

RULE 12

LEAVE OF ABSENCE WITH PAY

1201 Jury Duty and Witness Leave

- A. Leave of absence for jury service except Grand Jury service shall be granted to any classified employee who has been officially summoned to jury duty in local, state, or federal court. Leave shall be granted for the period of the jury service. The employee shall receive full pay while on leave provided that the jury service fee, less mileage and meals allowances paid for such leave, is assigned to and the subpoena or court certification is filed with the District. Request for jury service leave shall be made by presenting the official court summons to jury service to the Human Resources Department.
- B. Leave of absence to serve as a witness in a court proceeding shall be granted an employee when they have been served a subpoena to appear as a witness, not as the litigant in the case. The length of the leave granted shall be for the number of days in attendance of the court. The employee shall receive full pay during the leave period, provided that the witness fee, less mileage and meal allowances paid for such leave, is assigned to and the subpoena or court certification is filed with the District. Request for leave of absence to serve as a witness shall be made by presenting the official court summons to the Human Resource Office.
- C. An employee who has received leave of absence under this rule shall be available for work during the normal workday hours when presence is not required in court.
- D. If the jury service fee or the witness fee is greater than the amount of compensation the employee would have received for working that day, then the District will prorate this fee so that the employee will receive an amount equal to this fee.

1202 Absence for Examination

Every employee in the classified service shall be permitted to be absent from duties during working hours in order to take any examination for promotion in the District without deduction of pay or other penalty, provided that two days' notice is given to the immediate supervisor.

1203 Industrial Accident and Industrial Illness Leave

- A. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of Education Code Sections 44043 and 45192 and this rule.
- B. An employee in the classified service who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the Workers Compensation Insurance Law shall be granted paid industrial accident leave for each such accident or illness provided that they have permanent status. Workers Compensation covers all permanent, voluntary and substitute employees.
- C. Paid industrial accident leave shall be granted, as indicated in the employee's assignment, from the first day of absence to, and including, the last day of absence resulting from each separate industrial illness or industrial injury. A paid industrial accident leave shall be for not more than 60 working days, however, the Governing Board may grant additional industrial accident leave at its discretion. Leave beyond 60 days is paid on a prorated basis as required by law.
- D. The initial 60 days of paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under workers compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled. Upon exhausting all paid leaves, the employee receives payments directly from the workers compensation carrier.
- E. If the employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on paid illness leave if eligible therefore. Accumulated illness leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation without penalties from the Workers Compensation Insurance Fund.
- F. After all paid illness leave has been exhausted following a paid industrial accident leave, an employee may apply for pay from accrued vacation to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance without penalties from the Workers Compensation Insurance Fund.

After the expiration of all paid leave privileges, additional sick leave shall be granted according to Education Code Section 45196 and Section 1208 of the Merit Rules.

- G. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in their former class ahead of any employee with a lesser amount of seniority. If no vacancy exists and the employee does not have seniority on any employee in the class, they may choose to bump other employees over whom they had seniority in a related lower class. If an employee's former class has ceased to exist or no vacancy exists and the employee chooses not to bump other employees or cannot bump other employees because of lack of seniority, then the employee may be reassigned or placed on a suitable reemployment list.
- H. An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. An employee shall continue to receive seniority credit during any time that the employee is in paid status.
- I. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, the employee's name shall be placed on the reemployment list for the class from which they were on leave for a period not to exceed 39 months.
- J. An employee who fails to accept an appropriate assignment after being medically approved shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in the former status and time basis, and in assignment areas in which the employee is available. Employees removed from a reemployment list under this rule may appeal the removal to the Personnel Commission.
- K. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the District shall not, when added to a normal temporary disability allowance award without penalties granted the employee under Workers Compensation Insurance laws, exceed the employee's regular salary. A permanent employee's regular salary is computed on the basis of the number of hours and days in the basic assignment.

Final allowance for permanent industrial disability settlements shall not be subject to remittance to the District under this rule.

- L. When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall, for the same illness or injury, be entitled to use only that amount remaining of the 60 days during the next fiscal year.

