
Fresno USD DIVISION OF HUMAN RESOURCES
HR 4109
LEAVES OF ABSENCE

The Governing Board shall provide for employee absences as provided by law, negotiated agreements, Board policy and administrative regulations. The Board recognizes the following justifiable reasons for absence:

1. Personal sickness or injury, pregnancy, jury duty, military service or emergencies beyond control.
2. Family illness, bereavement, religious observances and other personal reasons.
3. Situations stemming from occupational status such as attendance at meetings, conventions, in-service courses, seminars, etc.

Certificated management, certificated supervisory employees and certificated employees shall be entitled to those leave provisions provided in the certificated agreement unless otherwise specified in Board policy, administrative regulations or individual contract.

Classified management, supervisory and confidential employees shall be entitled to those leave provisions provided in classified negotiated agreements unless otherwise specified in Board policy, administrative regulations or individual contract.

FAMILY MEDICAL LEAVE ACT OF 1993 (FMLA) and CALIFORNIA FAMILY RIGHTS ACT (CFRA)

The Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act (CFRA) each provide up to 12 work weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons during any 12-month period. Employees are eligible if they have worked for Fresno Unified for a total of 12 months. FMLA and CFRA entitle employees to paid benefits and rights back to the same or comparable position.

Reasons for Taking Leave:

FMLA/CFRA leave shall be granted to eligible employees for any of the following reasons:

- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; however, CFRA does not cover leave taken for disability due to pregnancy, childbirth or related medical conditions;
- To care for the employee's spouse, son or daughter, or parent with a serious health condition;
- To care for the employee's child after birth, or placement of a child with the employee in connection with the employee's adoption or foster care of the child. (*See "Parental Leave"*)

FMLA – active duty – shall be granted to eligible employees

- For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

FMLA/CFRA – care for service member - shall be granted to eligible employees

- To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, partner, or next of kin of the service member (CFRA **excludes** "next of kin).

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Definitions:

"Eligible Employee" means, in general, an employee who has been employed (1) for at least 12 months with FUSD with respect to whom leave is requested under FMLA Title I section 102; and (2) for at least 1,250 hours of service with FUSD during the previous 12-month period.

"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. **"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. **"Spouse"** means a husband or wife as defined or recognized in the state where the individual was married or the place of celebration and includes individuals in a common law marriage or same-sex marriage.

A **"serious health condition"** must meet the criteria set forth in federal and/or state law, but **generally** involves incapacity of more than three consecutive full days, inpatient care, chronic or long-term conditions requiring supervised medical treatment and/or multiple treatments for other serious health problems, or incapacity due to pregnancy or for prenatal care.

"Covered service member" may be either (1) a member of the Armed Forces, including National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness; or (2) a veteran, who was a member of the Armed Forces, including the National Guard or Reserves, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness.

"Serious injury or illness" means: (1) an injury or illness incurred or aggravated by the member's service in the line of active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; (2) or for a veteran, such an injury or illness that manifested itself before or after the member became a veteran.

Terms of Leave:

FMLA leave shall not exceed 12 workweeks during any 12-month period. The 12-month period shall begin with the date that any employee's first FMLA leave begins. FMLA leave shall run concurrently with CFRA except for leave taken for pregnancy disability, childbirth or related medical conditions which extends beyond six weeks. If the pregnancy disability extends up to four months, employees are entitled to 12 weeks of CFRA leave without benefits after their disability ends. Leave for the birth or placement of a child must be initiated within one year of the birth or placement of the child. Such leaves may be taken intermittently or on a reduced leave schedule.

Eligible employees are entitled to a combined total of 12 weeks of FMLA leave during a single 12-month period for "any qualifying exigency" arising because the spouse, son, daughter, or parent of the employee is on active military, or has been notified of an impending call to active duty status, in support of a contingency operation. Eligible employees are entitled to a combined total of 26 workweeks of FMLA leave to care for an active covered service member who is ill or injured in the line of duty, together with other forms of FMLA leave which may be taken concurrently, during a single 12-month period. Eligible employees covered under CFRA (family member is a covered CFRA employee, i.e., a spouse, child or parent) are entitled to up to 12 weeks of CFRA leave (see exception for "next of kin") to care for an active covered service member who is ill or injured in the line of duty. The 12-month period begins to run on the first day

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the employee takes leave due to any qualifying exigency or to care for the service member and ends 12 months from that date, regardless of the method the District uses to calculate the employee's entitlement to FMLA leave and/or CFRA leave for any other qualifying reasons. FMLA and CFRA leaves as described run concurrently.

