

CHAPTER XII LEAVES AND HOLIDAYS

12.01 Vacation

A. General Policies

1. A regular classified employee, permanent and probationary shall earn vacation at the prescribed rate as part of his/her compensation. Regular classified employees who are on leave to serve in a limited-term assignment, or who serve in limited-term assignments during periods when they are not regularly assigned, shall earn vacation during such limited-term assignments.
2. Vacation accrual for classified represented employees shall be based on full-time employment (40 hours per week, 12 months per year), in accordance with contractual agreements.
3. Vacation time for less than full-time employees or employees hired after the beginning of a fiscal year shall be provided on a prorated basis.
4. Represented employees may carryover unused and accrued vacation from the preceding year to the succeeding year in accordance with contractual agreements. Classified managerial employees may carryover a maximum of 44 days of unused vacation from the preceding year into a subsequent fiscal year.
5. Vacation shall be granted at any time consistent with the desire of the employee, workload of the department and the needs of the County Office of Education.
6. An employee may be granted vacation at any time during the fiscal year though not earned at the time the vacation is taken.
7. The rate at which vacation is paid shall be the employee's current rate. An employee whose vacation is earned and begun under a given status shall suffer no loss of earned vacation salary by reason of subsequent changes in conditions of employment.
8. Earned vacation shall not become a vested right until completion of the probationary period.
9. Vacation shall not be earned while an employee is on an unpaid leave of absence.
10. Upon separation from service, an employee shall be entitled to lump sum compensation for all earned and unused vacation at a rate of pay applicable to his/her last regular assignment.
11. When an employee separates from service, the employee shall be entitled to lump sum compensation for earned but unused vacation. If the employee terminates employment having taken vacation that he/she has not yet earned at the time of separation, the amount of unearned vacation shall be deducted from the employee's last paycheck.
12. A classified employee, who commences his/her prescribed vacation period and subsequently becomes ill before his/her vacation period has been completed, shall be placed on sick leave, provided the employee submits sufficient medical evidence.
13. Classified managerial employees shall earn vacation at the rate consistent with certificated management positions.
14. Commission management employees shall earn vacation at a rate consistent with other classified management and supervisory employees.
15. When a managerial employee demonstrates that he/she has been prohibited, because of job requirements, from taking his/her authorized, accrued or unused vacation during the fiscal year, he/she may request for vacation payoff through their assistant superintendent, who in turn will make a recommendation to the County Superintendent of Schools. Final approval shall rest with the County Superintendent of Schools. Vacation payoff shall be paid at the hourly rate and limited to eleven (11) days per fiscal year, unless otherwise approved by the Superintendent.
16. A managerial employee may request to be compensated for a maximum of five (5) vacation days in lieu of vacation for an extreme emergency. An employee shall submit his/her written request, describing the need, directly to the County Superintendent of Schools with a copy to the appropriate assistant superintendent.

12.02 Interruption or Termination of Vacation Leave

- A. A permanent employee may interrupt or terminate paid vacation leave in order to begin another type paid leave without return to active service provided approval is granted by the County Office of Education.

- B. A permanent employee who becomes ill, injured or quarantined while on paid vacation may request the County Office of Education to change that portion of his/her vacation to sick leave when any of the following occur:
1. Attendance of a physician was required.
 2. Proof of illness, injury or quarantine is furnished by the physician.
 3. The employee was incapacitated to perform his/her duties.
 4. The employee has sick leave available.

12.03 Sick Leave

A. Definition

Sick leave is the authorized absence of a classified employee because of illness, injury, exposure to contagious disease or serious illness in the employee's immediate family.

B. Sick Leave Bank

At the beginning of each fiscal year, the sick leave "bank" of each regular employee shall be credited with the number of days of paid sick leave which he/she would normally earn in the ensuing fiscal year. An employee's bank shall be adjusted if a subsequent change of assignment alters the amount earned sick leave. Benefits accrued while on paid sick leave shall be the same as the benefits which would have been accrued had the employee worked.

C. Accrual of Sick Leave

1. Regular employees (probationary and permanent) shall accrue sick leave in accordance with the provisions of Education Code Section 45191. Full-time employees shall accrue eight hours of sick leave for each calendar month of service. Accrual of sick leave for regular part-time employees shall be prorated.
2. Regular employees whose work year is extended shall accrue sick leave for service performed during the extended period.
3. Limited-term employees in assignments of at least three (3) months in duration shall accrue sick leave in the same manner as regular classified employees.

