

Regulation 4361.2: Personal Leaves

Status: ADOPTED

Original Adopted Date: 11/01/2012 01/23/2013 | **Last Revised Date:** 06/01/2016
06/01/2023 | **Last Reviewed Date:** 06/01/2023

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district 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 **any** 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.

~~(cf. 4121-~~

~~Temporary/Substitute Personnel)~~

Bereavement

Employees are entitled to a leave of up to ~~three days, or five days if more than 300 miles of travel, from their home, is required,~~ upon the death of any member of the employee's immediate family, **as defined in Education Code 44985 and 45194. (Government Code 12945.7)**

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)

~~(cf. 4161/4261/4361 - Leaves)~~

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

1. ~~The mother, father, grandmother, grandfather;~~ **Government Code 12945.7)**

Immediate Family means a parent, parent-in-law, grandparent, or grandchild of the employee or of the employee's spouse

2. ~~The employee's-~~ **of the employee, and the spouse, son, son-in-law, daughter, daughter domestic partner, child, child-in-law, brother, or sister**

3. ~~Any~~ **sibling of the employee, or any relative living in the employee's immediate household**

of the employee. (Education Code 44985, 45194)

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 ~~10.25~~**seven** 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:

~~(cf. 4161.1/4361.1 – Personal Illness/Injury Leave)~~

~~(cf. 4261.1 – Personal Illness/Injury Leave)~~

Acceptable reasons for ~~the use of personal necessity leave include:~~

1. ~~1.~~ 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); **Government Code 12945.7)**
2. ~~2.~~ An accident involving the **employee or the** employee's ~~person or~~ property, or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. ~~3. A serious illness~~ **Illness, preventive care, or other need** of a member of the ~~certificated~~ employee's ~~immediate family,~~ **as defined in Labor Code 245.5** (Education Code 44981); **Government Code 12945.2; Labor Code 246.5)**

~~(cf. 4161.8/4261.8/4361.8 – Family Care and Medical Leave)~~

4. ~~4.~~ A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)
5. ~~5.~~ Fire, flood, or other immediate danger to the home of the employee
6. ~~6.~~ Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent Chief Learning Officer 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 Superintendent Chief Learning Officer or designee shall have final discretion as to whether ~~or not~~ a request reflects personal necessity.

Advance permission shall not be required of ~~any~~**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 ~~his/her~~**the employee's** immediate family, or the ~~serious~~**illness, preventive care, or other need** of a member of the employee's ~~immediate~~ family. (Education Code 44981, 45207)

~~However~~

For any leave that is planned, or for which the need is foreseeable, an employee shall notify the Superintendent Chief Learning Officer or designee in advance. In all other circumstances, the employee shall notify the Superintendent Chief Learning Officer 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 district absence form to ~~his/her~~**the employee's** immediate supervisor.

Leave to Perform Legal Duties

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

~~Legal Duties~~

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

- ~~1. 1-~~Serve on an inquest jury or trial jury
- ~~2. 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 district 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 ~~his/her regular earnings and any amount received for jury fees.~~
(~~Education Code 44037~~)

~~Leaves for Crime Victims~~

~~An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim,~~**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. (Education Code 44036)

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. (Education Code 44036)

Leaves for Crime Victims for Judicial Proceedings

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

1. ~~1-~~A violent felony as defined in Penal Code 667.5(c)
2. ~~2-~~A serious felony as defined in Penal Code 1192.7(c)
3. ~~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 ~~his/her supervisor~~ **the Superintendent Chief Learning Officer 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 district 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 ~~Domestic Violence, Sexual Assault and Stalking~~

Crime or Abuse

An employee who is a victim of domestic violence, sexual assault, ~~or~~ **stalking, or a crime that caused physical injury or mental injury with a threat of physical injury or an employee whose immediate family member, as defined by law, 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 ~~him/her~~ **under the terms of his/her employment** employee to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. ~~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 ~~his/her~~ **the employee's** child

2. ~~2-~~ Seek medical attention for injuries caused by ~~domestic violence, sexual assault, crime or stalking~~ **abuse**
3. ~~3-~~ Obtain services from a domestic violence shelter, program, ~~or rape crisis center,~~ **or victim services organization or agency** as a result of ~~domestic violence, sexual assault, or stalking~~ **the crime or abuse**
4. ~~4-~~ Obtain psychological counseling **or mental health services** related to an experience of ~~domestic violence, sexual assault, or stalking~~ **crime or abuse**
5. ~~5-~~ Participate in safety planning and take other actions to increase safety from future ~~domestic violence, sexual assault, or stalking~~ **crime or abuse**, including temporary or permanent relocation

Prior to taking time off, an employee shall give reasonable notice to ~~his/her supervisor~~ **the Superintendent Chief Learning Officer 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. ~~1-~~ A police report indicating that the employee was a victim of ~~domestic violence, sexual assault, or stalking~~
2. ~~2-~~ A court order protecting or separating the employee from the perpetrator of ~~an act of domestic violence, sexual assault, or stalking~~ **the crime or abuse**, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. ~~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 ~~an act of domestic violence, sexual assault, or stalking~~ **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 district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

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

Personal Leave for ~~a Child's School~~ Child-Related Activities

Any employee who is a parent/guardian ~~or grandparent having custody of~~ **of** one or more children enrolled in ~~of an age to attend any of~~ grades K-12 or ~~who attend a program offered by~~ a licensed **daychild** care facility **provider** may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to ~~participate in school or day care activities. Such leave shall not~~

exceed eight hours in any month of the year. The employee shall give reasonable advance notice of the absence. (~~Labor Code 230.8~~): (Labor Code 230.8)

