

LOS ANGELES UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION

LAW AND RULES

804  
August 29, 2016

804 INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS LEAVE

Education Code 44043

Any school employee of a school district who is absent because of injury or illness which arose out of and in the course of the person's employment, and for which the person is receiving temporary disability benefits under the worker's compensation laws of this state, shall not be entitled to receive wages or salary from the district which, when added to the temporary disability benefits, will exceed a full day's wages or salary.

During such periods of temporary disability so long as the employee has available for the employee's use sick leave, vacation, compensating time off or other paid leave of absence, the district shall require that temporary disability checks be endorsed payable to the district. The district shall then cause the employee to receive the person's normal wage or salary less appropriate deductions including but not limited to employee retirement contributions.

When sick leave, vacation, compensating time off or other available paid leave is used in conjunction with temporary disability benefits derived from worker's compensation, as provided in this section, it shall be reduced only in that amount necessary to provide a full day's wage or salary when added to the temporary disability benefits.

Education Code 44044

Notwithstanding the provisions of Sections 44043, 44984, and 45192, a school district may waive the requirement that temporary disability checks be endorsed payable the district, and may in lieu thereof, permit the employee to retain his temporary disability check, providing that notice be given to the district that such check has been delivered to the employee. In such cases, the district shall then cause the employee to receive his normal wage or salary less appropriate deductions, including, but not limited to, employee retirement contributions, and an amount equivalent to the face amount of the temporary disability check, which the employee has been permitted to retain. In all cases, employee benefits are to be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments.

Nothing contained herein shall be deemed to in any way diminish those rights and benefits which are granted to a school employee pursuant to the provisions of Sections 44043, 44984 and 45192.

CHANGE:

To correct spelling error.

Remove January 12, 1987. page 1 of 6. Add: August 29, 2016, page 1 of 6.

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Education Code 45192

- (a) The governing board of a school district shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service...
- (b) The rules and regulations shall include the following provisions:
  - (1) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.
  - (2) Allowable leave shall not be accumulated from year to year.
  - (3) Industrial accident or illness leave will commence on the first day of absence.
  - (4) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.
  - (5) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under worker's compensation.
  - (6) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.
- (c) The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 45191. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used; but if an employee is receiving workers' compensation the employee shall be entitled to use only so much of his or her accumulated or available sick leave, accumulated compensating time, vacation or other available leave that, when added to the worker's compensation award, provide for a full day's wage or salary.
- (d) The governing board of a district may, by rule or regulation, provide for as much additional leave of absence, paid or unpaid, as it deems appropriate and during this leave the employee may return to his or her position without suffering any loss of status or benefits. The employee shall be notified, in writing, that available paid leave has been exhausted, and shall be offered an opportunity to request additional leave.
- (e) A Period of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

CHANGE:

Education Code Section 45192 amended.

Remove: January 1, 1988, page 2 of 6. Add: August 29, 2016, page 2 of 6.

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- (f) During a paid leave of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off or other available leave provided by law or the action of a governing board of a district, the employee shall endorse to the district wage loss benefit checks received under the workers' compensation laws of this state. The district, in turn shall issue the employee appropriate warrants for payments of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.
- (g) When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of his or her position, the employee shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the employee shall be employed in a vacant position in the class of the employee's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with appropriate seniority regulations.
- (h) The governing board of a district may require that an employee serve or have served continuously a specified period of time with the district before the benefits provided by this section are made available to the employee provided that this period shall not exceed three years and that all service of the employee prior to the effective date of this section shall be credited in determining compliance with the requirement.
- (i) In the absence of rules and regulations adopted by the governing board of a district, pursuant to this section, an employee shall be entitled to industrial accident and or illness leave as provided in this section but without limitation as to the number of days of this leave and without any requirement of a specified period of service.
- (j) An employee who has been placed on a reemployment list, as provided in this section, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.
- (k) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.
- A. Leaves resulting from industrial accidents or industrial illnesses shall be granted in accordance with Education Code Sections 44043 and 45192 and this Rule.

CHANGES:

Education Code Section 45192 amended.

Remove: January 1, 1988, page 3 of 6. Add: August 29, 2016, page 3 of 6.