During FMLA/CFRA leave, eligible employees may be required to use all accrued vacation leave, other accrued time off, and any other paid or unpaid time off as set forth in law, board policy and administrative regulations and respective collective bargaining agreements. Accrued sick leave shall be used when the purpose of the leave is one for which sick leave can be taken pursuant to bargaining unit agreements, and/or Board policy, and applicable government codes & regulations.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable.
- If leave is for planned medical treatment or supervision, the employee shall make a reasonable effort to schedule leave to avoid disruption of District operations.

Requests for FMLA leave must be accompanied by a certification from the health care provider of the person requiring care to include:

- The date on which the serious health condition began.
- The probable duration of the condition.
- If FMLA leave is due to an employee's 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 or her job.
- If FMLA leave for the care of a child, spouse or parent, shall also include:
 1. Estimate of the amount of time the health care provider believes the employee needs to care for the child, parent or spouse.
 2. 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.

If additional leave is needed when time estimated expires, the employee must provide re-certification to include the above items.

Intermittent/Reduced Work Schedule Leave

FMLA leave may be taken intermittently or on a reduced work schedule when medically necessary and in such a case, the employee may be required:

- To take the leave for periods of a particular duration, not to exceed the duration of the planned medical treatment;
- To transfer temporarily to a different job with equivalent pay and benefits that can better accommodate recurring periods of leave; and
- If the person is in an instructional capacity and requests leave for more than 20 % of the total number of working days during the period of medical treatment, the District may require the employee to choose one of the two options above.

Compensation while on leave:

FMLA/CFRA can be paid, unpaid or a combination of both. If the FMLA/CFRA absence is for the employee's own Serious Health Condition, the employee is required to use any available sick leave pay, differential leave pay and/or vacation leave pay if applicable. If the FMLA/CFRA absence is to care for the employee's Family Member, the employee is required to use any available Kin Care, Personal Necessity or vacation time.

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Benefits while on leave:

Paid Benefits

- During FMLA leave, the employee shall continue to be entitled to participate in the District's medical, dental and vision plans with the same District contribution that was in effect prior to the leave.

Recovery of Benefits

- The District will recover health premiums paid if the employee fails to return from FMLA after the leave period has expired, provided this is for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to family care and medical leave, or other circumstances beyond the employee's control.

Unpaid Benefits

- During FMLA leave, the employee shall be entitled to participate in life, disability and accident insurance plans, pension and retirement plans, supplemental unemployment benefit plans, and/or any other welfare benefit plan at the employee's expense.

Employment Status while on leave:

The employee shall retain his or her employee status with the District during the leave period. The leave shall not constitute a break in service for purposes of longevity or seniority. For purposes of layoff, recall, promotion, job assignment and seniority-related benefits such as vacation, the employee returning from family care leave shall return with no less seniority than he or she had when leave started.

Employment Reinstatement:

The District will reinstate the employee in the same or a comparable position when FMLA leave ends. The District may refuse to reinstate an employee returning from leave to the same or a comparable position if the following apply:

- The employee is a salaried "key employee" who is among the highest paid 10 percent of the District's employees who are employed within 75 miles of their worksite.
- The refusal is necessary to prevent substantial and grievous economic injury to District operations.
- The District informs the employee of its intent to refuse reinstatement at the time when it determines that the refusal is necessary, and
- The employee fails to return to service within two weeks after being informed.

Employment in the same or comparable position is defined as employment in a position with the same or similar duties and pay that can be performed at the same or a similar geographic location as the position held prior to the leave. A determination related to restoration in an equivalent position shall be made on the basis of applicable Board policies and collective bargaining unit agreements.

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed. If the District reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he or she is not entitled to reinstatement under the FMLA.

The District shall not refuse to hire and shall not discharge, fine, suspend, expel or discriminate against any individual because he or she exercises the right to family care and medical leave or because he or she

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gives information or testimony related to his or her or another person's family care and medical leave in an inquiry or proceeding related to FMLA leave rights.

See Family Military Leave for FMLA and for CFRA

CALIFORNIA PREGNANCY DISABILITY LEAVE ACT (PDL)

The California Pregnancy Disability Leave Act (PDL) provides up to four (4) months or 17 ½ work weeks of unpaid, job-protected pregnancy disability leave during the period of time in which the employee is disabled due to pregnancy or childbirth or a related condition. This also includes morning sickness and prenatal care. It does not include leave to care for a newborn.

Employees are entitled to use all available paid leave time concurrently with PDL pursuant to collective bargaining unit agreements; PDL runs concurrently with FMLA.

The health and welfare benefits for employees on PDL shall be continued for up to four (4) months under the same term and conditions as if the employee were working.

Requests for PDL leave must be accompanied by a certification from the health care provider of the employee to include the date on which the disability began and the probable duration of the disability.

PDL entitles employees to reasonable accommodation at work and rights back to the same or comparable position unless legitimate business reasons prevent reinstatement, or preservation of the employee's job compromises business safety or efficiency.

