



## PROVISIONS RELATING TO ALL EMPLOYEES

### ADMINISTRATIVE REGULATION – PERSONAL LEAVES

AR 4161.2

Personal leaves granted to SBCEO employees shall be used as permitted in this administrative regulation, other policy or SBCEO regulation, or applicable collective bargaining agreement. For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

#### **Bereavement**

Employees are entitled to a leave of up to three days, or five days if travel of 350 miles or more or out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, stepmother, stepfather, grandmother, grandfather, or grandchild of the employee or of the employee's spouse or domestic partner
2. The employee's spouse or domestic partner, son, son-in-law, daughter, daughter-in-law, stepchild, brother, sister, brother-in-law, or sister-in-law
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

#### **Personal Necessity**

Employees may use a maximum of ten days of their accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; Labor Code 246.5)
2. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)



3. Death of a close personal friend or a member of the employee's family not included in the definition of "immediate family" in the bereavement leave provision (Education Code 45914, 44985)
4. An accident involving the employee or the employee's property, or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
5. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)
6. Fire, flood, or other immediate danger to the home of the employee
7. Observance of organized religious holiday, event, or activity with a maximum of five days per fiscal year
8. Matters related to adoption/paternity

An employee may use up to a maximum of five of the ten personal necessity days of the employee's accrued personal illness/injury (sick leave) during each school year for reasons of a compelling nature for which no alternative other than absence is available to the employee.

Such personal compelling leave shall not be used for work stoppage, other concerted activities, nor for gainful employment. The particular date/s on which personal compelling leave may be taken is subject to advance approval by the immediate supervisor. In absence of shortage of substitutes, if applicable, no other restrictions apply.

Any employee requesting leave for compelling personal importance shall request such leave five days prior to the absence from the employee's immediate supervisor. In cases of emergency or circumstances beyond the employee's control, this requirement shall be waived, provided the employee notifies the employee's immediate supervisor as soon as possible.

Leave for personal necessity may be allowed for other reasons at the discretion of the County Superintendent of Schools or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The County Superintendent of Schools or designee shall have final discretion as to whether a request reflects personal necessity.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of the employee's immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or where the need for leave is foreseeable, an employee shall notify the County Superintendent of Schools or designee in advance. In all other circumstances, the employee shall notify the County Superintendent of Schools or designee of the need for the leave as soon as practicable.

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



## **Legal Duties**

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the SBCEO office when requesting leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between the employee's regular earnings and any jury fees received.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between the employee's regular earnings and any witness fees received.

## **Leaves for Crime Victims for Judicial Proceedings**

An employee may be absent from work in order to attend judicial proceedings related to a crime when the employee is a victim, or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim, of any of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give the County Superintendent of Schools or designee a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The SBCEO shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

## **Leaves for Victims of Crime or Abuse**



An employee who is a victim of domestic violence, sexual assault, or stalking, who is a victim of a crime that caused physical injury or that caused mental injury with a threat of physical injury, or whose immediate family member, as defined, is deceased as the direct result of a crime may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to the employee to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or the employee's child
2. Seek medical attention for injuries caused by crime or abuse
3. Obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse
4. Obtain psychological counseling or mental health services related to an experience of crime or abuse
5. Participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation

Prior to taking time off, an employee shall give reasonable notice to the County Superintendent of Schools or designee, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim
2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf certifying that the absence is for a purpose authorized under Labor Code 230 or 230.1

The SBCEO shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

The County Superintendent of Schools or designee shall inform employees of their rights pursuant to Labor Code 230 and 230.1 using a form developed by the Labor Commissioner or a substantially similar form developed by the SBCEO. Such information shall be provided to new employees upon hire and to other employees upon request. (Labor Code 230.1)



### **Personal Leave for Child-Related Activities**

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll a child in a school or with a licensed childcare provider or to participate in activities of the school or childcare provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or childcare emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a childcare provider due to one of the following circumstances:
  - a. A request by the school or childcare provider that the child be picked up
  - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or childcare provider
  - c. Behavioral or discipline problems
  - d. Closure or unexpected unavailability of the school or childcare provider, excluding planned holidays
  - e. A natural disaster, including, but not limited to, fire, earthquake, or flood

