



AN ANALYSIS OF A SABBATICAL LEAVE CLAUSE

Sabbatical leaves originated in higher education but are now frequently available to New Jersey public school teachers. Sabbatical leave is a negotiable term and condition which is not controlled by statutes or regulations. Therefore, such leaves are the result of locally negotiated agreements and are marked by great diversity in the specifics of their provisions. The common thread to all sabbatical leaves is the purpose of this provision; thus, your analysis of your contract's article, or a union proposal to provide this benefit, should begin with an understanding of the purpose of a sabbatical.

A sabbatical leave is an employee benefit which grants the individual an opportunity to study, travel, or rest while on a paid leave of absence from school. A sabbatical leave can also benefit the school district if the leave is designed to provide an opportunity for professional growth, which will be shared with students and other staff members, without creating undue hardships for the district. The board's ability to control the leave and to share the benefit of this provision depends upon the specific provisions of the clause.

Your analysis of this provision should be designed to identify your district's ability, under your contract, to control the grant of sabbatical leaves. The discussion which follows presents an approach to analyzing this clause which is based on the typical components of a sabbatical clause; each component will be examined to determine what elements are necessary for the clause to be beneficial to both the employees and the district. The examples are offered as illustrations only and do not represent recommended language.

Components

Sabbatical leave components describe who, what, when and how the benefit will be granted. Typically these components include:

Eligibility Requirements Which employees are eligible for this benefit? Generally, sabbaticals are reserved for certificated staff and rarely granted to noncertificated employees. Usually, a length of service requirement is also included.

A careful definition of eligibility can assist the Board to assure that this benefit meets the district's purpose. For example, contracts provide:

Any teacher who has served in the district for at least seven years shall be eligible for a sabbatical leave.

or

A tenured full-time teacher who has successfully completed seven consecutive years of full-time teaching in the district is eligible to apply for leave under this article.

Both examples establish limitations on eligibility. The second example, in keeping with the district's goals, restricts eligibility to full-time tenured teachers who have had continuous service in the district, whereas the first clause extends the benefit to all teachers, including part-time staff and replacement teachers who may have been employed for a total of seven years to fill vacancies created by leaves but who have not achieved tenure status.

Your eligibility requirements will need to reflect your board's goals. However, any changes in your requirements will also need to be negotiated with your local union.

Purpose of Leave Will the leave be restricted to certain activities, such as study or travel? The specifics of this component are essential to the board's ability to benefit from this clause. Contracts provide:

Sabbatical leaves may be utilized for the teacher's personal development through study, rest or travel.

or

Sabbatical leaves are available for study, research, travel, or for any activity which will contribute to the teacher's professional development.

or

Such leaves are available for graduate study or research in the area of the teacher's current or potential area of assignment in the district. Time on leave cannot be used for any type of employment not approved by the Board of Education.

Contractual definitions of the purpose of sabbaticals restrict the activities which are appropriate reasons for the leave and may reduce the number of applications. Of

course, your definition should reflect the activities that your board is willing to support under this provision.

Length of Leave Will the leave be for the full year, half a year or for a number of summers?

The agreed upon length must represent a balance between the time necessary to accomplish the purpose of the leave and the district's need to provide educational continuity. To provide options to both the employee and the board, many clauses state that the sabbatical can be for a semester or a full year. Longer sabbaticals are extremely rare.

Rate of Pay Will the employee receive full pay while on leave or a portion of the annual salary?

While there is wide variety on the rate of pay, full pay has generally been associated with half-year leaves while full-year's leave receive 50% to 75% compensation. Like other benefits, rate of pay during sabbatical is subject to modification in successor negotiations. A union proposal to increase this component can become an opportunity for the board to trade-off improvements in other aspects of the leave article.

Authority to Grant Leave Does the clause mandate the board to grant leave? Does the board have discretion to approve, or to reject, the requested sabbatical? A choice of a small word can make a big difference in this component.

The Board shall grant a sabbatical leave to any employee who meets the eligibility conditions of section 2.

or

The Board may grant a sabbatical to any eligible employee.

As in other contractual provisions, the "shall" removes the board's discretion to reject a request for sabbatical. Under the first example, the authority to obtain a sabbatical rests with the applicant who meets the contract's eligibility standards, whereas the second example gives the board the discretion to review the applications of eligible employees and to determine whether or not to grant the leave.

Number of Leaves Is there a limit on the number of leaves granted each year?

It is not unusual for contracts to limit the number of teachers who can be out on sabbatical at any one time. This provision can work to the board's advantage by limiting disruptions to the continuity of the educational program and by controlling the number of replacement staff that may be necessary. However, here again "may" and "shall" can make a difference. If this component is expressed in terms of "two sabbaticals shall be granted each year," then you may be required to grant at least two annually, even if you have retained discretion in the previous component.

Application Procedures and Deadlines When and how does the eligible employee apply?

Many contracts require teachers to provide a detailed

plan of their proposed activities during the requested leave; the application information, generally related to the purpose of the leave, may also require a statement of how this proposed leave will benefit the district.

Most districts require that applications for sabbaticals be completed by a certain date. To allow you sufficient time to budget the leave, your deadline should be tied to your budgetary cycle: e.g., "no later than December 15 prior to the school year in which the leave is proposed."

Selection of Applicants and its Deadlines What will determine the receipt of the leave? Will it be on a first-come, first-served basis? Will preference be given in accordance with seniority or will there be other considerations?