Reference: Educ. Code §§44965, 45193

PARENTAL LEAVE OF ABSENCE

In accordance with the applicable collective bargaining agreement, employees are entitled to a one (1) year parental leave of absence, upon request, to care for the employee's child after birth, or placement of a child with the employee in connection with the employee's adoption or foster care of the child. This leave of absence may run concurrently with other leaves.

Reference: Educ. Code §§44977.5, 45196.1

PAID FAMILY LEAVE OF ABSENCE (PFL)

SEIU employees participating in the California State Disability Program may be eligible for benefits under the Paid Family Leave program. Under this program, employees may be eligible for PFL if they suffer a wage loss when they take time off of work to care for a seriously ill family member or to bond with a new child as long as they meet the [basic eligibility](#) requirements.

In order to be eligible for PFL benefits, employees must:

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- Be unable to do their regular or customary work for at least eight days due to the need to provide care to a seriously ill family member or to bond with a new child.
- Be employed or actively looking for work at the time their family leave begins.
- Have lost wages because they were caring for a seriously ill family member or bonding with a new child.
- Have earned at least \$300 from which SDI deductions were withheld during their base period.
- Complete and submit a claim form within nine (9) days of the first day of their family leave, but no later than 49 days after their family leave begins or they may lose benefits. The first day a claim form may be submitted is nine days after the first day their family leave begins.
- Provide a medical certificate on their care claim for a seriously ill family member. The certificate must be completed by the care recipient's physician/practitioner.
- A nurse practitioner may certify to a need for care within his/her scope of practice; however, he/she must perform a physical examination and collaborate with a physician or surgeon.
- If the care recipient is under the care of a religious practitioner, request a *Practitioner's Certificate* (DE 2502), from an SDI office. Certification by a religious practitioner is acceptable only if the practitioner has been accredited by the Employment Development Department.

Please note that the District will be notified that an employee has submitted a PFL claim. However, the employee's medical information is confidential and will not be shared with the District.

KIN CARE (Also see Family-School Partnership Act below)

Employees who are a parent, guardian, or grandparent having custody of a child in a child care provider, kindergarten, or grades 1-12 are entitled to take up to forty (40) hours per year of leave for school-related activities. Such activities may include a child care provider emergency, and the finding, enrolling or re-enrolling of a child in a school as described above. "Parent" is defined for these purposes as a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to, a child. A parent as described may not be discriminated against or discharged for requesting leave for these reasons.

Employees are also entitled to take leave for (1) the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member, (2) for an employee who is a victim of domestic violence sexual assault, or stalking, as described in Labor Code Sections 230 & 230.1 (a). Under Labor Code 230.1, the entitlement of any employee shall not be diminished by any collective bargaining agreement term or condition agreed to on or after January 1, 1995.

The District shall permit an employee to use sick leave for the purposes described above, and defines "sick leave" as leave provided for use by the employee during an absence from employment for these purposes, and would prohibit an employer from denying an employee the right to use sick leave or taking specific discriminatory action against an employee for using, or attempting to exercise the right to use, sick leave for these purposes. The employee may use not less than the amount of sick leave that would be accrued during six (6) months.

This leave runs concurrently with FMLA and CFRA leaves and may run concurrently with Personal Necessity Leave in accordance with the applicable collective bargaining agreement.

The employee will be returned to the same or equivalent position.

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Reference:

Labor Code 230.8 & 233, 246.5

HEALTHY WORKPLACES, HEALTHY FAMILIES ACT OF 2014 (California Paid Sick Leave)

Employees are entitled to sick leave under this act for the following qualifying events:

1. The employee's own health condition, or a family member's condition (includes parents, children (any age), spouse and registered domestic partner, grandparents and grandchildren, and sibling)
2. Victims of domestic violence, sexual assault, stalking
3. May be used for diagnosis, care, or treatment of an existing health condition or preventative care

The employees must complete at least 30 work days within the State of California. Certain unionized employees subject to collective bargaining agreements are excluded from this leave entitlement as well as CalPERS and STRS retirees who have returned to work without reinstatement (pursuant to Labor Code Article 8).

Accrual begins on the first day of employment. Employees accrue one (1) hour of paid sick leave for every 30 hours worked, or per pay period if given at least 24 hours by the 120th day, or (2) lump sum 24 hours per year. Employees are entitled to begin using accrued sick leave time after completion of 90 calendar days of work. The minimum use increment cannot exceed 2 hours.

The employee must provide reasonable advance notice of the need to use the paid sick leave, or as soon as practicable if unforeseeable. The District may allow use upon verbal request for a qualifying reason. Employees' sick leave is paid out the "regular rate" of pay for the workweek, or a 90 day average; exempt employees are paid at the rate otherwise specified for paid time off (PTO).

