

Regulation 4261.2: Personal Leaves

Status: ADOPTED

Original Adopted Date: 11/13/2013

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.

(cf. 4121 - Temporary/Substitute Personnel)

Bereavement

Employees are entitled to a leave of up to three days, or five days if 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)

(cf. 4161/4261/4361 - Leaves)

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

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse
2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister
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 seven days of their accrued personal illness/injury leave during each school year for reasons of personal necessity. (Education Code 44981, 45207)

(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. 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)
2. An accident involving 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. A serious illness of a member of the certificated employee's immediate family (Education Code 44981)

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

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. Fire, flood, or other immediate danger to the home of the employee
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 or designee. However, no such leave shall 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 or designee shall have final discretion as to whether a request reflects personal necessity.

Advance permission shall not be required of any employee in cases 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 immediate family, or the serious illness of a member of his/her immediate family. (Education Code 44981, 45207)

However, the employee shall notify the Superintendent 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 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 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)

A certificated employee also shall be granted leave for jury duty with pay up to the amount of the difference between his/her regular earnings and any amount received for jury fees.

Employees shall be granted leave to appear in court as witnesses other than litigants 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 employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

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, 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 his/her supervisor 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 or Sexual Assault

An employee who is a victim of domestic violence or sexual assault as defined by law may use vacation, personal leave, or compensatory time off that is otherwise available to him/her under the terms of his/her employment to attend to the following activities: (Labor Code 230, 230.1)

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 child

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

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, 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 documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

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

Personal Leave for a Child's School Activities

Any employee who is a parent/guardian, or grandparent having custody, of one or more children who are enrolled in grades K-12 or who attend a licensed day care facility 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)

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

If both parents/guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/guardian who applies. Simultaneous absence by the second parent/guardian may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility 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 district in writing of the service.
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. 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)

(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 organization. The employee organization shall provide reasonable notification to the Superintendent 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 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 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 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 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 spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her 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)

An employee who is a volunteer firefighter 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 or law enforcement 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, 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 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 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 References

CA Constitution Article 1, Section 8

Ed. Code 44036-44037

Ed. Code 44963

Ed. Code 44981

Ed. Code 44985

Ed. Code 44987

Ed. code 44987.3

Ed. Code 45190

Ed. Code 45194

Ed. Code 45198

Ed. Code 45207

Ed. Code 45210

Ed. Code 45240-45320

Evid. Code 1035.2

Evid. Code 1037.1

Fam. Code 297-297.5

Gov. Code 12945.1-12945.2

Gov. Code 3543.1

Lab. Code 1500-1507

Lab. Code 230-230.2

Lab. Code 230.3

Lab. Code 230.4

Lab. Code 230.8

Lab. Code 233

Lab. Code 234

Lab. Code 246.5

M&V Code 395.10

Pen. Code 1192.7

Pen. Code 667.5

Federal References

29 USC 2601-2654

42 USC 2000d-2000d-7

Management Resources References

Court Decision

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 \(certificated\)](#)

[Service as officer of employee organization \(certificated\)](#)

[Leave of absence to serve on certain boards, commissions, etc.](#)

[Leaves of absence and vacations \(classified\)](#)

[Bereavement leave of absence \(classified\)](#)

[Effect of provisions authorizing leaves of absence](#)

[Personal necessity \(classified\)](#)

[Service as officer of employee organization \(classified\)](#)

[Merit system](#)

[Sex assault counselor; definition](#)

[Domestic violence counselor; definition](#)

[Rights, protections, benefits under the law; registered domestic partners](#)

[California Family Rights Act](#)

[Rights of employee organizations](#)

[Civil Air Patrol leave](#)

[Leaves for victims of domestic violence, sexual assault or specified felonies](#)

[Leave for emergency personnel](#)

[Leave for volunteer firefighters](#)

[Time off to visit child's school](#)

[Illness of child, parent, spouse or domestic partner](#)

[Absence control policy](#)

[Paid sick days, purposes for use](#)

[Leave when spouse on leave from military deployment](#)

[Plea bargaining limitation](#)

[Prior prison terms, enhancement of prison terms](#)

Description

[Family Care and Medical Leave Act](#)

[Title VII, Civil Rights Act of 1964](#)

Description

[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	California Public Employment Relations Board
Website	California Federation of Teachers
Website	California School Employees Association
Website	California Teachers Association

Cross References

Description

4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4140	Bargaining Units
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4143	Negotiations/Consultation
4161	Leaves
4161	Leaves
4161.1	Personal Illness/Injury Leave
4161.8	Family Care And Medical Leave
4240	Bargaining Units
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4243	Negotiations/Consultation
4261	Leaves
4261	Leaves
4261.1	Personal Illness/Injury Leave
4261.8	Family Care And Medical Leave
4340	Bargaining Units
4361	Leaves
4361	Leaves
4361.1	Personal Illness/Injury Leave
4361.8	Family Care And Medical Leave
5148	Child Care And Development