

BOARD OF EDUCATION OF THE CITY OF NEW YORK
DIVISION OF PERSONNEL

For pay
from J. Rosen
Secretary L/a
15.4
718-495-7
March 21, 1974

TO: COMMUNITY SCHOOL BOARD CHAIRMEN, ALL SUPERINTENDENTS, EXECUTIVE DIRECTORS, DIRECTORS, HEADS OF BUREAUS AND PRINCIPALS OF ALL DAY SCHOOLS

Ladies and Gentlemen:

REGULATIONS GOVERNING LEAVES OF ABSENCE FOR MATERNITY
AND/OR CHILD CARE FOR MEMBERS OF THE TEACHING AND SUPERVISORY STAFFS

Note: Since this circular represents a major change in employee rights and benefits, IT SHOULD BE BROUGHT TO THE ATTENTION OF ALL MEMBERS OF THE TEACHING AND SUPERVISORY STAFFS. Payroll secretaries and other members of staff responsible for processing and granting and/or processing leave requests (including sick leave) should read it carefully and retain a copy for reference.

At its meeting on November 28, 1973, the Board of Education adopted new Bylaws relating to leaves of absence for maternity and child care. The new Bylaws are effective as of September 1, 1973. They are intended to satisfy the Guidelines on Sex Discrimination issued by the Federal Equal Employment Opportunity Commission in relation to leaves for maternity.

The major facets of the new policy are:

1. An employee on maternity leave of absence may be paid for the days in her cumulative absence reserve.
2. There is no mandatory date for beginning a maternity leave.
3. Child care leaves are provided for natural or adoptive parents of either sex.
4. Health insurance coverage may be continued until six weeks after the birth of the child or termination of pregnancy while in unpaid status.

Following are the regulations adopted by the Chancellor in accordance with the new section 107 of the Bylaws as authorized by Subdivision 9 thereof. For reference, a copy of Section 107 is attached to this circular.

A. Maternity and/or Child Care Leaves Generally

1. Leaves shall be granted by the Chancellor for personnel under the jurisdiction of the City Board and by the appropriate Community School Board for personnel under its jurisdiction, as follows:
 - a. The Chancellor has delegated the responsibility of granting leaves to personnel under the jurisdiction of the City Board to the Division of Personnel.
 - b. Community School Boards may delegate this responsibility to their Community Superintendents.
2. The leave granting authority is required to grant such leaves upon application in accordance with these regulations.

3. Maternity Leave

1. Maternity leave shall be subject to the terms and conditions of laws, bylaws and regulations relating to leave with or without pay for personal illness except as provided herein.
2. A pregnant employee may continue working as long as she is physically capable of performing all of the duties of her position. There is no requirement that a pregnant employee begin leave at any specific point in the term of the pregnancy.
3. Absence for the purpose of pregnancy and pregnancy related illnesses may be charged to cumulative absence reserve in accordance with regulations for use of cumulative absence reserve during the period of pregnancy and up to six weeks after childbirth. Specific exclusions of pregnancy and pregnancy related illnesses in such regulations are null and void.
 - a. Absences for this purpose may be self-treated within the ten day limit prescribed in agreements with U. F. T. and C. S. A.
 - b. Borrowed days may also be used in accordance with current regulations.
 - c. Sick leave without pay may be requested if needed.
 - d. Where the employee is eligible, a sabbatical leave for restoration of health or a special sabbatical leave for restoration of health may be requested for medical disabilities arising out of pregnancy. The grant of such leave is subject to all regulations for the grant of sabbatical leaves or special sabbatical leaves for restoration of health. Paid or unpaid leave granted for maternity purposes carries with it all of the same benefits and seniority as would accrue for similar leaves granted for illness, and must fall within the quota for the appropriate school or office. Community School Districts, in establishing priorities for the consideration of requests for sabbatical leaves, may not consider maternity differently from other medical conditions.