Reference:

Labor Code §245 et seq.

BP 4000, AR 4161.1, 4361.1

SICK LEAVE – CLASSIFIED

Classified employees are entitled to sick leave of absence for personal illness or injury. Full-time twelve-month classified employees are entitled to 12 days leave of absence, with full pay, per fiscal year. Employees who serve less than a full fiscal year or less than five days a week shall be granted comparable sick leave in proportion to the time they work.

New employees are not eligible to take more than six (6) days (or the proportionate amount) until the first day of the calendar month after completion of six (6) months of active service with the District. Unused leave accumulates from year to year.

Leave for non-work related injury/illness may be granted for up to six (6) months, but cannot exceed 18 months and must be taken prior to placement on the re-employment list. The employee may elect to use sick days to be used for reasons of "Personal Necessity" consistent with the applicable collective bargaining agreement and Education Code. Sick leave may run concurrently with other applicable leaves.

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Reference:

Ed. Code §§45191, 45195, 45202, 45207

Gov't. Code 20963

BP 4000, AR 4161.1, 4261.1

Collective Bargaining Agreement

SICK LEAVE – CERTIFICATED

Certificated employees are entitled to sick leave of absence for personal illness or injury or quarantine. Leave entitlement is ten (10) days (proportionately less if part-time or more if employee works beyond the basic work year).

The employee may elect up to 10 days to be used for reasons of “Personal Necessity.” Leave taken for medical and dental appointments must be taken in increments of not less than one hour. Sick leave may run concurrently with other applicable leaves. Unused leave accumulates from year to year.

Verification of sick leave absences and return to work shall be provided in accordance with Board policy, the collective bargaining agreement and Education Code. In keeping with the step advancement requirement of working a minimum of 75% of the teaching year, each certificated employee of the district who misses more than 25% of the school year (46 days or more based on 185 duty days for a teacher) shall not be qualified for step advancement on the salary schedule the year following the absence of 25% or more of the duty days; nor shall that year be counted as a year of service applicable to the anniversary increment.

See Extended Sick leave – Certificated for sick leave beyond 10 days.

See Industrial Injury/Illness – Certificated for cases of industrial accidents or illnesses when leave granted specifically for that purpose has expired.

Reference:

Ed. Code §§22717, 44978 – 44981

BP 4000, AR 4161.1, 4361.1

FTA

EXTENDED SICK LEAVE – CLASSIFIED

Classified employees are entitled to extended sick leave when they have exhausted all available sick leave for injury/illness. The employee may receive up to five (5) months of differential pay for this leave, i.e., the difference between his/her salary and what a substitute is actually paid (full pay if no substitute is hired).

This leave runs concurrently with certain other types of leaves, (i.e. FMLA, CFRA) and must comply with the applicable collective bargaining unit.

Reference:

Ed. Code §45196

Collective Bargaining Agreements

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EXTENDED SICK LEAVE – CERTIFICATED

Certificated employees are entitled to extended sick leave when they have exhausted all available sick leave for injury/illness. The employee may receive up to five (5) months of differential pay, i.e., the difference between his/her salary and what a substitute was actually or would have been paid (if no substitute hired), per illness or injury and per school year. The amount paid to the substitute must be less than the employee's salary due.

The differential leave runs consecutively with sick leave. If the school year terminates before exhaustion of the five months, the employee may take the balance in the next school year. This leave does not renew annually.

Reference:

Ed. Code §§44977, 44978, 44983

CATASTROPHIC LEAVE

An employee who suffers from or whose family member suffers from a "Catastrophic illness" is entitled to catastrophic leave of absence. For specifics, please see the applicable collective bargaining agreement.

Reference:

Ed. Code §44043.5

Collective Bargaining Agreement

PERSONAL NECESSITY LEAVE – CLASSIFIED

Classified employees are entitled to this leave for the following qualifying events in accordance with Labor Code, Board policy and applicable collective bargaining agreement:

1. Death of an immediate family member
2. Attendance at the funeral of a close relative but not included as a member of "immediate family"
3. Accident or illness involving the person or property of the employee or immediate family member
4. Appearance before courts & administrative tribunals under subpoena
5. *See FMLA/CFRA Bonding/"Parental" LOA above*
6. Illness or an unusual circumstance involving a member of the employee's immediate family, serious in nature, which under the circumstances the employee cannot reasonably be expected to disregard and which requires the attention of the employee during the assigned hours of work.
7. A final examination at any institute of higher learning or trade/vocational school that cannot be rescheduled, and for which professional growth credit is allowed and verification given.

The classified employee may take up to the total amount of leave in accordance with the applicable collective bargaining agreement.

