

Leaves of Absence for Certificated and Classified Employees

[NOTE – If a collective bargaining agreement is in place, this template policy should be modified if necessary to comply with the terms of the agreement.]

Intent of Policy

The intent of this policy is to outline the required minimum requirements the state places on a school board for adopting policy regarding leaves of absence for certificated and classified employees.

Sick Leave

The District may require employees to provide proof to substantiate the need to use sick leave, including but not limited to a doctor's note or a certification of necessity signed under penalty of perjury.

Certificated Employees

Full-time employees who work at least five (5) days per week will receive a minimum of ten (10) days leave of absence for illness or injury each school year. Any employee who works less than five (5) schooldays per week will receive a proportional number of days leave of absence based on the number of actual days worked.

Pay for any leave of absence will be the same had the employee worked that day and may be taken at any time during the school year. All unused leave at the end of each school year will accumulate from year to year.

Classified Employees

Full time employees who work at least five (5) days a week are entitled to twelve (12) days leave of absence for illness or injury for every one (1) fiscal year of service. For those employees employed for less than one (1) fiscal year, the total allowable leave is proportionate to the total time employed during the fiscal year to the total amount of leave granted.

Personal Necessity

Personal necessity leave may be taken by certificated and classified employees for (1) a death or serious illness of a member of an employee's immediate family, (2) when there is an accident involving the employee or their personal property, or the person or property of the employee's immediate family, or (3) appearance in court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

[NOTE – a district may permit employees to take personal necessity leave for reasons in addition to the three above, and an existing collective bargaining agreement may establish additional reasons.]

The District may require employees to provide proof to substantiate the need for personal necessity leave, including but not limited to a doctor's note, a court order or subpoena, or a certification of necessity signed under penalty of perjury.

Certificated Employees

Absence for illness or injury can be used by the employee at their discretion for cases of personal necessity. Advanced permission is required except in cases of (1) a death or serious illness of a member of an employee's immediate family, or (2) when there is an accident involving the employee or their personal property, or the person or property of the employee's immediate family.

Employee may use up to a maximum of seven (7) days of accumulated sick leave for personal necessity.

Classified Employees

Absence for illness or injury can be used by the employee at their discretion for cases of personal necessity. Advanced permission [is or is not required depending on district policy] but will not be required in cases of 1) a death or serious illness of a member of employees immediate family, 2) there is an accident involving the employee or their personal property, or the person or property of the employees immediate family, 3) court appearance or administrative hearing as a litigant, party or witness under subpoena.

Employee may use up to a minimum of seven (7) days of accumulated sick leave for "personal necessity".

Bereavement Leave

Certificated and Classified Employees

An employee may take a leave absence for a maximum of three (3) days if within the State of California, or five (5) days if out-of-state travel is required, in the event of the death of any member of an Employee's immediate family. In this case, there will be no deduction from an Employee's salary, nor shall leave be deducted from any other form of leave.

Industrial Accident and Illness

[NOTE – by board policy, a district may offer more than 60 days of IAI leave, but may not offer less than 60 days of IAI leave.]

A qualifying employee may take up to sixty days of industrial accident or illness (IAI) leave per fiscal year for absence due to a work-related injury or illness, reduced by one (1) day for each day of authorized absence. Leave shall commence on the first day of absence due to work-related injury or illness.

IAI leave does not accumulate from year to year. When an industrial accident or illness occurs at a time when the full sixty days will overlap into the next fiscal year, the employee shall be entitled to only that amount of remaining IAI leave at the end of the fiscal year in which the injury or illness occurred for the same illness or injury.

An employee may only take IAI leave for days when the employee would otherwise be performing work for the District (for example, contracted days of employment).

If an employee receives paid benefits from the District during IAI leave, in no case shall a payment for wages lost on any day, when added to an award granted to the employee under the workers' compensation laws of California, exceed the employee's normal wage for that day.

When IAI leave terminates, an employee may be entitled to use other leaves or receive other benefits like sick leave, differential leave, or vacation leave. However, an employee may take only as much additional accumulated leave as, when added to the employee's temporary disability indemnity (if any), will result in a payment to him or her that does not exceed his or her full salary.

Certificated Employees

During IAI leave, the District shall pay a certificated employee the portion of the salary due to him or her for the month in which the absence occurs equal to the difference between (a) the salary the employee would have received for the month had the employee been working and (b) any workers' compensation award or temporary disability benefit. The District encourages certificated employees to endorse any temporary disability indemnity checks received on account of an employee's industrial accident or illness to the District, in which case the District shall continue to issue the employee's appropriate salary warrants 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 the warrants.

Classified Employees

To qualify for IAI leave, a classified employee must have been employed by the District continuously for at least three years.

[NOTE – a district may restrict IAI leave for classified employees to employees continuously employed by the district for a certain period of time, but that period may not exceed three years.]

During IAI leave, the District shall pay a classified employee the portion of wages due to him or her for each day the absence occurs equal to the difference between (a) the wages the employee would have received for the day had the employee been working and (b) any workers' compensation award or temporary disability benefit. Classified employees must endorse any temporary disability indemnity checks received on account of an employee's industrial accident or illness to the District, in which case the District shall continue to issue the employee's appropriate wage warrants 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 the warrants.