D. Use of Sick Leave

1. Sick leave may be used by a classified employee for absence from work due to illness, injury, exposure to a contagious disease, serious illness in the employee's immediate family or personal necessity to the extent authorized by this rule, provided the employee has sick leave credits available.
2. A new probationary employee shall not be eligible to take more than six (6) days of sick leave, or the proportionate amount to which he/she may be entitled under Education Code Section 45191 until the first calendar month after completion of six (6) months of active service with the County Office.
3. Pay for sick leave shall be the same as the pay, which would have been received, had the employee worked that day. The provisions of Education Code Section 45137 in addition to those of Section 45191 apply to sick leave for part-time employees.
4. In order to receive compensation while absent on sick leave, a classified employee must notify his/her immediate supervisor within the first hour of the first day absent, unless conditions make notification impossible. The burden to justify that impossible conditions existed shall be upon the employee. If the absence for illness is to be longer than one day, subsequent notification for each day's absence is required unless the duration of the absence can be stated at the time of the original notification. At least one day prior to his/her expected return to work, the employee shall notify his/her immediate supervisor in order that any relief/substitute personnel, if employed, may be released.
5. A managerial employee who is absent from work for three consecutive days or more may be required to present a physician's written verification detailing the nature of the illness or injury and the date the employee is able to return to work.
6. A managerial employee who is absent from work for one month will be required to submit a physician's written verification of illness. This report is in addition to regular absence forms required for each absence.

7. The County Superintendent of Schools reserves the right to require a physician's verification at any time.
8. Sick leave of no more than the amount entitled to, per year, may be granted in advance of being earned. If an employee separates from the classified service, any sick leave overpayment shall be reimbursed to the County Office of Education.
9. An employee shall be entitled to be absent from duty when illness or injury prevents him/her from performing his/her assigned duties. Credit for such absence for illness or injury is accrued on the basis of one day per month of employment. Pregnancy, miscarriage, childbirth, or recovery is a temporary disability for which sick leave may be utilized. The employee and the employee's physician therefrom shall determine the date of commencement of absence from duties because of pregnancy, miscarriage, childbirth or recovery. The employee and the physician shall determine the date for resumption of duties. The physician's verification for the commencement of absence from duties and resumption of duties shall be based on the employee's physical ability to perform assigned duties.
10. An employee shall be permitted to irrevocably donate his/her unused sick leave credits to another employee, certificated or classified, who has exhausted all paid leave, when that employee or a member of his/her family is incapacitated due to a catastrophic illness or injury. (Education Code Section 44043.5).

E. Accumulation of Sick Leave

Unused sick leave shall accumulate from year to year without limitation.

F. Transfer of Sick Leave

1. Any classified employee of a school district, county superintendent of schools or community college district in the State of California who has been employed for a period of one (1) calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with the Santa Clara County Office of Education within one year of the termination of his/her former employment, shall have transferred with him/her to the County Office the total amount of earned sick leave to which he/she is entitled under Education Code Sections 45191 or 88191.
2. In any case where an employee was terminated as a result of action initiated by the employer for cause, the transfer of sick leave may be made if agreed to by the County Superintendent of Schools.
3. All or any part of the previous service, not separated by a break in service greater than one year as of the last day of paid service, may, if agreed to by the County Superintendent of Schools, shall be construed to have been served in the County Office of Education for seniority purposes, except that the previous service may not be counted, for seniority purposes, when position or personnel reduction is ordered for any reason by the County Office of Education.
4. The County Office of Education shall not require any classified employee transferring into the Office to waive any part or all benefits for which they may be entitled to have transferred in accordance with this section (Education Code Section 45202).

12.04 Personal Necessity Leave (PNL)

- A. A regular managerial employee, at his/her discretion, may elect to use a maximum of seven (7) days of personal necessity, including any of the following:
 1. Death of a member of his/her immediate family of the employee when additional leave is required beyond that provided in Rule 12.05 (Education Code Section 45194).
 2. Accident, involving his/her person or property, or the person or property of a member of his/her immediate family as defined in Rule 12.03(D).
 3. Appearances in any court or before an administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.
 4. Three (3) of the seven (7) days may be used with no explanation given to the managerial employee's immediate supervisor; however, advance approval of the intended absence from the employee's immediate supervisor shall be given, whenever possible.
- B. No earned sick leave in excess of seven (7) days may be used in any fiscal year for the purposes enumerated in this section (Education Code 45207).

