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## TESTIMONY IN OPPOSITION TO

L.D. 1874

### AN ACT TO CLARIFY COVID-19 PAID LEAVE FOR SCHOOL EMPLOYEES

Senator Daughtry, Representative Sylvester and members of the Labor and Housing Committee. I am Steven Bailey, executive director of Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association in opposition to L.D. 1874 because it is unnecessary.

Administrators are working with their unions to adopt Memorandums of Agreement and Covid-specific leave policies to address needs for additional sick leave during the pandemic. These negotiations and agreements are best done at the local level.

We have attached samples of those agreements from Gardiner-based MSAD 11, South Portland, Portland, RSU 23 in Old Orchard Beach, and School Union 93, encompassing Blue Hill, Castine and Surry.

South Portland, for example, allows up to 80 hours of Covid related pay with the option of petitioning the superintendent for five additional days. The agreement runs from Aug. 25, 2021, to June 25, 2022.

Old Orchard/RSU 23 established a paid leave bank for all employees not working remotely that is separate from existing sick banks where eligible employees are allowed up to 10 paid days from the bank when they cannot work due to the Coronavirus. A similar policy was adopted in Blue Hill.

School districts have and will continue to work with their teachers and staff to safely keep schools open because students already have lost too much instructional time. Masking and vaccinations are our greatest and most effective preventions, and they are working. Our understanding from the Department of Education and the CDC is schools are some of the safest places to be and are not contributing to virus spread.

We don't believe that passing statewide rules around Covid-leave time is appropriate or necessary. Districts are adopting them where they are needed. A mandate for this passed down by the Legislature just doesn't work. The Labor and Housing Committee and the Legislature should respect the role of School Boards and the residents and property taxpayers, who support public education and not pass L.D. 1874.



Office of the Superintendent  
South Portland School Department  
130 Wescott Road  
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**Administrative Bulletin #32**  
**October 13, 2021**

### **COVID-RELATED LEAVE**

Because of the continuing impact of the COVID-19 pandemic, the South Portland School Department is granting all employees specific COVID-related leave for the 2021-22 school year, specifically from August 25, 2021 to June 24, 2022. COVID-related leave is separate and distinct from an employee's sick leave.

#### **Qualifying Reasons for Leave:**

An employee qualifies for paid COVID-related leave if the employee is unable to work due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking testing and/or a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

#### **COVID-Related Leave Benefit:**

The School Department grants up to 10 school days or up to 80 hours of paid COVID-related leave at the employee's regular rate of pay where the employee is unable to work because they meet one or more of the qualifying criteria noted above. Employees may be asked for documentation confirming that they qualify for one or more of the criteria.

Employees may petition the Superintendent for up to five additional days (40 hours) of paid COVID-related leave if they exhaust the benefit noted above.

COVID-related leave only applies to the time period specified (August 25, 2021-June 25, 2022). Any unused COVID-related leave may not be carried over to the next fiscal year and shall not be paid out to any employee in the event the employee separates from employment for any reason.

MEMORANDUM OF AGREEMENT  
BETWEEN THE  
RSU 23 SCHOOL BOARD  
AND  
THE RSU 23 EDUCATION ASSOCIATION

This Memorandum of Agreement is made and entered into by and between the RSU 23 School Board (the “SB”) and the RSU 23 Education Association (the “RSU23 EA”) (collectively, the “parties”).

WHEREAS, the parties are covered by the terms of a Collective Bargaining Agreement(s), and the parties enter into the following Memorandum of Agreement as an addendum to the Collective Bargaining Agreement(s) to address the specific impact of the COVID-19 pandemic on employees’ wages, hours, and working conditions;

NOW, THEREFORE, in consideration of the mutual commitments contained herein, the parties agree to the terms of this Agreement, as set forth below for the duration of the 2020-2021 academic year:

**Health & Safety**

1. The Association and District will meet to find a mutually acceptable resolution to address situations that employees have identified as unsafe conditions.
2. RSU 23 will implement and adhere to the *6 Requirements for Safely Opening Schools in the Fall* as defined by the Maine Department of Education.
  - a. Every employee shall observe all safety rules which are established by the employer in compliance with the *6 Requirements for Safely Opening Schools in the Fall* as defined by the Maine Department of Education. Any infraction of any safety rules may result in employee disciplinary action.

**School Calendar**

1. For the duration of this MOA the following will be in place, the educator’s work year shall be 181 days which consists of 172 student days and 7 in-service days as defined below.
  - a. Seven (7) calendar days. These days are designated on the approved district calendar, when the professional staff is in session and the students are not.
  - b. Changes in the school calendar that result in an increase or decrease in the number of teacher days shall be subject to statutory meet and consult and bargaining of impact.

**SCOPE AND TERM OF AGREEMENT**

1. It is understood that all provisions of the Teacher and Support Staff collective bargaining agreements between the Board and the Association shall remain in full force and effect except to the extent such provisions have been modified by this Agreement. The parties agree this Memorandum is a one-time Agreement to address extraordinary circumstances and shall not establish a precedent or practice for any future agreements. It shall not be cited by either party in any proceeding except to enforce the terms of the Agreement.
2. This Agreement shall expire on August 31, 2021 but may be terminated, modified or extended by mutual written agreement of the parties. If not extended, the pre-pandemic status quo shall be reinstated. The parties agree to meet as needed or upon request to discuss issues, concerns, and successes regarding matters outlined in this Agreement.

