

**All Personnel**

BP 4156.3

4256.3

**EMPLOYEE PROPERTY REIMBURSEMENT**

4356.3

The Board of Trustees does not authorize payment for the reimbursement of employee personal property which may be stolen or intentionally destroyed or damaged while being used for work-related purposes.

*Legal Reference:*

EDUCATION CODE

*35213 Reimbursement for loss, destruction or damage of personal property*

*48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts*

CIVIL CODE

*1714.1 Liability of parent or guardian for act of willful misconduct by a minor*

**All Personnel**

BP 4157(a)  
4257  
4357

**EMPLOYEE SAFETY**

The Board of Trustees is committed to maximizing employee safety and believes that safety is every employee's responsibility. Working conditions and equipment shall be maintained in compliance with standards prescribed by federal, state and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and to correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practice through education, training and enforcement.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

*(cf. 3514 - Environmental Safety)*

*(cf. 3514.1 - Hazardous Substances)*

*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

*(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)*

*(cf. 4119.43/4219.43/4319.43 - Universal Precautions)*

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

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4158/4258/4358 - Employee Security)*

The Board shall ensure that the Superintendent or designee provides eye protective devices as specified in law and administrative regulation.

No employee shall be discharged or discriminated against for making complaints, instituting proceedings or testifying with regard to employee safety or health, or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

*Legal Reference: (see next page)*

## **EMPLOYEE SAFETY (continued)**

### *Legal Reference:*

#### EDUCATION CODE

32066 *Safety: public and private institutions*

#### LABOR CODE

6305 *Occupational safety and health standards; special order*

6310 *Retaliation for filing complaint prohibited*

6401.7 *Injury prevention programs*

6400-6413.5 *Responsibilities and duties of employers and employees*

#### CODE OF REGULATIONS, TITLE 8

3203 *Injury and illness prevention program*

5095-5100 *Control of noise exposure*

#### CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 *Noise standards*

### *Management Resources:*

#### CAL/OSHA PUBLICATIONS

*Guide to Developing Your Workplace Injury and Illness Prevention Program, revised April 1998*

#### DHHS PUBLICATIONS

*Preventing Occupational Hearing Loss - A Practical Guide, June 1996, Department of Health and Human Services (National Institute for Occupational Safety and Health)*

#### WEB SITES

*OSHA: <http://www.osha.gov>*

*Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)*

*Centers for Disease Control and Prevention: <http://www.cdc.gov>*

*National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>*

*National Hearing Conservation Association: <http://www.hearingconservation.org>*

**All Personnel**

AR 4157(a)

4257

**EMPLOYEE SAFETY**

4357

The Superintendent or designee shall provide safety devices, safeguards, methods and processes for staff that are reasonably adequate to render the employment and place of employment safe.

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

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

**Injury and Illness Prevention Program**

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include but not be limited to:
  - a. Recognition of employees who follow safe and healthful work practices

*(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)*

- b. Training and retraining programs
  - c. Disciplinary actions

*(cf. 4117.4 - Dismissal)*

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

3. A system for communicating with employees in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. This system may include but not be limited to:
  - a. Meetings
  - b. Training programs

**EMPLOYEE SAFETY** (continued)

- c. Posting
  - d. Written communications
  - e. A system of anonymous notification by employees about hazards
  - f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
- a. Whenever introducing into the workplace new substances, processes, procedures or equipment that represent a new occupational safety or health hazard
  - b. Whenever the district is made aware of a new or previously unrecognized hazard

*(cf. 3514 - Environmental Safety)*  
*(cf. 3514.1 - Hazardous Substances)*

5. A procedure for investigating occupational injury or illness.
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices and work procedures in a timely manner based on the severity of the hazard when observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Training and instruction:
- a. To all new employees
  - b. To all employees given new job assignments for which training has not previously been received
  - c. Whenever new substances, processes, procedures or equipment are introduced into the workplace and represent a new hazard

**EMPLOYEE SAFETY** (continued)

- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To familiarize supervisors with the safety and health hazards to which employees under their immediate direction and control may be exposed

*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*

Records of the steps taken to implement and maintain the injury and illness prevention program shall be kept in accordance with 8 CCR 3203.

**Labor/Management Safety and Health Committee**

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by Cal/OSHA upon request. These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA

**EMPLOYEE SAFETY** (continued)

**Hearing Protection**

When information indicates that any employee's exposure to noise may equal or exceed an eight-hour average sound level of 85 decibels, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations. (8 CCR 5097, 29 CFR 1910.95)

**Eye Safety Devices**

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030)

Such activities include, but are not limited to, the following: (Education Code 32031)

1. Working with hot molten metal
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials
3. Heat treating, tempering, or kiln firing of any metal or other materials
4. Gas or electric arc welding
5. Repair or servicing of any vehicles, machinery or equipment
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means

*(cf. 5142 - Safety)*

**All Personnel**

BP 4157.1

4257.1

**WORK-RELATED INJURIES**

4357.1

The Board of Trustees desires to provide its employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process in order to reduce costs and facilitate employee recovery.

*(cf. 3320 - Claims and Actions Against the District)*

*(cf. 4032 - Reasonable Accommodation)*

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

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

*(cf. 4157/4257/4357 - Employee Safety)*

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

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

*(cf. 4261.11 - Industrial Accident/Illness Leave)*

An employee shall report any work-related injury or illness to his/her supervisor as soon as practicable. Upon learning of an injury, a supervisor shall promptly report the incident to the Superintendent or designee and the insurance carrier as appropriate.

The Superintendent or designee shall ensure that every new employee is notified of his/her right to receive workers' compensation if injured at work and that injured employees are given notice of rights in accordance with law.

The Superintendent or designee shall ensure that notifications regarding workers' compensation are posted in accordance with law.

