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BOARD OF EDUCATION OF THE CITY OF NEW YORK  
OFFICE OF THE CHANCELLOR

June 9, 1976

TO COMMUNITY SCHOOL BOARD CHAIRMEN, ALL SUPERINTENDENTS, EXECUTIVE DIRECTORS, HEADS OF BUREAUS, DIRECTORS, ASSISTANT DIRECTORS, ET AL

Ladies and Gentlemen:

ADMINISTRATIVE PERSONNEL - MATERNITY AND CHILD CARE LEAVES  
CHANGE IN CHILD CARE LEAVE, SECTION D, PARAGRAPH 5,  
HEADS OF BUREAU CIRCULAR NO. 11, 1973-1974

Heads of Bureau Circular No. 11, 1973-1974, specified regulations governing leaves of absence for maternity and/or child care for members of the administrative (non-pedagogical staff).

Section D, Paragraph 5 on Page 3 of that circular is hereby revised and should now read:

"5. Such leave shall terminate four years from the beginning of the maternity leave if such has been granted. Where no maternity leave has been granted, the leave shall terminate upon the child's reaching the age of four years."

This revision shall be effective immediately. Please note the change on your Heads of Bureau Circular No. 11, 1973-1974. Attach a copy of this circular to the Heads of Bureau Circular No. 11, 1973-1974 as authorization.

Very truly yours,

IRVING ANKER,  
Chancellor

Issued by Bureau Circular No. 11, 1973-1974

BOARD OF EDUCATION OF THE CITY OF NEW YORK  
DIVISION OF PERSONNELEPA KLAUS  
EXECUTIVE DIRECTOR  
STAFF RELATIONS  
ROCK 904  
February 22, 1974TO COMMUNITY SCHOOL BOARD CHAIRMEN, ALL SUPERINTENDENTS, EXECUTIVE  
DIRECTORS, DIRECTORS AND HEADS OF BUREAUS

Ladies and Gentlemen:

REGULATIONS GOVERNING LEAVES OF ABSENCE FOR MATERNITY  
AND/OR CHILD CARE FOR MEMBERS OF THE ADMINISTRATIVE  
(NON-PEDAGOGICAL) STAFF

NOTE: Since this circular represents a major change in employee rights and benefits, IT SHOULD BE BROUGHT TO THE ATTENTION OF ALL MEMBERS OF THE ADMINISTRATIVE (NON-PEDAGOGICAL) STAFF. Chief Clerks and other members of staff responsible for processing and granting and/or processing leave requests (including sick leave) should read it carefully and retain a copy for reference.

At its meeting on November 28, 1973, the Board of Education adopted new Bylaws relating to leaves of absence for maternity and child care. The new Bylaws are effective as of September 1, 1973. They are intended to satisfy the Guidelines on Sex Discrimination issued by the Federal Equal Employment Opportunity Commission in relation to leaves for maternity.

The major facets of the new policy are:

1. An employee on maternity leave may be paid for the days in her sick bank, accrued annual leave and compensatory time.
2. There is no mandatory date for beginning a maternity leave.
3. Child care leaves are provided for natural or adoptive parents of either sex.
4. Health insurance coverage may be continued until six weeks after the birth of the child or termination of pregnancy while in unpaid status.

Following are the regulations adopted by the Chancellor in accordance with the new Section 61a of the Bylaws as authorized by Subdivision 8 thereof. For reference, a copy of Section 61a is attached to this circular.

A. Maternity and/or Child Care Leaves Generally

1. Leaves shall be granted by the Chancellor for personnel under the jurisdiction of the City Board and by the appropriate Community School Board for personnel under its jurisdiction, as follows:
  - a. The Chancellor has delegated the responsibility of granting leaves to personnel under the jurisdiction of the City Board to the Division of Personnel.
  - b. Community School Boards may delegate this responsibility to their Community Superintendents.
2. The leave granting authority is required to grant such leaves upon application in accordance with these regulations.

B. Maternity Leave

1. Maternity leave shall be subject to the terms and condition of laws, bylaws and regulations relating to leave with or without pay for personal illness except as provided herein.
2. A pregnant employee may continue working as long as she is physically capable of performing all of the duties of her position. There is no requirement that a pregnant employee begin leave at any specific point in the term of the pregnancy.
3. Absence for the purposes of pregnancy and pregnancy related illnesses may be charged to sick leave balances in accordance with regulations for use of sick leave balances. Specific exclusions of pregnancy and pregnancy related illnesses in such regulations are null and void.
  - a. Absences for this purpose may be self-created within limits prescribed in the Rules and Regulations for Administrative Employees.
  - b. Employees may apply for advance of sick leave allowance and for additional grant of sick leave in accordance with paragraphs 5.07 and 5.08 of the Rules and Regulations for Administrative Employees and/or for sick leave without pay.
4. It is requested that application for maternity leave should be made at least 30 days before the effective date of the leave. This policy is requested so that arrangements may be made for the replacement of the employee during such leave. If the employee's intention is to cease work at or shortly before the date of confinement, application should show probable date of leave.

