

**Regulation 4361.1: Personal Illness/Injury Leave**

**Status:** ADOPTED

**Original Adopted Date:** 03/2017 01/23/2013 | **Last Revised Date:** 06/01/2023 | **Last Reviewed Date:** 06/01/2023

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 ~~employee~~**employees** who ~~is~~**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 ~~he/she is~~**they are** eligible. (Education Code 44978; Labor Code 245-249)

**Use of Sick Leave**

**Certificated employees may use sick leave for absences due to:**

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

~~(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)~~

**Use of Sick Leave**

~~Certificated employees may use sick leave for absences due to:~~

- ~~1.~~ **1.** Accident or illness, whether or not the absence arises out of ~~or~~**and** in the course of employment; quarantine which results from contact **in the course of employment** with other persons having a contagious disease ~~during the employee's performance of his/her duties~~; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)

~~(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)~~

- ~~2.~~ **2.** Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)

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

- ~~3.~~ **3.** Personal necessity (Education Code 44981)

~~(cf. 4161.2/4261.2/4361.2 - Personal Leaves)~~

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

~~(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)~~

6. ~~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. ~~7-~~Need of the employee or ~~his/her~~**employee's** family member, **including a designated person**, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care { **(Government Code 12945.2; Labor Code 233, 246.5)**
8. ~~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 ~~his/her~~**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~~**Items #7-8**, an employee may use, in any calendar year, the amount of sick leave ~~he/she~~**that would accrue** **be accrued** during six months at ~~his/her~~**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 district for any unearned sick leave used as of the date of ~~his/her~~ 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 district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

The Superintendent Chief Learning ~~officer~~**Officer** or designee shall notify any certificated employee who leaves the district 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, ~~he/she~~**the employee** may request that the district transfer ~~his/her~~**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 ~~he/she works-~~**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 ~~his/her~~**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 ~~his/her~~**the** disability rating decision, ~~he/she~~**the employee** shall report that information to the Superintendent **Chief Learning Officer** 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 district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

The Superintendent Chief Learning Officer 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 ~~district~~**Superintendent Chief Learning Officer or designee** of ~~his/her~~**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 district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which ~~he/she~~**the employee** intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

~~(cf. 4121-~~

~~Temporary/Substitute Personnel)~~

### **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 ~~from his/her duties~~ for an additional period of up to five school months, the ~~employee~~**district** shall ~~receive his/her~~**deduct from the employee's** regular salary ~~minus~~**for that period** the actual 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)

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 ~~resume his/her duties~~**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, ~~he/she~~**the employee** shall be returned to employment in a position for which ~~he/she~~**the employee** is credentialed and qualified. (Education Code 44978.1)

~~(cf. 4116-~~

~~Probationary/Permanent Status)~~

### **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 district 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 district absence form to ~~his/her~~ **the employee's** immediate supervisor.

The Superintendent Chief Learning Officer 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 Superintendent Chief Learning Officer or designee may require an employee to visit a physician selected by the district, 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 Chief Learning Officer or designee may, after giving notice to the employee, deny further leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information.

Any genetic information received by the district 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 ~~shall~~ 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 ~~his/her~~ **the employee's** physician stating that ~~he/she~~ **the employee** is able to return to duty and stipulating any necessary restrictions or limitations.

~~(cf. 4032-~~

~~Reasonable Accommodation)~~

~~(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)~~

## 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 Chief Learning Officer or designee shall:

1. ~~1-~~At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. ~~a-~~That an employee is entitled to accrue, request, and use paid sick days
  - b. ~~b-~~The ~~amount~~**number** of sick days provided by Labor Code 245-249
  - c. ~~c-~~The terms of use of paid sick days
  - d. ~~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 district discriminates or retaliates against ~~him/her~~**the employee**
2. ~~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. ~~3-~~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

~~(cf. 4112.9/4212.9/4312.9 - Employee Notifications)~~

4. ~~4-~~Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

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

### State

5 CCR 5601

### Description

Transfer of accumulated sick leave

Ed. Code 44964	Power to grant leaves of absence for accident, illness, or quarantine
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Ed. Code 44976	Transfer of leave rights when school is transferred to another district
Ed. Code 44977	Salary schedule for substitute employees
Ed. Code 44977.5	Differential pay during parental leave up to 12 weeks after sick leave is exhausted
Ed. Code 44978	Sick leave; certificated employees
Ed. Code 44978.1	Inability to return to duty; placement in another position or on reemployment list
Ed. Code 44978.2	Leave for military service-connected disability
Ed. Code 44979	Transfer of accumulated sick leave to another district
Ed. Code 44980	Transfer of accumulated sick leave to a county office of education
Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44983	Compensation during leave; certificated employees
Ed. Code 44984	Required rules for industrial accident and illness leave
Ed. Code 44986	Leave of absence; state disability benefits
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Lab. Code 220	Sections inapplicable to public employees
Lab. Code 230	Accommodations and leave for victims of domestic violence
Lab. Code 230.1	Employers with 25 or more employees; domestic violence, sexual assault, and stalking victims; right to time off
Lab. Code 233	Leave to attend to family illness
Lab. Code 234	Absence control policy
Lab. Code 245-249	Healthy Workplaces, Healthy Families Act of 2014
<b>Federal</b>	<b>Description</b>
29 CFR 1635.1-1635.12	Genetic Information Nondiscrimination Act of 2008
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
<b>Management Resources</b>	<b>Description</b>
Court Decision	Veguez v. Governing Board of Long Beach Unified School District (2005) 127 Cal.App.4th 406

