

Regulation 4161.2: Personal Leaves

Status: DRAFT

Original Adopted Date: 10/05/2010 | Last Revised Date: 02/15/2011 | Last Reviewed Date: 02/15/2011

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 or instructions **as applicable**, for a substitute employee. ~~Unless stated otherwise, certificated management, and supervisory employees shall be entitled to those leave provisions provided in the certificated collective bargaining agreement.~~

Bereavement

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required ~~(or exceeds one way travel of 325 miles),~~ 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)

Members of an employee's immediate family include: (Education Code 44985, 45194)

~~Members of the immediate family include (unless stated otherwise by contract): (Education Code 44985, 45194)~~

1. The mother, **mother-in-law**, father, **father-in-law**, 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 below. ~~(Education Code 44981, 45207)~~ **in the section "Personal Necessity" below. (Education Code 44981, 45207)**

Personal Necessity

Employees may use a maximum of seven days of 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:

Personal Necessity

1. Classified employees may use a maximum ~~Death~~ of seven **a member of the employee's immediate family when the number of days of their accrued personal sick absence exceeds the limits set by bereavement** leave during each school year for reasons of personal necessity. ~~provisions~~ (Education Code ~~44981, 45207~~)
2. **An accident involving the employee or the employee's property, or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)**
3. **Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; Labor Code 246.5)**
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, 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 or designee shall have final discretion as to whether a request reflects personal necessity.

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

For any leave that is planned, or for which the need is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, 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 the employee's immediate supervisor.

Leave to Perform 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. Certificated, management and non-represented employees may use up to 10 days of their accrued personal sick leave during each contract year for reasons of personal necessity. (Education Code 44981)

After any absence due to personal necessity, the employee shall verify the absence by submitting a signed district absence verification form to his/her immediate supervisor.

Legal Duties

Classified employees

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)
Certificated employees

A certificated employee who is called for jury duty also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount jury fees received as juror's fees. Employees. (Education Code 44036)

An employee shall be granted leave with pay to appear in court as witnesses a witness other than litigants 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 employees an employee shall receive pay up to the amount of the difference between the employee's regular earnings and any amount witness fees received. (Education Code 44036)

Leaves for witness fees: 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 such victim may be absent from work in order to attend related judicial proceedings, if the crime is any of the following: (Labor Code 230.2)

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.

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, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim 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; ~~or unpaid leave.~~ (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor ~~the Superintendent 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)~~ **(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 Crime or Abuse

An employee who is a victim of domestic violence, sexual assault, 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, 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 the employee to attend to the following activities: (Labor Code 230, 230.1, 246.5)

The district shall keep confidential any records pertaining to the employee's absence from work. ~~(Labor Code 230.2)~~
Leaves for Victims of Domestic Violence or Sexual Assault

1. An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to ~~obtain~~ **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. ~~(Labor Code 230)~~

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

2. Seek medical attention for injuries caused by domestic violence or sexual assault **crime or abuse**
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 ~~the crime~~ or sexual assault ~~abuse~~
4. Obtain psychological counseling **or mental health services** related to an experience of domestic violence or sexual assault **crime or abuse**
5. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual

assault ~~crime or abuse~~, including temporary or permanent relocation

~~An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)~~

~~Prior to taking time off, an employee shall give reasonable notice to his/her supervisor~~ **the Superintendent 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 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~~ **the crime or abuse**, 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, 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 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 act of domestic violence or sexual assault 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 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 one or more children who are enrolled in of an age to attend any of grades K-12; or who attend a program offered by a licensed day child 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, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8); (Labor Code 230.8)~~

- ~~1. If both~~ **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
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- d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
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- 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 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 or designee. (Labor Code 230.8)

Upon request by the Superintendent 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, and State or Employee Organizations

Upon request, ~~a~~ **certificated employees** **employee** shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees **board, commission, committee,** or groups **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 **inwithin** the state of California.
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 and/or~~ **classified employees** **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 local organization is affiliated. **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. (Education Code 44987, 45210)

Spouse on Leave from Military Deployment
on which the employee serves as an officer. (Education Code 44987, 45210)

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 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 ~~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)

The employee shall provide the Superintendent or designee with notice, within

Within two business days of receiving official notice that his/her ~~the employee's~~ spouse will be on leave from deployment, of his/her ~~the employee~~ **shall provide the Superintendent or designee with notice of 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)

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Any employee who **is 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 or, 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 employees ~~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 emergency operational 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 -

