



kriha boucek

# First Friday With KB

November 1, 2024



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## **Oakbrook Office**

1801 S. Meyers Rd, Suite 120  
Oakbrook Terrace, IL 60181

## **Edwardsville Office**

204 Evergreen Lane, Suite A  
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The image shows a modern office reception area. In the foreground, there is a desk made of stacked wooden pallets. On top of the desk is a large, light blue cylindrical lamp. Behind the desk, a globe sits on a light blue counter. To the right of the globe is a large red circular logo with the letters 'kb' in white. On the wall behind the desk is a map of Illinois. To the left of the desk, there is a wooden cabinet with many small drawers, a chair with a blue cushion featuring a red letter 'B', and a small table. A framed portrait of Abraham Lincoln is on the wall to the left. A fire extinguisher is visible on the right wall.

# Managing Employee Leaves

# Types of Leave

- Family Medical Leave Act (FMLA) Leave
- Sick Leave and Mental Health Days
- Administrative Leave



# FMLA Leave



# FMLA Leave

- Grants eligible employees 12 weeks of unpaid leave
  - X Paid leave may be substituted for unpaid, if available
- Requires the employer to maintain an employee's health benefits during the leave
  - X If you paid for it before, you pay for it now.
- Protects employees when they return to work from leave





# FMLA Leave

## When does FMLA Leave Apply?

- **Teachers** – Almost always “eligible” regardless of time of service requirement
  - X Consult the CBA and Board Policy
- **Non-Certified Staff** - In general, an “eligible” school district employee must be an individual who has:
  - 1) Worked for the district for at least 12 months as of the date the FMLA leave is scheduled to begin.
  - 2) Worked at least 1,000 hours for the district in the 12-month period prior to the start of the leave, and
  - 3) Worked at a location where the district (employer) has at least 50 employees working within 75 miles of that location, as of the date the leave will begin



# FMLA Leave

## Calculating Leave Time

### *How much time is available*

- Eligible employees are entitled to up to 12 weeks of unpaid leave in a 12-month period

### *What is your “Leave Year?”*

- Districts can choose one of four “leave year” designations to apply to all employees.
  - (1) Calendar Year. January 1 through December 30.
  - (2) Fixed 12-Month Schedule. Any fixed 12-month period, such as a fiscal year. Note, this may be arbitrary dates, such as “September 1 through August 30.”
  - (3) 12-months From First Day of Employment. The 12-month period measured from the specific employee’s first day of work with the employer through the end of a 12-month period.
  - (4) Rolling 12-Months. Measured starting from the day of the requested leave starting and looking back 12-months from that date.



# FMLA Leave

## Calculating Leave Time:

### *What days count as “leave?”*

- X Only days an employee was actually scheduled to work are counted against his or her leave.
- X Paid holidays or scheduled days off are NOT included in the 12-week calculation *unless* the leave is being calculated on a week-basis
  - X If a paid holiday or scheduled day-off falls within a week the employee was scheduled to be on leave, the entire week still counts against the employee’s 12-weeks of available leave

### *Special Rule for Spouses*

- X If the District employs both spouses, employees are limited to 12 weeks combined for new-child leave



# FMLA Leave

## Returning to Work:

### *Fitness for Duty Certification:*

- Dictated by Board Policy
- Can adopt a policy requiring ALL employees returning to work post-FMLA leave to submit to fitness for duty test
- If no policy in place – request only if needed to determine whether medical condition prohibits or prevents employee from performing the essential functions of the job
- District is responsible for the cost of these exams

### *Same or Equivalent Job:*

- An employee returning to work after FMLA leave is entitled to return to the same or an equivalent job as the one held prior to taking leave
  - X Not required to get the EXACT same job – just entitled to virtually identical job
  - X Factors = shifts; terms of pay; benefits; location of work
- CBA and Board Policy may include special rules

# FMLA Leave

## Returning to Work:

### *Special Rule for Teachers Returning to Work:*

- When a teacher's leave is scheduled to end near the end of a school term, the District may require the teacher to remain on leave until the next term begins.
- Specific requirements depend on the length of time remaining in the leave and the school term.
- CBA and/or Board Policy may have special rules.

### *ADA Considerations*

- An employee returning from FMLA leave may be entitled to ADA protections and accommodations to allow them to perform the essential functions of their job.
- Extended periods of unpaid leave may be requested by an employee when his or her FMLA leave is exhausted.
  - X I.E. – ADA request for an accommodation

# Sick Leave



# Sick Leave

- Required under the *School Code* for teachers and non-certs working at least 600 hours
  - X Minimum of 10 sick leave days per year
- Collective bargaining agreement or board policy will determine number of sick leave days granted each year.
- School Code sets minimum accumulation of days at 180.
- Days travel with an employee when they leave a district.



# Sick Leave

## When Can I Use Sick Leave?

- Personal illness, mental or behavioral health complications, quarantine at home, or serious illness or death in the immediate family or household.
  - X Immediate family = parents, spouse, brother, sister, children, grandparents, grandchildren, in-laws, legal guardians.
- Can require a certificate from a doctor after 3 days of leave, *or as the board deems necessary*
- Special rule for use related to birth, adoption, or foster care:
  - X Entitled to up to 30 days of paid sick leave before requiring a doctor's note
  - X Can be used at any time during the child's first year
  - X Breaks in school (i.e. summer, winter, spring) do not count against the 30 days
- Terms of a CBA may expand these rules.



# Sick Leave

## What is a Mental Health Day?

- Not a grant of additional sick leave days
- Not a stand-alone form of leave
- Permits the use of a sick-leave day for mental health purposes
- The board can require a certificate from “*a mental health professional licensed in Illinois providing ongoing care or treatment to the teacher or employee*” as a basis for the mental health day.



# Administrative Leave



# Administrative Leave

- May be paid or unpaid
- Terms of when administrative leave may be granted are usually dictated by a CBA or board policy
- Common form of “accommodation” under the ADA
  - X How long must you grant leave?
- Requires board approval







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**THANK YOU!!**

(And see you soon at the School Board Conference!)



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