## Cross References

Code	Description
0470	<del>COVID-19 Mitigation Plan</del> COVID-19 Mitigation Plan
2121	Superintendent's Contract
4032	<del>Reasonable Accommodation</del> Reasonable Accommodation
4112.2	<del>Certification</del> Certification
4112.2	<del>Certification</del> Certification
4112.42	<del>Drug And Alcohol Testing For School Bus Drivers</del> Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.9	Employee Notifications <del>Employee Notifications</del>
4112.9-E PDF(1)	<del>Employee Notifications</del> Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment <del>Temporary Modified/Light-Duty Assignment</del>
4113.5	<del>Working Remotely</del> Working Remotely
4116	Probationary/Permanent Status <del>Probationary/Permanent Status</del>
4116	<del>Probationary/Permanent Status</del> Probationary/Permanent Status
4117.11	<del>Preretirement Part-Time Employment</del> Preretirement Part-Time Employment
4119.41	<del>Employees With Infectious Disease</del> Employees With Infectious Disease
4121	Temporary/Substitute Personnel <del>Temporary/Substitute Personnel</del>
4121	<del>Temporary/Substitute Personnel</del> Temporary/Substitute Personnel
4141.6	<del>Concerted Action/Work Stoppage</del> Concerted Action/Work Stoppage
4141.6	<del>Concerted Action/Work Stoppage</del> Concerted Action/Work Stoppage
4154	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4154	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4157.1	Work-Related Injuries <del>Work-Related Injuries</del>
4157.1	<del>Work-Related Injuries</del>



4159	<del>Employee Assistance Programs</del> Employee Assistance Programs
4161	<del>Leaves</del> Leaves
4161	<del>Leaves</del> Leaves
4161.11	<del>Industrial Accident/Illness Leave</del> <u>Industrial Accident/Illness Leave</u>
4161.2	<del>Personal Leaves</del> <u>Personal Leaves</u>
4161.5	<del>Military Leave</del> Military Leave
4161.8	<del>Family Care And Medical Leave</del> Family Care And Medical Leave
4161.9	<del>Catastrophic Leave Program</del> <u>Catastrophic Leave Program</u>
4161.9	<del>Catastrophic Leave Program</del> Catastrophic Leave Program
4212.42	<del>Drug And Alcohol Testing For School Bus Drivers</del> Drug And Alcohol Testing For School Bus Drivers
<b>4212.42</b>	<b>Drug And Alcohol Testing For School Bus Drivers</b>
4212.9	<del>Employee Notifications</del> Employee Notifications
4212.9-E PDF(1)	<del>Employee Notifications</del> Employee Notifications
4213.4	<del>Temporary Modified/Light-Duty Assignment</del> Temporary Modified/Light-Duty Assignment
4213.5	<del>Working Remotely</del> Working Remotely
4219.41	<del>Employees With Infectious Disease</del> Employees With Infectious Disease
4241.6	<del>Concerted Action/Work Stoppage</del> Concerted Action/Work Stoppage
4241.6	<del>Concerted Action/Work Stoppage</del> Concerted Action/Work Stoppage
4254	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4254	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4257.1	<del>Work-Related Injuries</del> Work-Related Injuries
4257.1	<del>Work-Related Injuries</del>
4259	<del>Employee Assistance Programs</del> Employee Assistance Programs
4261	<del>Leaves</del> Leaves
4261	<del>Leaves</del> Leaves
4261.11	<del>Industrial Accident/Illness Leave</del> Industrial Accident/Illness Leave

4261.2	<del>Personal Leaves</del> Personal Leaves
4261.5	<del>Military Leave</del> Military Leave
4261.8	<del>Family Care And Medical Leave</del> Family Care And Medical Leave
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4317.11	<del>Preretirement Part-Time Employment</del> Preretirement Part-Time Employment
4319.41	<del>Employees With Infectious Disease</del> Employees With Infectious Disease
4354	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4354	<del>Health And Welfare Benefits</del> Health And Welfare Benefits
4357.1	<del>Work-Related Injuries</del> Work-Related Injuries
4357.1	<del>Work-Related Injuries</del>
4359	<del>Employee Assistance Programs</del> Employee Assistance Programs
4361	<del>Leaves</del> Leaves
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4361.11	<del>Industrial Accident/Illness Leave</del> Industrial Accident/Illness Leave
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