

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

January 11, 2019

Dorian E. Turner, Board Attorney
Greenville Public School District
300 West Capitol Street, Suite 200
Jackson, Mississippi 39203

Re: Superintendent Qualifications

Dear Ms. Turner:

Attorney General Jim Hood has received your opinion request and assigned it to me for research and reply.

Issue Presented

In your request, you ask for guidance on the extent of the authority of a school district to regulate and/or place restrictions on the use of personal leave by licensed employees. We understand your question to be whether a superintendent can prohibit a qualified licensed employee from taking personal leave on a day previous to or after a holiday, which is authorized under Section 37-7-307(3)(b)(ii) of the Mississippi Code, or whether the qualified licensed employee has an absolute right to use personal leave on these days. You give the example of "a crisis such as an act of violence, natural disaster, or unrest in a school building that creates safety concerns or on days during which critical academic activities are taking place, that call for (in the judgment of the superintendent) the building leader or administrator to be present."

Applicable Law and Response

The school board is authorized to "adopt rules and regulations which will reasonably aid to implement the policy of sick and personal leave." Miss. Code Ann. Section 37-7-307(6). Pursuant to Section 37-7-307(3)(a), licensed employees are generally prohibited from taking personal leave "on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday." The exception to this rule, found in Section 37-7-307(3)(b)(ii) reads, in relevant part, as follows:

"Personal leave may be taken on a day previous to a holiday or a day after a holiday if an employee of a school district has either a minimum of ten (10)

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years experience as an employee of that school district or a minimum of thirty (30) days of unused accumulated leave that has been earned while employed in that school district.”

It is the opinion of this office that Section 37-7-307(3)(b)(ii) does not create an absolute right for a qualified licensed employee to take personal leave on a day previous to a holiday or a day after a holiday. The general rule, as stated in Section 37-7-307(a), is that licensed employees are prohibited from taking personal leave on these days. However, subsection(b)(ii) creates an exception for this rule, which **permits** certain qualified licensed employees if they meet certain criteria to take personal leave on these days. All personal leave would need to be taken in accordance with the rules and regulations adopted by the school board, which, for example, would likely include a procedure for request and approval prior to the use of the personal leave.¹ Thus, situations could arise, such as the one outlined in your request, in which the appropriate supervisor does not grant the qualified licensed employee’s request for personal leave.

If we may be of further service, please let us know.

Very truly yours,

OFFICIAL OPINION
JIM HOOD, ATTORNEY GENERAL

By:



Beebe Garrard
Special Assistant Attorney General

¹This office does not interpret or approve local school board policies. By way of example, we note the provisions of the Mississippi State Employee Handbook, which provide: "Employees are encouraged to use earned personal leave for vacations and personal business. However, all requests for personal leave, except when taken due to an illness, are approved at the agency's discretion." Mississippi State Employee Handbook, effective date January 18, 2018, (Chapter 3 - Page 3).