December 4, 2013

MEMORANDUM

TO: County and City Superintendents of Education

FROM: Dr. Warren Craig Pouncey,
Chief of Staff

SUBJECT: Attorney General’s Opinion on Sick Leave Policies

The Office of the Attorney General recently issued an opinion regarding the appropriate use of sick leave. I have attached a copy of this opinion for your review. Specifically addressed in this opinion is the practice of using accumulated sick leave prior to an employee’s retirement date for reasons outside of the allowable circumstances listed in Section 16-1-18.1 of the Code of Alabama.

a. Personal illness or doctor’s quarantine.
b. Incapacitating personal injury.
c. Attendance upon an ill member of the employee’s immediate family (parent, spouse, child, foster child currently in the care and custody of the employee, sibling); or an individual with a close personal tie.
e. Death, injury, or sickness of another person who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

In light of the decision rendered, I want to encourage you to review your system’s current sick leave policies and the application of these policies, especially as it pertains to employees using accumulated sick leave for purposes other than those listed above or for service credit at the time of their retirement. We hope that this information will be helpful. If you have any questions or need any additional information, please contact Dennis Heard at 334-242-9747 or Sonja Peaspanen at 334-353-9886.

WCP/SSP
Attachment
cc: County and City Chief School Financial Officers
FY14-3013
Honorable Terry Wootten  
Chairman, DeKalb County Board of Education 
Post Office Box 1668  
Rainsville, Alabama 35986  

Education, Boards of – Superintendents of Education – Leave, Annual and Sick – Employees, Employers, Employment  

Employees of the DeKalb County Board of Education ("Board") must use accumulated sick leave in compliance with the provisions set forth in the Board's sick leave policy and section 16-1-18.1 of the Code of Alabama.  

The Board may require those absent from regular duty, based on sick leave, to comply with the Board's definition of sick leave as set forth in the Board's policy, as long as that policy is in compliance with state law.  

Dear Chairman Wootten:  

This opinion of the Attorney General is issued in response to your request on behalf of the DeKalb County Board of Education.  

QUESTIONS  

May employees of the Board use their accumulated sick leave prior to retiring in the absence of the conditions or circumstances set forth in the Board's sick leave policy and section 16-1-18.1 of the Code of Alabama?  

May the Board require those who wish to be absent from regular duty, based on sick leave, to comply with the Board's definition of sick leave set forth in the Board's policy?
FACTS AND ANALYSIS

In your letter of request, you informed this Office that, immediately prior to retirement, rather than using accumulated sick leave as service credit, employees of the DeKalb County Board of Education are claiming sick leave and staying off from work for several weeks or months. You question whether such action is appropriate by employees, and whether the Board may require employees to adhere to the Board’s sick leave policy.

Pursuant to section 16-1-30 of the Code of Alabama, a local board of education is authorized to establish a written educational policy for the board of education and its employees. Ala. Code § 16-1-30 (2012). Pursuant to this particular provision, the DeKalb County Board of Education established a sick leave policy that is similar to state law sick-leave provisions found in section 16-1-18.1(a)(4) of the Code. This section states as follows:

(4) SICK LEAVE. The absence from duty by an employee as a result of any of the following:

a. Personal illness or doctor's quarantine.

b. Incapacitating personal injury.

c. Attendance upon an ill member of the employee's immediate family (parent, spouse, child, foster child currently in the care and custody of the employee, sibling); or an individual with a close personal tie.


e. Death, injury, or sickness of another person who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

Ala. Code § 16-1-18.1(a)(4) (2012). Sick leave may only be used for those specific instances as allowed by state law and as expressed in the Board’s sick leave policy. See, generally, opinion to Honorable Jan A. Farley,

You also question whether the Board may require employees to comply with the definition of sick leave as used in the Board's policy. Based on the foregoing, it is the opinion of this Office that the Board may require employees to comply with the Board's definition of sick leave as set forth in the Board's sick leave policy, as long as that policy is in compliance with state law.

CONCLUSION

Employees of the DeKalb County Board of Education must use accumulated sick leave in compliance with the provisions set forth in the Board's sick leave policy and section 16-1-18.1 of the Code.

The Board may require those absent from regular duty, based on sick leave, to comply with the Board's definition of sick leave as set forth in the Board's policy, as long as that policy is in compliance with state law.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

BRENDA F. SMITH
Chief, Opinions Division

LS/MMG
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