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- B. A regular classified employee who is absent from duty because of an industrial accident or industrial illness, as defined in the Worker's Compensation Insurance Law, shall be granted paid leave for each accident or illness while receiving temporary disability benefits known as worker's compensation.
1. In order to be eligible for paid leave, a nonregular employee must have completed at least 130 working days of paid service in any status during each of the three years immediately preceding the beginning of the leave. A day of paid service shall be defined as any day for which pay is received.
  2. When a certificated employee is granted an industrial accident/illness leave from the certificated assignment, paid leave from a classified assignment, if any, shall be granted if the employee is eligible therefor, in accordance with preceding provisions of this Rule.
- C. Paid industrial accident/illness leave shall be granted, in accordance with the employee's assignment, from the first day of absence to and including the last day of absence resulting from each separate industrial illness or industrial injury. A paid industrial accident/illness leave granted under Paragraph B, above, shall be for not more than 60 working days for regular employees and not more than 60 working days based on the average of daily hours worked by nonregular employees.
- D. Paid industrial accident/illness leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under workers' compensation. Days absent while on paid industrial accident/illness leave shall not be deducted from paid illness leave to which the employee may be entitled pursuant to Rule 808.
- E. A retired person employed in accordance with Rule 763 shall be granted a paid industrial accident/illness leave if the employee qualifies in accordance with Paragraph B.1, above. The paid industrial/illness leave shall extend only to the last day to the employee's current assignment or to 60 working days whichever occurs first.
- F. Any classified employee may be granted paid leave because of an injury resulting from an act of violence that occurred during the choice of the employee's duty. Determination that the injury was the result of an act of violence shall be made by the employee's site supervisor.
- Paid special physical injury leave shall be granted from the first day of absence for not more than 60 working days, except that:
1. Upon request for additional leave, the Human Resources Division or Personnel Commission may approve successive 60-day extensions up to a maximum of one year.

CHANGE:

Education Code Section 45192 amended

Remove: January 1, 1988, page 4 and 5 of 8. Add: August 29, 2016, page 4 of 6.

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2. Approval of a leave beyond one year may be obtained from the Superintendent or his designated representative.
- G. If an employee is unable to return to duty after exhausting paid industrial accident/illness leave, the employee, if eligible therefor, shall be placed on illness leave in accordance with Rule 808. Accumulated illness leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation without penalties from the Worker's Compensation Insurance Fund. Accumulated half-pay illness leave shall be reduced no more than eight hours for any one day or no more than the employee's basic daily assignment.
- H. If an employee continues to receive a temporary disability allowance after all paid illness leave has been exhausted following a paid industrial accident/illness leave, the employee shall receive pay from accrued vacation to the extent necessary to make up the employee's regular salary.
- I. After the expiration of all paid leave benefits, the employee shall be notified in writing and, if he/she is a regular employee, shall be offered the opportunity to request an extension of the leave as an unpaid leave. Vacancies caused by such unpaid leave may be filled by regular appointment. The total time of all leave benefits provided under this Rule, including unpaid accident leave, shall not exceed 36 months for any one industrial accident or industrial illness.
- J. Upon return to service from industrial accident/illness leave, a regular employee shall be assigned to a vacant position in the employee's class. If no vacancy exists, the employee may displace the recently appointed employee in the class with less seniority. If placement cannot be effected, the employee shall be treated as if laid off from the class, in accordance with Rule 740. An employee returning from industrial accident/illness leave shall not have any loss or gain in status or benefits other than that specifically provided in the Education Code and Personnel Commission rules. An employee shall continue to receive seniority credit for all purposes while on such paid or unpaid leave of absence.
- K. When all paid or unpaid leave of absence have been exhausted following an industrial accident or industrial illness, an employee shall be terminated and be placed on the reemployment list for the class from which leave was granted for a period not to exceed 39 months. An employee who fails to accept an appropriate assignment after being medically approved shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class at the time of layoff, in former status and time basis, and in assignment areas in which the employee was available. Employees removed from a reemployment list under this Rule may appeal the removal using the procedure indicated in Rule 600 for appeals of rejection of applicants, candidates, and eligibles except that an appeal of an administrative review decision relating to medical matters shall not be made to the Personnel Commission but shall be to such authorities as the Board of Education may designate.

CHANGE:

Education Code Section 45192 amended

Remove: January 12, 1987, page 7 and 8 of 8. Add: August 29, 2016, page 5 of 6.

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- L. While an employee is on any paid leave resulting from industrial accident or industrial illness, the employee's salary paid by the District shall not, when added to a normal temporary disability allowance award without penalties granted the employee under the State Worker's Compensation Insurance law, exceed the employee's regular salary. A permanent employee's regular salary is computed on the basis of number of hours and days in the employee's basic daily assignment. Regular salary of an employee who is not permanent shall be computed on the basis of the average number of hours worked each pay period in which the employee was in paid status during the preceding 12 months. Long-term differentials, as defined in Rule 500, shall be considered as part of the employee's regular rate for the purpose of this Rule and shall be continued during paid industrial/illness leave. (For determination of whether a particular differential is considered a long-term or a short-term differential, refer to the pertinent rule.)

Final allowances for permanent industrial disability settlements are not subject to remittance to the District.

CHANGE:

Education Code Section 45192 amended

Remove: January 12, 1987, page 7 and 8 of 8. Add: August 29, 2016, page 5 of 6.

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