

PERSONAL ILLNESS / INJURY LEAVE

Full-time certificated teacher employees are entitled to ten (10) days of leave of absence for personal illness or injury (sick leave) per school year with full pay. Employees working less than five (5) days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)

(cf. 4161.9 – Catastrophic Leave Program)

A permanent employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.

Permanent employees shall be able to accumulated unused days of sick leave from year to year without limitation. (Education Code 44978)

At the beginning of each school year, permanent and temporary employees shall be notified of the amount of sick leave they have accumulated.

Any certificated employee who leaves the district after at least one year of employment and accepts a certificated position in another district, county office of education or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a certificated employee for absences due to:

1. Temporary inability to perform duties because of illness, accident or quarantine, whether or not the cause of absence arises out of and in the course of employment (Education Code 44964)

(cf. 4157 – Employee Safety)

2. Pregnancy, miscarriage, childbirth and recovery (Education Code 44965, 44978)

(cf. 4161.8 – Family Care and Medical Leave)

3. Personal necessity (Education Code 44981)

(cf. 4161.2 – Personal Leaves)

PERSONNEL ILLNESS AND INJURY LEAVE (continued)

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

(cf. 4161.11/4361.11 – Industrial Accident/Illness Leave)

6. Illness of the employee's child, parent, spouse, registered domestic partner or domestic partner's child, in an amount not less than the sick leave that would be accrued by the employee at his/her then current rate of entitlement. (Labor Code 233)
7. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, the employee or his/her family member as defined in Labor Code 245.5 (Labor Code 046.5)
8. Need for the employee to obtain or seek any relief or medical attention specified in Labor Code 203(c) and 230.1(a) for health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 246.5)

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

Continued Absence after Available Sick Leave is Exhausted

During each school year when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent from his/her duties for an additional period up to five school months, the employee shall receive his/her regular salary minus the cost of a substitute to fill the position. If the District has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

PERSONNEL ILLNESS / INJURY LEAVE (continued)

An employee shall not be provided more than one five-month period per illness or injury. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

If a certificated employee is not medically able to resume his/her duties after the five month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

(cf. 4116 – Probationary/Permanent Status)

Verification Requirements

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or practitioner. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever clear evidence indicates that an absence is not related to illness or injury.

The Superintendent or designee may require an employee to visit a physician selected by the district, and at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

Before returning to work, an employee who has been absent for surgery, hospitalization or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return and stipulating any recommended restrictions or limitations.

(cf. 4032 – Reasonable Accommodation)

PERSONNEL ILLNESS / INJURY LEAVE (continued)

Healthy Workplaces, Healthy Families Act Requirements

No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days. (Accrued paid sick leave must carry over to the following year and will be capped at 48 hours (or 6 days).
 - b. The amount of sick days provided by Labor Code 245-249. Employees may use of paid sick leave benefits up to 24 hours or 3 days per year.
 - c. The terms of use of paid sick days: Employees may use paid sick leave benefits up to 24 hours or 3 days per year per incident.
 - d. That discrimination or retaliation against an employee for requesting or using sick leave is prohibited by law and an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against him/her
2. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available.
3. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

PERSONNEL ILLNESS / INJURY LEAVE (continued)

Legal Reference:

EDUCATION CODE

- 44964 Power to grant leave of absence in case of illness, accident or quarantine*
- 44965 Granting of leaves of absence for pregnancy and childbirth*
- 44976 Transfer of leave rights when school is transferred to another district*
- 44977 Salary deduction during absence from duties up to five months after sick leave is exhausted*
- 44978 Provisions for sick leave of certificated employees*
- 44978.1 Inability to return to duty; placement in another position or on reemployment list*
- 44979 Transfer of accumulated sick leave to another district*
- 44980 Transfer of accumulated sick leave to a county office of education*
- 44981 Leave of absence for personal necessity*
- 44983 Exception to sick leave when district adopts specific rule*
- 44984 Industrial accident or illness*
- 44986 Leave of absence for disability allowance applicant*

LABOR CODE

- 220 Sections inapplicable to public employees*
- 230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off*
- 230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off*
- 233 Illness of child, parent, spouse or domestic partner*
- 234 Absence control policy*

CODE OF REGULATIONS, TITLE 5

- 5601 Transfer of accumulated sick leave*

UNITED STATES CODE, TITLE 42

- 2000FF-2000FF-11 Genetic Information Nondiscrimination Act of 2008*

COURT DECISIONS

- Veguez v. Governing Board of Long Beach Unified School District, (2005) Cal. App. 4th 406*

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