Reference:

Labor Code §45207

BP 4000, 4161, 4261, 4361

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Collective Bargaining Agreements

PERSONAL NECESSITY LEAVE – CERTIFICATED

Certificated employees are entitled to this leave for the following qualifying events:

1. Death of an immediate family member
2. Attendance at the funeral of a close relative but not included as a member of “immediate family”
3. Accident or illness involving the person or property of the employee or immediate family member
4. Appearance in court as a litigant
5. *See FMLA/CFRA Bonding/“Parental” LOA above*
6. Illness or an unusual circumstance involving a member of the employee’s immediate family, serious in nature, which under the circumstances the employee cannot reasonably be expected to disregard and which requires the attention of the employee during the assigned hours of work.
7. A final examination at any institute of higher learning or trade/vocational school that cannot be rescheduled, and for which professional growth credit is allowed and verification given
8. To the extent allowed by law, parents may take leave for involvement in activities at their child’s school
9. The certificated employee may take up to ten (10) days per school year in accordance with the collective bargaining agreement (includes 2 days for Personal Business Leave)

Reference:

Labor Code §44981

BP 4000, 4161, 4261, 4361

Collective Bargaining Agreement

INDUSTRIAL INJURY/ILLNESS (e.g., Workers’ Compensation)

When an employee is absent from his/her duties because of an industrial accident or illness, Board Policy regulations and the applicable collective Bargaining Agreement (CBA) rules shall apply.

Classified Employees

When a classified employee is absent from his/her duties because of an industrial accident or illness, the employee is entitled to 60 days of leave in one school year for the same injury/illness at full pay. The allowable leave does not accumulate; if the leave period overlaps into the next school year, the employee may only use the remainder (does not receive a new 60-day entitlement for the same injury/illness).

After the classified employee has exhausted the 60-day leave period, he/she is entitled to use regular sick leave and extended illness leave. When all available paid sick leave is exhausted, the employee is entitled to an additional period of five school months (or 100 days) per injury or illness. The combination of any paid leave and any disability pay shall not exceed 100% of the employee’s normal wage. The classified employee shall be notified, in writing, by the District that available paid leave has been exhausted and shall be offered an opportunity to request additional leave. Periods of absence, paid or unpaid, shall not be considered a break in service of the employee nor shall the classified employee suffer any loss of status or benefits.

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Upon exhaustion of all available leaves of absence (paid and unpaid), if the classified employee is medically unable to resume the duties and responsibilities of his/her position, he/she (if not placed in another position) will be placed on a 39-month re-employment list. When the classified employee is medically able during this period, he/she will be returned to a vacant position in the class of the employee's previous assignment (see Ed. Code 45192 for exception). A classified employee placed on the 39-month re-employment list who has been medically released for return to duty and fails to accept an appropriate assignment shall be dismissed.

Reference:
Ed. Code §§45192, 45195

Certificated Employees

When a certificated employee is absent from his/her duties because of an industrial accident or illness, the employee is entitled to 60 days of leave in one school year for the same injury/illness at full pay. The allowable leave does not accumulate; if the leave period overlaps into the next school year, the employee may only use the remainder (does not receive a new 60-day entitlement for the same injury/illness).

After the certificated employee has exhausted the 60-day leave period, he/she is entitled to use regular sick leave and extended illness leave. When all available paid sick leave is exhausted, the employee is entitled to an additional period of five school months (or 100 days) per injury or illness. The combination of any paid leave and any disability pay shall not exceed 100% of the employee's normal wage. Periods of absence, paid or unpaid, shall not be considered a break in service of the employee.

Upon expiration of the five months leave period, if the certificated employee is medically unable to resume the duties and responsibilities of his/her position, he/she (if not placed in another position) will be placed on a 39-month re-employment list if on permanent status or 24-month re-employment if on probationary status. When the certificated employee is medically able during either of these periods, he/she will be returned to a position for which he/she is credentialed and qualified.

Reference: Ed. Code §§44977, 44978.1, 44984

LEAVE OF ABSENCE FOR DISABILITY BENEFIT APPLICANT – CERTIFICATED Through STRS

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

Reference:
Ed. Code §44986

DISABILITY ACCOMMODATION – ADA & FEHA

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Both the federal Americans with Disabilities Act (ADA) and the California Fair Employment & Housing Act (FEHA) authorize leave to be taken as a form of reasonable disability accommodation to “qualified individuals.”

Any leave offered as a form of accommodation is determined on a case by case basis through the interactive process to determine whether a reasonable accommodation exists; “reasonable accommodation” analysis is reviewed for leave availability and length. Other accommodation options may eliminate the need for a leave. Part-time leave is available. This leave is unpaid unless District benefits are available.

Employee health benefits are maintained for the same period of time as other disabled employees. The employee is usually returned to the same position but may be returned to another position for which he/she is qualified.

