

ANTICIPATED DISABILITY LEAVES

Any employee who anticipates undergoing a state of disability such as, but not limited to, surgery, hospital confinement, medical treatment, pregnancy, etc., may apply for a leave of absence based upon said anticipated disability in accordance with provisions hereinafter set forth, in which instance such leave of absence shall be chargeable to the sick leave account of said employee.

All employees anticipating a state of disability shall notify the Superintendent through their principal of the condition expected to result in disability as soon as the condition that may result in disability is known.

A. Request for Leave based on Claim of Anticipated Disability

1. Any employee who desires to continue in the performance of his or her duties during a period expected to lead to a state of disability shall be permitted to do so provided said employee produces a statement of his or her physician stating that said employee is physically capable of continuing to perform his or her duties and further stating up to what date, in the opinion of said physician, the employee is capable of performing said duties.
2. In the event the physician of an employee who anticipates a state of disability shall be of the opinion that said employee is capable of performing his or duties up to a specified date but the medical examiner of the Board of Education shall be of a contrary opinion, then the employee and the Board shall mutually agree upon the appointment of an impartial third physician whose medical opinion shall be conclusive and binding on the issue of medical capacity to continue in the performance of duties. In the event of the inability of the employee and the Board to agree upon the appointment of the third physician, such appointment shall be made by the Bergen County Medical Society. The expense of any examination by an impartial third physician shall be shared equally by the employee and the Board.
3. In no event shall the Board be obligated to permit an employee anticipating a state of disability to continue in the performance of his or her duties where the performance of said employee has substantially declined from that performance demonstrated by said employee at the time immediately prior to the time when notification was given of the state of anticipated disability.
4. All policies, practices, rules and regulations applicable to employees who are granted sick leave pursuant to the provisions of N.J.S.A. 18A:30-1 et seq. shall be applicable to all employees applying for leave under Section A of this policy. Such employees shall receive no lesser consideration than any other employees nor shall they receive any greater consideration.

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5. The employee requesting a leave under the provisions of Section A shall specify in writing the date on which he or she wishes to commence said leave and the date on which he or she wishes to return to employment following recovery from said disability. Such requests shall be consistent with the foregoing provisions. However, no employee shall be permitted to return for a month or less at the start or end of a school year.
6. The Board shall have the right to require any employee who has been on a disability leave and who desires to return to his or her duties by a fixed date following recovery from disability to produce a certificate from his or her physician stating that he or she is capable of resuming duties. In the event of a difference of opinion between the employee's physician and the Medical Examiner of the Board relative to the resumption of duties by said employee, the provisions of Paragraph A(2) shall be inapplicable as to the method of resolving such disagreement.
7. Whenever, in the opinion of the Board, the dates for the commencement of an anticipated disability leave and/or the dates for the resumption of duties would substantially interfere with the administration of the school or with the education of the children, the requested dates may be changed by the Board.
8. Ordinarily, an employee who has undergone hospital confinement shall be expected to resume his or her duties, subject to the provisions of Paragraph A(7) above, within fifteen (15) days of the date of discharge from the hospital, provided, that such resumption of duties is not medically contraindicated. However, in the case of pregnancy, the presumed period of disability is one month prior to the anticipated delivery date and one month after the anticipated delivery date. Disability leave for pregnancy is separate and apart from family and/or child rearing leave.
9. Where disability leaves have been approved, the commencement or termination dates thereof may be further extended or reduced for medical reasons upon application by the employee to the Board. Such extensions or reductions shall be granted by the Board for additional reasonable periods of time provided, however, that the Board may alter the requested dates upon a finding that such extension or reduction would substantially interfere with the administration of the school or with the education of the pupils, and provided further that such change by the Board is not medically contraindicated. All extensions of such leaves shall in any event be subject to the provisions of N.J.S.A. 18A:30-1 et seq. and specifically N.J.S.A. 18A:30-6 and 18A:30-7.

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10. The provisions of this policy shall not be deemed to impose on the Board any obligation to grant or extend a leave of absence of any non-tenured employee beyond the end of the contract school year in which the leave is obtained.
11. Where the anticipated disability leave is for pregnancy reasons, pregnant employees applying for leaves of absence under the provisions of this section may simultaneously make application for Family and Child Rearing Leave in accordance with the provisions of policy number 4151.3.

B. Request for Leaves Not Based on Onset of Claims of Disability

1. An employee who desires to commence a leave of absence without regard to the onset of any claim of disability as set forth in Section A, ante, shall be permitted to do so in accordance with the provisions hereinafter set forth, but such leaves of absence, shall be without pay.
2. Employees requesting a leave under the provisions of this section prior to the actual onset of a state of disability shall specify in writing the date on which he or she wishes to commence said leave and the date on which he or she wishes to return to employment after the termination of disability.
3. Should there be any question as to the medical condition of any employee who desires to resume his or her duties by a specified date, then the provisions of Paragraphs (2) and (6) of Section A of this policy and regulation shall be applicable.
4. The provisions of Paragraphs A (3),(5),(7),(9),(10) and (11) are hereby made applicable to the provisions of this section of this policy and are incorporated herein by reference as though set forth at length.

Legal References:

N.J.S.A. 18A:30-1 et seq.
N.J.S.A. 34:11B-1 et seq.
N.J.S.A. 43:21-25 et seq.
N.J.A.C. 13:14-1.1 et seq.
29 U.S.C. 2601 et seq.
29 C.F.R. 825

Cross Reference:

Policy Guide No. 4150
Policy Guide No. 4151.3

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