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B. Maternity Leave (Continued)

5. The employee may, in her option, apply simultaneously for a maternity leave and a child care leave. (See Section D concerning Child Care Leaves). Such application may be made on Form O. P. 150 - Application for Leave of Absence Without Pay. Applicant will, nevertheless, be paid for the days in her sick bank, accrued annual leave and compensatory time balances, during maternity leave only.
6. Maternity leave shall terminate six weeks after the birth of the child or termination of pregnancy. No sick leave payments may be made after that date.  
However, an employee may, because of illnesses either related or unrelated to maternity avail herself of paid or unpaid sick leave (depending upon her sick leave balance) subject to the submission of a certificate from her physician and its approval by the School Medical Director. The School Medical Director shall evaluate such certificate and may, in his discretion, call the employee for physical and medical examination. This paragraph does not apply to an employee who has resumed work after the birth of a child.
7. Before resuming service after the birth of the child or after interruption of pregnancy, an employee on maternity leave or on sick leave for childbirth or termination of pregnancy, shall present to the School Medical Director a certificate from her physician stating the condition of her health. The School Medical Director shall evaluate such certificate and may, in his discretion, call the employee for physical and medical examination. Such certificate is not required if resumption of service is more than six weeks after childbirth, or termination of pregnancy.
8. Where an employee's immediate supervisor finds that the employee, as a result of pregnancy, cannot perform the duties of her position satisfactorily, a medical examination may be requested in accordance with the regulations which apply to other medical conditions which interfere with the performance of an employee's duties. For this purpose, occasional short-term absences are not considered to materially reduce an employee's ability to perform her duties.
9. Maternity leaves shall not be granted to employees on unpaid leave. Such employees may, however, apply for child care leaves.

C. Continuation of Health Insurance Coverage During Maternity Leave

1. Effective September 1, 1973, an employee beginning maternity leave is permitted to continue her city health insurance coverage for herself and her eligible dependents for a period up to six weeks after termination of pregnancy, provided all leave balances are exhausted and she is no longer on payroll.
2. An employee wishing to continue health insurance coverage must complete the top portion of Form D.P. 1055, "Request for Continuation of Health Insurance While on Maternity Leave" and submit it to her payroll officer at least one month prior to the start of the maternity leave. Copies of D.P. 1055 may be obtained from Health and Welfare Services Unit, 65 Court Street, Room 502, phone number 596-6966.
3. The payroll officer is to complete the section marked "For Payroll Clerk Only" and sign the box marked "Approved By". The "Date to be Removed from Payroll" should be the beginning of the payroll period following the last day on payroll.  
Copies of the D. P. 1055 are to be distributed as follows: White copy to the Medical Carrier, Yellow copy to the employee, Pink copy in the employee's personnel file.
4. When pregnancy terminates, the employee should put the child's name, date of birth, and sex in the space provided on the Yellow copy of the D.P. 1055 in her possession, and return it to the medical carrier. The carrier will then remove the employee from City health insurance coverage six weeks after the birth of the child or termination of pregnancy and send a direct payment bill. An employee who returns to work must complete a new Health Authorization Form (D.P. 1053) in order to be returned to the City group.

D. Child Care Leave

1. A child care leave shall be granted upon application in accordance with these regulations to a natural or adoptive parent of either sex. Such leave is granted so that the employee may devote a more substantial portion of his or her time to the care of a young child than could be done while pursuing full time employment.
2. The following restrictions are applicable:
  - a. Full time employment while on such leave is prohibited.
  - b. If both parents are employees of the school system, only one of them may be on child care leave at any given time.
3. Application for child care leave should be made at least 30 days before the effective date of the leave so that arrangements may be made for the replacement of the employee during such leave.

D. Child Care Leave (Continued)

4. For an employee who has completed a maternity leave after the birth of a child, the child care leave may commence at the termination of the maternity leave. For any other employee, it may commence as follows:
  - a. For an employee who has not completed a maternity leave, a child care leave may commence no earlier than the date of birth of the child.
  - b. The commencement of a leave for care of adopted child should be reasonably related to the date the child is placed in the home but may be later.
5. Such leave shall terminate two years from the beginning of the maternity leave if such has been granted. Where no maternity leave has been granted, the leave shall terminate upon the child's reaching the age of two years.
6. A child care leave may be terminated at the request of the employee at an earlier date than the one set forth in paragraph 5 above.
7. Child care leaves shall be without pay except that annual leave and compensatory time balances may be used prior to the commencement of the leave, but such pay shall not duplicate payment granted under Section B paragraph 5 of these regulations. No sick leave with or without pay shall be granted to an employee on child care leave.
8. If, during child care leave or during any other unpaid leave, the occasion arises to request a child care leave by reason of the birth or adoption of a child, the employee concerned may so apply and the leave shall be granted upon application. Such leave shall commence upon the date of birth (or placement for adoption) of the child and shall be subject to pertinent provisions of these regulations. The prior leave will terminate on the date the new leave becomes effective.

