



## PROVISIONS RELATING TO ALL EMPLOYEES

### ADMINISTRATIVE REGULATION – PERSONAL ILLNESS/INJURY LEAVE AR 4161.1

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employees who are entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 44978; Labor Code 245-249)

#### **Use of Sick Leave**

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of and in the course of employment; quarantine which results from contact in the course of employment with other persons having a contagious disease; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)
2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)
3. Personal necessity (Education Code 44981)
4. Medical and dental appointments, in increments of not less than one quarter of one hour (fifteen minutes)
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)
6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)
7. Need of the employee or employee's family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and/or 230.1(a) for the health, safety, or welfare of the employee or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

An 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 shall reimburse the SBCEO for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

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

The SBCEO shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

The County Superintendent of Schools or designee shall notify any certificated employee who leaves the SBCEO after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, the employee may request that the SBCEO transfer any accumulated sick leave to the new employer. (Education Code 44979, 44980)

### **Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 44978.2)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the County Superintendent of Schools or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the SBCEO may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2) The County Superintendent of Schools or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

### **Notification of Absence**

An employee shall notify the SBCEO of the 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 SBCEO. If the duration of absence becomes shorter than estimated, the employee shall notify the SBCEO not later than three o'clock in the afternoon of the day



preceding the day on which the employee intends to return to work. If the employee fails to notify the SBCEO and the failure 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/Differential Pay**

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five school months, the SBCEO shall deduct from the employee's regular salary for that period the actual cost of a substitute to fill the position. If the SBCEO 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)

An employee shall not be provided more than one five-month period per illness or accident. 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)

### **Absence Beyond Five-Month Period/Reemployment List**

If a certificated employee is not medically able to return to work 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, the employee shall be returned to employment in a position for which the employee is credentialed and qualified. (Education Code 44978.1)

### **Parental Leave**

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

Eligibility for such leave shall not require 1,250 hours of service with the SBCEO during the previous 12 months. (Education Code 44977.5)

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50 percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

### **Verification Requirements**

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed SBCEO absence form to the employee's immediate supervisor.



Verification of illness by a healthcare provider may be required by the SBCEO for any absence of five (5) or more days for which sick leave is claimed.

The County Superintendent of Schools or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the County Superintendent of Schools or designee may require an employee to visit a physician selected by the SBCEO, at SBCEO expense, in order to receive a report on 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 County Superintendent of Schools or designee may, after giving notice to the employee, deny further leave.

Any SBCEO request for additional verification by an employee's physician or an SBCEO-selected physician shall be in writing and shall specify that the report to be submitted to the SBCEO should not contain the employee's genetic information. Any genetic information received by the SBCEO on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and not be disclosed except in accordance with 29 CFR 1635.9.

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 a physician stating that the employee is able to return to duty and stipulating any necessary restrictions or limitations.

### **Healthy Workplaces, Healthy Families Act Requirements**

No employee shall be denied the right to use accrued sick days, and the SBCEO 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 SBCEO violation of Labor Code 245-249.

To ensure the SBCEO's compliance with Labor Code 245-249, the County Superintendent of Schools 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
  - b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the SBCEO discriminates or retaliates against the employee



2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their paycheck, of the amount of paid sick leave they have available
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

**Federal**

29 CFR 1635.1-1635.12  
 29 CFR 825.100-825.702  
 29 USC 2601-2654  
 42 USC 2000ff-2000ff-11

**Management Resources**

Court Decision

**State**

5 CCR 5601  
 Ed. Code 44964  
  
 Ed. Code 44965  
 Ed. Code 44976  
  
 Ed. Code 44977  
 Ed. Code 44977.5  
  
 Ed. Code 44978  
 Ed. Code 44978.1  
  
 Ed. Code 44978.2  
 Ed. Code 44979  
 Ed. Code 44980  
 Ed. Code 44981  
 Ed. Code 44983  
 Ed. Code 44984  
 Ed. Code 44986  
 Gov. Code 12945.1-12945.2  
 Gov. Code 12945.6  
 Lab. Code 220  
 Lab. Code 230  
  
 Lab. Code 230.1  
  
 Lab. Code 233  
 Lab. Code 234  
 Lab. Code 245-249

**Description**

Genetic Information Nondiscrimination Act of 2008  
 Family and Medical Leave Act of 1993  
 Family Care and Medical Leave Act  
 Genetic Information Nondiscrimination Act of 2008

**Description**

Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

**Description**

Transfer of accumulated sick leave  
 Power to grant leaves of absence for accident, illness or quarantine  
 Granting of leaves of absence for pregnancy and childbirth  
 Transfer of leave rights when school is transferred to another district  
 Salary schedule for substitute employees  
 Differential pay during parental leave up to 12 weeks after sick leave is exhausted  
 Sick leave, certificated employees  
 Inability to return to duty; placement in another position or on reemployment list  
 Leave for military service connected disability  
 Transfer of accumulated sick leave to another district  
 Transfer of accumulate sick leave to a county office of education  
 Leave of absence for personal necessity  
 Compensation during leave, certificated employees  
 Required rules for industrial accident and illness leave  
 Leave of absence, state disability benefits  
 California Family Rights Act  
 Parental leave  
 Sections inapplicable to public employees  
 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off  
 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off  
 Illness of child, parent, spouse or domestic partner  
 Absence control policy  
 Healthy Workplaces, Healthy Families Act of 2014



ADOPTED BY COUNTY SUPERINTENDENT: September 1, 2022  
REVISED: