

Expanded use of sick days for school employees

By Kaitlyn Dunphy, Esq.



On July 3, 2023, Gov. Phil Murphy signed into law P.L. 2023, c. 95, which expands the allowable use of sick days for public school staff. Member advocacy was key to NJEA's success in getting this expansion of sick leave passed.

Under the prior law, the 10 annual statutory sick days were limited to use for a member's own illness, injury, or disability, or if they needed to quarantine because of their or a household member's exposure to a contagious disease. Now, sick days can still be used for those purposes, but now can also be used:

- To recover from, or for the diagnoses or treatment of a health condition (mental or physical) or for preventative medical care.
- To care for a family member who is sick, injured, needs diagnosis, treatment, or care of a condition (mental or physical) or needs preventative medical care.
- To care for yourself or a family member who needs assistance due to being a victim of domestic or sexual violence, such as needing medical attention, services, counseling, to relocate, or for legal services or proceedings.
- For bereavement of a family member (up to 7 days).
- To attend a child's school-related conference, meeting, function or other event at the request of a school staff member or a meeting related to the child's health condition or disability.
- If a child's school or daycare is closed by the order of a public official, or due to a state of emergency or public health emergency.

Family members are defined broadly, to include children, grandchildren, siblings, spouses, domestic partners, civil union partners, parents, grandparents and those close relations that are the equivalent of a family relationship (blood relation not necessary). Children, as defined by this law, include biological, adopted, or foster children,

stepchildren, legal wards, or the child of a domestic partner or civil union partner.

This law does not reduce, diminish, or adversely affect any collectively bargained rights. For example, if family illness days and/or bereavement leave are included in your local collective bargaining agreement, it is NJEA's position that those days remain in addition to the 10 statutory sick days per year.

Notification requirements


If the need to use sick leave is foreseeable, at least seven calendar days advance notice is required. If it's not foreseeable, notice should be given as soon as practicable—if the employer has notified employees of this requirement. The employer may prohibit foreseeable sick leave on certain dates. Reasonable documentation can be required if unforeseen sick leave occurs on those dates.

The Earned Sick Leave regulations require employers to have a business justification for designating those "certain dates" and to provide reasonable notice of those dates. It's possible that similar regulations could be adopted interpreting this law.

Documentation of sick days

If sick leave is used for three or more consecutive days, the employer may require reasonable documentation to verify that the days are being used for a permissible purpose. For those taking care of a sick family member, signed documentation from the health care provider will meet this requirement. For the closure of a child's school or daycare, a copy of the order of the public official or health authority is sufficient documentation.

For victims of domestic or sexual violence, reasonable documentation will depend upon the reason for leave, but could be from the court, agency, social worker, law enforcement, counselor, attorney or other professional who is assisting the individual.

Regulations may be promulgated to implement this law. NJEA Legal Services will keep NJEA staff and membership abreast of any updates. 

Kaitlyn Dunphy is an associate director of NJEA Legal Services and Member Rights in the NJEA Executive Office. She can be reached at kdunphy@njea.org.