

Classified and Management Leaves



References

Collective bargaining agreement (CBA) Article V, Leaves

Ed Code Sections §88035, 88190-88210

Other applicable California and Federal laws relating to
leaves

Helpful Context

Leaves for classified staff are applied in hours for absences.

Leaves for exempt managers are applied in half and full days.

**Being in paid status also maintains health coverage.

Definition of “Family”

- For FMLA/CFRA sick leave:
 - Birth of son/daughter
 - Care for spouse, son, son-in-law, daughter, daughter-in-law, parent, parent-in-law, grandparent, grandchild, sibling, domestic partner with serious health condition
 - Military status
 - “Designated person”
- MCCD recognizes registered domestic partners
- For bereavement, same list plus “any relative living in the immediate household”

Sick Leave (Article 22 and EC §88035)

Reasons to Take Sick Leave:

- Own care
- Kin Care
- Domestic Violence, Stalking, Sexual Assault

Do I need a doctor's note?

Your supervisor may require a doctor's note when:

- 1) 5+ days absent
- 2) Suspected abuse of leave

Sick Leave cont.

Can sick leave be denied?

An employer shall not deny an employee the right to use **accrued** sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using **accrued** sick days, attempting to exercise the right to use accrued sick days...

What does “accrued” mean?

Other uses of sick leave

- 1) Take it with you to another school district when you start a new job.
- 2) Apply it to your retirement.

“Any unused sick leave is converted to additional service credit if the employee retires within 120 days of separation from employment. Eight hours of sick leave equals one day (.004 of a year of service). It takes 250 days of sick leave to receive one year of service credit (.004 x 250 = 1 year).” *CalPERS*

Ex. If a MCCD classified professional is hired July 1, 2018, they will reach 250 days accrued in less than 17 years if they don't take a sick day. At 28 years of service, that person could have earned 2 years of service credit (an addition 4%/2 yrs upon retirement age) and retire two years earlier than they might have otherwise.

Excessive Use of Leave

If employee is taking more than the accrued leave, this may be considered excessive leave or abuse of leave.

When **would (de factor)** use of more than accrual not be considered excessive:

- Employee is covered by protected leave
- Employee is receiving approved catastrophic leave

When **may (permissive)** use of more than accrual not be considered excessive:

- There is not a previous pattern of abuse of leave

Personal Necessity (Article 25 and EC §88207)

Seven (7) days from sick leave accrual

Death of family member

Accident involving person or property

Appearance in court

*Other personal emergencies

*Subject to approval

Vacation Time (Article 20 and EC §88197)

1. What does accrued/accumulation mean?
2. Do I need advance approval?
3. What if my supervisor says no?
4. Carryover: Cap versus “use it or lose it”

MCCD has a two-year cap

5. Can I apply vacation time to retirement? No. Excess vacation is paid out when an employee leaves.

The purpose of vacation time is to take it.

Bereavement Leave (Article 26 and EC §88194)

- 3/5 days, depending on distance of required travel
- Must be used consecutively
- May be combined with PN time and/or *vacation time
- Additional Leave: is not counted against sick leave

*approval required

Catastrophic (Article 23 and EC §87045)

For “a serious debilitating illness or injury that is expect to incapacitate the employee for an extended period of time, or that incapacitates a member of the employee’s immediate family....and creates a financial hardship.”

- Donations within the bargaining unit
 - How much to donate?
 - Privacy
 - Maintaining pool
- Limit employee to one year’s use, except upon mutual agreement

Industrial Accident/Injury (Worker's Comp) (Article 24 and EC §888192)

- Call The Company Nurse 1-877-854-6877 (24/7)
- Worker's Comp is administered by *Athens*
- 60 days
- Not more than regular salary – MAY RESULT IN OVERPAYMENT
- Use of accrued sick leave may follow

Extended Leave/Half-pay (Article 22 and EC §87786)

100 Days of sick leave per year

- Not Protected Leave
- 12 days at full pay (current with sick leave)
- 88 days at half pay
- Runs concurrent with FMLA, if FMLA is certified

**Combining with Disability and Catastrophic

Disability (EC §87789)

- Our disability program is administered by *Lincoln*
- 30 day wait period (own leave if not industrial accident/injury)
- Needs additional paperwork
- Up to \$3,000 per month
- Can be combined with half pay
- Not to exceed 39 months

FMLA & CFRA

Family and Medical Care Leave

California Family Rights Act of 1993

Overlap and Diverge:

Employer follows whichever is of greater benefit to the employee

FMLA/CFRA: Reasons for Leave

FMLA

- Birth of child and care for newborn
- Placement of a child with ee for adoption or foster care
- Serious health condition of self or family
- Qualifying exigency
- Care for service member

CFRA

Most FMLA conditions, and covers domestic partners

Does not include pregnancy or related medical condition under “serious health condition”

FMLA/CFRA: Required

Case law ebbs and flows on the requirement of the employer and employee to apply FMLA/CFRA.

To err on the side of providing protection, under current mandates, MCCD requires participation (not use).

FMLA/CFRA: Paid Leave?

Employees may use accrued sick leave to pay themselves during any FMLA/CFRA absence, but these leaves do ensure paid status. Rather, they provide protections.

FMLA and CFRA Eligibility

FMLA

- Employed for at least 12 months
- 1,250 hours of service during 12-month period prior to leave

CFRA

- Employed for at least 12 months
- 1,250 hours of service during 12-month period prior to leave

Exception to 1,250 hours: Parental Leave

FMLA/CFRA: How much leave?

FMLA

- 12 workweeks of leave during any 12-month period
- 26 weeks for care of a service member in ees family

CFRA

- 12 workweeks of leave during any 12-month period
- 26 weeks: active duty for employee's spouse, registered domestic partner, or parent

Leave may be used consecutively or intermittently

PDL: Pregnancy Disability Leave

Eligibility: Pregnancy disability

How much leave: 4 months (based on hours worked per week)

Use of leave: consecutive or intermittent

CFRA Baby bonding

12 weeks of leave is applied up to one year after child's birth

Bonding leave must be taken in a minimum of 2-week blocks (some exceptions)

Chart of FMLA/CFRA/PDL

	Pre-birth Disability	Post-birth Disability	“Bonding”
Health Care	FMLA and PDL	FMLA and PDL	CFRA
Job Protected	FMLA and PDL	FMLA and PDL	CFRA
	Up to four months (FMLA runs concurrently until available FMLA expires)	Up to four months total, including any pre-birth PDL (runs concurrently with available FMLA)	12 Weeks

Other Leaves

- Retraining and Study
- General Leave [Unpaid]
 - Supervisor approval up to one week
 - Board approval up to one year
- Jury Duty
- Military Leave

Questions?