BEREAVEMENT

Employees are entitled to bereavement pay upon the death of an immediate family member (mother, father, grandmother/father, grandchild of the employee or spouse, spouse, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, any relative living in the immediate household of the employee.

This leave benefit provides 3 days maximum or 5 days maximum of if out-of-state travel is necessary. There is no deduction from salary or from other leave benefits.

Reference:
Educ. Code §§44985 & 45194

JURY DUTY

The governing board of the District may grant leaves of absence to employees to employees regularly called for jury duty in the manner provided for by law. Such leaves of absence are with pay up to the amount of the difference between the employee’s regular earnings and any amount he/she receives for jury fees. Employees must comply with their respective collective bargaining agreement documentation and reimbursement requirements.

Reference:
Ed. Code §§44036 & 44037
Labor Code §230(a)

WITNESS DUTY

The governing board of the District may grant leaves of absence to employees to appear as a witness in court other than as 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 leaves of absence are with pay up to the amount of the difference between the employee’s regular earnings and any amount he/she receives for witness fees.

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Reference:

Ed. Code §§44036 & 44037

Labor Code §230(b)

VOTING

For state-wide elections, if an employee does not have sufficient time outside of work to vote, he/she is permitted to take off enough working time to vote, when combined with the available time off shift. The maximum paid time off is two (2) hours. Time off shall be at the beginning or end of the working shift. Employees must give two days' notice if he/she knows time is needed three (3) days prior to the election.

Reference:

California Election Code §14000

LEAVE TO SERVICE AS AN ELECTED PUBLIC OFFICER

The governing board of the District shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of public employee organizations (e.g., any local school district public employee organization, or any statewide or national public employee organization with which the local organization is affiliated).

This leave includes, but is not limited to, absences for purposes of attendance by the employee at periodic, stated, special or regular meetings of the body of the organization on which the employee serves as an officer.

Reference:

Ed. Code §§44987 & 45210

LEAVE TO SERVE ON CERTAIN COMMISSIONS, BOARDS

The governing board of the District shall grant to any employee, upon request, a leave of absence without loss of any compensation for the purpose of enabling the employee to serve boards, commissions, committees, or groups as defined in the Education Code (e.g., Advisory Commission on Special Education, Advisory Committee for Child Care, California Advisory Council on Vocation Education, Equal Education Opportunities Commission).

Employees are limited to twenty (20) school days per school year. Service must be in the State of California. Prior to service the board, commission, committee or group must inform the District in writing of the service and agree to reimburse the District.

Reference:

Ed. Code §44987.3

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STUDY /RETRAINING LEAVE

Employees may request study and/or retraining leaves of absence in accordance with their collective bargaining agreements and Board policy.

Classified Employees

A leave of absence for study and/or re-training may be granted at the option of the Board to classified employees.

In accordance with the collective bargaining agreement, the employee must have served at least three (3) consecutive years preceding granting of the leave.

The amount of leave grant shall be in accordance with the law and the applicable collection bargaining agreement (Ed. Code states no more than one study leave of absence shall be granted in each seven (7) year period and no more than one retraining leave of absence shall granted in each three (3) year period). Such leave of absence may be taken in separate six (6)-month periods or in any other appropriate periods rather than for a continuous one (1) year period provided the separate periods of leave of absence shall be commenced and completed within a three (3) year period. Any period of service by the individual intervening between the authorized separate periods shall comprise a part of the service required for a subsequent leave of absence for study or retraining purposes.

Any leave of absence granted under Board policy shall not be deemed a break in service for any purpose, except that such leave shall not be included as service in computing service for the granting of any subsequent leave under this type of leave, nor shall the employee earn vacation pay, sick leave, holiday pay or other benefits provided under this Agreement. Health benefits may be maintained during such leave at the option and expense of the employee.

Reference:

Ed. Code §§45381 & 45382

Collective Bargaining Agreement

Certificated Employees

A leave of absence for study which benefits the schools and students of the District may be granted to employees in a position requiring certification qualifications. Such leave of absence shall be without compensation.

In accordance with Education Code, the employee must have served at least seven (7) consecutive years preceding granting of the leave.

Study leaves shall be granted for no more than one year at a time. If recommended by the Superintendent, an additional year may be granted. Any incremental leave eligibility maintenance must be in accordance with the collective bargaining agreement and the Education Code. Certificated employees must complete at least six units during the year of study leave in order to maintain eligibility for annual service increments. For part-time study leaves or full time study leaves shorter than a school year in duration, the number of units required shall be equitably prorated. Upon expiration of the second year of leave, an employee must

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return to duty within the Fresno Unified School District or submit his/her resignation. Exceptions will be considered by the Board upon the recommendation of the Superintendent.