\_\_\_\_\_  
David Boudreau, RSU23 School Board Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Suttie, RSU23 Superintendent of Schools

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mark Knowles, RSU23EA President of Teachers

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lisa St. Louis, RSU23EA President of Support Staff

\_\_\_\_\_  
Date

## Blue Hill:

I. In the event that a teacher contracts a coronavirus related sickness, or is forced to quarantine for coronavirus related issues, the sick day procedure would be the following:

1. The use of an additional 10 sick days per teacher provided by the Blue Hill School Committee for the 2021-2022 school year only for COVID-related issues.
2. The use of personal sick days.
3. An application to the sick bank.

## Castine:

In an effort to provide more sick day protection, because of coronavirus in the 2021-2022 school year, the Board and the Association have agreed upon the following:

- A. Sick days:
1. The board shall grant up to 10 additional sick leave days to employees affected by COVID-19 under the conditions below when an employee:
    - a. was subject to a Federal, state or local quarantine order related to COVID-19
    - b. had been or was advised by a health care provider to self quarantine for reasons related to COVID-19
    - c. experience symptoms of covid-19 and sought medical diagnosis
    - d. cared for an individual subject to a federal, state or local quarantine order related to COVID-19; or
    - e. is a parent or guardian who provided care for a child whose school or place of childcare was closed or unavailable due to precautions related to COVID-19
  2. This provision applies from July 1, 2021 to June 30, 2022 or until the employee has used the maximum 10 days of COVID sick time. Any additional sick days used will be deducted from the employee's accrued sick leave.

## Surry:

- 1) Sick days:
- A) The board shall grant up to 10 additional sick leave days to employees affected by COVID-19 under the conditions below when an employee:
- 1) was subject to a Federal, state or local quarantine order related to COVID-19
  - 2) had been or was advised by a health care provider to self-quarantine for reasons related to COVID-19
  - 3) experienced symptoms of COVID-19 and sought medical diagnosis
  - 4) cared for an individual subject to a federal, state or local quarantine order related to COVID-19; or
  - 5) is a parent or guardian who provided care for a child whose school or place of childcare was closed or unavailable due to precautions related to COVID-19
- B) This provision applies to June 30, 2022 or until the employee has used the maximum 10 days of COVID sick time. Any additional sick days used will be deducted from the employee's accrued sick leave.

## Portland Paid Leave Policy

The Board will grant 15 days of emergency sick leave, without deduction from the employee's accumulated sick leave, for all staff who have COVID-19 related absences, regardless of whether the staff member has accrued leave time available. There will be no requirement that these days be taken consecutively. After emergency leave is exhausted, employees who are eligible may access leave under FFCRA and/or FMLA. Employees may use a proportional amount of accrued sick leave to supplement FFCRA leave in order to receive their regular salary/wages, which at no time shall exceed 100% of the employee's regular wage. After exhaustion of paid leave available under this provision, the CBA and applicable law, educators will not suffer a loss of pay due to necessary absences resulting from the employee's own COVID-19 or need to care for a family member with COVID-19.

C. Educators may seek accommodations under the Americans with Disabilities Act, the Maine Human Rights Act, and all other applicable laws for high-risk health conditions or other health conditions that make them vulnerable to illness due to COVID-19 or factors resulting from changes in work environment or working conditions, and educators may seek flexible work arrangements (FWAs) if caring for or living with higher-risk individuals. Such accommodations/ FWAs should be developed in an interactive process involving the educator, the Association (if requested by the educator), the Educator's supervisor, and the Human Resources Department and may include, but are not necessarily limited to, a request to work remotely on a full-time or part-time basis, modification of job responsibilities, alternative work schedule, or other modifications. The Board and Association will continue to address accommodation requests that arise. These accommodations will meet the requirements of applicable law.

D. The Board may grant a regularly employed certified educator a leave of absence without pay and without forfeiture of continuing contract status, position within impact area, or other accumulated benefits for an agreed period of time not to exceed the 2020-21 school year, if the Superintendent determines that the leave will not detract from the educational needs of the students and the overall staffing needs of the schools. Upon return, the educator will resume the same position in the same building provided the position still exists. Educators shall have the right to appeal any denial of leave following the Grievance Procedure outlined in their respective collective bargaining agreements, except that the appeal shall be made to Human Resources, and subsequently to the Superintendent, whose decision shall be the final step in the grievance procedure for leave requests only. Educators may be represented by the PEA in any request or appeal for accommodation or leave.

## MSAD 11/Gardiner

For employees who are required to miss work time as a result of a) having contracted COVID-19 at school in the course of their employment; b) being a close contact to an individual who has tested positive for COVID-19 where the contact occurred at school in the course of their employment, or c) providing care for a child whose school or place of child care was closed or unavailable due to precautions related to COVID-19, the Board shall provide up to fifteen days of paid leave for the period from January 1, 2021, through June 30, 2022. The Board shall reimburse employees for any sick days used for these purpose between October 18, 2021, and the effective date of this Agreement.