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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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LUTHER STRANGE  
ATTORNEY GENERAL

501 WASHINGTON AVENUE  
P.O. BOX 300152  
MONTGOMERY, AL 36130-0152  
(334) 242-7300  
WWW.AGO.ALABAMA.GOV

Honorable Terry Wootten  
Chairman, DeKalb County Board of Education  
Post Office Box 1668  
Rainsville, Alabama 35986

Education, Boards of – Superintendents of  
Education – Leave, Annual and Sick –  
Employees, Employers, Employment

Employees of the DeKalb County Board of  
Education (“Board”) must use accumulated  
sick leave in compliance with the  
provisions set forth in the Board’s sick  
leave policy and section 16-1-18.1 of the  
Code of Alabama.

The Board may require those absent from  
regular duty, based on sick leave, to  
comply with the Board’s definition of sick  
leave as set forth in the Board’s policy, as  
long as that policy is in compliance with  
state law.

Dear Chairman Wootten:

This opinion of the Attorney General is issued in response to your request  
on behalf of the DeKalb County Board of Education.

QUESTIONS

May employees of the Board use their  
accumulated sick leave prior to retiring in the absence  
of the conditions or circumstances set forth in the  
Board’s sick leave policy and section 16-1-18.1 of the  
Code of Alabama?

May the Board require those who wish to be  
absent from regular duty, based on sick leave, to  
comply with the Board’s definition of sick leave set  
forth in the Board’s policy?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that, immediately prior to retirement, rather than using accumulated sick leave as service credit, employees of the DeKalb County Board of Education are claiming sick leave and staying off from work for several weeks or months. You question whether such action is appropriate by employees, and whether the Board may require employees to adhere to the Board's sick leave policy.

Pursuant to section 16-1-30 of the Code of Alabama, a local board of education is authorized to establish a written educational policy for the board of education and its employees. ALA. CODE § 16-1-30 (2012). Pursuant to this particular provision, the DeKalb County Board of Education established a sick leave policy that is similar to state law sick-leave provisions found in section 16-1-18.1(a)(4) of the Code. This section states as follows:

(4) SICK LEAVE. The absence from duty by an employee as a result of any of the following:

a. Personal illness or doctor's quarantine.

b. Incapacitating personal injury.

c. Attendance upon an ill member of the employee's immediate family (parent, spouse, child, foster child currently in the care and custody of the employee, sibling); or an individual with a close personal tie.

d. Death in the family of the employee (parent, spouse, child, sibling, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, grandchild, grandparent, uncle, or aunt).

e. Death, injury, or sickness of another person who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

ALA. CODE § 16-1-18.1(a)(4) (2012). Sick leave may only be used for those specific instances as allowed by state law and as expressed in the Board's sick leave policy. *See, generally,* opinion to Honorable Jan A. Farley,

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Superintendent, Cullman County Schools, dated May 24, 1999, A.G. No. 99-00208.

You also question whether the Board may require employees to comply with the definition of sick leave as used in the Board's policy. Based on the foregoing, it is the opinion of this Office that the Board may require employees to comply with the Board's definition of sick leave as set forth in the Board's sick leave policy, as long as that policy is in compliance with state law.

#### CONCLUSION

Employees of the DeKalb County Board of Education must use accumulated sick leave in compliance with the provisions set forth in the Board's sick leave policy and section 16-1-18.1 of the Code.

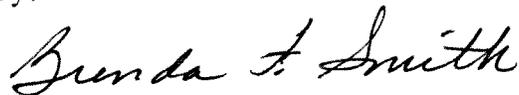
The Board may require those absent from regular duty, based on sick leave, to comply with the Board's definition of sick leave as set forth in the Board's policy, as long as that policy is in compliance with state law.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General

By:



BRENDA F. SMITH  
Chief, Opinions Division

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