Jury Duty

[NOTE – a district must grant leave to classified employees and pay classified employees the difference between pay as a juror and their normal daily pay. A district may, but is not required to, provide this leave and compensation to certificated employees. This template assumes your district provides leave and compensation to certificated employees due to a collective bargaining agreement.]

Certificated and Classified Employees

Employees may be absent for jury duty. The District may require employees to provide proof of absence due to jury duty and compensation received for serving as a juror.

The District shall pay an employee the portion of wages or salary due to him or her for each day of absence due to jury duty equal to the difference between (a) the wages or salary the employee would have received for the day had the employee been working and (b) the daily compensation paid to the employee for jury duty.

Differential Leave

Employees are eligible for "differential leave" and "differential pay" as described below.

Any period of differential leave runs concurrently with the use of accumulated sick leave, effectively meaning that the length of the period in which an employee is eligible for "differential pay" is reduced in proportion to the use of accumulated, fully paid sick leave.

Certificated Employees

[NOTE – a district has two choices in calculating certificated employee differential pay for differential leave. Both options are presented below: the difference between normal pay and substitute pay or 50% of a certificated employee’s normal salary.]

When a certificated employee has exhausted all available sick leave (including accumulated sick leave) and is still absent because of illness or accident for an additional five-month period, regardless of whether the cause of the absence is work-related, the District shall pay the employee the difference between the salary the employee would have received for the month had the employee been working and (b) the amount actually paid to a substitute employee employed to fill the position or, if no substitute employee was employed, the amount that would have been paid to a substitute employee had a substitute employee been employed. This is “differential pay.”

[NOTE - OR use the 50% option below. A district may by policy or collective bargaining agreement pay more than 50%, but may not pay less than 50%.]

When a certificated employee has exhausted all available sick leave (including accumulated sick leave) and is still absent because of illness or accident for an additional five-month period, regardless of whether the cause of the absence is work-related, the District shall pay the employee 50% of the employee’s regularly salary. This is “differential pay.”

Classified Employees

[NOTE – district also has two choices in offering classified employees differential leave and calculating differential pay. Both options are presented below: five months of full pay minus any amount actually paid to a substitute or extra sick days paid at 50% or more of normal wages.]

When a classified employee has exhausted all available sick leave (including accumulated sick leave) and is still absent because of illness or accident for an additional five-month period, regardless of whether the cause of the absence is work-related, the District shall pay the employee the difference between the employee’s regular daily wage had the employee been working and (b) the amount actually paid to a substitute employee employed to fill the position. This is “differential pay.”

[NOTE - OR use the 50% option below. A district may by policy or collective bargaining agreement pay more than 50%, but may not pay less than 50%.]

In addition to the fully paid sick leave granted to classified employees under this policy (see above), the District shall grant classified employees additional sick leave each year for use during differential leave after accumulated sick leave has been exhausted. (“Differential sick leave” or “extended sick leave.”) This additional sick leave for use during differential leave shall equal 100 days less the amount of fully paid sick leave granted to an employee. For example, a

full time classified employee who receives ten (10) days of sick leave a year shall also receive 90 days of differential (or “extended”) sick leave.

When a classified employee has exhausted all available fully paid sick leave (including accumulated sick leave), the employee may use any differential sick leave. An employee shall be compensated at 50% of the employee’s regular daily wages for each day of differential sick leave taken. This is “differential pay.”

Pregnancy

District employees are entitled to the full rights afforded them under the federal Family Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and California’s Pregnancy Disability Leave Law. This policy does not recite all of the rights afforded to employees under these laws and only addresses entitlements to leave or other benefits particular to District employees due to their employment as public school employees or an applicable collective bargaining agreement.

Pregnancy Disability Leave (PDL)

Employees may take pregnancy disability leave (PDL) because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of PDL, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee’s physician.

Certificated Employees

A certificated employee’s disability caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom shall be treated like any other non-work related temporary disability under this policy and the District’s health and temporary disability insurance plans.

Classified Employees

[NOTE – the Education Code effectively permits certificated employees to use differential leave during PDL after any accumulated sick leave is exhausted, but does not require districts to permit classified employees to use differential leave during PDL. This template is written as if a district does not grant additional paid leave to classified employees during PDL, such as allowing them to use differential leave.]

A classified employee may use accumulated sick leave while taking PDL, but in no event may an employee use more sick leave in a day than is necessary to “top up” any temporary disability benefit to the employee’s regular daily wage had the employee been working fulltime.

Parental Leave/Bonding Leave

In addition to pregnancy disability leave (if any), employees may take up to 12 workweeks of parental leave (or “bonding leave”) for reason of the birth of a child of the employee, or the placement of a child with the employee in connection with the adoption or foster care of the child by the employee. Parental leave under this policy shall run concurrently with any FMLA/CFRA parental leave, and no employee may take more than 12 weeks of parental leave or other qualifying FMLA or CFRA leave during any 12 month period.

Certificated and classified employees shall receive differential pay during parental leave as described above in this policy for certificated or classified employees, respectively.