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Maternity Leave (Continued)

1. It is requested that application for maternity leave should be made at least 30 days before the effective date of the leave or, if leave is to commence at the opening of school in September, at least two weeks before the closing of school in June. This notice is requested so that arrangements may be made for the replacement of the employee during such leave. If the employee's intention is to cease work at or shortly before the date of confinement, application should show probable date of leave. Such leave will be effective as of the date requested by the employee.
5. The employee may, in her option, apply simultaneously for a maternity leave and child care leave. (See Section D concerning Child Care Leaves). Such application may be made on Form O. P. 160 - Application for Leave of Absence Without Pay. Applicant will, nevertheless, be paid for the days in her cumulative absence reserve during maternity leave only.

A grant of leave of absence without pay for this purpose will be indicated on the face of Form O. P. 218 - "Notice of Grant of Leave of Absence Without Pay" as being a leave for maternity and child care.
6. In addition to any of the payments specifically described above, pro rata vacation pay shall be paid in accordance with the provisions of Section 106, Subdivision 7 of the Bylaws. The Bureau of Pedagogical Compensation will pay this pro rata summer pay without prior application during or immediately following the next summer after grant of the leave.
7. Maternity leave shall terminate six weeks after the birth of the child or termination of pregnancy. No sick leave payments may be made after that date (During child care leave).

However, an employee may, because of illnesses either related or unrelated to maternity, avail herself of paid or unpaid sick leave (depending upon the balance in her cumulative absence reserve) subject to the submission of a certificate from her physician and its approval by the School Medical Director. The School Medical Director shall evaluate such certificate and may, in his discretion, call the employee for physical and medical examination. This paragraph does not apply to an employee who has resumed work after the birth of a child.
8. Before resuming service after the birth of the child or after interruption of pregnancy, an employee on maternity leave or on sick leave for childbirth, or termination of pregnancy, shall present to the School Medical Director a certificate from her physician stating the condition of her health. The School Medical Director shall evaluate such certificate and may, in his discretion, call the employee for physical and medical examination. Such certificate is not required if resumption of service is more than six weeks after childbirth or termination of pregnancy.
9. Where an employee's immediate supervisor finds that the employee, as a result of pregnancy, cannot perform the duties of her position satisfactorily, a medical examination may be requested in accordance with the regulations which apply to other medical conditions which interfere with the performance of an employee's duties. For this purpose, occasional short-term absences are not considered to materially reduce an employee's ability to perform her duties.
10. Maternity leave shall not be granted to employees on unpaid leave. Such employees may, however, apply for child care leaves.

Continuation of Health Insurance Coverage During Maternity Leave

1. Effective September 1, 1973, an employee is permitted to continue her city health insurance coverage at no cost to her for herself and her eligible dependents for a period up to six weeks after termination of pregnancy, provided the balance in her cumulative absence reserve has been exhausted and she is no longer on payroll. This benefit is only available to teachers who have exhausted their cumulative absence reserves.
2. ~~Under Form D.P. 1055~~ An employee wishing to continue health insurance coverage must complete the top portion of ~~Form D.P. 1055~~ - "Request for Continuation of Health Insurance While on Maternity Leave", and submit it to her payroll officer at least one month prior to the start of the maternity leave. Copies of D. P. 1055 may be obtained from Health and Welfare Services Unit, 65 Court Street, Room 502, phone 596-6966.
3. The payroll officer is to complete the section marked, "For Payroll Clerk Only" and sign the box marked, "Approved By". The "Date to be Removed from Payroll" should be the beginning of the payroll period following the last day on payroll.

Copies of the D. P. 1055 are to be distributed as follows: White copy to the medical carrier, Yellow copy to the employee, Pink copy in the employee's personnel file.
4. When pregnancy terminates, the employee should put the child's name, date of birth, and sex in the space provided on the Yellow copy of the D. P. 1055 in her possession, and return it to the medical carrier. The carrier will then remove the employee from City Health insurance coverage six weeks after the birth of the child or termination of pregnancy and send a direct payment bill. An employee who returns to work must complete a new Health Authorization form (D. P. 1053) in order to be returned to the City group.

