

El Dorado County Office of Education Superintendent Policy SP 4161.1

CERTIFICATED PERSONNEL

Personal Illness/Injury Leave

Certificated employees employed five days a week are entitled to 10 days of paid sick leave, or a prorated share thereof depending on work schedule, for each month of contracted employment. Any part-time employee who is entitled to less than three (3) days of paid sick leave due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible. (Education Code 44978, Labor Code 245-249, Collective Bargaining Agreement Article 12)

Use of Sick Leave

A certificated employee may use sick leave for absences due to:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for an employee or an employee's child (biological, adopted, foster, stepchild, or legal ward), an employee's spouse or registered domestic partner, the parent of an employee or employee's spouse/registered domestic partner (biological, adoptive, foster, stepparent, or legal guardian), a grandparent, a grandchild, or a sibling.
2. An employee who is a victim of domestic violence, sexual assault, or stalking, to take time off from work to:
 - a. 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 victim or his or her child;
 - b. Seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
 - c. Obtain services from a domestic violence shelter, program or rape crisis center as a result of domestic violence, sexual assault, or stalking;
 - d. Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or
 - e. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued.

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

An employee shall reimburse EDCOE for any unearned sick leave used as of the date of his/her termination. (CBA 12.1.4)

Earned unused sick leave may be counted, in a proportionate amount, to service credit for computing retirement in accordance with the Education Code.

Personal Necessity Leave (CBA 12.9)

An employee may elect to use up to seven (7) days of accumulated sick leave for personal necessity during any school year.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

- A. Death or serious illness of a member of the immediate family.
- B. Accident involving the employee's person or property or person or property of the immediate family.
- C. Compelling personal importance.

Compelling Personal Importance Defined

Parties agree that the compelling personal importance is not intended to nor does it include absences for the following purposes:

- 1. Participating in recreational activities or attendance at sporting events.
- 2. Outside employment or other means of earning additional income for the employee.

Upon return from use of compelling personal importance, the employee shall advise his/her supervisor in writing that the use of such leave was not for one of the reasons listed above.

The employee shall be required to secure advance permission from the County Superintendent of Schools for leaves of absence for personal necessity for reasons other than A, B, or C above.

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a newly hired certificated employee who is a military veteran with a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment for his/her military service-connected disability. An eligible employee employed less than five days per week shall be

entitled to such leave in proportion to the time he/she works.

The amount of leave shall be credited to the employee on the first day of employment and shall remain available for the following 12 months of employment. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Continued Absence After Available Sick Leave Is Exhausted/Differential Sick Leave

When the current year's annual allotment of sick leave has been exhausted and an employee is absent because of illness or accident, the employee shall begin a period of accumulated sick leave usage or differential pay. The employee shall receive his/her regular salary minus the cost of a substitute (whether or not a substitute is employed) for the period not to exceed five (5) months. (Education Code 44977, CBA 12.1.9)

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

Absence Beyond Five-Month Period/Reemployment List

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 25 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time, the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

Differential Pay for Parental Leave

Certificated employees may elect parental leave for baby bonding for the birth, adoption, or foster placement of a child for up to twelve (12) weeks. A certificated employee's request for parental leave shall be submitted no later than four (4) weeks before the leave is to begin. To be eligible for parental leave, a certificated employee must have worked for EDCOE for at least twelve (12) months. This leave is available to either parent. Eligibility for parental leave pursuant to Education Code 45196.1 shall not require 1,250 hours of service with EDCOE during the previous 12 months.

While absent from work on parental leave, certificated employees shall be entitled to up to twelve (12) weeks of differential pay. While on parental leave, accumulated sick leave shall be used. In the event that accumulated sick leave is exhausted, certificated employees shall be paid the difference between their regular salary and the salary of a substitute (whether or not a

substitute was used).

Non-paid days during breaks in school are not included in the twelve (12) weeks. If the school year ends before the twelve (12) week period ends, the remainder of parental leave may be taken in the following school year.

Only one twelve (12) week period of parental leave per birth, adoption, or foster placement may be taken. Parent leave runs concurrently with California Family Rights Act Leave. Medical benefits remain in force during parental leave. (Education Code 44977.5, CBA Article 12)

Verification Requirements

Normally, the Employer may require a physician's or practitioner's verification of illness only if a certificated employee has been on sick leave for five (5) or more consecutive days. The EDCOE retains the right to check for suspected abuses of the sick leave provisions.

Certificated employees absent through illness or injury must notify their immediate supervisor as early as possible. Upon return, the employee must complete the appropriate form indicating the date(s) of the sick leave taken.

In addition, the Superintendent or designee may require an employee to visit a physician selected by EDCOE, 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 additional 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 the request for additional leave.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to EDCOE should not contain the employee's genetic information.

Any genetic information received by EDCOE on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

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 to work and stipulating any recommended restrictions or limitations.

Healthy Workplaces, Healthy Families Act Requirements

No employee, including a temporary or substitute employee, shall be denied the right to use accrued sick days and EDCOE shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor

Commissioner, or alleging district violation of Labor Code 245-249.

To ensure EDCOE's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
 - a. That an employee is entitled to accrue, request, and use paid sick days;
 - b. The amount of sick days provided by Labor Code 245-249;
 - c. The terms of use of paid sick days;
 - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if EDCOE discriminates or retaliates against him/her.
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years.

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 up to five months after sick leave is exhausted
- 44977.5 Differential pay during parental leave up to 12 weeks after sick leave is exhausted
- 44978 Provisions for sick leave of certificated employees
- 44978.1 Inability to return to duty; placement in another position or on reemployment list
- 44978.2 Leave for military service connected disability
- 44979 Transfer of accumulated sick leave to another district
- 44980 Transfer of accumulated sick leave to a county office of education
- 44981 Leave of absence for personal necessity
- 44983 Exception to sick leave when district adopts specific rule

44984 Industrial accident or illness

44986 Leave of absence for disability allowance applicant

COLLECTIVE BARGAINING AGREEMENT ARTICLE 12

LABOR CODE

220 Sections inapplicable to public employees

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

230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off

233 Illness of child, parent, spouse or domestic partner

234 Absence control policy

245-249 Healthy Workplaces, Healthy Families Act of 2014

CODE OF REGULATIONS, TITLE 5

5601 Transfer of accumulated sick leave

UNITED STATES CODE, TITLE 42

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

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