E. Provisional and Temporary Employees

1. Provisional and temporary employees who are pregnant are treated in the same manner as permanent employees who are pregnant, except that the provisional or temporary pregnant employee's maternity leave may be terminated by operation of the City Civil Service Rules and Regulations or law.
2. Such personnel who have health insurance coverage under the choice of plans may continue such coverage in accordance with Section C of these Regulations.
3. Replacement of such employees shall be accomplished in a manner consistent with the needs of the school system and with laws and regulations concerning discrimination. Where such an employee is taking a short period of time for maternity purposes, every effort should be made to treat such absence in the same manner as an illness. Consideration should be given to the circumstances in individual cases. Nothing in these regulations, however, shall be construed to require the holding of a specific opening for the return of such employee after maternity where business necessity requires the filling of that position. The "business necessity" concept means that replacement is so necessary to the operation of the school system that the possible discriminatory effect is accepted. Among the criteria to be followed are:
  - a. The duties of the position are essential to ongoing operations.
  - b. The position requires a lengthy period of on-the-job training.
  - c. The position can be filled within a short time; and replacement will not coincide with the expected time of return.
  - d. The position cannot reasonably be filled temporarily.
4. A permanent employee granted a maternity or child care leave while serving provisionally in a higher title shall upon return to duty be restored to such provisional status if the position has not been filled by a permanent employee.

F. Effect on Probation

An employee in probationary status does not accumulate credit towards completion of the probationary period during the time the employee is on unpaid leave.

G. Effective Date

These regulations are effective September 1, 1973.

H. Questions concerning this circular should be directed through normal supervisory channels.

Schools in Community Districts should direct questions to the personnel officers of their districts; City District schools to the office of their supervising Superintendents. If personnel in these offices need assistance in answering questions, they are to refer the questions, in writing, to the Division of Personnel which will reply promptly.

Very truly yours,

FRANK C. ARRIGALE, II  
Executive Director

APPROVED:  
Irving Arker, Chancellor

Attachment to Heads of Bureau Circular No. 11, 1973-1974

Section 61a. Leaves of Absence for Maternity and/or Child Care for Members of the Administrative (non-pedagogical) Staff.

Leaves shall be granted by the Chancellor for personnel under the jurisdiction of the City Board and by the appropriate Community School Board for personnel under its jurisdiction.

Leaves of absence shall be granted for purposes of maternity and child care. The employee concerned should make reasonable notification of intent to take such leave so that arrangements may be made by the appropriate authority for necessary replacement of the employee during the period of the leave. Maternity leave shall be subject to the terms and conditions of laws, bylaws and regulations relating to leave with or without pay for personal illness except as provided herein.

Maternity leave shall commence at the date set in accordance with paragraph 2, above and shall end six weeks after the birth of the child or six weeks after the termination of the pregnancy. Such leave may be sooner terminated at the request of the employee in accordance with regulations.

The following payments will be made in connection with such leave:

- a. The employee may be paid for the days in her sick bank.
- b. The employee may be paid for all accrued annual leave and compensatory time standing to her credit after the exhaustion of sick bank credits.

Child care leave shall be granted to a natural or adoptive parent upon application. Such leave is granted to a member of staff so that he or she may devote a more substantial portion of his or her time to the care of the young child than could be done while pursuing full-time employment; therefore, full-time employment while on such leave is prohibited. If both parents are employees of the school system, only one of the them may be on a child care leave at any given time.

For an employee who has completed a maternity leave after the birth of a child, the child care leave shall commence at the termination of the maternity leave. For any other employee, it shall commence as granted.

The Chancellor shall make regulations governing the maximum length of child care leaves. Leaves may be terminated at the request of the employee in accordance with regulations. Child care leaves shall be without pay except that employees may be paid for all accrued annual leave or compensatory time standing to their credit prior to commencement of such leaves.

An employee in probationary status shall not accumulate credit toward completion of the probationary period during the time the employee is on unpaid leave. Replacement of employees shall be accomplished in a manner consistent with the needs of the school system and Federal laws and regulations concerning discrimination.

Health insurance coverage under the choice of plans provided to employees will continue while the employee is in pay status. Provided a pregnant employee uses up all paid leave time, coverage will continue until six weeks after the birth of the child or termination of pregnancy.

Any prior provisions of the Bylaws or any regulations notwithstanding, conditions relating to pregnancy may be charged to sick leave balances.

The Chancellor is authorized to promulgate such regulations as may be necessary to carry out the provisions of this section.