Use Transmittal ADVISIN SLOAC & approx due date of baby - give teacher 1800 to fill in and send back to secretary - 4 MOS. MAT.
211011 ADF

Child Care Leave

1. A child care leave shall be granted upon application in accordance with these regulations to a natural or adoptive parent of either sex. Such leave is granted so that the employee may devote a more substantial portion of his or her time to the care of a young child than could be done while pursuing full time employment.
2. The following restrictions are applicable:
 - a. Full time employment while on such leave is prohibited.
 - b. If both parents are employees of the school system, only one of them may be on child care leave at any given time.
3. Application for child care leave should be made at least 30 days before the effective date of the leave or, if the leave is to commence at the opening of school in September, at least two weeks before the closing of school in June, so that arrangements may be made for the replacement of the employee during such leave.
4. For an employee who has completed a maternity leave after the birth of a child, the child care leave may commence at the termination of the maternity leave. For any other employee, it may commence as follows:
 - a. For an employee who has not completed a maternity leave, a child care leave may commence no earlier than the date of birth of the child.
 - b. The commencement of a leave for care of an adopted child should be reasonably related to the date the child is placed in the home, but may be later.
5. Such leave shall terminate four years from the beginning of the fall term following the beginning of the maternity leave. Where no maternity leave has been granted, the leave shall terminate at the beginning of the school year following the child's reaching the age of four years.
6. A child care leave may be terminated at an earlier date than the one set forth in paragraph 5 above at the request of the employee at the opening of any school term in September or February, provided the employee notifies the Chancellor or Community School Board (as appropriate) of her intent to return at least one month prior to the date of her return to service. The Chancellor or the appropriate Community School Board may approve the termination of a child care leave during a school year, provided there is an appropriate opening in which the employee's service may be utilized. An appropriate opening for purposes of return other than at the beginning of a semester is one which has been vacated due to the resignation, retirement, termination, transfer, reassignment, promotion, leave of absence without pay or death of an incumbent.
7. Child care leaves shall be without pay except that pro rata vacation pay, if any is earned, will be paid for the years in which the leave begins and ends in accordance with the provisions of Section 106, Subdivision 7 of these Bylaws, but such pay shall not duplicate payment granted under Section B, paragraph 6 of these regulations. No sick leave with or without pay shall be granted to an employee on child care leave.
8. Any member of the teaching staff on leave of absence for the purpose of child care may apply to use his or her license for per diem service. Application should be made to the Bureau of Appointment, 65 Court Street, Brooklyn, New York 11201, Room 600. Such person may serve only as a per diem substitute on a less than full time basis in the day schools of the City of New York during the period of the leave of absence for child care. Please note that this does not apply to members of the supervisory staff. A teacher who wishes to return to full time service may do so by terminating the leave in accordance with Subdivision 5 or 6 of this section.
9. If, during child care leave or during any other unpaid leave, the occasion arises to request a child care leave by reason of the birth or adoption of a child, the employee concerned may so apply and the leave shall be granted upon application. Such leave shall commence upon the date of birth (or placement for adoption) of the child and shall be subject to pertinent provisions of these regulations. The prior child care leave will terminate on the date that the new leave takes effect.

Teachers Other Than Regularly Appointed Teachers

1. Teachers other than regularly appointed teachers serving in a full term assignment whether paid on a per annum or per diem basis may use cumulative absence reserve for maternity purposes in accordance with regulations appropriate to the method under which they are paid. After the exhaustion of such cumulative absence reserves, such personnel may discontinue their service and the appropriate summer pay will be paid in accordance with regulations.
2. Such teachers paid on a per annum basis who are pregnant and who have health insurance coverage under the choice of plans may continue such coverage in accordance with Section C of these regulations.

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Teachers Other Than Regularly Appointed Teachers (Continued)

3. Replacement of such employees shall be accomplished in a manner consistent with the needs of the school system and with laws and regulations concerning sex discrimination. Where a substitute teacher is taking a short period of time for maternity purposes, every effort should be made to treat such absence in the same manner as an illness. Careful consideration should be given to the circumstances of each individual case. Nothing in these regulations shall be construed to require the holding of a specific opening for the return of a substitute teacher after maternity where business necessity requires the filling of that position. The "business necessity" concept means that replacement is so necessary to the operation of the school system that the possible discriminatory effect is accepted. Among the criteria to be followed are:
 - a. The duties of the position are essential to ongoing operations.
 - b. The position cannot reasonably be filled temporarily.
4. Since per diem teachers covering occasional absences do not receive an annual salary, no specific benefits are provided. However, per diem teachers in long term vacancies are covered in Section E, subdivision 1.

