



Hurt or Sick at Work?

*A Brief Outline of
Applicable Laws*

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Arizona
Education
Association



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(877) 828-1983



Workers' Compensation (Arizona Law)

Who governs: Industrial Commission of Arizona (www.azica.gov)

Who processes claims: School District's insurance carrier.

Who qualifies: All workers

When coverage begins: When work begins.

What's covered: Every injury "arising out of and in the course of employment" (exception if intoxicated by alcohol or drugs.) Do not have to prove fault by employer.

Coverage for emotional problems: Difficult standard of proof – workplace event must be "unexpected, unusual or extraordinary" and a "substantial contributing" cause of mental injury. Additional standard of proof for hernias, heart attacks and strokes.

Benefits: Payment of medical bills for injury and partial payment of lost wages/salary. No money payment if miss 7 or less days of work

Payment for temporary total disability after 7 days is 2/3 of wage/salary up to monthly cap. See www.azica.gov for Average Monthly Wage dollar cap.

Some payment for permanent injury and disability depending upon type of injury and loss of earning capacity.

Americans with Disabilities Act (U.S. Law)

Who governs: U.S. Equal Employment Opportunity Commission, www.eeoc.gov; www.ada.gov.

Who qualifies: Disabled persons who are otherwise qualified and able to perform the essential functions of the job, with or without "reasonable accommodation." ADA prohibits pre-employment medical exams/inquires without a conditional job offer; medical exams/inquires of current employees without relationship to the job; and release of medical information.

Employer coverage: All school districts; all private employers with 15 or more employees.

What's a "disability": A physical or mental impairment that substantially limits a major life activity; short term and minor problems are not disabilities.

Coverage for mental problems: Yes, if a substantial impairment.

Benefits: Prohibits discrimination and retaliation based on disability (i.e. stereotypes.)

"Reasonable accommodation" for disability if no "undue hardship" to employer

Examples of reasonable accommodation include modified work schedule, special devices, change in non-essential tasks; job-protected leave; reassignment.

"Undue hardship" means significant difficulty or expense.



Requirement for accommodation: medical evidence – best if YOUR doctor provides. Also, ADA prohibits discrimination based on perceived disability and for associating with the disabled but there is no requirement for accommodation.

See AEA booklet *Employment Discrimination*, for more information on ADA and help with writing a request for reasonable accommodations.

Family and Medical Leave Act (U.S. Law)

Who governs: United States Department of Labor Wage & Hour Division, www.dol.gov/agencies/whd/fmla.

Who qualifies: Workers who have (1) been employed by their employer for at least 12 months (2) worked at least 1,250 hours during the previous 12 months; (full-time K-12 teachers are deemed to meet this requirement) and (3) there are 50 co-employees within 75 miles. Some school employees will not qualify based upon the number of employees within 75 miles.

Employer requirements: All government employers (like school districts); all private employers with at least 50 employees.

Purpose of leave: The birth, adoption or foster care placement of a child; “serious health condition” of employee; or to care for spouse, child or parent with a “serious health condition,” military “exigencies” for family members; to care for injured military service members.

What’s a “serious health condition”: Absent for 3 calendar days and have seen a health care provider; chronic health issues under physician care; need medical evidence

Coverage for mental problems: Yes, if it is a “serious health condition”

Benefits: Up to 12 workweeks unpaid leave per year (can be paid leave if have accrued sick leave, Short Term Disability insurance or workers’ compensation.) Employer continues to pay usual health insurance premiums. Upon return, restored to same or “equivalent” position.

Additional FMLA Benefits for Military Families: Certain military exigencies covered up to 12 workweeks; a spouse, son, daughter, parent, or next of kin can take up to 26 weeks leave to care for an active member of the Armed Services, including a member of the National Guard or Reserves, who is undergoing treatment for or is disabled by a serious injury or illness.



Disability Insurance (Employer or A.S.R.S. Benefit)

Who governs: Private Insurance – the policy; A.S.R.S. – the statutes and rules

Short-term (1-180 days): Many districts do not provide coverage, but some do; check with Human Resources. Also ask if district has donated sick leave, possibly in policy GCCG.

Long-term [LTD] (180 days+): All public school employers participate in A.S.R.S. program, www.azasrs.gov.

Who qualifies for LTD: Workers totally disabled for any reason, if have contributed to A.S.R.S. for 12 continuous months or see: www.azasrs.gov.

When coverage begins for LTD: After six consecutive months of total disability.

LTD Disability = Cannot perform the job held for first 30 months; after 30 months, cannot perform any job for which reasonably qualified.

LTD Benefits: 2/3 of monthly compensation, minus other income received and taxes. Continue to accrue A.S.R.S. credited service for retirement.

Social Security Disability benefits offset LTD benefits.

Earned Paid Sick Time (EPST) (Arizona Law)

Note: Each district is different. See policy GCCA and, if there is one, your meet and confer agreement with your district.

Who governs: Industrial Commission of Arizona, State Labor Department
www.azica.gov

Note: Employees have the choice to file a claim with the ICA or sue their employer. The statute of limitations is two years unless the school district willfully violated the law in which case it is three years.

Penalties include backpay, reinstatement, and \$150.00 per day for retaliation.

Who qualifies: All employees, including part-time and temporary employees.

Benefit: Minimum annual hours of paid sick leave: 24-hour minimum for employers of 14 or less; 40-hour minimum for employers of 15 or more.

How accumulated: Accrued at no less than one hour for every 30 hours worked or “frontloaded” to account for one hour of EPST for every 30 hours worked during the year. Most school districts frontload sick leave in an amount exceeding 40 hours.

What is covered by EPST: Employee’s own health condition (including medical appointments); employee’s family member’s health condition (with an expansive definition of family); quarantine of workplace or family member’s school; and domestic or sexual violence (with an expansive definition of coverage for this category).



How to ask for EPST: If foreseeable (e.g. doctor appointment in two weeks), give plenty of notice. If unforeseeable (you became ill the night before work), follow the school district's policies for notice, including entering the information on school district software as sick leave.

Unused EPST: Your paystub will contain how much EPST you used, how much you were paid for EPST, and your available remaining EPST. Unless otherwise stated in school district policy or the meet and confer agreement between your Local Association and the district, unused EPST is not payable upon termination unless it is accrued and you are rehired within nine (9) months. In that event, you are entitled to use all your unused accrued EPST upon rehire.

Retaliation: Employees who are terminated, demoted, or have another type of adverse employment action taken within 90 days of using EPST are presumed by law to have been retaliated against for using EPST. The school district can only defeat the presumption of retaliation by clear and convincing evidence.

More information is in the FAQs at www.azica.gov. Every school district must also have a Fair Wages and Healthy Families Act poster.

A Final Note

For more information and assistance, contact your local association, aeahelpdesk.org, or your AEA Organizational Consultant.

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This booklet is a general guide for AEA members and is not intended to provide complete information or legal advice on specific problems.



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