Reference:
Ed. Code §§44966, 44967
Collective Bargaining Agreement

TRAVEL

Employees may request travel leaves of absence in accordance with their collective bargaining agreements and Board policy.

Classified Employees

Upon the recommendation of the Superintendent, the Board of Education may grant a classified employee with at least five (5) years of credited service a leave for purpose of travel for personal enlightenment, or to accompany a spouse, for a period not to exceed one (1) year. Such leave shall be without compensation.

Classified employees should request such leave in writing to the Division of Human Resources allowing sufficient time for consideration and action. While on (authorized) leave, the position held by the classified employee will be filled by a substitute or temporary employee.

Should the employee on leave not return to his/her position on the date agreed upon in the written grant of leave of absence, the position shall be considered open and the employee shall be terminated for cause (unexcused absence and/or abandonment of position) unless a resignation is received from the employee voluntarily terminating his/her employment or an extension is received.

Benefits: Health benefits may be maintained during such leave at the option and expense of the employee.

Reference:
Ed. Code §§45381 & 45390
Collective Bargaining Agreement

Certificated Employees

Leave of absence may be granted for travel for educational purposes to employees in a position requiring certification qualifications in accordance with the provisions of the Education Code.

In accordance with Education Code, the employee must have served at least seven (7) consecutive years preceding granting of the leave.

Travel leaves shall be granted for no more than one year at a time. If recommended by the Superintendent, an additional year may be granted. Any incremental leave eligibility maintenance must be in accordance with the collective bargaining agreement and the Education Code. Upon expiration of the second year of leave, an employee must return to duty within the Fresno Unified School District or submit his/her resignation. Exceptions will be considered by the Board upon the recommendation of the Superintendent.

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*Ed. Code §§44966 – 44968.5, 44976
BP/AR 4133, 4233 & 4333
Collective Bargaining Agreement*

LEAVE OF ABSENCE – CRIME VICTIM

Employees who are victims of a crime or who is an immediate family member of a victim, registered domestic partner of a victim or the child of a registered domestic partner of a victim are entitled to take a leave of absence without discrimination or retaliation to attend judicial proceedings related to that crime.

The employee must provide the District a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides the employer with documentation evidencing the judicial proceeding from any of the following entities:

1. The court or government agency setting the hearing.
2. The district attorney or prosecuting attorney's office.
3. The victim/witness office that is advocating on behalf of the victim.

The employee may use accrued vacation, personal leave time, sick leave time, compensatory time or unpaid leave time, unless provided otherwise in a collective bargaining agreement.

The District shall keep confidential any records regarding the employee's absence from work under this leave.

*Reference:
Labor Code §230.2*

LEAVE OF ABSENCE – VICTIM OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

Employees who are victims of domestic violence, sexual assault or stalking are entitled to take a leave of absence without discrimination or retaliation to attend to any of the following:

1. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
2. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
3. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
4. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

As a condition of taking time off for any of the above reasons, the employee shall provide the District reasonable advance notice of his/her intention to take time off, unless the advance notice is not feasible.

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When an unscheduled absence occurs, the District shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the District. Certification shall be sufficient 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 licensed medical professional, domestic violence counselor, a sexual assault counselor, license 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.

To the extent allowed by law and consistent with Labor Code 230, the District shall maintain the confidentiality of any employee requesting leave as described above.

The District shall provide reasonable accommodations for a victim of domestic violence, sexual assault, or stalking who discloses his/her status as a victim and requests an accommodation for the safety of the victim while at work. Upon request by the district, an employee requesting a reasonable accommodation shall provide the District a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for a purpose authorized under Labor Code 230. The District may request recertification of an employee's status as a victim of domestic violence, sexual assault, or stalking every six months after the date of the previous certification. If circumstances change, and an employee needs a new accommodation, the employee shall request a new accommodation from the District. If an employee no longer needs an accommodation, the employee shall notify the employer that the accommodation is no longer needed.

An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified above. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

Reference:

Labor Code §§230, 230.1

MILITARY LEAVE (USERRA)

Those employees who are past or present members of the uniformed services, has applied for membership in the uniformed services or is obligated to service in the uniformed services are entitled to military leave. Job protection is for a cumulative total of five (5) years while providing service (exceptions may apply).

The District must provide continual health care coverage if requested by the employee with coverage paid by the employee. A certificated employee whose leave has ended has a right to re-employment if he/she satisfies the requirements (See Ed. Code 44800). A non-certificated employee has the right to return to his/her position in accordance with Federal law and regulations after honorable discharge or has been placed on inactive duty.

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Employees called to active duty with at least one year of employment with the District are entitled to receive pay for the first thirty days of active duty.

MILITARY LEAVE (SCRA, FORMERLY SSCAR)

When an employee enters or is called to active duty, which includes training or education, he/she is entitled to a protected unpaid leave of absence. The employee has ninety (90) days after service ends to apply for re-employment to a similar position.

