

San Dieguito Union High School District

Personal Leaves

AR 4161.2 4361.2

Personnel

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner.

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

Bereavement

Certificated and management employees are entitled to a leave of up to six days, 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.

Members of the immediate family include:

1. The mother, father, grandmother, grandfather, mother-in-law, father-in-law, grandmother-in-law, grandfather-in-law, or grandchild of the employee or of the employee's spouse
2. The employee's spouse, registered domestic partner, son, son-in-law, daughter, daughter-in-law, brother, sister, brother-in-law, or sister-in-law
3. Any relative living in the employee's immediate household, or family member for who the employee is primary caretaker.

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below.

Personal Necessity

Employees may use a maximum of seven days of their accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity.

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
2. An accident involving the employee or his/her property or the person or property of a member of the employee's immediate family
3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5
4. An employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order
5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard.

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether or not a request reflects personal necessity.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of his/her immediate family, or the illness, preventive care, or other need of a member of the employee's family.

For any leave that is planned, or where the need for leave is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

Legal Duties

An employee may take time off work in order to:

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.

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between his/her regular earnings and any jury fees he/she received.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between his/her regular earnings and any witness fees he/she received.

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, or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim, of any of the following crimes:

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement.

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee.

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.

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave.

Leaves for Victims of Domestic Violence, Sexual Assault and Stalking

An employee who is a victim of domestic violence, sexual assault, or stalking as defined by law may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to him/her under the terms of his/her employment to attend to the following activities:

1. 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
2. Seek medical attention for injuries caused by domestic violence, sexual assault, or stalking
3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking

4. Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking
5. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

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 period of time, certification of the absence in the form of any of the following:

1. A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, sexual assault, or stalking.

The district shall maintain the confidentiality of such an employee to the extent authorized by law.

Personal Leave for Child-Related Activities

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to:

1. Find, enroll, or reenroll his/her child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
 - a. A request by the school or child care provider that the child be picked up
 - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider

- c. Behavioral or discipline problems
- d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
- e. A natural disaster, including, but not limited to, fire, earthquake, or flood.

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child.

If two or more parents/guardians of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee.

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed child care provider that he/she engaged in permitted child-related activities on a specific date and at a particular time.

Service on Education Boards and Committees

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met:

1. The service is performed within the state
2. The board, commission, organization, or group informs the district in writing of the service
3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10.

Within two business days of receiving official notice that his/her spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested.

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.

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training.

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to him/her, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee.

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification.

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)
- 45240-45320 Merit system, classified employees

EVIDENCE CODE

- 1035.2 Sex assault counselor; definition
- 1037.1 Domestic violence counselor; definition

FAMILY CODE

- 297-297.5 Registered domestic partner rights, protections, and benefits

GOVERNMENT CODE

- 3543.1 Release time for representatives of employee organizations

12945.1-12945.2 California Family Rights Act

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

246.5 Paid sick days, purposes for use

1500-1507 Civil Air Patrol leave

MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

PENAL CODE

667.5 Violent felony, defined

1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act

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

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954

Management Resources:

WEB SITES

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

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