1204 Bereavement and Imminent Death Leave

- A. A classified employee who is absent on account of the death of any member of their immediate family shall have no deductions made from their salary, nor shall such leave be deducted from leave granted by other sections of these Merit Rules. The employee shall be entitled to up to five (5) days' leave without loss of pay for each such bereavement. Immediate family members to be defined as: spouse, registered domestic partner, son, daughter, mother, father, aunt, uncle, grandmother, grandfather, grandchild, son-in-law, daughter-in-law, sister, sister-in-law, brother, brother-in-law, step-family, foster children, or any relative living in the immediate household of the employee. Such leave must be taken within forty-five (45) calendar days after the death. Requests to use bereavement leave beyond the forty-five (45) day period will be considered on a case by case basis by the employee's immediate supervisor. If not satisfied with the supervisor's response, the employee may forward their request for consideration and a final decision to either the Executive Director/Director of Human Resources or the Assistant Superintendent-Human Resources. Bereavement leave shall be expanded to, but not to exceed, seven (7) days in the case of a death of a child, spouse, or registered domestic partner. In the case of a funeral of a niece or nephew, the classified employee shall be granted the difference between their salary and the amount paid a substitute, even though the substitute may not be employed. This leave shall not exceed five (5) days per year.

EDUCATION CODE SECTION 45194

- B. Upon election, in case of absence due to serious illness of a member of the immediate family with death imminent, a classified employee shall be granted the difference between his salary and the amount paid a substitute even though the substitute may not be employed, however, the employee may choose to exercise rights under Section 1204.

1205 Personal Emergency Leave-Parent Restricted/School Aide Employees

Any days of absence for illness or injury pursuant to Section 1206, may be used by the employee, at their election, up to a maximum of six days in any fiscal year in cases of personal emergency, including any of the following:

- A. Death of a member of the immediate family when additional leave is required beyond that provided in Section 1204.
- B. Serious illness or injury of a member of the immediate family as defined in Section 1204.

- C. Accident involving person or property, or the person or property of a member of the immediate family as defined in Section 1204.
- D. Such other reasons which may be prescribed by the Governing Board.

Unit members will provide two (2) working days notice to the District in advance of the use of personal necessity leave, except in cases of urgent circumstances. In cases of urgent circumstances, District approval or permission shall not be required.

EDUCATION CODE SECTION 45207

1206 Sick Leave Defined

- A. Sick leave is the authorized absence of an employee because of disability, illness, or injury or exposure to contagious disease.
- B. Sick leave may be used for pregnancy or childbirth when an employee not on maternity leave is absent from their duties as a result of their own maternity-related illness prior to the birth or due to illness or medical or surgical complications subsequent to birth, abortion or miscarriage.
- C. A regular classified employee (probationary and permanent) shall earn paid sick leave in accordance with the provisions of Education Code Sections 45136 and 45191. Unused sick leave may be accumulated without limit.
- D. At the beginning of each fiscal year, the sick leave "bank" of the employee shall be increased by the number of days of paid sick leave which would normally be earned in the ensuing fiscal year. An employee's sick leave "bank" shall be adjusted if a change of assignment alters the amount of sick leave earnable. If an employee terminates prior to the end of the employee's work calendar, any unearned sick leave will be deducted from the employee's final paycheck.
- E. Sick leave may be taken at any time, provided that employees with probationary status may only use six days of paid sick leave during their initial probationary periods.
- F. Pay for any day of sick leave shall be the same pay the employee would have received if the employee had worked that day.
- G. In order to receive compensation while absent on sick leave, the employee must notify the supervisor of the absence at least 1/2 hour prior to the starting time, unless conditions are not practically possible. The burden of proof of hardship conditions shall be upon the employee.

- H. An employee on a leave of absence shall retain unused sick leave. Employees who remain in paid status will continue to accrue sick leave days until they leave paid status.
- I. At least one day prior to the expected return to work, the employee shall notify the supervisor in order that any substitute employee may be terminated. If the employee fails to notify the supervisor and both the employee and the substitute report, the substitute is entitled to the assignment.

EDUCATION CODE SECTIONS 45136, 45191

1207 Accrual of Sick Leave

- A. Classified employees shall be entitled to sick leave without loss of salary at the following rate:
 - 1. Probationary and permanent employees shall earn sick leave at the rate of one day per calendar month and may use sick leave as defined in Section 1206.
 - 2. Limited term employees shall earn sick leave at the rate of one day per calendar month.
 - (a) Limited term employees who are assigned to work less than four consecutive months may not use sick leave.
 - (b) Limited term employees who are assigned four or more consecutive months may use sick leave up to the number of months assigned. However, employees assigned six (6) or more months may only use up to six (6) days of sick leave during the first six (6) months. This provision is waived if the employee working in the provisional and/or emergency appointment is working in these positions in lieu of their normal permanent positions.
 - (c) Earned, unused sick leave for limited term employees shall be credited if subsequently appointed as a probationary employee without a break in service of more than one (1) week.
 - (d) If an employee terminates or is terminated prior to completion of the assignment, and the employee has used sick leave that has not been earned, then the District shall deduct from the employee's pay the full amount of salary which was paid for such unearned days of sick leave taken.

