State Legal Payroll Issues
Payroll Procedures for Local School Bookkeepers

ASBO Local School Certificate Program
November 20, 2019

State Pay Raise

• FY 2019-2020 Pay Increase

  • 4% increase must be paid by the end of the fiscal year—September 30, 2020.

  • If the increase in pay begins after October 1 then the employee will receive the required pay increase if the employee returns for the 2020-2021 contract year; however, if the employee leaves at the conclusion of the 2019-2020 contract period then the school system must adjust the final payment to ensure that the employee receives the full amount of the 4% salary increase. [See AG Opinion 2006-111]
Employee Salary Payments

• A school system cannot pay employees before services are performed.

• A school system can set a policy to pay nine-month employees over a period of nine or twelve months or may give employees the option of choosing the payment plan. [See AG Opinion 88-00235]

• Although most school boards require all salary payments be made with 12 monthly payments some do give new employees the option of receiving the annual pay in 13 payments for the initial year of employment.

Bonuses and Retroactive Pay

• A school board cannot legally give a Christmas bonus although some do anyway.

• A school board can give a lump sum, one-time salary supplement “for prospective services to be rendered”. [See AG Opinion 88-00264]

• A school board cannot give retroactive payments to an employee for services rendered in the past where there was no expectation or agreement of payment for these services. [See AG Opinion 99-00051]

  • WHY? Section 68 of the Constitution of Alabama.
Salaries and Contracts are Public Records

- The names of school board employees and their salaries are subject to disclosure under the Open Records Law if requested by an Alabama citizen or entity.

- However, the Open Records law does not provide for disclosure of all payroll information such as social security number, marital status, e-mail address, bank account number, and other confidential information.

- Contracts for coaches, principals, superintendents, and CSFOs are subject to disclosure under the Open Records Law if requested by an Alabama citizen or entity. [See AG Opinion 2007-067] [REFER ALL OPEN RECORDS REQUESTS TO THE SUPERINTENDENT’s OFFICE.]

Employee Pay

- State laws do not give the principal the authority to use school funds to pay supplements to employees, hire student workers, or approve employment of individuals without approval of the local school board.

- Employees, substitutes, and student workers will be paid for services by school system policies and procedures.

- Other than school nurses, there is no state minimum salary schedule for non-certificated employees.
Access to Federal Employment Guidance

- Information at the bottom of the U.S. Department of Labor home page includes:
  - Wage & Hour Guidance
  - Family Medical Leave
Quick Links

Worker.gov
Employer.gov
Association Health Plans
Association Retirement Plans
Apprenticeship Finder
HIRE Vets Medallion Program

Family and Medical Leave Act (FMLA)
Fair Labor Standards Act (FLSA)
Workplace Posters
Minimum Wage
Unemployment Insurance
Disaster Recovery Assistance

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EMPLOYEE LEAVE LAWS
On the SDE Website

• Catastrophic Sick Leave Transfer Form

• On-the Job Injury
  o LEA Injury Report Form
  o LEA Physician Certification Form

• Military Leave

• Employee Leave Law Summary

On-the-Job Injury

• Full-time employees & adult bus drivers.

• Each board of education will establish procedures and forms for notification of on-the-job injury.

• Sick leave days will not be deducted for the days the employee is paid for an absence approved for on-the-job injury pay.
On-the-Job Injury Defined

“Any accident or injury to the employee occurring during the performance of duties or when directed or requested by the employer to be on the property of the employer, which prevents the employee from working or returning to his or her job.”  
Section 16-1-18.1(a)(5)

On-the-Job Injury

• Within 24 hours after occurrence of the injury, the employee must make proper notification of the injury to the local superintendent of education (or school principal, if applicable) in accordance with the notification procedures of the local board of education.

• In the event the employee is clinically unable to report the injury, the notification procedures shall permit the reporting of the injury by another person who is reasonably knowledgeable to make the notification of the injury.

• Within 30 calendar days of notification of the injury, the local superintendent (or designee) will inform the injured employee about the board’s approved procedures for on-the-job injuries and the employee’s rights to request reimbursement from the State Board of Adjustment.
On-the-Job Injury

- The board policies may require medical certification from the employee’s physician that the employee was injured and cannot return to work as a result of the injury.

- May also require the physician’s statement that there is a reasonable expectation that the injured employee will be able to return to work.

- The superintendent may require a second opinion at the expense of the board.

On-the-Job Injury

- Once the superintendent determines that the employee has been injured on the job and cannot return to work as a result of the injury, the employee’s salary and benefits will continue up to 90 working days consistent with the employee’s injury and subsequent absence from work resulting from the injury. (*Temporary disability.*)

- The board may adopt a policy to extend the 90-day period.
On-the-Job Injury

• The employee may file for reimbursement with the State Board of Adjustment for unreimbursed medical expenses and costs incurred as a result of an on-the-job injury.

• Reimbursement to the employee shall be determined by the Board of Adjustment.

On-the-Job Injury

• Alabama State Board of Adjustment
  o www.bdadj.Alabama.gov
  o Claims must be filed within one year from date of injury (two years for death).
  o Claims for out-of-pocket medical expenses not paid by private insurance.
  o Claims for lost wages and/or compensation for leave used.
What is a Sick Leave Bank?

