

**ARTICLE 7**  
LEAVES OF ABSENCE

7.1 General Provisions

- 7.1.1 A leave of absence is an authorization for an employee to be absent from duty, generally for a specific period of time and for an approved purpose.
- 7.1.2 A leave protects the employee by holding a place for such employee in the District until the leave expires, with the right to return to the District in a position of the same status and rank at the conclusion of the leave, providing the position would have otherwise remained. In the case of a paid or unpaid leave of absence of six months or less, the District shall return the employee to his/her same position. In the case of a paid or unpaid leave of absence longer than six months, the District shall attempt to return the employee to a position of the same status in the employee's same classification, however, the assignment may be in a different department and/or location.
- 7.1.3 A condition of each leave of absence is that any required license or certificate held at the time the leave was granted, properly authorizing the service, must be maintained in full force by the employee.
- 7.1.4 Employees on a paid leave of absence, unless otherwise provided herein, shall receive wages and health and welfare coverage and retirement credits the same as if they were not on leave. Those who take an unpaid leave may be allowed to remain on continued coverage at their own expense pursuant to the terms of applicable health, dental and vision insurance plan, provided they make advance payment of the premium or as provided under Section 7.13.
- 7.1.5 Utilization of paid leave provisions under this article for whole or partial day(s) shall be deducted from an employee's leave entitlement whether or not a paid substitute was employed to replace the employee on leave.
- 7.1.6 It is agreed that an employee who is absent from work other than those days as authorized by state law or authorized leave provisions of this agreement is taking an unauthorized absence. The employer will deduct a salary amount equal to the employee's established daily rate for unauthorized absences, and the employee may be subject to disciplinary action.
- 7.1.7 Immediately upon return to work, the employee shall complete the appropriate District form verifying his or her absence and submit it to his/her immediate supervisor.

7.1.8 When the District has reason to believe that there has been an abuse of leave privileges, the District's Office of Human Resources may require the employee to verify an absence by requesting that the employee provide reasonable proof that the absence was for the type of leave claimed by the employee.

7.1.9 Employees shall notify their immediate supervisor or designee in advance of all absences in accord with the following requirements:

- a. For day shift employees, notification shall be provided at least 60 minutes prior to the commencement of the shift.
- b. For employees on the swing or graveyard shift, notification shall be provided two (2) hours prior to the commencement of the shift, unless the immediate supervisor notifies the employee that a later time for such notification is authorized.

Employees shall indicate the reasons for their absences and the intended day of their return to work.

7.1.10 If an employee has been notified that a substitute has been hired, the employee must notify his/her immediate supervisor or designee at least twenty-four (24) hours prior to his/her intended return to work in order for the District to make adequate preparation for release of an employee's substitute. An employee who fails to provide such notice of intention to return to duty before the specified time limits above may, at the District's discretion, not be permitted to return to duty that work day and may be charged with an additional day of absence.

## 7.2. Sick Leave

7.2.1 Sick leave shall be for illness and injury absences or for a legally established quarantine.

7.2.2 Employees who are employed for 40 hours per week for a complete fiscal year shall be entitled to 96 hours of leave of absence annually for illness or injury. Employees shall receive full pay for sick days thus allowed in any fiscal year, and the number of days not used shall accumulate from year to year. Every employee who works less than 40 hours per week and/or less than a complete fiscal year shall be entitled to sick leave in the same ratio that his/her employment bears to full time annual employment (40 hours per week for 12 full months). Credit for personal illness or injury leave, as provided for in this section, need not be accrued prior to taking such leave by the employee and such leave of absence may be taken at any time during the year. However, a new employee of the District shall not be eligible to take more than six (6) days, or the proportionate amount to

which he/she may be entitled to under this section, until the first day of the calendar month after completion of the employee's probationary period.

- 7.2.3 Illness leave may be utilized for pregnancy, miscarriage, childbirth, or recovery therefrom as set forth 7.13.3. The date of commencement of absence from and return to duties because of pregnancy, miscarriage, childbirth, or recovery there from shall be determined by the employee and the employee's physician. The physician's verification for the commencement of absence from duties and resumption of duties shall be based on the employee's medically determined ability to perform assigned duties.
- 7.2.4 An employee who terminates employment prior to earning sick leave taken in advance of accrual shall have the appropriate amount deducted from his/her final warrant.
- 7.2.5 Sick leave shall not be transferable from one employee's accumulated balance to that of another employee's except as provided for under Section 7.14.
- 7.2.6 Any unused sick leave credit may be used by the employee for sick leave purposes, as defined, without loss of compensation. An employee may be eligible to receive State Disability Insurance benefits after five consecutive days of illness. It is the responsibility of the employee to apply to the appropriate state agency in order to receive such benefits. In the event that an employee has exhausted all accumulated sick leave credit, the District will apply accrued and unused vacation days to supplement the exhausted sick leave unless the employee provides written notice to the District not to do so. Because the District coordinates District leave benefits and State Disability Insurance benefits, an employee who receives State Disability Insurance benefit monies must remit all such monies to the District's Payroll Department as soon as possible after receipt from the State.

