexual violence. The maximum amount of leave that must be granted depends on the size of the employer. If the employer has 15 to 49 employees, an employee is entitled to a total of 8 weeks of unpaid leave per year; if the employer has 50 employees or more, an employee is entitled to a total of 12 workweeks of VESSA leave per year. The leave may be taken intermittently or at a reduced work schedule in order to address issues arising from domestic or sexual violence including medical attention, victim services, counseling, safety planning, and legal assistance. The employee must provide the employer 48 hours' notice of taking VESSA leave whenever practicably possible and the employer can require that the employee certify that the VESSA leave is being taken for one of the permitted purposes (for example, provide documentation from a victim organization, attorney, clergy member, medical professional, police or court record, or any other corroborating evidence). A one-page summary of VESSA is on the contained as a handout in the [Leaves Course](#).

D. Other Leaves

The Illinois School Code contains several other leave options for public school teachers:

Sabbatical Leave: A school board may grant a sabbatical leave to a tenured teacher for resident study, research, travel, or other activities determined by the board to improve the school district by improving the quality and level of experience in the teaching force. The length of the leave may be from four months to one year. In order to qualify for a leave, the teacher must have at least six years of satisfactory full-time teaching experience.

During the leave the teacher is paid the normal salary from which may be deducted an amount equal to that paid for substitute teachers. The teacher on sabbatical leave must be paid at least the statutory minimum salary or one-half the normal salary, whichever is greater. After completion of the sabbatical leave, the teacher must return to the district for at least one school term or repay the district the amount received during the sabbatical. A teacher returning from sabbatical leave must be returned to a position equivalent to that held before the leave. A teacher returning from sabbatical leave does not lose any tenure rights.

Other leave benefits: A tenured teacher who enters *military service* is protected against loss of tenure status. Similarly, a teacher who is elected to the *General Assembly* must be given a leave of absence if one is requested, and leaves must be granted for *service to a state or national teacher organization* that represents teachers in collective bargaining negotiations. Many collective bargaining agreements provide for a variety of leaves including maternity and parental leaves, extended illness leaves, bereavement leaves, and educational leaves. Carefully review your union contract to see if it contains any other leave options.