



PERSONAL LEAVE

Personal business leave clauses are found in virtually all teachers' contracts in New Jersey. This benefit provides teachers with days off, without loss of pay, to attend to personal business during the school year. As a legitimate union goal is to continuously improve its membership's benefits, successor negotiations should bring many proposals to increase the number of days available for personal leave. On the other side of the table, however, personal leave is frequently seen as one of the most abused contractual provisions. It encourages teacher absenteeism, creates administrative and educational problems, and is a frequent source of grievances and arbitration.

Yet, personal leave has become an accepted, and expected, term and condition of employment for teachers, and boards cannot realistically hope to negotiate it away; boards can, however, review their existing personal leave clauses and identify what problems exist that can be addressed at the bargaining table.

Assume a board, unhappy with its teacher utilization of personal leave, determines that one of its bargaining goals will be to regain control of leave days. The board's current contract provides:

Each teacher shall be allowed two (2) Personal Days per year. These Personal Days shall not be accumulative. Teachers shall be required to notify the Superintendent at least one week in advance of their selected Personal Day.

The provision does not define the purpose for the personal days, does not provide for administrative review or approval, and does not limit the days on which the leave may be taken. The teachers select their days, notify the Superintendent of their intent, and completely control the process of personal leave which, in this case, is a guarantee of two paid vacation days.

Unless a board of education clearly intends the personal leave clause to grant automatic vacation days, this clause does not protect the board's interests. To adequately guard its interest, a board needs contract language which accurately reflects the nature, and the limits, of the negotiated benefit. Further, the board needs to provide administrative discretion to protect educational continuity, permit adequate staffing, and

control personnel costs. These identified board needs become the components of a clause which can meet the board's goal.

The Components of the Clause

Although the specifics of personal leave clauses can be immensely diversified, every clause intended to protect the board's interest should contain the following components; however, the cited clauses are for illustrative purposes and are not necessarily recommended for your district.

Number of Days Per Teacher In 2003, 99% of teachers' contracts in New Jersey specified a number of days available for personal leave. The number of days provided ranged from one to eight; a vast majority (81%) authorized between one to three days, with 59% of those agreements granting three days of personal leave in each year of the contract.¹

Accumulation or Non-Accumulation of Days Are the specified number of days to be used for personal business during one school year only? If unused, can they be carried over for use in future years or should the teacher receive some form of reward for nonutilization?

Most contracts provide one to three *non-accumulative* days for personal business. However, there appears to be a trend towards negotiating incentives to reduce utilization. Many districts have agreed to allow unused personal days to be added to the teacher's accumulated sick leave days.

Although intended to reduce unnecessary utilization of personal leave, this practice holds future costs to the district if the contract currently, or eventually, provides for payment for unused sick leave. As another incentive, other districts pay teachers a contractually specified dollar amount for each personal day that has not been used during the school year.

Boards considering approaches to reduce utilization of personal leave should be aware that carefully drafted language, which limits the purpose of the leave, may yield more effective results than any incentive plan. However, a union proposal to convert unused personal days to accumulated sick leave may provide the Board with

¹For the most recent statistics, please consult the *Negotiations Data Sourcebook* found at www.njsba.org. On the home page, scroll down to Departments Sites on the left hand column of the front page, click on Labor Relations, then on Current Negotiations Data and then on NDS.

an opportunity to obtain needed improvements in the existing contractual provision.

Purpose of Personal Leave What purposes are acceptable to the school district to warrant a paid personal day?

Most contracts contain a loosely worded definition of personal business such as “business which cannot be handled outside of the school day”; many contracts include examples:

...such as, but not limited to, house closing, legal proceedings, graduation...etc.

As long as the list is not limited, the purpose of the days remains open-ended. To be more specific, more restrictive language can be used:

...for personal business only where the absence during school hours cannot be avoided without substantial hardship. Personal business shall be limited to legal, business, household or family matters.

And some categories have been specifically excluded from the definition:

Personal business leave shall not be used for recreation, entertainment, or to accompany a spouse on a business trip.

Application Procedure Should a specific procedure be followed for an authorized personal day? How and when should the request be made? Should the request contain reasons for the day off? A carefully worded procedure delineates both parties’ understanding of the responsibilities of teachers and administrators. Once negotiated, the provision should be carefully administered in accordance with the contract’s language.

Your contract should contain a description of the process which must be followed by the teacher to obtain an authorized personal day:

Application for personal business leave must be submitted in writing to the Principal at least five (5) school days in advance, except in cases of emergency. Lacking such notice, the absence will be considered unauthorized and the teacher’s pay will be deducted at the daily rate of 1/200th of the annual salary.

The application procedure should also support the board’s goals for the personal leave: for example, if administrative approval is desired, the minimum time frame for the request should give your administrators adequate time to review and to respond to the request. An inadequate time frame may not only lead to a problem in obtaining substitutes but may also reduce your specified administrative approval to a pro-forma process.

Retaining administrative approval dictates that the reasons for the leave be included in the application: to approve or reject the request, your administrators need to evaluate the reasons given.

Requests for personal leave shall be filed with the Superintendent at least seven (7) school days in advance. The applicant shall be required to state the reasons for the request.

Reasons are sometimes waived as an incentive or reward for good attendance.

No reasons must be given in applying for the first personal day. However, if the second and/or third day are requested, application for such leave must include reasons prior to approval or denial by the Superintendent.

or

Any employee who has been employed by the district for one year or more may make a request for one such day without stating the reason therefore if such employee has not taken more than five (5) days of absence for any reason whatsoever in the prior school year.