12.05 Bereavement Leave

A regular classified management, supervisory or confidential employee shall be entitled to a maximum of five (5) days leave of absence, without loss of pay, for the death of any member of his/her immediate family or any individual living in the immediate household. For the purposes of this rule, the term "family" shall include: spouse, domestic partner, son, son-in-law, daughter, daughter-in-law, brother and sister of the employee and also mother, father, grandfather, grandmother, grandchild, brother-in-law, sister-in-law, step-child and step-parent of the employee or the spouse or domestic partner of the employee (Education Code Section 45194).

One (1) day of leave may also be granted to attend funeral services of other family members. Such leave shall not be deducted from other earned leave.

A represented employee in regular status shall be entitled to bereavement leave in accordance with the appropriate contractual agreement.

12.06 Family Care Leave

A. Eligibility

A managerial employee who has completed a minimum of 1,250 hours of service shall be entitled to a paid leave (using his/her sick leave credits) or to an unpaid leave of absence for the purposes of caring for a seriously ill child, parent, spouse or domestic partner as defined in Sub Rule D subsection four (4) of this rule. Family care leave for the purpose of caring for a seriously ill child, parent, spouse or domestic partner shall only be available if the employee provides certification by a health provider or physician that the employee is needed to care for his/her seriously ill child, parent, spouse or domestic partner.

B. Duration

A managerial employee shall be entitled to three (3) months (or a total of 66 workdays) of family care leave within a twelve-month fiscal period. Family care leave may be taken intermittently or on a reduced schedule and may be taken concurrently with sick, differential, industrial and other leaves of absence to which the employee is entitled. Family care leave, at the end of the twelve-month period, shall not be carried forward to the subsequent twelve-month period.

C. Employee Notice

A regular employee shall provide reasonable advance notice to the County Office of Education of the need for family care leave including, the date the leave will commence and the estimated duration of the leave. If the need for a leave in excess of thirty (30) days becomes known, prior to the commencement of leave, the employee shall attempt to provide at least thirty (30) days written notice.

D. Definitions: For the purposes of this rule the following definitions shall apply:

1. A "serious health condition" shall be defined as an illness, injury, impairment or physical or mental condition that involves either (1) in-patient care (e.g., an overnight stay) in a hospital, hospice or residential medical care facility including a period of incapacity or subsequent treatment in connection with such in-patient care, or (2) continuing treatment by a health care provider as defined by federal and state regulations. A "serious health condition" shall not include prenatal care or pregnancy related disability for purposes of determining family care leave entitlement.
2. "Parent" shall be defined as biological, foster or adoptive parent, a stepparent or legal guardian.
3. "Child" means biological, adopted or a foster son or daughter, a step-son or a step-daughter, a legal ward, or a son or daughter of a person standing in place of a parent who is either under 18 years of age or an adult child who is incapable of self-care because of mental or physical disability.
4. "Domestic partner" shall be defined as an adult who has lived together with another adult in an exclusive committed relationship for a period of no less than twelve months. To qualify as a classified employee in a domestic partnership, the employee must complete "A Domestic Partnership Form." This form must be signed by the employee and his/her domestic partner before a notary public, and filed in Human Resources.

E. Health Insurance Coverage

Health insurance coverage shall be continued for a employee on family care leave, for a period which together with other continued health coverage provisions including, Prolonged Health Problem, Parenting and Child Rearing Leave and Pregnancy Disability Leave, not to exceed 66 workdays within a fiscal year

period. An employee may elect to use accrued vacation and/or sick leave during this unpaid leave of absence.

F. Return from Leave

Upon return from leave, an employee shall be reinstated to an equivalent position.