1. Find, enroll, or reenroll a child in a school or with a licensed child care provider or to participate in activities of the school or child care 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 child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
 - a. A request by the school or child care 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 child care provider
 - c. Behavioral or discipline problems
 - d. Closure or unexpected unavailability of the school or child care 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 ~~both~~ **two or more** parents/guardians of a child are employed at the same work site, this leave shall be allowed for the ~~first~~ parent/guardian who ~~applies~~ **first gives notice to the district**. Simultaneous absence by ~~the second~~ **another** parent/guardian of the child may be granted by the Superintendent Chief Learning Officer or designee. (Labor Code 230.8)

Upon request by the Superintendent Chief Learning Officer or designee, the employee shall provide documentation from the school or licensed ~~day~~ **child care facility** ~~provider~~ that ~~he/she participated~~ **the employee engaged** in ~~school or licensed day care facility~~ **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. ~~1-~~ The service is performed within the state.

2. ~~2-~~The board, commission, organization, or group informs the district in writing of the service.
3. ~~3-~~The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district'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 a district employee organization or any statewide or national employee organization with which the employee organization is affiliated. **Such leave shall be in addition to any other leave to which the employee may be entitled by other laws or a memorandum of understanding or collective bargaining agreement. (Education Code 44987, 45210)**

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— **on which the employee serves as an officer.** (Education Code 44987, 45210)

~~(cf. 4140/4240/4340—~~

~~Bargaining Units)~~

~~(cf. 4143/4243—Negotiations)~~

Upon request of an employee organization in the district 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 **employee** organization. The employee organization shall provide reasonable notification to the Superintendent Chief Learning Officer 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 district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Religious Leave

The Superintendent Chief Learning Officer 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 district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

The Superintendent Chief Learning Officer 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 Superintendent Chief Learning Officer 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 ~~his/her~~ **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 ~~his/her~~ **the employee's** spouse will be on leave from deployment, the employee shall provide the Superintendent Chief Learning Officer or designee with notice of ~~his/her~~ **the** intention to take the leave. The employee shall submit written documentation certifying that ~~his/her~~ **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 ~~him/her~~ **the employee**, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district 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 Superintendent Chief Learning Officer or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent Chief Learning Officer 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)

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 board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State

Description

CA Constitution Article 1, Section 8	Religious discrimination
Ed. Code 44036-44037	Leaves of absence for judicial and official appearances
Ed. Code 44963	Power to grant leaves of absence; certificated
Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44985	Leave of absence due to death in immediate family; certificated
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 12945.7	Bereavement leave
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	Leave to attend to family illness
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

Federal

Description

29 USC 2601-2654

Family Care and Medical Leave Act

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

Management Resources

Description

Court Decision

Rankin v. Commission on Professional Competence, (1988)
24 Cal.3d 167

Public Employment Relations Board
Decision

Berkeley Council of Classified Employees v. Berkeley Unified
School District, (2008) PERB Decision No. 1954

Website

CSBA District and County Office of Education Legal Services

Website

[California Department of Industrial Relations](#)

Website

[California Federation of Teachers](#)

Website

[California Public Employment Relations Board](#)

Website

[California School Employees Association](#)

Website

[California Teachers Association](#)

Cross References

Code

Description

2121

Superintendent's Contract

4112.9

~~Employee Notifications~~ Employee Notifications

4112.9-E-PDF(1)

~~Employee Notifications~~ Employee Notifications

4121

~~Temporary/Substitute Personnel~~ Temporary/Substitute
Personnel

4121

~~Temporary/Substitute Personnel~~ Temporary/Substitute
Personnel

4140

~~Bargaining Units~~ Bargaining Units

4141.6

~~Concerted Action/Work Stoppage~~ Concerted Action/Work
Stoppage

4141.6

~~Concerted Action/Work Stoppage~~ Concerted Action/Work
Stoppage

4143

~~Negotiations/Consultation~~ Negotiations/Consultation

4158

~~Employee Security~~ Employee Security

4158

~~Employee Security~~ Employee Security

4161

~~Leaves~~ Leaves

4161

~~Leaves~~ Leaves

4161.1

~~Personal Illness/Injury Leave~~ Personal Illness/Injury Leave

4161.8

~~Family Care And Medical Leave~~ Family Care And Medical
Leave

4212.9	Employee Notifications Employee Notifications
4212.9-E PDF(1)	Employee Notifications Employee Notifications
4240	Bargaining Units Bargaining Units
4241.6	Concerted Action/Work Stoppage Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage Concerted Action/Work Stoppage
4243	Negotiations/Consultation Negotiations/Consultation
4258	Employee Security Employee Security
4258	Employee Security Employee Security
4261	Leaves Leaves
4261	Leaves Leaves
4261.1	Personal Illness/Injury Leave Personal Illness/Injury Leave
4261.8	Family Care And Medical Leave Family Care And Medical Leave
4312.9	Employee Notifications Employee Notifications
4312.9-E PDF(1)	Employee Notifications Employee Notifications
4340	Bargaining Units Bargaining Units
4358	Employee Security Employee Security
4358	Employee Security Employee Security
4361	Leaves Leaves
4361	Leaves Leaves
4361.1	Personal Illness/Injury Leave Personal Illness/Injury Leave
4361.8	Family Care And Medical Leave Family Care And Medical Leave
5148	Child Care And Development Child Care And Development
5148	Child Care And Development Child Care And Development