



Absence Management
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Special Rules for School Employees, Limitations on Leave near the End of an Academic Term

29 C.F.R. § 825.602(a). “There are also different rules for instructional employees...” who begin leave near the end of an academic term (Fall and Spring semester). In that situation, the employer could require the employee to stay out on leave until the end of the term.

Instructional employees include teachers, athletic coaches, driving instructors, and special education assistants (signers for the hearing impaired). The special rules exclude teacher assistants, teacher aides, and auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, or bus drivers.

The special rules apply when:

(1) “An instructional employee begins leave more than five weeks before the end of a term. The employer may require the employee to continue taking leave until the end of the term if –

- (i) The leave will last at least three weeks, and
- (ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave during the five-week period before the end of a term because of the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered servicemember. The employer may require the employee to continue taking leave until the end of the term if –

- (i) The leave will last more than two weeks, and
- (ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave during the three-week period before the end of a term because of the birth of a son or daughter, or to care for a spouse, parent with a serious health condition, or a covered servicemember. The employer may require the employee to continue taking leave until the end of the term if the leave will last more than five working days. See 825.602(a)(1-3).