12.07 Extended Illness Absence

In the event of an absence of a permanent classified employee because of non-industrial illness or accident which continues beyond all available sick leave, vacation, and any other paid leave of absence benefits, the following procedures shall be followed:

- A. The employee's name shall be carried on the County Office's rolls in an extended illness absence status for a period of no more than 100 days from the date of his/her paid leave of absence benefits are exhausted.
- B. Prior to or at any time during the 100 day extended illness absence period, verification of the employee's continued illness or injury may be required from the attending physician.
- C. The employee may be returned to his/her regularly assigned duties at anytime during the 100 day period upon certification by the attending physician that the employee is physically and mentally able to perform such duties as the County Office of Education may require until such time as the employee is able to perform the essential functions of the job.
- D. In the event that the absence of the employee will continue beyond the 100 day extended illness absence period, it is the employee's responsibility to initiate a request for a leave of absence. The request should be accompanied by a recommendation of the attending physician. A leave of absence will be limited to one calendar year, unless extended by the County Office of Education at the employee's request.
- E. If at the conclusion of all leaves of absence the employee is still unable to assume the duties of his/her position, his/her name shall be placed on a reemployment list for a period of 39 months.
- F. Notwithstanding any prior rule, the County Superintendent of Schools may grant a classified management, supervisory or confidential employee, an unpaid leave of absence, for a period not to exceed twelve (12) months, after exhaustion of all other paid leaves.
- G. Whenever a managerial employee has written verification from a physician that his/her illness appears to be terminal, the County Office of Education shall continue to pay the terminally ill employee his/her full salary for each month or part thereof that the employee survives for a period not to exceed twelve (12) months. Workers' compensation and long-term disability payments shall cease whenever this rule is implemented.

Terminal illness leave shall commence upon exhaustion of all other applicable paid and unpaid leave provisions and receipt of the statement of terminal illness from a qualified physician. County Office paid health benefits and retirement contributions shall be continued in full force during the period in which the provisions of this rule are in effect; however, sick leave and vacation accrual shall cease during such leave.

12.08 Industrial Illness or Accident Leave

Classified employees absent from duty because of industrial illness or accident shall be entitled to Industrial Illness and Accident Leave as set forth in the following conditions and regulations:

- A. Any absence which is supported by a physician's certificate and which is verified by the administering agency of the County Office of Education as qualified for workers' compensation is an absence payable under industrial illness and accident leave. During the period of determination by the administering agency, the payroll charge will be made to the employee's sick leave account. If the claim is approved, an adjustment will then be made restoring to the employee the sick leave previously charged from the first day of absence, and a charge made in lieu thereof to industrial illness and accident leave. In the event the employee does not have sick-leave credit, appropriate payroll deductions will be made. If the claim is approved, reimbursement will then be made on the first available warrant register. Industrial Illness and Accident Leave will commence on the first day of authorized absence.
- B. A maximum of 60 workdays of industrial illness and accident leave is allowable for any one illness or accident, and shall be used in lieu of entitlement to any other paid leave. Eligibility for industrial illness or accident leave will continue for only such period as the employee qualifies under the workers' compensation laws. An industrial accident or illness leave may overlap into any other fiscal year by no

more than the amount of the 60-day leave remaining at the end of the fiscal year in which the injury or illness occurred, provided employment for that fiscal year is approved by the Board of Education.

- C. Industrial illness and accident leave shall not be accumulative from year to year, nor from one accident/illness to another.
- D. If the employee's absence due to an industrial illness or accident is extended beyond 60 workdays, the employee's available sick leave, compensatory time, vacation or other available leaves shall be integrated with temporary disability benefits in order to provide a full day's wages. In no case shall compensation, when added to temporary disability benefits, exceed the rate of compensation to which the employee would, otherwise, be entitled.
- E. Upon complying with County Office medical-release requirements and receipt of County Office authorization to return to work, an employee on Industrial Illness and Accident Leave shall be reinstated in a position in the same class without loss of status or benefits.
- F. If an employee is not medically able to assume the duties of his/ her position after all industrial illness and accident leave, sick leave, vacation, compensatory time and extended illness absence leave have been exhausted, his/her employment shall be terminated and his/her name shall be placed on a reemployment list for a period of thirty-nine (39) months. When medically released by the County Office-approved doctor for return to duty during the thirty-nine (39) month period, he/she shall be employed in the first position opening in the class of his/her previous assignment over all other available candidates, except for those on a reemployment list established because of lack of work or lack of funds. An employee who fails to accept an appropriate assignment shall be removed from the reemployment list.
- G. An employee receiving benefits as a result of an industrial illness or accident shall, during periods of injury or illness, remain within the state of California unless the Board of Education authorizes travel outside the state.
- H. For purposes of this rule, the term "duty" refers to all scheduled working days, including legal and Board-declared holidays on which an employee in the classified service is authorized to receive salary payments.
- I. The term "qualifying for workers' compensation" presupposes that an accident report has been filed according to established procedure and that the administering agency considers the claim valid. In the event of rejection of the claim by the administering agency, industrial accident leave shall not apply.

