

Client Alert: Legislature Updates School Employee COVID-19 Paid Leave Law

1 message

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Tue, Apr 26, 2022 at 2:51 PM



Client Alert
April 26, 2022

On April 15, 2022, Governor Mills signed L.D. 1874 – An Act to Clarify COVID-19 Paid Leave for School Employees. The emergency bill – which amends various provisions of 20-A M.R.S.A. §13605, the law created by the adoption of L.D. 993 last year – is effective immediately.

Pursuant to the updated legislation, Maine school employees affected by COVID-19 are each entitled to up to a maximum of 15 paid leave days if they need leave for one or more of the following reasons:

1. They are subject to a federal, state or local quarantine order related to COVID-19;
2. They have been, or are, advised by a health care provider to self-quarantine for reasons related to COVID-19;
3. They are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
4. They are caring for an individual subject to a federal, state or local quarantine order related to COVID-19; or
5. They are a parent or guardian who is providing care for a child whose school or place of child care is closed or unavailable due to precautions related to COVID-19.

It is important to note, however, that from April 15, 2022 forward, a school employee who has 60 days or more of accrued paid leave will not be eligible for paid leave pursuant to this amended law.

In addition, the amended law requires school units to restore sick leave time to any school employee who used their own sick time for the above stated reasons from October 19, 2021 through April 15, 2022. The amended law also requires school units to compensate a school employee who was absent from work for the above stated reasons and who was not otherwise eligible to be paid for that absence from January 1, 2021 through April 15, 2022.

Lastly, the updated legislation permits school units to use federal COVID-19 relief funds to provide the paid leave under the amended statute, to the extent the funds are eligible to be used for the purposes of this updated law in accordance with federal law and regulations.

In order to assist school units with navigating the requirements of this updated COVID-19 paid leave law, Drummond Woodsum school attorneys Michael Buescher and Elek Miller will be hosting a webinar next Thursday, May 5, 2022 from 12:00 pm-1:15 pm to answer questions and offer tips and additional logistical guidance regarding the amended law. In the meantime, please do not hesitate to reach out to us if you have any questions or need assistance.

Navigating the Updated Covid-19 Paid Leave Law

REGISTER
NOW

Thursday, May 5, 2022
12:00 PM to 1:15 PM | Zoom Webinar
Registration \$89 per a person

Navigating the Updated Covid-19 Paid Leave Law

Thursday, May 5, 2022

12:00 - 1:15 PM | Zoom

**Presented by Drummond
Woodsum Attorneys:**

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CERTIFICATE OF ATTENDANCE

This is to certify that _____ has successfully completed 1.25 contact hours of continuing education at the program, **“Navigating the Updated Covid-19 Paid Leave Law”** presented by Drummond Woodsum, held on Thursday, May 5, 2022.



Michael L. Buescher
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*This form denotes attendance at entire program.
If you arrive late or leave prior to the program ending time, it is your responsibility to adjust hours accordingly.*

Thank you for attending!

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ZOOM LOGIN

Topic: Navigating the Updated Covid-19 Paid Leave Law

When: May 5, 2022 12:00 PM Eastern Time (US and Canada)

Please click the link below to join the webinar:

<https://dwmlaw.zoom.us/j/87497252272?pwd=U1ZUTlloZ05TREpSN0ILRTZQd3VDUT09>

Webinar ID: 874 9725 2272

Passcode: 501426

Or One tap mobile :

US: +19294362866,,87497252272#,,, *501426# or +13017158592,,87497252272#,,, *501426#

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NAVIGATING THE UPDATED COVID-19 PAID LEAVE LAW

May 5, 2022 | 12:00-1:15 PM | Zoom

Michael Buescher & Elek Miller

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Introduction

- On April 15, 2022 Governor Mills signed LD 1874 into law.
- LD 1874 – An Act to Clarify COVID-19 Paid Leave for School Employees.
- Emergency legislation amending various provisions of the existing COVID leave law (the law created by LD 993 last year).
 - Effective as of April 15, 2022.
- Today we will:
 - Go over what the law says;
 - Provide guidance about how to apply it;
 - Discuss a few thorny issues that the law creates;
 - Answer questions (time permitting).

The Law

- Quick History Lesson.
 - LD 993 – adopted last year. Provided sick time to school employees for certain types of COVID-related absences.
 - Issues with the language of that law and how to apply it (e.g., retroactive language suggested provisions only applied to a window of time between January 1, 2021 and October 18, 2021).
 - LD 1874 was created in part to help correct these issues. It amends the law created by LD 993 (20-A M.R.S.A. §13605).

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The Law (Cont'd)

- 20-A M.R.S.A. §13605 Now
 - From January 1, 2021 going forward, school employees entitled to up to 15 paid leave days for one of more of the following reasons:
 - Subject to federal, state, or local quarantine order related to COVID-19;
 - Have been, or are, advised by a health care provider to self-quarantine for reasons related to COVID-19;
 - Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - Caring for an individual subject to a federal, state, or local quarantine order related to COVID-19; or
 - They are a parent or guardian who is providing care for a child whose school or place of child care is closed or unavailable due to precautions related to COVID-19.

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The Law (some more)

- **Exception** – from April 15, 2022 forward, a school employee who has 60 days or more of accrued paid leave is not eligible for paid leave under the amended law.
- 2 restoration requirements:
 - 1. School units must restore sick leave time to any school employee who used either own sick time for a qualifying reason from October 19, 2021 through April 15, 2022.
 - 2. School unit must compensate a school employee who was absent from work from January 1, 2021 through April 15, 2022 for a qualifying reason and who was not otherwise eligible to be paid for the absence.
- The law allows school units to use certain federal COVID-19 relief funds to provide this paid leave, to the extent the funds are eligible to be used for this purpose in accordance with the federal laws and regulations governing the funds.

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Next Steps for Schools

- Develop a system/update current systems to comply with the law.
- One approach:
 - Create new leave bucket for these days.
 - Review leave records of all staff from January 1, 2021 through April 15, 2022 to determine if any leave qualifies for reinstatement or compensation and, if it does, restore/compensate employees.
 - Employee sick time used for qualifying reason between October 19, 2021 and April 15, 2022.
 - Leave for a qualifying reason taken between January 1, 2021 and April 15, 2022 for which an employee was not otherwise eligible to be paid.
 - Send employees a communication notifying them of the actions you are taking and providing them an opportunity to notify you if they believe they took leave that would qualify for reinstatement or compensation. Process claims as received.
 - Once you have completed the above steps you can determine how much COVID leave each employee has remaining and whether they are eligible to use it based on the total number of accrued paid leave days they have available (not including the COVID days themselves).
 - Develop system for tracking use of COVID days.

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Tricky Issues & Common Questions

- Does the 60 day exclusion rule apply prior to April 15, 2022?

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Tricky Issues (Cont'd)

- Does the 60 day exclusion rule create a one-time, perpetual exclusion, or is the rule applied each time a new request for qualifying leave is made?

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Tricky Issues (Cont'd)

- Must schools pay for reinstatement days for employees who used paid leave other than sick leave between January 1, 2021 and April 15, 2022?

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Tricky Issues (Cont'd)

- How does the law apply if a school unit created a unique COVID leave bank (outside of the regular sick bank) that employees used from January 1, 2021 going forward for reasons that would qualify for leave under Section 13605?

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Tricky Issues (Cont'd)

- Does your school unit have COVID relief funds available and, if so, can they be used to pay for this leave entitlement?

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Questions?

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Thank you!



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