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parents/guardians of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the SBCEO. Simultaneous absence by another parent/guardian of the child may be granted by the County Superintendent of Schools or designee. (Labor Code 230.8)

Upon request by the County Superintendent of Schools or designee, the employee shall provide documentation from the school or licensed childcare provider that the employee engaged in permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

### **Service on Education Boards and Committees**

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)



1. The service is performed within the state.
2. The board, commission, organization, or group informs the SBCEO in writing of the service.
3. The board, commission, organization, or group agrees, prior to the service, to reimburse the SBCEO, upon the SBCEO's request, for compensation paid to the employee's substitute and for actual related administrative costs.

### **Employee Organization Activities**

Upon request, any certificated or classified employee shall be granted a leave of absence without loss of compensation to serve as an elected officer of an SBCEO employee organization or any statewide or national employee organization with which the employee organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

Upon request of an employee organization in the SBCEO or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the County Superintendent of Schools or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the SBCEO within 10 days after receiving the SBCEO's certification of payment of compensation to the employee. (Education Code 44987, 45210)

### **Religious Leave**

The County Superintendent of Schools or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional SBCEO expenditures, the neglect of assigned duties, or any other unreasonable hardship on the SBCEO.

The County Superintendent of Schools or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the County Superintendent of Schools or designee.

### **Spouse on Leave from Military Deployment**

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that the employee's spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that the employee's spouse will be on leave from deployment, the employee shall provide the County Superintendent of Schools or designee with notice of the intention to take the leave. The employee shall submit written documentation





certifying that the employee's spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

### Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

### Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to the employee, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the SBCEO for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the County Superintendent of Schools or designee. (Labor Code 1501, 1503)

The employee shall give the SBCEO as much advance notice as possible of the intended dates of the leave. The County Superintendent of Schools or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

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#### 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 USC 2601-2654  
42 USC 2000d-2000d-7

#### Description

Family Care and Medical Leave Act  
Title VI, Civil Rights Act of 1964

#### Management Resources

Court Decision

Public Employment Relations Board  
Decision  
Website  
Website  
Website  
Website

#### Description

Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167  
Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954  
[California Teachers Association](#)  
[California School Employees Association](#)  
[California Public Employment Relations Board](#)  
[California Federation of Teachers](#)

#### State

CA Constitution Article 1, Section 8  
Ed. Code 44036-44037  
Ed. Code 44963  
Ed. Code 44981  
Ed. Code 44985

#### Description

[Religious discrimination](#)  
Leaves of absence for judicial and official appearances  
Power to grant leaves of absence (certificated)  
Leave of absence for personal necessity  
Leave of absence due to death in immediate family (certificated)

Personal Leaves – Administrative Regulation 4161.2



Ed. Code 44987	Service as officer of employee organization (certificated)
Ed. code 44987.3	Leave of absence to serve on certain boards, commissions, etc.
Ed. Code 45190	Leaves of absence and vacations (classified)
Ed. Code 45194	Bereavement leave of absence (classified)
Ed. Code 45198	Effect of provisions authorizing leaves of absence
Ed. Code 45207	Personal necessity (classified)
Ed. Code 45210	Service as officer of employee organization (classified)
Ed. Code 45240-45320	Merit system
Evid. Code 1035.2	Sex assault counselor; definition
Evid. Code 1037.1	Domestic violence counselor; definition
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 3543.1	Rights of employee organizations
Lab. Code 1500-1507	Civil Air Patrol leave
Lab. Code 230-230.2	Leaves for victims of domestic violence, sexual assault or specified felonies
Lab. Code 230.3	Leave for emergency personnel
Lab. Code 230.4	Leave for volunteer firefighters
Lab. Code 230.8	Time off to visit child's school
Lab. Code 233	Illness of child, parent, spouse or domestic partner
Lab. Code 234	Absence control policy
Lab. Code 246.5	Paid sick days, purposes for use
M&V Code 395.10	Leave when spouse on leave from military deployment
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 667.5	Prior prison terms, enhancement of prison terms

ADOPTED BY COUNTY SUPERINTENDENT: September 1, 2022  
REVISED: