



~~ABSENCE REPORTING~~ *Certificated Personnel - Leaves and Absences*

Certificated employees working five school days per week are entitled to 10 days leave of absence for personal illness or injury (sick leave) per school year, with full pay. Employees working 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 who is entitled to less than three days of paid sick leave due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246. (Education Code 44978)

Certificated employees may use sick leave for absences due to:

- 1. Temporary inability to perform assigned duties because of illness, accident, or quarantine, whether or not the cause of the absence arises out of and in the course of employment. (Education Code 44964)*
- 2. Pregnancy, miscarriage, childbirth, and related recovery. (Education Code 44965, 44978)*
- 3. Personal necessity. (Education Code 44981)*
- 4. Medical and dental appointments.*
- 5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted. (Education Code 44984)*
- 6. Illness of the employee's child, parent, spouse, grandparent, grandchild, sibling, domestic partner, or domestic partner's child for up to the amount of sick leave that would be accrued by the employee during six months at his/her then current rate of entitlement. (Labor Code 233 (formerly AB109))*
- 7. Diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or his/her family member as defined in Labor Code 245.5 Healthy Families Act 2014. (Labor Code 246.5)*
- 8. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking. (Labor Code 246.5)*

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 or separation.

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)

Notification of Absence

An employee shall notify the District of his/her need to be absent as soon as such need is known, so that substitute services may be secured if a substitute is required, or to determine the need for a substitute. 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 intends to return to work.

When it is known or anticipated that any employee is to be absent from the District for a period of more than five days, the Human Resources office *and the employee's direct supervisor* must be notified in writing by the employee. ~~followed by a confirming absence form signed by the employee and site program administrator.~~

All absences shall be reported via the District's attendance and *substitute assignment calling* system. *For positions requiring a substitute, the absence must be reported a minimum of one hour prior to absence so that substitute services may be secured in advance of the absence.*

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 injury, continues to be absent from his/her duties for an additional period up to five school months, the employee shall receive his/her regular salary minus 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 injury. 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)

If a certificated employee is not medically able to resume his/her duties after the five-month period, pursuant to Education Code 44977, the employee shall be placed 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 shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

Verification Requirements

After any absence due to illness, injury or personal necessity, the employee may be required to verify the absence by Human Resources or his/her immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or other authorized health care provider. Such verification shall be required whenever an employee's absence record shows chronic absenteeism or a pattern of absences, immediately before or after weekends and/or holidays, for example, or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent 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 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.

If the employee is unable to establish proof of illness within five days after returning to work, the absence will be considered unauthorized, and the employee will be deducted their per diem rate of pay for each day of absence where the cause remains undocumented to the District's satisfaction.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit written documentation from his/her physician stating that he/she is able to return to duty and stipulating any necessary restrictions or limitations.

Healthy Workplaces, Healthy Families Act Requirements

No employee shall be denied the right to use accrued sick days and the 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 or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days.
 - b. The amount of sick days provided by Labor Code 245-249.
 - c. The terms of use of paid sick days.
 - d. That discrimination or retaliation against an employee for requesting or using sick leave is prohibited by law and an employee has the right to file a complaint with the Labor Commissioner if the District discriminates or retaliates against him/her.
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. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years.

Short-Term and Substitute Employees

Any short-term or substitute employee who works for 30 or more days within a year of his/her employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Such employee may begin to use accrued paid sick days on the 90th day of his/her employment, after which he/she may use the sick days as they are accrued. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours.
(Labor Code 246)

A short-term or substitute employee may use accrued sick leave for absences due to any condition specified in Labor Code 246.5.

Employees Paid Exclusively Via Stipend

Employees who are compensated exclusively via a periodic stipend rather than on an hourly, daily, or other salary basis are eligible to be credited with three days of sick leave each year. (Labor Code 246) For these employees only, one day of sick leave means a day on which the employee is regularly scheduled to work in the stipended assignment, but is unable to work due to one of the reasons described under Use of Paid Sick Leave under Healthy Workplaces, Healthy Families Act Requirements.

When an eligible employee in a stipended assignment uses up to three days of sick leave per school year, the employee's total stipend will not be reduced as a result of the absences.

Except as stated in this section, all other provisions of this Administrative Regulation apply equally to employees in stipended assignments.

Legal Reference:

EDUCATION CODE

44964 *Power to grant leave of absence in case of illness, accident, or quarantine*

44965 *Granting of leaves of absence for pregnancy and childbirth*

44976 *Transfer of leave rights when school is transferred to another district*

44978 *Provisions for sick leave of certificated employees*

44978.1 *Inability to return to duty; placement in another position or on reemployment list*

44979 *Transfer of accumulated sick leave to another district*

44980 *Transfer of accumulated sick leave to a county office of education*

44981 *Leave of absence for personal necessity*

44983 *Exception to sick leave when district adopts specific rule*

44984 *Industrial accident or illness*

44986 *Leave of absence for disability allowance applicant*

LABOR CODE

220 *Sections inapplicable to public employees*

230 *Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off*

233 *Illness of child, parent, spouse or domestic partner*

234 *Absence control policy*

245-249 *Healthy Workplaces, Healthy Families Act of 2014*

CODE OF REGULATIONS, TITLE 5

5601 *Transfer of accumulated sick leave*

COURT DECISIONS

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

(3/02 7/10)