3. Provisional and emergency employees may not use sick leave, however, if the employee is subsequently appointed as a probationary employee without a break in service of more than one (1) week, then the District will grant the employee one (1) day of sick leave per consecutive calendar month worked. This provision is waived if the employee working in the provisional and/or emergency appointment is working in these positions in lieu of their normal permanent positions.
- B. Unlimited accumulations shall be allowed in all sick leave benefits. However, the cumulative aspect of sick leave from year to year is based on accrual at the rate of one day's sick leave per whole month of employment. At least 50% of the number of working days in the calendar month must be in a paid status in order for the employee to earn sick leave for that month.
- C. If an employee leaves the District, accumulated unused sick leave will not be credited to the employee's final payment.

1208 Additional Sick Leave

- A. After exhaustion of paid sick leave, an employee who is ill or injured may, upon request, use accumulated vacation (and compensatory time, if provided) to avoid leave without pay.
- B. When an employee in the classified service is absent from duties on account of illness or accident for a period of five (5) months or less, the employee is entitled to first use up accumulated sick leave and then receive the difference between their salary and the amount actually paid a substitute employee employed to fill the position during their absence.
- C. After exhaustion of all paid leave, a permanent employee may be placed on additional leave upon request, and with the approval of the Governing Board, not to exceed six (6) months. The additional leave may be paid or unpaid and may be extended for two (2) additional periods of six months but not to exceed a total of 18 months. If placed on unpaid leave, the employee shall not again become eligible for paid leave because of the commencement of a new fiscal year until they have rendered service.
- D. Upon certification from a physician, an employee who is compelled to be absent from duties because of quarantine which results from contact with other persons having a contagious disease while performing their duties or because of temporary inability to perform the services required because of quarantine, the employee will be allowed full pay during the period of enforced quarantine even though this is greater than the employee's accumulated sick leave.

EDUCATION CODE SECTION 45195

1209 Termination of Sick Leave

- A. An employee who has been placed on paid or unpaid sick leave may return to duty at any time during the leave, provided the employee is able to resume the assigned duties and provided that the employee has notified the District of return at least one working day in advance.
- B. If, at the conclusion of all sick leave and additional leave, paid or unpaid, granted under this rule, the employee is still unable to assume the duties of the position, the employee will be placed on a re-employment list for a period of 39 months in the same manner as if laid off for lack of work or lack of funds.

1210 Transfer of Sick Leave from Another District

A classified employee of another school district who has been an employee of that district for a period of one calendar year or more and who terminates employment with that district for the sole purpose of accepting a classified position with this District and who subsequently, within one year of termination of former employment, accepts a classified position in this District, shall be credited with all of the earned but unused sick leave which was credited in the former school district.

EDUCATION CODE SECTION 45202

1211 Vacations--For Parent-Restricted/School Aide Employees

- A. All Parent Restricted/School Aide employees shall be allowed a vacation with pay on the following basis:

Vacation credit for employees shall be accrued as follows:

1 through 4 full years of service accrue 1-day credit/month;
5 through 7 full years of service accrue 1-1/4 days credit/month;
8 through 12 full years of service accrue 1-1/2 days credit/month;
13 through 17 full years of service accrue 1-3/4 days credit/month;
18 through 24 full years of service accrue 2 days credit per month;
25 or more full years of service accrue 2 days credit per month plus one (1) additional day for the year at or beyond 25 years of service for maximum of 25 days per year.

- B. Eligibility for Vacation--Employees with either probationary or permanent status are eligible to earn paid vacations in limited term, provisional, or emergency assignments as well as in their regular assignment.
- C. When Vacation Is Taken
1. Vacation shall be taken only at times approved by the Superintendent or delegated representative. Vacations shall be scheduled at the convenience of the District and as nearly as possible at the convenience of the employee.
 2. Employees whose regular assignments are less than twelve (12) months shall earn vacation, and it shall be taken by them during the Winter and/or Spring recess period; or they may be allowed by mutual agreement to take such vacation at other times when it will least affect the efficiency of the school or department; or, with the approval of the Superintendent or delegated representative, they may be paid in cash due them. Any such employee may be required by the District to take specific days as vacation.
 3. Earned vacation shall not become a vested right until completion of the initial six (6) months of employment.
 4. An employee may be granted vacation during the school year even though not earned at the time the vacation is taken.
 5. If an employee is terminated and had been granted vacation which was not yet earned at the time of the termination of their services, the District shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.
 6. Upon separation from service, each employee shall be entitled to lump sum compensation for all earned and unused vacation, except an employee who has not completed six (6) months of employment in regular status, shall not be entitled to such compensation.
 7. All vacation earned by all employees in the previous fiscal year shall be taken before July 1 of the following fiscal year, unless approved for continuation or pay by the District.
 8. No deduction shall be made from the vacation credit of any employee for approved District holidays occurring during the assigned vacation period of the employee.
 9. The District may allow permanent employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return

to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination.