12.09 Jury Duty and Witness Leave

- A. Leave of absence for jury service shall be granted to any classified employee who has been officially summoned to jury duty in local, state, or federal court. Leave shall be granted for the period of the jury service. The employee shall receive full pay while on leave provided that the jury service fee for such leave is assigned to and the subpoena or court certification is filed with the County Office. Presenting the official court summons to the County Office of Education shall make request for leave of absence due to jury duty.
- B. Leave of absence to serve as a witness in a court case shall be granted an employee when he/she has been served a subpoena to appear as a witness, not as the litigant in the case. The length of the leave granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court. The employee shall receive full pay during the leave period, provided that the witness fee for such leave is paid to and the subpoena or court certification is filed with the County Office of Education. Request for leave of absence in order to serve as a witness shall be made by presenting the official court summons to the County Office of Education.
- C. The jury service fee and witness fee referred to in A and B respectively do not include reimbursement for transportation expenses.
- D. An employee who has received leave of absence under this rule shall make himself/herself available for work during hours when his/her presence is not required in court.
- E. Night workers shall be allowed time off from their regular duties on each day jury service is performed. The time off duty per day will be the same amount of time as the jury service performed on that day.

12.10 Absence for Examination

A represented employee shall be granted release time to participate in promotional testing in accordance with contractual agreements.

A managerial employee, upon reasonable notice to his/her immediate supervisor, shall be eligible to participate in any examination conducted by the Personnel Commission without loss of pay, provided the Director has properly notified the employee that he/she is eligible to participate.

12.11 Absence for Medical and Dental Appointments

A represented employee shall be granted release time without loss of pay for medical and dental appointments in accordance with contractual agreements.

A managerial employee, upon reasonable notice to his/her immediate supervisor, shall be granted a reasonable amount release time, without loss of pay or sick leave, for medical and dental appointments for himself/herself or members of his/her immediate family.

12.12 Military Leave

Military service leave and rights to reemployment shall be granted in accordance with the Military and Veterans Code. Time spent in military service shall be included in computations of years of service with the County Office of Education.

12.13 Leave of Absence for Health and Safety Hazards

A regular employee shall be paid his/her regular salary for any period which his/her place of employment is closed because of quarantine, epidemic or other conditions involving the health or safety of employees, provided that the employee is ready, willing and able to perform his/her customary or other reasonable and suitable duties (Education Code Section 45199).

12.14 Leave of Absence for Training and Study

At the discretion of the Board of Education, a leave of absence for study or retraining may be granted as outlined in Article 9, Chapter 5, Part 25 of Division 3 of the Education Code.

12.15 Unpaid Leave of Absence

- A. For valid reasons, a request for a leave of absence, without pay, may be granted to a permanent classified employee. A leave of absence shall not normally exceed one calendar year, shall be subject to the approval of the principal or supervisor, the Assistant Superintendent, Human Resources and the Board.
- B. The failure of an employee to return to work or to report for assignment at the expiration of a leave of absence shall be considered as equivalent to a resignation. An unpaid leave of absence may be revoked upon the recommendation of the Assistant Superintendent, Human Resources and approval of the County Superintendent of Schools.
- C. An application for leave of absence shall indicate the beginning and ending dates of the requested leave and the reasons for the request and shall be submitted to Human Resources at least two weeks prior to the effective date of the leave.
- D. Time spent on unpaid leave of absence shall not count toward seniority, salary increments or accumulation of vacation.
- E. If an employee is granted a leave of absence without pay for a period of six (6) months or more, the employee shall have the right to return to a position in his/her classification at the expiration of the leave of absence, provided that he/she is capable of performing the duties of the position.
- F. If a personal leave of absence is granted for a period of less than six (6) months, or if a combination of extended illness absence leave and personal leave of absence is for a period of less than six (6) months, the employee shall have a right to return to his/her position at the expiration of the leave of absence, provided that he/she is capable of performing the duties of the position.
- G. If a personal leave of absence is granted because of illness or injury, return to duty shall be contingent upon verification by the employee's attending physician that the employee is able to return to work without restrictions.