

In Brief

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TEACHER NOT ENTITLED TO USE OF SECTION 24-6 SICK LEAVE IN AUGUST FOR THE JUNE BIRTH OF HER CHILD

On June 12, 2019, the Illinois Appellate Court held that Section 24-6 of the Illinois School Code does not allow a teacher, giving birth at the end of one school year, to use her paid sick leave for that birth during the next school year following a summer break. In *Dynak v. the Board of Education of Wood Dale School District 7*, 2019 IL App (2d) 180551, the plaintiff, a full-time teacher, was scheduled to give birth at the end of the 2015-2016 school year. Consequently, she requested to use 1.5 days of sick leave prior to summer break. The plaintiff further requested to take 12 weeks of leave pursuant to the Family Medical Leave Act ("FMLA") at the start of the 2016-2017 school year, and use of 28.5 paid sick days. The school district granted plaintiff's request for 1.5 paid sick days at the end of the 2015-2016 school year and FMLA at the beginning of the 2016-2017 school year, but denied her request to use paid sick leave.

The Appellate Court rejected plaintiff's request to continue her paid leave for the birth of her child after a 10-week summer break. The Court acknowledged that Section 24-6 of the School Code does not specify a time limit on how sick leave must be taken. However, the Court stated that to apply plaintiff's claim that she was entitled to 30 consecutive work days beginning when she gave birth in this situation would lead to an absurd result and require the Court to add terms into the statute that the legislature did not include.

The Court noted that under its construction of Section 24-6, denial of an employee's ability to break up sick leave over a nonwork period must be reasonable. For example where use of sick leave is requested for the birth of a child and is interrupted by a one-week break, it might be reasonable that the employee would get the remainder of the 30 work days following the conclusion of that break, because the

break is much shorter than the contemplated leave period. The Court found that a teacher's summer break was too lengthy of a break in relation to the contemplated leave period.

This decision directly addresses claims being pressed by teacher unions that the 30 days of sick leave for birth provided for by Section 24-6 allows for continued sick leave after a summer break for a birth that occurred prior to that break. The decision provides that in this situation the intervening summer break is simply too far removed from the birth of a child.

Since the Court's decision focuses on the reasonableness of the break period in relation to the leave requested, Districts should consult with counsel before making decisions on sick leave entitlement under Section 24-6 when an intervening break or holiday is at issue.