TEMPORARY MILITARY LEAVE

Any employee of the District who is a member of the reserve corps of the armed forces of the United States or of the National Guard or the Naval Militia shall be entitled to a temporary leave of absence without pay while engaged in military duty ordered for purposes of military training, drills, encampment, naval cruises, special exercises or like activity as such member, providing that the period of ordered duty does not exceed 180 calendar days annually including time involved in going to and returning from such duty.

Reference: MVC 395

MILITARY SPOUSE LEAVE (California)

An employee is entitled to protected leave if the employee's spouse is a member of the U.S. Armed Forces, Reserves, or National Guard, and (2) the member of the military is on leave from a "qualified deployment" during a period of military conflict in an area designated as a combat theater of combat zone. "Spouse" is defined to include a registered domestic partner. The employee must work an average of at least 20 hours per week to be eligible and is entitled to ten (10) days of unpaid leave unless the employee elects to substitute paid leave such as vacation or paid time off.

The employee must provide at least two (2) days advance notice in writing from the date he/she received "official notice" of the military member's deployment leave.

Reference: MVC 395.1

FAMILY MILITARY LEAVE UNDER FMLA

Employees are entitled to Family Military leave of absence under the FMLA if they have a spouse, son, daughter, parent or "next of kin" who is a service member or veteran of any branch of the armed services, and the service member is receiving medical treatment for serious illness or injury from line of duty, or the family member (must be a spouse, parent, son or daughter) requires time off to deal with a "qualified exigency."

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Eligibility for this leave is the same as for FMLA: employment for twelve (12) months and 1,250 hours within the previous twelve (12) months. Veterans must have had treatment within five (5) years of active service.

Leave entitlement includes a maximum of twenty-six (26) weeks per year of unpaid leave relating to injury or illness of the service member (i.e., military caregiver leave), a maximum of twelve (12) weeks for a “qualified exigency” (basically, activities related to deployment), and is cumulative with “regular” FMLA leave for a combined maximum of 26 weeks in a 12-month period.” The employee must provide appropriate notice, or if no advance notice has been provided to the service member, as soon as is reasonably possible. If an employee takes FMLA leave, the District must continue his/her health insurance as if he/she were not on leave (he/she may be required to continue to make any normal employee contributions). Upon completion of this leave, the employee will be returned to the same or nearly identical job position.

FAMILY MILITARY LEAVE UNDER CFRA

Employees are entitled to Family Military leave of absence under CFRA if they have a spouse, son, daughter or parent (excludes “next of kin”) who is a covered service member who is receiving medical treatment for serious injury or illness from the line of duty, or for the family member to take leave to deal with a “qualified exigency.”

Leave entitlement is twelve weeks in a twelve (12) month period. Upon completion of this leave, the employee will returned to the same or equivalent position.

FAMILY-SCHOOL PARTNERSHIP ACT (See Kin Care above)

An employee who is a parent, guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve, or licensed child day care facility is entitled to a leave of absence to participate in school activities, for a school emergency, or for enrolling a child and when an employee is required to attend school pursuant to a suspension per Education Code 48900.1

Leave entitlement for classified employees does not exceed forty (40) hours per year and no more than 8 hours each month.

The employee must provide reasonable advance notice and shall utilize vacation, personal leave, compensatory time or time without pay. The District may require documentation of participation in a school activity.

References:

Labor Code §§230.7, 230.8

Ed. Code 48900.1

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VOLUNTEER EMERGENCY PERSONNEL

An employee who is a volunteer firefighter, reserve peace officer or emergency rescue personnel is eligible to take leave to provide emergency services (EMS) and for training. The period of time for leave to train may not exceed fourteen (14) day per calendar year. The District may allow use of personal necessity and/or vacation leave. See the applicable collective bargaining agreement for maintenance of health benefits.

Reference:

Labor Code §§230.3 & 230.4

ORGAN DONATION LEAVE

The District shall grant a leave of absence to an employee who is an organ donor or a bone marrow donor. The employee must have completed at least 90 days of service immediately preceding the leave request. This leave does not run concurrently with either FMLA or CFRA.

The leave entitles employees to up to thirty (30) business days per year (12 consecutive months) for organ donation or five (5) business days per year (12 consecutive months) for bone marrow donation. Leave for either donation may be taken in increments. The District may require use of paid time off for a maximum of two (2) weeks for organ donation or five (5) days for bone marrow donation. The employee must provide the District with written verification that he/she is the donor and that there is a medical necessity for the donation.

Health care coverage is maintained during this leave and the employee is re-instated to the same position without any break service.

Reference:

Labor Code §§1508-1512

The *Leave of Absence* form must be completed & submitted for approval for any type of leave.