Generally, criteria for staff selection is a nonnegotiable and nonarbitrable issue. However, in *Willingboro Board of Education*, PERC No. 80-46, 5 *NJPER* 10240, PERC held that the "procedures-criteria" dichotomy does not apply to mandatory subjects such as sabbatical leaves which determine the grant of a negotiated economic benefit. Under current case law, the criteria for selection of sabbatical recipients are thus negotiable and, if the contract so provides, arbitrable. (Please check the "Scope of Negotiations" section of this book or with the NJSBA Labor Relations Department for the most current case law governing this issue.)

In reviewing, or negotiating, sabbatical leave criteria, boards should keep in mind their district's needs and the stated purpose of the leave. From a board's perspective, criteria should include considerations of the benefit of the proposed leave to the district; the value of the leave to the individual teacher; the educational continuity of the district; the availability of replacement staff; the district's economic situation; and other issues deemed important by the board.

This component also includes a time frame for the board to make its selection and to notify applicants of the board's disposition of their request. This aspect of the component provides time for the teacher to solidify his or her plans and allows the district planning time for both budgetary and staffing decisions; the deadline for the board's decision should, however, provide sufficient time for the board's decision-making.

Verification of Fulfillment of Purpose Is the time on leave spent for the purpose intended?

The teacher on leave can be contractually required to submit periodic interim reports or transcripts. Many contracts require that the Board be informed promptly if the teacher's plans are changed due to illness, pregnancy, or by any other interference. These contracts also provide for a termination of the sabbatical if the purpose of the sabbatical is not, or cannot, be met.

Continuation of Benefits While on Leave What benefits, if any, will the employee receive while on leave?

A clear understanding of the teacher's entitlement to continued benefits while on sabbatical avoids future misunderstandings. The extent of benefit coverage is a negotiable issue. However, if you are a participating

employer in the State Health Benefits Plan, the extent of medical coverage may be preempted by rules and regulations and you will want to check with your attorney or the NJSBA Labor Relations Department before negotiating this component.

Most agreements to paid sabbaticals include retention of pension and tenure status during the leave period.

Salary Guide Placement Upon Return Where will the teacher returning from a sabbatical be placed on the salary guide?

This component establishes a condition of the leave and prevents misunderstandings. A strong majority of sabbatical leave articles count the year on leave as equivalent to a year's teaching experience in the classroom for purposes of future guide placement. If the sabbatical is related to improving professional development, boards are likely to be acceptant and supportive of this concept.

However, boards may want to establish that this movement is not automatic but is conditioned upon successful completion of the sabbatical. Boards may also wish to assure that the language of this component does not, inadvertently, result in an unanticipated advance on the guide. In a time when guides are being restructured and when steps on newly negotiated guides may no longer reflect years of experience, boards will want to avoid language which expresses the new placement in relationship to the teacher's step during the last year of teaching employment and specifies automatic progression on the guide. Rather, boards may wish to consider wording which simply establishes that "upon return, teachers will be placed on the guide as if they had been continuously teaching in the district." This will assure that the returning teacher's placement on the guide is in accordance with the new guide's structure.

Future Leave Eligibility Will an employee be eligible for more than one sabbatical during the course of employment? If so, what, if any, conditions must be met for a second sabbatical?

Establishing future eligibility avoids misunderstandings. As in all negotiated clauses, this provision should balance the needs of teachers with that of the district. Some contracts specify that teachers are eligible for only one sabbatical during the course of employment, while others establish eligibility requirement for subsequent sabbaticals.

Return Service Obligation Does the employee have an obligation to return to the district upon completion of the sabbatical? If so, for how long? Are there any penalties for not honoring this obligation?

If the sabbatical is granted to provide a teacher with the opportunity to grow professionally and to share this development with other district staff and students, then a return-to-the-district obligation appears to be in the board's interest. Many sabbatical provisions require a two year return commitment and also provide that an employee's failure to meet this obligation will result in a responsibility to reimburse the district for the salary paid to the teacher while on leave.

Application of Components

A contractual clause which contains all of the components of a sabbatical provision, and incorporates the board's interest in the benefit can provide a benefit to both employees and the school district. Consider this sabbatical leave provision:

- a. *A tenured teacher who has successfully completed seven years of continuous full-time teaching in the _____ School District, may be granted a sabbatical leave of one full academic year for the purposes of graduate study in the area of the teacher's assignment.*
- b. *Leaves shall coincide with the district's school year. Applications for leaves must be made by November 1 of the year preceding the requested sabbaticals. All applications must be made on the form developed by the Superintendent. A decision by the Board will be made by March 1 preceding the sabbatical year.*
- c. *No more than two teachers may be on sabbatical at any one time. Decisions will be based upon: the purpose of the leave and its potential benefit to the district; the teacher's demonstrated performance to succeed in this task; the needs of the district; the availability of replacement staff and of budgetary funds.*
- d. *A teacher on a sabbatical leave shall receive half of the salary he would have earned had he remained in the district. While on sabbatical, a teacher shall receive all benefits that he would have received if he had remained in the district, except for sick leave. Upon return to the district, a teacher shall be placed on the guide where he would have been had he remained in the district, so long as the sabbatical's purpose was successfully completed.*
- e. *During the sabbatical year, a teacher must report two times each semester describing the progress he has made in fulfilling the purpose of the leave. Such report shall be filed using forms developed by the Superintendent. In addition, official transcripts must be submitted as soon as available.*
- f. *Upon return to the district from a sabbatical, the teacher agrees to remain in the employ of the district for at least two years, unless discharged by the Board. If a teacher fails to fulfill this obligation, he must repay the board all or a proportionate ratio of the salary he received while on sabbatical.*
- g. *To be eligible for a subsequent sabbatical, a teacher must successfully complete twelve years of full time employment following return from the first sabbatical leave.*

This clause addresses all necessary components and balances the needs of employees with the board's need to control the purpose and the administration of the leave.