• A sick leave bank allows an employee to deposit (bank) some of their own sick leave for future use and borrow against some of their sick leave days to be earned in future employment with the school board.

• A participating sick leave bank member may borrow days from the sick leave bank when the member’s non-banked sick leave days have been exhausted.

• The employee must redeposit and restore the borrowed days to the sick leave bank.

Sick Leave Banks

• Each sick leave bank will have a committee consisting of five employees.

• Sick leave bank committee:
  
  o One member is appointed by the superintendent.
  o Four members are elected at the beginning of the school year to a one-year term by a secret ballot vote of the bank’s members.
  o No member can serve on the committee for longer than 5 years.
Sick Leave Banks

- The sick leave bank committee will write the guidelines for the operation of the bank.

- The sick leave bank guidelines are to be approved by secret ballot vote of participating members.

Sick Leave Bank Guidelines

- Appropriate and beneficial guidelines in addition to those contained in the law, if they don’t conflict with the law.

- Must contain a provision whether to allow employees, who have previously failed or refused to join the sick leave bank, the option to join the sick leave bank upon the deposit of the required number of sick leave days.
Sick Leave Banks

• Forms and administrative procedures for the sick leave bank and catastrophic sick leave will be developed by the sick leave bank committee.

• Guidelines developed by committee must be approved by secret ballot vote of participating members.

Sick Leave Banks

• Sick leave bank guidelines must establish an equal number of sick leave days (not to exceed 5 days) for deposit by each participating member in order to become a member of the sick leave bank.

• Employee membership in the sick leave bank is voluntary.
Sick Leave Banks

• New employees can join the sick leave bank at the beginning of employment.

• If the new employee does not have the required number of sick leave days to join the bank, the appropriate number of sick leave days will be advanced to the new employee as the required deposit to join the sick leave bank.

Sick Leave Banks

• The negative balance will be reduced by one day each month as the sick leave days are earned by the employee. After the negative balance is reduced to zero, sick leave days earned by the employee will be used to repay any outstanding loan to the sick leave bank.
Sick Leave Banks

- Sick leave days from the sick leave bank can only be used for the reasons allowed for sick leave.

- Sick leave bank committee will investigate all alleged abuse of the sick leave bank.

Sick Leave Banks

- An employee cannot owe more than 15 days to the sick leave bank, unless over 50% of the sick leave bank members vote to extend the limit.

- Days are to be repaid to the sick leave bank monthly, as the sick leave day is earned each month by the employee.
Sick Leave Banks

• Sick leave bank balance on deposit:
  
  o Upon employee transfer to an eligible employer, the days are withdrawn and transferred with the employee.
  o Upon retirement, the days are withdrawn and made accessible for retirement credit.

Sick Leave Banks

• If an employee who owes days to the sick leave bank resigns or is terminated, the value of each of the owed days will be deducted from the final paycheck at the employee’s current daily rate of pay.
Sick Leave Bank Legal Opinions

- A member of a sick leave bank can give only the number of days to the sick leave bank allowed by law (not to exceed 5 days).

- If the final paycheck does not cover the value of the days owed to the sick leave bank when the employee leaves, the board must exercise due diligence and appropriate procedures to collect the debt.

Catastrophic Sick Leave

- Law covers sick leave bank members in:
  - All local boards of education
  - Two-year postsecondary institutions *(Maybe not anymore)*
  - DYS School District
  - Alabama Institute of Deaf and Blind
  - Alabama School of Fine Arts
  - Alabama High School of Math & Science
  - Alabama A&M University *(but no other universities)*
Catastrophic Sick Leave

• An employee must be a member of a sick leave bank to donate or receive catastrophic sick leave days.

• A donating employee does not have to be a member of the same sick leave bank as the recipient employee.

Catastrophic Sick Leave Defined

• “Any illness, injury, or pregnancy or medical condition related to childbirth, certified by a licensed physician which causes the employee to be absent from work for an extended period of time.”

[Note: The federal Family Medical Leave Act has rules and procedures that differ from the state catastrophic sick leave requirements for school employees.]
Catastrophic Sick Leave

- An employee may use catastrophic sick leave days for himself or herself or for the following covered persons:
  - Parent
  - Spouse
  - Child including a foster child currently in the care and custody of the employee
  - Brother or sister
  - Individual with a close personal tie

Catastrophic Sick Leave

- An employee must exhaust all sick and personal leave days before using catastrophic sick leave.

- An employee must borrow and utilize the maximum number of days from the sick leave bank before using catastrophic sick leave.
Catastrophic Sick Leave

- Donated catastrophic sick leave may be used to repay days owed to the sick leave bank by the recipient employee.

- Sick and personal leave days earned while the employee is utilizing catastrophic sick leave days must be exhausted before continuing to use catastrophic sick leave days.

Catastrophic Sick Leave

- A member of a sick leave bank may donate a specific number of days (not to exceed 30 sick leave days) to a sick leave bank for a specific employee to use for a catastrophic illness.

- The donating employee cannot be required to donate a minimum number of days.
Catastrophic Sick Leave

• The sick leave bank committee will adopt guidelines for reverting unused donated days to the employees who donated the sick leave days.

• Each sick leave bank committee is responsible for writing guidelines and administrative procedures for catastrophic sick leave. [Should define “extended period of time”.]

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