

LEGAL MAILBAG – SEPTEMBER 3, 2026



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The "Legal Mailbag Question of the Week" is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

We are just starting the new school year, and a paraeducator is already having attendance problems. I do not mean to be unsympathetic, and I understand that the paraeducator has a health condition that requires absences every so often. But we hired her to do a job, and her absences are a real problem.

For each of the last two years, this paraeducator has exhausted her sick leave and personal leave and has gone unpaid for more than ten days each year. To be sure, with the start of the new school year she has received another twelve days of sick leave, but she has already used three days. When she runs out of sick leave, can we terminate her employment?

Signed,
Enough is Enough

Dear Enough:

Legal Mailbag sympathizes with the challenges that the absences of this paraeducator have caused your school. Legal Mailbag also sympathizes with the paraeducator who is dealing with the health problem. Sympathies aside, however, an employee's exhausting available sick leave may not justify termination of employment depending on the circumstances.

That the paraeducator's absences are caused by a "health condition" is a significant fact. If the district learns that this employee's need for leave may be FMLA-qualifying (e.g., she has a "serious health condition" that renders her unable to perform her job), the district has an obligation to notify the employee of her eligibility for, and rights and responsibilities under, the federal FMLA and/or the CT FMLA (which, as you may recall, was expanded last year to include school employees working in positions that do not require professional certification under Chapter 166 of the General Statutes). Indeed, if the employee meets the federal FMLA and/or CT FMLA eligibility requirements, has a qualifying reason for such leave, and provides medical certification to support the leave (which may include documentation to support an intermittent need for leave), the employee will be entitled to FMLA leave to care for her own serious health condition, unless she has already exhausted such leave in the entitlement period. Such leave will be protected by federal and/or state law, and interfering with and/or retaliating against an employee for utilizing such leave could violate the FMLA.

But wait, there's more! If the employee has a CT FMLA-qualifying leave, the employee must be permitted to retain up to two weeks of her paid time off for other purposes. Nonetheless, she could decide to run down her paid sick leave during her otherwise unpaid CT FMLA leave, if she so chooses. In addition, the employee may also be entitled to partial wage replacement under the Connecticut Paid Leave Act.

Even if the district determines that the employee is not entitled to federal FMLA and/or CT FMLA leave, the district is free to inquire (and may even have an obligation to determine) whether the paraeducator has a disability that is causing her recurrent absences. If that is the case, the employee has rights under the Americans with Disabilities Act (ADA).

Specifically, when a disability affects an employee's ability to do his or her job, the ADA requires that the employer provide reasonable accommodation for the employee's disability, if possible without causing undue hardship to the district. To determine whether such reasonable accommodation must be made, the employer and the employee are required to engage in an "interactive dialog" in which they discuss the way in which the employee's disability affects his or her ability to do his or her job and whether and how the employer can provide reasonable accommodation to enable the employee to perform their essential job functions. What is or is not a reasonable accommodation is a fact-based inquiry that includes consideration of the accommodation's effectiveness (i.e., whether it will enable the employee to perform the essential job duties), the availability and feasibility of other effective accommodations, the impact of the accommodation on operations, and the cost of the accommodation relative to the employer's size. However, to be protected under the ADA, the employee must be capable of performing the essential duties of the job with or without accommodation. When an

employee cannot perform the essential duties of the position, termination (or resignation) may be the only reasonable option.

Here, if the employee is not entitled to FMLA leave, you (assuming you are not the employee's direct supervisor) will have to engage in such an interactive dialog with this paraeducator. In so doing, you and the paraeducator will discuss how much leave is expected to be required and for how long. Ultimately, you must decide whether it is possible to accommodate such absences. While some employee absences are a fact of life, regular attendance is typically an essential job duty.

Finally, in the last legislative session the General Assembly underscored the importance of respecting employee rights under the ADA. Sections 30 and 31 of [Public Act 26-12](#) impose new requirements related to the dissemination of information about the ADA and reasonable accommodations in the workplace. Effective October 1, 2026, Section 30 of the Act requires the Labor Commissioner to post information about the ADA on the website of the Connecticut State Department of Labor, and Section 31 imposes a corresponding obligation on employers. Specifically, employers must provide written notice of an employee's right to reasonable accommodations in the workplace for a disability under the ADA to (1) new employees at the commencement of employment, (2) existing employees within 120 days of October 1, 2026 (i.e., by January 29, 2027), and (3) any employee who notifies the employer of a disability within ten days of such notification. An employer may alternatively comply with these notice requirements by displaying the poster created by the Labor Commissioner in a conspicuous place accessible to employees.

In short, there are enough considerations here to make your head spin. When an issue potentially involves the alphabet soup of the federal FMLA, CT FMLA, and ADA – not to mention the employee's CBA and now new requirements set forth by the General Assembly! -- it should be referred to HR to ensure compliance with the district's myriad legal obligations.

Legal Mailbag expresses great appreciation for the invaluable assistance of Shipman & Goodwin Counsel Dori P. Antonetti for sorting out the various legal issues presented by this simple question.