<https://simbli.eboardsolutions.com/SU/aVyer3HNWhenL24lj43Z8w==>

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 VI, 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	CSBA District and County Office of Education Legal Services - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsIshXk6R5akQ==
Website	California Department of Industrial Relations - https://simbli.eboardsolutions.com/SU/Lh5JVplusYhNJm5slshcgG07zsOQ==
Website	California Federation of Teachers - https://simbli.eboardsolutions.com/SU/6TJInbikoQhGwsWiH4ztXQ==
Website	California Public Employment Relations Board - https://simbli.eboardsolutions.com/SU/7Fndg3k626KwCb511Tslsh2ew==
Website	California School Employees Association - https://simbli.eboardsolutions.com/SU/NOB1plusNOcLNRMHnggHE1slshjg==
Website	California Teachers Association - https://simbli.eboardsolutions.com/SU/w58tUBBtGnaF0rMUPlwN0g==

Cross References

Description

2121	Superintendent's Contract - https://simbli.eboardsolutions.com/SU/3jnAT52i7xoxtsIshnloobqpg==
4112.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/TOwynt27j11e84Ed9go0cQ==
4121	Temporary/Substitute Personnel - https://simbli.eboardsolutions.com/SU/DcCmKPh09vg5JzXomtjUHA==
4121	Temporary/Substitute Personnel - https://simbli.eboardsolutions.com/SU/YykFd9RvVplus6GgB2BddENyw==
4140	Bargaining Units - https://simbli.eboardsolutions.com/SU/Me9RciM9hArmlwaa2ObDsQ==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/NKJ0gbceQH90dq6IFUplus5tQ==
4158	Employee Security - https://simbli.eboardsolutions.com/SU/jVIXyG8eRmdszhOgitD39Q==
4161	Leaves - https://simbli.eboardsolutions.com/SU/L0sa8HPNFIz43P87NscBIA==
4161.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/pBT8qcBchpd9Nretl5tpDQ==
4161.8	Family Care And Medical Leave - https://simbli.eboardsolutions.com/SU/dkzM3sFaSMA9NvtdslshHt2slshw==
4212.9	Employee Notifications - https://simbli.eboardsolutions.com/SU/OZJclXM1TTrTf1O5E1AArg==
4212.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/cXGwH831aenCNbQC6jA3hQ==
4240	Bargaining Units - https://simbli.eboardsolutions.com/SU/Q7v5ZHk0L1RKpslbbtMO3w==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/l328lb63xslshlLEHOplusHgt9TA==
4258	Employee Security - https://simbli.eboardsolutions.com/SU/OUbvzplusKzjIWXh2CPHfPslsh8A==
4261	Leaves - https://simbli.eboardsolutions.com/SU/4qNFHJIV4UumHJslshBCRwvlQ==
4261.1	Personal Illness/Injury Leave - https://simbli.eboardsolutions.com/SU/NbmFlv1J1eoV9plusRT1mhpfw==

4261.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/RxAOPGwtmmyMLo5slshskLOtA==>

4312.9 Employee Notifications -
<https://simbli.eboardsolutions.com/SU/a1UsQLi9B3PWIEPE2MJvAQ==>

4312.9-E PDF(1) Employee Notifications -
<https://simbli.eboardsolutions.com/SU/s7slshgH4vgvvlStF0p9iUWHA==>

4340 Bargaining Units -
<https://simbli.eboardsolutions.com/SU/tg00qOmHqwH523KetmcluA==>

4358 Employee Security -
<https://simbli.eboardsolutions.com/SU/GCLlslshdWylslshTslshf5SyRDaxw==>

4358 Employee Security -
<https://simbli.eboardsolutions.com/SU/jVDlinrb9XSM3NqmaoQUYw==>

4361 Leaves -
<https://simbli.eboardsolutions.com/SU/aEjmtRLplusieVJXslshzbK5PtXg==>

4361.1 Personal Illness/Injury Leave -
<https://simbli.eboardsolutions.com/SU/et11turBC71j4hKK2A3r6A==>

4361.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/14pPp1TwnNK12lxOlrqSnw==>

5148 Child Care And Development -
<https://simbli.eboardsolutions.com/SU/6OHKRr8DxSxpoGUQD9PpvQ==>

5148 Child Care And Development -
<https://simbli.eboardsolutions.com/SU/PpTmuBb0jx1Tkuh4GaGhow==>