Effect on Probation

An employee in probationary status does not accumulate credit towards completion of the probationary period during the time the employee is on unpaid leave.

Effective Date

These regulations are effective September 1, 1973.

Questions Concerning This Circular Should Be Directed Through Normal Supervisory Channels.

Schools in Community Districts should direct questions to the personnel officers of their districts. City District schools to the Office of their supervising Superintendents. If personnel in these offices need assistance in answering questions, they are to refer the questions, in writing, to the Division of Personnel which will reply promptly.

Very truly yours,

FRANK C. ARRICALÉ, II
Executive Director

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or

Section 107. Leaves of Absence for Maternity and/or Child Care for Teaching and Supervisory Staff.

Leaves shall be granted by the Chancellor for personnel under the jurisdiction of the City Board and by the appropriate Community School Board for personnel under its jurisdiction.

Leaves of absence shall be granted for purposes of maternity and child care. The employee concerned should make reasonable notification of intent to take such leave so that arrangements may be made by the appropriate authority for necessary replacement of the employee during the period of the leave. Maternity leave shall be subject to the terms and conditions of laws, bylaws and regulations relating to leave with or without pay for personal illness except as provided herein.

Maternity leave shall commence at the date set in accordance with paragraph 2, above and shall end six weeks after the birth of the child or six weeks after the termination of the pregnancy. Such leave may be sooner terminated at the request of the employee in accordance with regulations.

The following payments will be made in connection with such leave:

- a. The employee may be paid for the days in her cumulative absence reserve.
- b. Pro rata vacation pay, if any is earned, will be paid for the years in which the leave begins and ends in accordance with the provisions of Section 106, subdivision 7 of these Bylaws.

Child care leave shall be granted to a natural or adoptive parent upon application. Such leave shall be granted to a member of staff so that he or she may devote a more substantial portion of his or her time to the care of the young child than could be done while pursuing full-time employment; therefore, full-time employment while on such leave is prohibited. If both parents are employees of the school system, only one of them may be on a child care leave at any given time.

For an employee who has completed a maternity leave after the birth of a child, the child care leave shall commence at the termination of the maternity leave. For any other employee, it shall commence as granted.

The Chancellor shall make regulations governing the maximum length of child care leaves. Such leave may be terminated at the request of the employee, but return to work shall be at the opening of school in September or February. The Chancellor or the appropriate Community School Board may approve the termination of such leave during a school year, provided there is an appropriate opening in which the employee's services may be utilized.

Child care leaves shall be without pay except that prorata vacation pay, if any is earned, will be paid for the years in which the leave begins and ends in accordance with the provisions of Section 106, subdivision 7 of these Bylaws but such pay shall not duplicate payment granted in subdivision 3b of this section.

An employee in probationary status shall not accumulate credit toward completion of the probationary period during the time the employee is on unpaid leave. Replacement of employees shall be accomplished in a manner consistent with the needs of the school system and Federal laws and regulations concerning discrimination.

Any member of the teaching staff on leave of absence for the purpose of child care may apply to use his or her license for per diem service.

Such person may serve only as a per diem substitute on a less than full-time basis in the day schools of the City of New York during the period of the leave of absence for child care. A teacher who wishes to return to full-time service may do so by terminating the leave in accordance with subdivision 4 of this section.

Health insurance coverage under the choice of plans provided to employees will continue while the employee is in pay status. Provided a pregnant employee uses up all paid leave time, coverage will continue until six weeks after the birth of the child or termination of pregnancy.

Any prior provisions of the Bylaws or any regulations notwithstanding, conditions relating to pregnancy may be charged to cumulative absence reserve.

The Chancellor is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section.