*Legal Reference:*

EDUCATION CODE

*44984 Industrial accident and illness leaves, certificated employees*

*45192 Industrial accident and illness leaves, classified employees*

LABOR CODE

*3200-4855 Workers' compensation, especially:*

*3550-3553 Employee notice*

*3600-3605 Conditions of liability*

*3760 Report of injury to insurer*

*4600 Provision of medical and hospital treatment by employer*

*4906 Disclosures and statements*

*5400-5413 Notice of injury or death*

*6409.1 Reports*

CODE OF REGULATIONS, TITLE 8

*15596 Notice of employee rights*

*Management Resources:*

WEB SITES

*California Department of Industrial Relations: <http://www.dir.ca.gov>*



**All Personnel**

AR 4157.2(a)

4257.2

**ERGONOMICS**

4357.2

To minimize employees' risk of repetitive motion injuries (RMIs), the Superintendent or designee shall implement an ergonomics program whenever two or more RMIs from an identical work activity have been reported by district employees within a 12-month period beginning July 3, 1997. In addition, all reported injuries must satisfy all of the following conditions: (8 CCR 5110)

1. The RMIs were predominantly caused (i.e., 50 percent or more) by a repetitive job, process or operation.
2. The employees incurring the RMIs were performing a job process or operation of identical work activity. Identical work activity means that the employees were performing the same repetitive motion task, such as similar word processing, assembly or loading tasks.
3. The RMIs were musculoskeletal injuries that a licensed physician objectively identified and diagnosed.

The Superintendent or designee shall ensure that the ergonomics program be designed to minimize RMIs in accordance with law. The program shall be composed of the following components: (8 CCR 5110)

1. Worksite evaluation

Each job, process or operation of identical work activity, or a representative number of such jobs, processes or operations of identical activities, shall be evaluated for exposures which have caused RMIs.

2. Control of exposures which have caused RMIs

Any exposures that have caused RMIs shall, in a timely manner, be corrected or, if not capable of being corrected, be minimized to the extent feasible. The district shall consider engineering controls, such as work station redesign, adjustable fixtures or tool redesign, and administrative controls such as job station, work pacing or work breaks.

3. Training

Employees shall be provided training that includes an explanation of:

- a. The district's program
- b. The exposures that have been associated with RMIs
- c. The symptoms and consequences of injuries caused by repetitive motion

**ERGONOMICS** (continued)

- d. The importance of reporting symptoms and injuries to the employer
- e. Methods used by the district to minimize RMIs

(cf. 4157 /4257/4357 - *Employee Safety*)  
(cf. 4157.1/4257.1/4357.1 - *Work-Related Injuries*)

*Legal Reference:*

EDUCATION CODE

44984 *Industrial accident and illness leaves, certificated employees*

45192 *Industrial accident and illness leaves, classified employees*

GOVERNMENT CODE

21153 *Employer not to separate for disability members eligible to retire*

LABOR CODE

142.3 *Adoption, amendment or repeal of standards and orders*

3200-4855 *Workers' compensation, especially:*

3550-3553 *Employee Notice*

3600-3605 *Conditions of liability*

3760 *Report of injury to insurer*

4600 *Provision of medical and hospital treatment by employer*

4906 *Disclosures and statements*

5400-5404 *Notice of injury or death*

6303 *Place of employment; employment*

6305 *Occupational safety and health standards; special orders*

6310 *Retaliation for filing complaint prohibited*

6357 *Standards for workplace ergonomics*

6401.7 *Injury prevention programs*

6409.1 *Reports*

CODE OF REGULATIONS, TITLE 8

3203 *Injury and Illness Prevention Program*

5110 *Repetitive motion injuries*

**All Personnel**

BP 4158(a)

4258

**EMPLOYEE SECURITY**

4358

The Board of Trustees desires to provide a safe, orderly working environment for all employees. As part of the district's comprehensive school safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for assisting them in the event of an emergency situation.

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 3515 - Campus Security)*

*(cf. 5131.4 - Campus Disturbances)*

The Superintendent or designee shall ensure that employees are informed, in accordance with law, regarding crimes and offenses by students who may pose a danger in the classroom.

When violence is directed against an employee by any individual and the employee so notifies the Superintendent or designee, the Superintendent or designee shall take steps to ensure that appropriate legal measures are instituted. When the employee notifies the Superintendent or designee of a threat of bodily harm, the district shall take appropriate measures to enable the employee to request assistance if a threat occurs on school grounds.

The Superintendent or designee shall ensure that employees are trained in crisis prevention and intervention techniques in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques and crisis resolution.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The Board recognizes that access to two-way communications devices allows employees to call for assistance from their supervisor or law enforcement in the event of a threat of violence or medical emergency. The district shall provide such communications devices in classrooms to the extent possible.

*(cf. 5141 - Health Care and Emergencies)*

Employees may not carry or possess pepper spray on school property or at school activities. On a case-by-case basis, however, the Superintendent or designee may allow the possession of a pepper spray weapon that meets the requirements of Penal Code 12403.7 when justified by unusual dangerous circumstances. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

## **EMPLOYEE SECURITY** (continued)

### **Reporting of Injurious Objects**

The Board requires school employees to take immediate action upon being made aware that any person is in possession of an injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately notify the local law enforcement agency and the principal

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*(cf. 5144. - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

When informing the principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

*Legal Reference: (see next page)*

## **EMPLOYEE SECURITY (continued)**

### *Legal Reference:*

#### EDUCATION CODE

32210-32212 *Willful disturbance, public schools or meetings*

32225-32226 *Communication devices*

35204 *Contract with attorney in private practice or use of administrative advisor*

35205 *Contract for legal services*

35208 *Liability insurance*

35213 *Reimbursement for loss, destruction or damage of school property*

44014 *Report of assault by pupil against school employee*

44807 *Duty concerning conduct of students*

48201 *Transfer of student records*

48900-48926 *Suspension or expulsion Grounds for suspension or expulsion*

49079 *Notification to teacher; student who has engaged in acts constituting grounds for suspension or expulsion*

49330-49335 *Injurious objects*

#### CIVIL CODE

51.7 *Freedom from violence or intimidation*

#### CODE OF CIVIL PROCEDURE

527.8 *Workplace violence safety act*

#### GOVERNMENT CODE

995-996.4 *Defense of public employees*

3543.2 *Scope of representation*

#### PENAL CODE

71 *Threatening public officers and employees and school officials*

240 *Definition of assault*

241.2 *Assault on school or park property against any person*

241.3 *Assault against school bus drivers*

241.6 *Assault on school employee includes board member*

242 *Definition of battery*

243 *Battery; definition of "injury" and "serious bodily injury"*

243.2 *Battery on school or park property against any person*

243.3 *Battery against school bus drivers*

243.6 *Battery against school employee includes board member*

245.5 *Assault with deadly weapon; school employee includes board member*

290 *Registration of sex offenders*

601 *Trespass by person making credible threat*

626.9 *Gun-Free School Zone Act of 1995*

626.10 *Exceptions to bringing weapons on school grounds*

646.9 *Stalking*

12403.7 *Weapons approved for self defense*

#### WELFARE AND INSTITUTIONS CODE

827 *Juvenile court proceedings; reports; confidentiality*

828.1 *District police or security department, disclosure of juvenile records*

*Management Resources: (see next page)*

**EMPLOYEE SECURITY** (continued)

*Management Resources:*

*CDE CORRESPONDENCE*

*0401.01 Protecting Student Identification in Reporting Injurious Objects*

*WEB SITES*

*CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety/safetyhome>*

*CSBA: <http://www.csba.org>*

**All Personnel**

AR 4158(a)

4258

**EMPLOYEE SECURITY**

4358

An employee may use reasonable and necessary force when necessary for self-defense, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects on or within the control of a student. (Education Code 44807, 49001)

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*(cf. 5144 - Discipline)*

Employees shall promptly report to their principal or other immediate supervisor any attack, assault or physical threat made against them by a student.

Both the employee and the principal or other immediate supervisor shall promptly report such instances to the appropriate local law enforcement agency. (Education Code 44014)

In addition, employees shall promptly report to their principal or supervisor, and may report to law enforcement, any attack, assault or threat made against them on school grounds by any other individual.

*(cf. 3515.2 - Disruptions)*

Reports of attack, assault or threat also shall be forwarded immediately to the Superintendent or designee.

An employee whose person or property is injured or damaged by willful misconduct of a student may ask the district to pursue legal action against the student or the student's parent/guardian. (Education Code 48905)

*(cf. 3515.4 - Recovery for Property Loss or Damage)*

**Notice Regarding Student Offenses Committed While Under School Jurisdiction**

The Superintendent or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected of, any act during the previous three school years which could constitute grounds for suspension or expulsion under Education Code 48900, with the exception of the possession or use of tobacco products, or Education Code 48900.2, 48900.3, 48900.4, or 48900.7. This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

*(cf. 5125 - Student Records)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

## **EMPLOYEE SECURITY** (continued)

Upon receiving a transfer student's record regarding acts committed by the student that resulted in his/her suspension or expulsion, the Superintendent or designee shall inform any of the student's teacher(s) that the student was suspended from his/her former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)

Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 49079)

### **Notice Regarding Student Offenses Committed While Outside School Jurisdiction**

When a minor student has been found by a court of competent jurisdiction to have illegally used, sold or possessed a controlled substance or committed specified crimes involving serious acts of violence, the district police or security department may provide written notification to the Superintendent. (Welfare and Institutions Code 828.1)

*(cf. 3515.3 - District Police/Security Department)*

When informed by the court that a minor student has been found by a court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism or graffiti, the Superintendent or designee shall so inform the school principal. (Welfare and Institution Code 827)

The principal shall disseminate this information to the counselor(s) who directly supervises or reports on the student's behavior or progress. The principal also may inform any teacher or administrator he/she thinks may need the information so as to work with the student appropriately, avoid being needlessly vulnerable, or protect others from vulnerability. (Welfare and Institutions Code 827)

Any court-initiated information that a teacher, counselor or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

When a student is removed from school as a result of his/her offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to public school. If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the Superintendent of the new district of attendance. (Welfare and Institutions Code 827)



**EMPLOYEE SECURITY** (continued)

Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first; it shall then be destroyed. (Welfare and Institutions Code 827)

**Procedures to Maintain Confidentiality of Student Offenses**

In order to maintain confidentiality when providing information about student offenses to counselors and teachers of classes/programs to which a student is assigned, the principal or designee shall send the staff member a written notification requesting him/her to review a student's file in the school office as soon as practicable. This notification shall not name or otherwise identify the student. The staff member shall be asked to initial the notification and return it to the principal or designee.

The staff member shall also initial the student's file when reviewing it in the school office. Once the district has made a good faith effort to comply with the notification requirement of Education Code 49079 and Welfare and Institutions Code 827, an employee's failure to review the file constitutes district compliance with the requirement to provide notice to the teacher.

**All Personnel**

BP 4159

4259

**EMPLOYEE ASSISTANCE PROGRAMS**

4359

The Board of Trustees recognizes that school district employees may have problems which can have detrimental effects upon job performance and student safety. The Board encourages employees to seek help when such problems exist and to take advantage of the resources that are available to assist them.

Employees shall have confidential access to information about the district's employee assistance program. This information shall be available to all employees and their spouses and dependents.

*(cf. 3513.3 - Tobacco-Free Schools)*  
*(cf. 4020 - Drug and Alcohol-Free Workplace)*  
*(cf. 5131.62 - Tobacco)*

Management and supervisory staff shall be knowledgeable about the district's employee assistance program and may counsel employees about the program, as appropriate.

Participation in the assistance program shall not jeopardize an employee's employment or career advancement, nor will it protect the employee from disciplinary action for substandard job performance.

*(cf. 4032 - Reasonable Accommodation)*  
*(cf. 4115 - Evaluation/Supervision)*  
*(cf. 4118 - Suspension/Disciplinary Action)*  
*(cf. 4161/4261 - Leaves)*  
*(cf. 4161.1/4261.1 - Personal Illness/Injury Leave)*  
*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*  
*(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*  
*(cf. 4215 - Evaluation/Supervision)*  
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*  
*(cf. 4315 - Evaluation/Supervision)*  
*(cf. 4361 - Leaves)*  
*(cf. 4361.1 - Personal Illness/Injury Leave)*

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing board

35160.1 Broad authority of school districts

44962 Leaves of absence for certificated employees

44964 Power to grant leaves of absence for accident, illness or quarantine

45190-45209 Resignations and leaves of absence for classified employees

GOVERNMENT CODE

8355 Certification to contracting or granting agency; requisites

HEALTH AND SAFETY CODE

104420 Providing information re: smoking cessation program

UNITED STATES CODE, TITLE 41

701-707 Drug-Free Workplace Act

Policy  
adopted: June 23, 2005

**ACTON-AGUA DULCE UNIFIED SCHOOL DISTRICT**  
Acton, California

**LEAVES**

The Board of Trustees shall provide for paid and unpaid employee leaves of absence in accordance with law, Board policy, administrative regulation and collective bargaining agreements.

The Board recognizes the following justifiable reasons for absence as provided by law:

1. Personal illness or injury
2. Industrial accident or illness
3. Childbirth and recovery, care of newborn, placement of a child with the employee for foster care or adoption of a child
4. Military service
5. Family illness or accident; bereavement; fire, flood or other immediate danger to the employee's home or property; and other personal emergencies
6. Vacations for classified staff and certificated management staff, as applicable
7. Jury duty or required court appearances
8. Religious observances
9. Participation in child's school or day care activities
10. For certificated staff, sabbaticals for purposes of study or travel; for classified staff, sabbaticals for purposes of study or retraining
11. Attendance at work-related meetings and staff development opportunities
12. Compulsory leave

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4131 - Staff Development)*

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*

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

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

*(cf. 4161.3 - Professional Leaves)*

*(cf. 4161.5/4261.5/4361.5 - Military Leave)*

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

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4231 - Staff Development)*

*(cf. 4261.1 - Personal Illness/Injury Leave)*

## **LEAVES (continued)**

*(cf. 4261.11 - Industrial Accident/Illness Leave)*

*(cf. 4261.3 - Professional Leaves)*

*(cf. 4331 - Staff Development)*

*(cf. 4361 - Leaves)*

### **Long-Term Leaves**

With Board approval, employees may receive a long-term leave of absence without pay and without increment, seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated in a position at the same level as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

#### *Legal Reference:*

##### EDUCATION CODE

*44036 Leaves of absence for judicial and official appearances*

*44037 Unlawful to encourage exemption from jury duty*

*44842 Failure to provide notice or to report to work*

*44940 Sex offenses and narcotic offenses; compulsory leave of absence*

*44962-44988 Leaves of absence (certificated)*

*45190-45210 Leaves of absence (classified)*

##### GOVERNMENT CODE

*3543.2 Scope of representation*

**LEAVES**

**Disability Leave**

The Board of Trustees may grant a leave of absence to any certificated employee who has applied for disability benefits, not to exceed 30 days beyond final determination of the employee's eligibility for disability benefits by the State Teachers' Retirement System. If the employee is determined to be eligible, that leave shall be extended for the term of the disability, but not more than 39 months. (Education Code 44986)

**Return to Service After Leaves**

By May 30 of each school year, the clerk or secretary of the Board may request any certificated employee on leave of absence to notify the district, in the manner described in Education Code 44842, of his/her intention to remain in service with the district the following school year. (Education Code 44842)

Following a request by the district to give notice in the manner described in Education Code 44842, an employee who is on leave of absence for 20 or more consecutive working days after April 30 of any school year may have his/her employment terminated if: (Education Code 44842)

1. The employee, without good cause, fails to notify the district by July 1 that he/she intends to remain in service the following school year.
2. The employee, without good cause and without being granted a leave of absence, fails to report for duty at the beginning of the next school year for 20 consecutive days after being notified at least five days in advance of the time and place at which to report to work.

*(cf. 4117.4 - Dismissal)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

**Use of Leaves by Classified Employees**

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

## **Certificated Personnel**

AR 4161.1(a)  
4361.1

### **PERSONAL ILLNESS/INJURY LEAVE**

Full-time certificated employees 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 days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)

*(cf. 4161/4261 - Leaves)*

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

*(cf. 4361 - Leaves)*

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 who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

Any certificated employee who leaves the district after at least one year of employment and accepts a certificated position in another district, county office of education or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district shall not require new employees to waive their leave accumulated in a previous district. (Education Code 44979, 44980)

Sick leave may be used by a certificated employee for:

1. Cases of temporary inability to perform duties because of illness, accident or quarantine, whether or not the cause of absence arises out of and in the course of employment (Education Code 44964)

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

2. Absences due to pregnancy, miscarriage, childbirth and recovery (Education Code 44965, 44978)

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

3. Cases of personal necessity (Education Code 44981)

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

4. Medical and dental appointments, in increments of not less than one hour

5. Cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 44984)

## **PERSONAL ILLNESS/INJURY LEAVE** (continued)

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

6. Illness of the employee's child, parent, spouse, registered domestic partner or domestic partner's child, up to the amount of sick leave that would be accrued during six months (Labor Code 233)

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. 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 3 p.m. of the day preceding the day on which he/she intends to return to work. If failure to so notify the district results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

*(cf. 4121 - Temporary/Substitute Personnel)*

### **Sick Leave Beyond 10 Days**

A certificated employee shall receive 50 percent of his/her regular salary during any period of absence due to illness or injury up to five months, beginning after all available paid leave has been exhausted.

After five months, if a certificated employee has exhausted all available sick leave and is not medically able to resume his/her duties, the employee shall be placed either in another position or on a reemployment list. If the employee is on probationary status, he/she shall be placed on the reemployment list for 24 months beginning at the expiration of the five-month period provided pursuant to Education Code 44977; if on permanent status, the employee shall be placed on the reemployment list for 39 months. 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)

*(cf. 4116 - Probationary/Permanent Status)*

### **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 immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or practitioner. 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 or whenever clear evidence indicates that an absence is not related to illness or injury.

**PERSONAL ILLNESS/INJURY LEAVE** (continued)

The Superintendent or designee may require an employee to visit a physician selected by the district and 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.

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 physician stating that he/she is able to return and stipulating any recommended restrictions or limitations.

*(cf. 4032 - Reasonable Accommodation)*

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

*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*

*44977 Salary deduction during absence from duties*

*44978 Provisions for sick leave of certificated employees*

*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*

*44986 Leave of absence for disability allowance applicant*

LABOR CODE

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

*234 Absence control policy*

CODE OF REGULATIONS, TITLE 5

*5601 Transfer of accumulated sick leave*



**INDUSTRIAL ACCIDENT/ILLNESS LEAVE**

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the district are in session or when the employee would otherwise have been performing work for the district.

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

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

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4161/4261 - Leaves)*

*(cf. 4361 - Leaves)*

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

**INDUSTRIAL ACCIDENT/ILLNESS LEAVE** (continued)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Board of Trustees authorizes travel outside the state. (Education Code 44984)

*Legal Reference:*

EDUCATION CODE

*44977 Salary deductions during absence from duties*

*44978 Provisions for certificated employee sick leave*

*44983 Exception to sick leave*

*44984 Required rules for industrial accident and illness leave of absence*

*Management Resources:*

WEB SITES

*Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>*

**All Personnel**

AR 4161.2(a)

4261.2

**PERSONAL LEAVES**

4361.2

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

**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 - Leaves)*

*(cf. 4361 - Leaves)*

Members of the immediate family include the mother, father, grandmother, grandfather or grandchild of the employee or of the employee's spouse; the employee's spouse, son, son-in-law, daughter, daughter-in-law, brother or sister; or any relative living in the employee's immediate household. (Education Code 44985, 45194)

At the employee's request, bereavement leave may be extended under personal necessity leave provisions. (Education Code 44981, 45207)

**Personal Necessity**

Employees may use up to seven days of their accrued sick leave during each contract 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)

**PERSONAL LEAVES** (continued)

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 true 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 or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. For certificated employees, advance permission also shall not be required in cases involving the serious illness of a member of the employee's immediate family. (Education Code 44981, 45207)

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**

Classified employees 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 or witness fees. (Education Code 44037)

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.

## **PERSONAL LEAVES** (continued)

### **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, sick leave, 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 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 supervisor and Superintendent or designee 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**

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to 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. (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)

1. Seek medical attention for injuries caused by domestic violence or sexual assault

**PERSONAL LEAVES** (continued)

2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, 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, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable 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 supervisor and Superintendent or designee 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, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

**PERSONAL LEAVES** (continued)

*(cf. 1240 - Volunteer Assistance)*

In lieu of using vacation, personal leave or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

If both parents of a child are employed at the same work site, this leave shall be allowed for the first parent who applies; simultaneous absence by the second parent 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, Committees and State or Employee Organizations**

Employees 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 or groups authorized by Education Code 44987.3 or statute, provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is in 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 service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employees may take 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. 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)

AR 4161.2(f)  
4261.2  
4361.2

## **PERSONAL LEAVES** (continued)

### **Religious Leave**

The Superintendent or designee may grant employees 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 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.

### **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)

*Legal Reference: (see next page)*



## PERSONAL LEAVES (continued)

### *Legal Reference:*

#### EDUCATION CODE

- 44036-44037 Leaves of absence for judicial and official appearances*
- 44963 Power to grant leaves of absence (certificated)*
- 44981 Leave of absence for personal necessity (certificated)*
- 44985 Leave of absence due to death in immediate family (certificated)*
- 44987 Service as officer of employee organization (certificated)*
- 44987.3 Leave of absence to serve on certain boards, commissions, etc.*
- 45190 Leaves of absence and vacations (classified)*
- 45194 Bereavement leave of absence (classified)*
- 45198 Effect of provisions authorizing leaves of absence*
- 45207 Personal necessity (classified)*
- 45210 Service as officer of employee organization (classified)*

#### FAMILY CODE

- 297.5 Domestic partner rights*

#### GOVERNMENT CODE

- 3543.1 Release time for representatives of employee organizations*

#### LABOR CODE

- 230-230.2 Leave for victims of domestic violence, sexual assault or specified felonies*
- 230.3 Leave for emergency personnel*
- 230.4 Leave for volunteer firefighters*
- 230.8 Leave to visit child's school*
- 233 Illness of child, parent, spouse, domestic partner or domestic partner's child*
- 234 Absence control policy*

#### PENAL CODE

- 667.5 Violent felony, defined*
- 1192.7 Serious felony, defined*

#### CALIFORNIA CONSTITUTION

- Article I, Section 8 Religious discrimination*

#### UNITED STATES CODE, TITLE 42

- 2000d-2000d-7 Title VII, Civil Rights Act of 1964*

#### COURT DECISIONS

- Rankin v. Commission on Professional Competence (1988) 24 Cal.3d 167*

### *Management Resources:*

#### WEB SITES

- California Teachers Association: <http://www.cta.org>*
- California Federation of Teachers: <http://www.cft.org>*
- California School Employees Association: <http://www.csea.com>*

**All Personnel**

AR 4161.5(a)  
4261.5  
4361.5

**MILITARY LEAVE**

Military leave shall be granted in accordance with law to employees performing military duties on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, examination to determine fitness for duty, and performance of funeral honors duty. (Education Code 44800; Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.1, 395.2, 395.9; 38 USC 4301, 4316)

*(cf. 4161/4261 - Leaves)*

*(cf. 4361 - Leaves)*

An employee who needs to be absent from the district to fulfill military service shall provide advance written or verbal notice to the Superintendent or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312)

An employee's cumulative length of the absence and of all previous military leave shall not exceed five years, excluding those training and service obligations specified in 38 USC 4312(c). (38 USC 4312)

**Compensation**

The following employees shall receive their salary or compensation for the first 30 calendar days of an absence for military leave:

1. An employee who is granted a temporary military leave of absence to engage in ordered military duty for purposes of active military training, encampment, naval cruises, special exercises or like activity as a member of the reserve corps or force of the United States Armed Forces, National Guard or Naval Militia, provided that: (Military and Veterans Code 389, 395, 395.01)
  - a. The ordered duty does not exceed 180 calendar days, including time involved in going to and returning from such duty.
  - b. He/she has been employed by the district for at least one year immediately prior to the day the military leave begins.
2. Any district employee who has served with the district for at least one year and is ordered, on other than a temporary basis, into active military duty as a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia or who otherwise is inducted, enlisted, entered, ordered or called into active duty as a member of the Armed Forces (Military and Veterans Code 389, 395.02)

**MILITARY LEAVE** (continued)

3. Any employee who is a member of the National Guard, however long employed by the district, who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor, or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, including travel time to and from such duty (Military and Veterans Code 395.05)
4. Any employee who is a member of the reserve corps or force of the United States Armed Forces, National Guard or Naval Militia who is engaged in temporary inactive duty training, provided that he/she has been employed by the district for at least one year immediately prior to the day the military leave begins

In determining length of district employment when necessary to determine eligibility for compensation for military leave, all recognized military service performed during and prior to district employment shall be counted.

For classified employees, 30 days' compensation shall be one month's salary. For certificated employees, 30 days' compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Certificated employees shall not be entitled to compensation during non-teaching, non-paying months of the year.

The 30-day pay entitlement is the maximum allowance which shall be paid for any one military leave or during any one fiscal year, unless otherwise authorized by the Board of Trustees pursuant to Military and Veterans Code 395.03 or Education Code 44018.

During the period of military leave, an employee may, but is not required to, use any vacation or similar paid leave accrued before the commencement of the military leave. (38 USC 4316)

**Benefits**

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee may elect to continue his/her health coverage during the leave. The maximum period of coverage for the employee and his/her dependents shall be either 18 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102 percent of the full premium under the plan. (38 USC 4317)

AR 4161.5(c)  
4261.5  
4361.5

## **MILITARY LEAVE** (continued)

### **Vacation and Sick Leave Accrual**

An employee on temporary military leave for the purposes described in item #1 in section entitled “Compensation” above shall continue to accrue the same vacation, sick leave or holiday privileges for up to a maximum period of 180 days, provided he/she has been employed by the district for at least one year immediately prior to beginning the leave. (Military and Veterans Code 395)

An employee on military leave who is serving in active duty in time of war, national emergency or United Nations military or police operation shall not accrue sick leave or vacation leave during the period of such leave. (Military and Veterans Code 395.1)

However, an employee who is a National Guard member on active duty for the purposes described in item #3 in section entitled “Compensation” above shall not suffer any loss or diminution of vacation or holiday privileges because of his/her leave of absence. (Military and Veterans Code 395.05)

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*  
*(cf. 4261.1 - Personal Illness/Injury Leave)*

### **Employment Status**

Absence for military leave shall not affect the classification of any certificated employee. In the case of a certificated probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

*(cf. 4116 - Probationary/Permanent Status)*

### **Pension Plan Service Credit**

Pension plan service credit and vesting shall continue during an employee’s military leave as though no break in service has occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers’ Retirement System and Public Employees’ Retirement System. (Education Code 22850-22856; Government Code 20990-21013)

### **Reinstatement Rights**

At the conclusion of the military duty, an employee shall be entitled to return to the position held at the beginning of the military leave, at the salary to which he/she would otherwise have been entitled. (Education Code 44800; Military and Veterans Code 395, 395.2)

**MILITARY LEAVE** (continued)

An employee who performs active military duty in time of war, national emergency or United Nations military or police operation has a right to return to his/her position within six months of an honorable discharge or placement in inactive duty. Reemployment rights shall not be extended to any such employee who fails to return within 12 months after the first date upon which he/she could terminate or could cause to be terminated his/her active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312)

1. For a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full work day following the completion of military service
2. For a leave of 31 to 180 days, the employee shall complete an application for reemployment not later than 14 days after the completion of military service
3. For a leave of more than 180 days, the employee shall submit an application for reemployment within 90 days after the completion of military service

The employee shall be promptly reinstated upon request. (38 USC 4313)

An employee failing to apply for reemployment within the appropriate period does not automatically forfeit his/her rights, but shall be subject to the Board's rules governing unexcused absences. (38 USC 4312)

If the employee's previous position has been abolished, he/she shall be reinstated in a position of like seniority, status and pay if such position exists, or to a comparable vacant position for which he/she is qualified. (Military and Veterans Code 395, 395.1)

An employee may not be reemployed if the district's circumstances have so changed as to make such reemployment impossible or unreasonable; if the accommodation, training or effort described in 38 USC 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the district; or if the employee's position was for a brief, nonrecurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312)

AR 4161.5(e)  
4261.5  
4361.5

## **MILITARY LEAVE (continued)**

### *Legal Reference:*

#### EDUCATION CODE

22850-22856 *Pension benefits, STRS members on military leave*

44018 *Compensation for employees on active military duty*

44800 *Effect of active military service on status of employees*

45059 *Employee ordered to military/naval duty - computation of salary*

#### GOVERNMENT CODE

18540 *Definition of armed forces*

18540.3 *Recognized military service*

20990-21013 *Pension benefits, PERS members on military leave*

#### MILITARY AND VETERANS CODE

146 *Events justifying calling of militia into active service*

389 *Definitions; temporary military leave*

395-395.9 *Military leave*

#### UNITED STATES CODE, TITLE 38

4301-4333 *Uniformed Services Employment and Reemployment Rights Act of 1994*

#### COURT DECISIONS

*Wright v. City of Santa Clara* (1989) 213 Cal. App. 3d 1503

*Bowers v. San Buenaventura* (1977) 75 Cal. App. 3d 65

#### ATTORNEY GENERAL OPINIONS

77 *Ops. Cal. Atty. Gen.* 209 (1994)

69 *Ops. Cal. Atty. Gen.* 185 (1986)

63 *Ops. Cal. Atty. Gen.* 924 (1978)

19 *Ops. Cal. Atty. Gen.* 132 (1952)

18 *Ops. Cal. Atty. Gen.* 178 (1951)

### *Management Resources:*

#### U.S. DEPARTMENT OF LABOR PUBLICATIONS

*A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA)*, February 2001

#### WEB SITES

U.S. Department of Labor, Veterans' Employment and Training Service: <http://www.dol.gov/dol/vets>

National Committee for Employer Support of the Guard and Reserve: <http://www.esgr.org>

**All Personnel**

AR 4161.8(a)

4261.8

**FAMILY CARE AND MEDICAL LEAVE**

4361.8

**Eligibility**

The district shall grant family care and medical leave of a minimum of 12 work weeks during any 12-month period, to eligible employees, for the following reasons: (Government Code 12945.2; 29 USC 2601)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the adoption or foster care of the child by the employee.
2. To care for the employee's child, parent or spouse with a serious health condition.
3. Because of the employee's own serious health condition that makes him/her unable to perform the functions of his/her position. However, this does not include leave taken for disability on account of pregnancy, childbirth or related medical conditions.

The district shall not interfere with, restrain or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of his/her involvement in any proceedings related to the family care and medical leave. (Government Code 12945.2; 29 USC 2615)

*(cf. 4030 - Nondiscrimination in Employment)*

**Definitions**

*Child* means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

*Eligible employee* means an employee who has at least 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period. (29 USC 2611; Government Code 12945.2)

Full-time teachers are deemed to meet the 1,250 hours of service requirement. (29 CFR 825.110)

*Instructional employee* means an employee whose principal function is to teach; instructional employees include athletic coaches, driving instructors, special education assistants and signers for the hearing impaired. The term does not include teacher assistants or aides, counselors, psychologists, curriculum specialists or other primarily noninstructional employees. (29 CFR 825.600)

## **FAMILY CARE AND MEDICAL LEAVE** (continued)

*Parent* means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. (29 USC 2611; Government Code 12945.2)

*Serious health condition* means an illness, injury, impairment, physical or mental condition that involves either of the following: (29 USC 2611; Government Code 12945.2)

1. Inpatient care in a hospital, hospice or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider

### **Rights to Reinstatement and Maintenance of Benefits**

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

The district may refuse to reinstate an employee returning from leave to the same or a comparable position if all of the following apply: (29 USC 2614, Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

(cf. 4317.3 - Personnel Reduction)



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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

During the period when an employee is on family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority or any employee benefit plan.

The district shall continue to provide an eligible employee on family care and medical leave, the group health plan coverage that was in place before he/she took the leave. If the employee fails to return to district employment after the expiration of the leave, for any reason other than the continuation, recurrence or onset of a serious health condition, or other circumstances beyond his/her control, he/she shall reimburse the district for premiums paid during the family care and medical leave.

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

### **Terms of Leave**

This 12-month period shall be measured backward from the date an employee uses any family care and medical leave. (29 CFR 825.200)

Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), except for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to family care and medical leave, an employee may be entitled to take pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time or other paid leave. (Government Code 12945, 12945.2)

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*

*(cf. 4261.1 - Personal Illness/Injury Leave)*

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks. (Government Code 12945.2; 29 USC 2612)

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

During the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. Accrued sick leave shall be used when the purpose of the family care and medical leave is one for which sick leave may be taken pursuant to collective bargaining agreements and/or Board policy. (Government Code 12945.2)

### **Intermittent Leave/Reduced Leave Schedule**

Leave related to the serious health condition of the employee or his/her child, parent or spouse may be taken intermittently or on a reduced leave schedule when medically necessary. In such a case, the district may require the employee to transfer temporarily to a different position for which he/she is qualified, with equivalent pay and benefits, and that could better accommodate recurring periods of leave. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (2 CCR 7297.3)

Where the employee involved is an instructional employee and would be on leave for greater than 20 percent of the total number of working days in the leave period, the employee shall have the option of temporarily transferring to an available alternative position or taking leave for periods of a particular duration, not to exceed duration of the planned medical treatment. (29 USC 2618)

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

### **Instructional Employees: Leaves Near the End of the Term**

The district may require an instructional employee to continue taking a requested leave until the end of the term in any of the following situations: (29 USC 2618)

1. If the instructional employee begins a leave of three or more weeks duration more than five weeks before the end of a term and would subsequently return to work during the last three weeks of the term
2. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than two weeks duration during the period that begins five weeks before the end of the term and would subsequently return to work during the last two weeks of the term
3. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than five days duration during the period that begins three weeks before the end of the term

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Request for Family Care and Medical Leave**

An employee shall request family care and medical leave in writing, at least 30 days before the commencement date of the leave. If the leave becomes necessary less than 30 days before its commencement, the employee shall provide such notice as soon as practicable. (29 USC 2612; Government Code 12945.2)

In every case in which the necessity for the leave is foreseeable based on planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of district operations. This scheduling shall be subject to the health care provider's approval. (29 USC 2612; Government Code 12945.2)

### **Certification of Health Condition**

A request by an employee for family care and medical leave for his/her serious health condition, or to care for a child, parent or spouse with a serious health condition, shall be supported by a certification from the health care provider of the employee or such other person as applicable. The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent or spouse with a serious health condition, the health care provider's certification of both of the following:
  - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse
  - b. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse
4. If the employee is requesting leave because of his/her own serious health condition, the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his/her job

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## **FAMILY CARE AND MEDICAL LEAVE** (continued)

5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

If the district doubts the validity of a certification that accompanies a request for leave, the district may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the district may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. (29 USC 2613; Government Code 12945.2)

If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in the preceding paragraph. (29 USC 2613; Government Code 12945.2)

Employees who take family care and medical leave for their own serious health conditions shall present certification from their health care provider to the effect that they are able to resume work.

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*

### **Notifications**

The Superintendent or designee shall post separate notices about federal and state law related to family care and medical leave in a conspicuous place. Information about employee rights and obligations related to such leaves shall also be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

At least the first time in each six-month period that an employee requests family care and medical leave, the Superintendent or designee shall provide written notice detailing specific expectations and obligations, and explaining any consequences of a failure to meet these obligations. The notice shall include: (29 CFR 825.301)

1. A statement that the leave will be counted against the employee's annual family care and medical leave entitlement
2. Requirements for the employee to furnish medical certification of a serious health condition

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**FAMILY CARE AND MEDICAL LEAVE** (continued)

3. The employee's right to substitute paid leave, conditions related to any substitution, and whether the district requires this substitution
4. Health benefit arrangements
5. If applicable, the employee's status as a "key employee" and information related to restoration of that status
6. The employee's right to restoration to the same or an equivalent job
7. The employee's potential liability for health benefits should the employee not return to service
8. The district's requirement that the employee, upon return, present medical certification to the effect that he/she is able to resume work

**Records**

The Superintendent or designee shall maintain records pertaining to individual employees' use of family care and medical leave.

*Legal Reference: (see next page)*

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4261.8  
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**FAMILY CARE AND MEDICAL LEAVE (continued)**

*Legal Reference:*

GOVERNMENT CODE

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

19702.3 Family care leave; exercise of rights

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions

7297.0-7297.11 Family care leave

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

*Management Resources:*

WEB SITES

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division:

<http://www.dol.gov>

**All Personnel**

E(1) 4161.8(a)

4261.8

**FAMILY CARE AND MEDICAL LEAVE**

4361.8

### **YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

#### **REASONS FOR TAKING LEAVE**

Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

#### **ADVANCE NOTICE AND MEDICAL CERTIFICATION**

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.
- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**FAMILY CARE AND MEDICAL LEAVE** (continued)

**UNLAWFUL ACTS BY EMPLOYERS**

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**ENFORCEMENT**

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FOR ADDITIONAL INFORMATION**

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.



**All Personnel**

E(2) 4161.8(a)

4261.8

**FAMILY CARE AND MEDICAL LEAVE**

4361.8

**FAMILY CARE AND MEDICAL LEAVE (CFRA LEAVE)  
AND PREGNANCY DISABILITY LEAVE**

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to an unpaid family care or medical leave (CFRA leave). This leave may be up to 12 work weeks in a 12-month period for the birth, adoption or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take BOTH a pregnancy disability leave and a CFRA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or planned medical treatment for yourself or of a family member). For events which are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave.

Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy or your own serious health condition or certification from the health care provider of your child, parent or spouse who has a serious health condition before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.

E(2) 4161.8(b)  
4261.8  
4361.8

**FAMILY CARE AND MEDICAL LEAVE** (continued)

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact the Superintendent's office.

Authority Cited:

Sections 12935, subd. (a) and 12945.2,  
Government Code

**All Personnel**

BP 4161.9

4261.9

**CATASTROPHIC LEAVE PROGRAM**

4361.9

When a catastrophic illness or injury incapacitates an employee or a member of his/her family for an extended period of time and the employee has exhausted all paid leaves of absence, other employees may donate accrued vacation and/or sick leave credits to that employee under the specific requirements of the district's catastrophic leave program.

Donations made under the catastrophic leave program shall be strictly voluntary.

*(cf. 4161/4261 - Leaves)*

*(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)*

*(cf. 4261.1 - Personal Illness/Injury Leave)*

*(cf. 4361 - Leaves)*

*Legal Reference:*

EDUCATION CODE

44043.5 *Catastrophic leave*

**All Personnel**

AR 4161.9

4261.9

**CATASTROPHIC LEAVE PROGRAM**

4361.9

When an employee or a member of his/her family experiences a catastrophic illness or injury which requires the employee to take time off from work for an extended period of time, and the employee has exhausted all available sick leave and other paid time off, he/she may request donations of accrued vacation or sick leave credits. (Education Code 44043.5)

In making such a request, the employee shall provide verification of the catastrophic injury or illness. (Education Code 44043.5)

Verification shall be made by means of a letter, dated and signed by the sick or injured person's physician, indicating the incapacitating nature and probable duration of the illness or injury.

Upon determination that the employee is unable to work due to his/her own or a family member's catastrophic illness or injury, any other employee, upon written notice to the Board of Trustees, may donate accrued vacation and/or sick leave credits to the requesting employee. Donations shall be at a minimum of eight hours, and in hour increments thereafter. (Education Code 44043.5)

To ensure that employees retain sufficient accrued sick leave to meet their own needs, donors shall not reduce their accumulated sick leave to fewer than 40 hours.

All transfers of eligible leave credit shall be irrevocable. (Education Code 44043.5)

The Superintendent or designee shall ensure that all donations are confidential.

The employee who is the recipient of the donated leave credits shall use those credits within 12 consecutive months.

If donated credits are not used by the employee within 12 consecutive months, the credits shall be placed in a pool that will be available to the next eligible employee who requests catastrophic leave.

An employee who receives paid catastrophic leave shall use any leave credits that he/she continues to accrue on a monthly basis before receiving paid leave pursuant to this program. (Education Code 44043.5)