Application procedures are also linked to the purpose of personal business leave.

Teachers will certify by their signature on the application form as follows: It is not possible for me to handle this problem without taking time from school. I further certify that I shall not use personal days for recreation, entertainment, shopping, or for vacation purposes. It is further understood that these days will not be used for working for myself or others, whether or not for compensation.

The application component therefore becomes intricately woven into the entire concept of personal leave.

Administrative Approval This component establishes the role of the administration in granting leaves. If the Board does not wish personal days to be automatic upon the teacher’s request, this component is crucial in establishing administrative control.

Many contracts, in a variety of ways, condition personal days upon administrative approval.

All requests for personal leave shall be subject to review and final approval by the Superintendent, or his designee.

or

The responsible administrator shall use his discretion in approving or disapproving the request. When the request is denied, the reason for the denial shall be written on the form and returned to the applicant.

or

The Superintendent of Schools, in the best educational interest of the School District, is empowered to deny any request for the above days.

or

Teachers shall be granted up to two (2) days per year to handle personal business upon the approval of the Superintendent....

Requiring administrative approval clearly places control of the administration of the personal leave clause where it belongs. The administration can permit appropriate utilization of the leave, yet prevent abuses, and provide adequate class coverage.

Restrictions Restrictions limit the *timing* of personal leaves to assure that it is not taken on days when teacher attendance is considered crucial, or that limit the *number* of teachers who may be out on personal leave on any one day.

To ensure staff attendance, and to prevent use of personal days as vacation days, restrictions are usually attached. The most common restriction found in contracts states:

Personal days will not be granted on days immediately preceding or following a scheduled school holiday.

Restrictions are extended in some contracts to exclude personal leave on:

“the first five and last five days of school”; “a day designated as an in-service day”; “days preceding or following a weekend”; “scheduled Parent-Teacher conferences.”

Some contracts prohibit *consecutive* personal business leave days.

In addition, some contracts also restrict the number of teachers who may be granted personal leave on any one day.

On any one day, there will be the following limit of teaching personnel (requiring substitutes) granted personal absences: High School—4; Middle School—3; each elementary school—2.

or

No more than 3% of the total teaching staff will be granted a personal leave day on the same day.

This restriction assures adequate class coverage and may be of particular importance to a district that has a substitute shortage. Boards should be aware, however, that this may be a difficult clause to administer and to enforce. If such a provision is being considered, your superintendent's full support is essential.

Administrative Discretion Most contracts recognize that the need for a personal business day may arise suddenly as a result of an emergency in the teacher's personal life and thus include a waiver of restrictions for emergency cases.

Notwithstanding the aforesaid limitations, the Superintendent may nonetheless grant

such temporary leaves of absence for a personal day or days if, in the exercise of the Superintendent's sole discretion, the Superintendent determines the nature of the emergency justifies the grant.

or

In emergency, these restrictions may be waived by the Superintendent.

or

In cases of extreme emergency, requests may be granted immediately by the Principal. In this case, the application form shall be submitted through the normal chain of command within two (2) days after the teacher's return to work in order to be paid.

Note that the restrictions are waived by the administration and not by the teacher.

Application of Components

Our hypothetical board, seeking to regain control of personal leave, has drafted the following board proposal, which contains all of the components described above:

Personal Leave

All teachers shall be allowed up to three days, without loss of pay, for personal business during the school year, upon approval of the Superintendent. These days may not be accumulated.

All personal leaves are subject to the following conditions:

- a) *Personal leave shall be limited to urgent legal, family, or personal matters which necessitate the teacher's absence on a school day. Personal leave shall not be used for recreation, entertainment, other employment, or for matters which can be scheduled outside of school hours.*
- b) *Requests for personal leave shall be filed with the Superintendent at least five school days in advance of the contemplated absence. The teacher shall state the reason for the request and explain the necessity for the matter to be handled during school hours.*
- c) *Personal days will not be granted on the first five days of school, or on days immediately preceding or following a weekend or a scheduled school recess.*
- d) *The Superintendent, or his designee, shall review each application and approve or disapprove the request.*
- e) *In an emergency, the Superintendent, or his designee, upon being informed by the*

teacher of the nature of the emergency, may waive all restrictions and authorize an emergency personal day, if satisfied that the restriction in b. or c. above impose an undue hardship.

This clause provides teachers with the ability to have, without loss of pay, days to attend to legitimate personal business which can be anticipated or which arises from an emergency situation. This clause also protects the board's interest by limiting the purpose of the leave, restricting the number and scheduling of the days available for leave, and requiring administrative approval.

This board proposal, designed to meet the board's goal of reducing personal leave utilization, will be presented as a "package," in that the number of proposed days is contingent upon the rest of the clause. The proposal has been made "attractive" to the union by providing an additional day, over the current contract's entitlement, if the union accepts the other aspects of the proposed language. The Board is also willing to consider, at a later point in time, some movement towards the union's

proposal to convert unused personal days to teachers' sick leave accumulation if that becomes necessary to obtain administrative control of personal leave utilization.

Summary

In drafting your district's proposal, remember that all components should appear but the language should reflect your district's particular needs. The components should also complement each other to avoid ambiguities and to consistently support the board's goals; if administrative approval is intended, avoid language which places control in the employee's hands.

Using the component approach to examine and draft contract language can lead to a management proposal which will protect your board's interest in providing a personal leave benefit. It will also help you to identify deficiencies in the union's proposal and to draft counter-proposals which meet your district's needs. You may not achieve the perfect clause in this round of negotiations, but you can negotiate a clause which better satisfies your board's needs.