10. No vacation shall be taken at a lesser rate than 1/2 day at a time.

11. The rate at which vacation is paid shall be the employee's rate of pay earned at the time the vacation is commenced.

12. Upon termination, an employee shall be compensated for accumulated vacation at the current rate of pay.

- D. An employee absent on leave without pay or an employee laid off for lack of funds shall not accumulate vacation credit during the period of absence from active service.
- E. Every employee who is a member of the National Guard or Naval Militia, or a member of the Reserve Corps or Force in the Federal Military, Naval or Marine service, and who is granted a military leave of absence, shall be granted all vacation privileges provided by the Military and Veteran's Code, Sections 389 and 395.

EDUCATION CODE SECTIONS 45190, 45197

1212 Leave of Absence for Study With Pay

- A. Every regular classified employee who has completed seven (7) consecutive years of service in regular status with the District shall be eligible to apply for a leave of absence for study purposes. The purpose of the study leave should directly benefit the School District and must be related to current or anticipated job performances. The granting of such leave shall be entirely discretionary with the Governing Board. When a study leave has been authorized and taken, an additional seven (7) years of service, after return to duty from the last leave, must be completed before another study leave may be granted.
- B. Study leave can be for any period of time not to exceed one (1) year and may be taken in any time increments as approved by the Governing Board, but must be completed within three (3) years after the initial part of the leave was commenced. If the leave is not continuous, the service performed between the leave intervals shall be credited toward future study leave eligibility.
- C. Any leave granted and taken under this rule shall not constitute a break in service for any purpose, but the leave time shall not count toward eligibility for a future study leave.

- D. The employee must file an application with the Governing Board for a leave of absence under this rule and must outline:
1. The employee's work history with the District (e.g., positions held and length of service in each).
 2. Length of leave requested and time period in which the leave will be completed, if granted.
 3. The purpose for which the leave is requested. The application must include the complete course of study to be pursued, institution giving the course, costs involved, degree or credits to be granted, and other pertinent data.
 4. Amount of compensation requested while on leave.
 5. Service, if any, to be performed by the employee for the District during the leave.
 6. The benefits to be derived by the District by the granting of the leave.
 7. Willingness by the employee to provide a bond to the District as required by law which shall bring the amount of the total salary to become due to the employee during the leave of absence or the waiver of the bond by the Superintendent if they find the interests of the District will be protected by the written agreement of the employee. The agreement by the employee that they will serve the District for at least two (2) years after termination of the leave or will indemnify the District in the event of failure through their own fault to fulfill the agreement.
 8. Willingness to provide the District evidence of satisfactory study progress at agreed intervals during the leave. Failure to provide such evidence or to make satisfactory progress may, at the option of the District, result in immediate cancellation of the leave.
 9. Agreement by the employee that they will report any employment during the leave to the Governing Board who shall determine whether conflict exists with the purpose of the leave.
- E. If a leave is granted under this rule, the employee will be paid as a minimum, the A-Step of the first salary range currently used. In lieu of the minimum, the Board and employee may agree, in writing, to greater compensation. If the Board approves compensation greater than the minimum, it shall be not less than 1/2

of the employee's normal rate of compensation and not more than full compensation.

EDUCATION CODE SECTION 45383

- F. Compensation shall be paid as follows:
 - 1. The employee shall provide a required bond or acceptable agreement if approved by the Superintendent and then the employee shall be paid the agreed upon compensation in the same manner as if they were in active service with the District. If the employee fails to complete two (2) years of service for the District following return from leave, except as provided below, they may be required to refund to the District a prorated portion of any compensation received while on leave.
 - 2. An employee who has provided a bond and fails to complete the required two (2) years of service because of death or physical or mental disability shall be exonerated in the same manner as if the required service had been performed.
- G. Upon return to employment from the study leave, the employee shall be returned to a position within the classification.

