

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

March 8, 2011

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: Policy 6:20- School Year Calendar and Day

This policy has been revised to reflect deletions of references to our teacher contract. There is one addition holding the superintendent or designee accountable for any observances that are regularly scheduled each day. Legal references and cross references are updated.

We can use this as our first reading and place this on the consent agenda for next time.

Instruction

School Year Calendar and Day ¹

School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays. ² The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance. ³

Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in The School Code to study and honor the commemorated person or occasion. ⁴ The Board may, from time to time, designate a regular school day as a commemorative holiday.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

² State-mandated school holidays are found in 105 ILCS 5/24-2, amended by P.A. 96-640. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. P.A. 96-640 allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal, and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on "Good Friday" is unconstitutional according to Metzl v. Leininger, 57 F.3d 618 (7th Cir., 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate (e.g., through surveys) that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available; however, for the election day, a school district may choose to keep the school open or hold a teachers' institute (10 ILCS 5/11-4.1).

³ The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance (105 ILCS 5/10-19 and 5/24-1; 23 Ill.Admin.Code §1.420). Schools must be closed during county institute (105 ILCS 5/24-3). The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect (105 ILCS 5/10-19).

⁴ 105 ILCS 5/24-2, amended by P.A. 96-640, lists the following as commemorative holidays: Jan. 28 (Christa McAuliffe Day commemorating space exploration), Feb. 15 (Susan B. Anthony), March 29 (Viet Nam War Veterans' Day), the school day immediately preceding Veterans' Day (Korean War Veterans' Day), Oct. 1 (Recycling Day), and Dec. 7 (Pearl Harbor Veterans' Day). Other commemorative holidays include: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18), Leif Erickson day on Oct 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19), American Indian Day on the 4th Friday of Sept. (105 ILCS 5/27-20), Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1), "Just Say No" Day on a school day in May (105 ILCS 5/20.2), a Day of Remembrance on Sept. 11 (5 ILCS 490/86), Ronald Reagan Day on Feb. 6 (5 ILCS 490/2), Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155, added by P.A. 96-930), and the first full week of January as Emancipation Proclamation Week (5 ILCS 490/155, added by P.A. 96-1238, eff. 1-1-11).

School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements. ⁵ The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance. ⁶

LEGAL REF.: 105 ILCS 5/10-19, 5/10-24.46, 5/18-8.05, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.
23 Ill.Admin.Code §1.420(f).
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill., 1994), *aff'd* by 57 F.3d 618 (7th Cir., 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

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⁵ A school day must consist of a minimum 5 clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement (105 ILCS 5/18-8.05(F), amended by P.A. 96-640), 23 Ill.Admin.Code §1.420(f). Students in attendance for fewer than two hours of school work are not counted for calculating average daily attendance (23 Ill.Admin.Code §1.420(f)(4). Contrast 105 ILCS 5/18-12, amended by P.A. 96-734. It allows a partial day of attendance to be counted as a full day when: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. P.A. 96-734 also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5, added by P.A. 96-689 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than 5 hours under certain circumstances (105 ILCS 5/2-3.33a and 5/13B-50). Exceptions also exist for kindergarten, teaching hospitalized or homebound students, first-grade, disabled children less than 6 years old, the opening and closing days of the school term, in-service training for teachers in accordance with 105 ILCS 5/10-22.39, parent-teacher conferences, and days when the Prairie State Achievement Examination is administered (105 ILCS 5/18-8.05(F), amended by P.A. 96-640).

⁶ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consolidated School District 21 of Wheeling Township, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

On 10-11-07, an Illinois law went into effect requiring a mandatory *brief period of silence* for all Illinois public school students (Silent Reflection and Student Prayer Act, 105 ILCS 20/1). A student filed a federal lawsuit alleging that the *brief period of silence* law was unconstitutional because it is too vague and violates the First Amendment. Sherman v. THSD 214 and Koch, 624 F.Supp.2d 907 (N.D.Ill., 2007). The court issued a preliminary injunction to prevent the plaintiff-student’s school district from implementing the Act and State Superintendent Koch from enforcing it. The court granted plaintiff’s request to make the lawsuit a class action – the defendant class comprising all Illinois public school districts. After the case’s merits are heard, the preliminary injunction may be made permanent or be rescinded. School districts must follow court orders and the State Superintendent’s instructions.

105 ILCS 5/10-24.46, amended by P.A. 96-84, requires a moment of silence to recognize veterans during any type of event held at a district school on November 11. See f/n 2 above for more discussion.

Instruction

School Year Calendar and Day

School Calendar

Please refer to the “Agreement between the District #24 Board of Education Millburn Community Consolidated School Lake County, Illinois and the Millburn Teachers.”

For employees not covered by this agreement:

The Board of Education, upon the Superintendent’s recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays. The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance.

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CROSS REF.: 2:20 (Powers and Duties of the Board of Education), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

ADOPTED: May 20, 2002