



Time Out with a Time Limit: Missouri's Administrative Leave Law

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In September of last year, the Missouri Legislature voted to override Governor Nixon's veto of House Bill 1432 and thus the bill became law. The new law, Missouri Revised Statute Section 105.264, puts forth requirements that must be followed when certain school district employees are placed on paid administrative leave.

As an initial matter, school districts should remember that probationary teachers are specifically excluded from the definition of "employee" in this new law. As such, none of the requirements of Section 105.264 apply when a probationary teacher is placed on administrative leave. Also, Section 105.264's requirements do not apply to administrative leave that is unpaid. Thus, while technically the law applies to non-certified employees, as a practical matter, the vast majority of leave for non-certified employees is unpaid leave and the requirements in Section 105.264 won't apply when that is the case.

Keeping the above definitions and exclusions in mind, Section 105.264 requires that if an employer places an employee on administrative leave, a hearing must be held within sixty days from the date the employee was placed on leave. The law further requires that a hearing and determination may be continued for good cause shown, but shall not be continued past one hundred and eighty days from the date the employee was placed on administrative leave. An important thing to note is that the law does not define "hearing." The law does not give guidance regarding the purpose of the hearing or what "determination" is to be made, nor the procedure to be followed for same. Accordingly, school districts should consult their board policy and legal counsel for answers to these questions. For example, Missouri Consultants for Education's board policy provides that the determination the Board must make following the hearing is whether the administrative leave will be continued.

Section 105.264 does provide three circumstances wherein the above hearing timelines do NOT apply. The hearing timelines do NOT apply when:

- 1) An employer who has placed an employee on administrative leave due to misconduct or an investigation of misconduct refers such misconduct to a law enforcement agency or to another state or federal agency; or
- 2) A law enforcement agency or other state or federal agency has commenced its own investigation of the misconduct for which the employee was placed on administrative leave; or
- 3) The employee is removed from administrative leave within 30 days.



For example, if the Children's Division of the Missouri Department of Social Services is investigating the employee's misconduct, then the hearing timelines do not apply.

For school districts, another requirement of Section 105.264 is that within thirty days of placing an employee on administrative leave, the school district must inform the board of education of the reason or reasons for the employee's placement on leave. Should the administrative leave continue through additional board meetings, at every meeting thereafter the board of education must be updated regarding the reason or reasons for the continued placement. This information should be given to the board of education during closed session of the board meeting(s).

Section 105.264 also requires additional due process for the applicable employees placed on administrative leave. The law mandates that within seven days of being placed on administrative leave, an employee must be advised in writing of the general reason or reasons for being placed on administrative leave. This written notification must occur regardless of how many days an employee is on administrative leave. Thus, even if an employee is placed on leave for only one day, the employee must be advised in writing of the reasons for being placed on the leave within seven days. The law does provide for confidentiality of the notification to the employee as it specifically states that the document is not subject to the open records requirements under the Missouri Sunshine Law.

Now that Section 105.264 is in effect, school districts must be aware of and adhere to the law's requirements when placing employees on paid administrative leave, and should contact their legal counsel with any questions or concerns.