1213 Leave of Absence for Retraining

In the event the Governing Board contemplates the abolition of positions in the classified service and creation of new positions because of automation, technological improvements, or for any other reason, it may provide for retraining of displaced employees in accordance with this rule for a maximum of one (1) year.

- A. To be eligible for retraining leave, an employee must:
 - 1. Have served at least three (3) years in the District.
 - 2. Be serving a position which the District contemplates abolishing, or
 - 3. Show that the retraining will clearly benefit the District.
 - 4. Indicate a willingness to serve the District for at least two (2) years after successful completion of the retraining program and provide a bond.

- B. The Governing Board shall prescribe the retraining program and may provide the program internally or designate the institution or place where the program is to be given.
- C. The employee shall be considered a permanent employee for all purposes during the period of the retraining program and shall be paid regular compensation and benefits. The Board may prescribe duties, if any, to be performed by the employee on behalf of the District during retraining leave.
- D. The Board may establish retraining programs for purposes other than outlined in this rule and grant leaves of absence for retraining in the same manner as for study leaves of absence, except that the three (3) year service requirement shall prevail. Such programs shall be discretionary with the Governing Board and shall be in accordance with rules and regulations governing employee seniority rights.

EDUCATION CODE SECTION 45381

1214 Leave of Absence to Attend Conferences

Upon approval of the Superintendent of schools, a classified employee may be allowed to attend professional meetings, conferences or institutes, with full salary paid.

1215 Maternity and Paternity

One (1) day's leave of absence with pay is authorized upon the occasion of the birth of an employee's child.

1216 Maternity Leave

- A. An expectant mother may continue working prior to delivery as long as their doctor certifies that they are physically and emotionally able to perform their duties.
- B. Maternity leave without pay may be requested by the expectant mother. Maternity leave may be taken at any time prior to delivery. The doctor's statement of expected date of delivery shall be submitted to administration at the time of request for leave, unless prohibited by the employee's religious beliefs.
- C. Following the birth of a child, the employee may return to a position within their classification as soon as their doctor supplies a written release stating that they are able to resume their duties. Employees on maternity leave must provide the District with a notice of intent to return to work. For leaves of more than 30

days, this notice of intent to return must be received prior to the intended date of return.

- D. Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are temporary disabilities and are covered under the Merit System's sick leave provisions, Sections 1206, 1207 and 1208.

EDUCATION CODE SECTION 45193

1217 Verification of Leave

The District may require proof that any leave taken is consistent with these Merit System leave rules.

1218 Holiday, Sick, and Vacation Leave for Employees Working in Limited Term Classified Management or Confidential Positions

- A. Shall be entitled to payment for authorized holidays, provided that such employee is in a paid status during any portion of the working day immediately preceding and succeeding the holiday.
- B. Those employees who are assigned or work for less than four (4) months may not use sick/vacation leave. Those employees who are assigned or work for four (4) or more consecutive months may use sick/vacation leave up to the number of months assigned.
- C. Shall earn vacation leave according to the current District Management and Confidential Salary Schedule.
- D. Shall earn sick leave at the rate of the equivalent of one (1) work day per calendar month.
- E. Earned, unused sick/vacation leave shall be credited if subsequently appointed into a regular position without a break in service of more than one (1) week.
- F. If the employee terminates prior to completion of the assignment after having used sick/vacation leave that has not been earned, the employee's pay shall be docked the full amount of wages paid for the unearned days of sick/vacation leave taken.
- G. If the employee terminates prior to or upon completion of the assignment and the employee works four (4) or more consecutive months, then the employee will be compensated for vacation earned but not used. The employee will not receive compensation for unused sick leave.

1219 Baby Bonding Leave (as required by law; per Gov Code 12945)

An employee who is the natural or adoptive parent of a child shall be entitled to a paid leave of absence for the purpose of bonding with their child. Such leave shall be in minimum increments of two (2) weeks, or ten (10) working days, for a total of sixty (60) working days and shall be granted upon giving the District four (4) weeks' notice prior to the anticipated date on which the leave is to commence. However, employees are entitled to take leave on two separate occasions for a period of less than two (2) weeks. Leave for these purposes may be taken within one (1) year of the child's birth or placement of the adoptive parent. The District will follow all statutory requirements surrounding bonding leaves.

1220 Family Illness Leave (as required by law)

During any calendar year employees are entitled to use up to one-half of their annual entitlement to sick leave as described in Merit System Rule 1206 to attend to an illness of a child, parent, or spouse of the employee. For the purposes of this provision a "child" is defined as a biological, foster, or adopted child; a stepchild, a legal ward, or a child of a person standing in *loco parentis*; a "parent" is defined as a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

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