In addition to full-pay sick leave, employees who have completed their initial probationary period shall be entitled to a maximum of one hundred (100) days of sick leave per fiscal year at fifty percent (50%) of their salary. These days of additional sick leave are not carried into the next fiscal year and do not accumulate.

In order to qualify for differential pay, an employee shall utilize available leaves in the following sequence:

- 7.2.6.1 all Industrial Accident or Illness Leave days, when applicable;
- 7.2.6.2 all remaining current year days credited for sick leave;

7.2.6.3 all accumulated sick leave.

7.2.7 In no event shall the use of 50%pay, when coordinated with Industrial Accident or Illness Leave days, and/or remaining sick leave days, exceed 112 days any fiscal year. There is no limitation on the use of full pay sick leave that an employee has accumulated.

7.2.8 In the case of sick leave absence, the District reserves the right to require any reasonable proof verifying that the employee was entitled to sick leave for the days claimed. In the event that an employee will be absent for more than five (5) consecutive days, the employee must notify the District by no later than the fifth consecutive day of absence, of the expected duration of the absence, and verifying that such leave is for sick leave. In the event that an employee fails to so notify the District, the employee's absence shall be deemed to be an unauthorized leave pursuant to Article 7.1.6 of this agreement, until such time as the employee properly verifies her/his illness.

7.2.8.1 If requested to do so by the District, an employee who is returning to work and who has been absent five consecutive days or more, shall provide, at his/her expense, a statement from a medical doctor or licensed practitioner stating the reason for the absence and indicating an ability to return to his/her position classification without restrictions or detriment to the employee's physical and emotional well-being. In addition, the District may require the above statement for a period of absence of less than five days but in such case the District, rather than the employee, shall bear the cost of such examination. In the latter case, the employee shall have the option to choose either his/her own or the District's physician and the District shall provide release time for such purpose.

## 7.2.9 Light Duty

7.2.9.1 Light Duty may also be referred to as modified duty. Light duty assignments are a management prerogative and not an employee right. Light duty assignments shall be subject to continuous re-assessment dependent on Department need and the employee's ability to perform in a light duty capacity.

7.2.9.2 An injured employee may be assigned to a light duty position outside of his/her normal assignment or duties if it is available and is approved by management.

7.2.9.3 Light Duty means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification.

7.2.9.4 Light duty assignments may be requested by employees who have incurred a duty or non-duty related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties.

### 7.3 Bereavement Leave

7.3.1 Employees shall be allowed necessary leave of absence not to exceed three days, or five days if out-of-state travel is required, or more than 300 miles, because of the death of any member of the immediate family. No deduction shall be made from the salary of such employee, nor shall such leave be deducted from leave granted by other sections of the Education Code or provided by the District.

### 7.4 Industrial Accident and Illness Leave

7.4.1 Industrial accident and illness leave shall be granted to employees in accordance with provisions of California Education Code Section 88192, for injury or illness incurred within the course and scope of the employee's assigned duties.

7.4.2 In order to qualify for industrial accident or illness leave coverage, an employee claiming such leave shall be subject to examination by a designated physician to verify his/her condition and to evaluate any claims.

A designated physician is defined as a physician or licensed practitioner the employee has selected in advance by notifying the College of his/her physician's name and address. The designated physician must have previously treated the employee and retained medical records and history of the employee.

If the employee had not previously notified the College of his/her designated physician, treatment will be determined by an employer-designated physician. However, after thirty (30) days treatment by the employer-designated physician, the employee may request treatment by his/her designated physician by making such request in writing to the employer's worker's compensation claims management firm.

7.4.3 An employee shall be permitted to return to work after an industrial accident or illness leave only upon presentation of a release from the treating designated physician, certifying the employee's ability to return to his/her position without restrictions and without detriment to his/her physical and emotional well-being or to the physical and emotional well-

being of other employees. Such release from the treating physician shall be in a form satisfactory to the District.

- 7.4.4 An employee who has sustained a job-related injury or illness shall report the injury to his/her immediate supervisor on the District Accident Report form the same work day the injury or illness occurs, or not later than the next scheduled work day following the accident if such accident occurs after college hours, unless the employee's condition makes it physically impossible to do so.
- 7.4.5 Allowable leave shall be for not more than the equivalent of 60 working days in any one fiscal year for the same illness or accident. Allowable leave shall not be accumulated from year to year. If the same illness or injury extends into the next fiscal year, the employee shall be allowed to use only the amount of leave remaining from the previous fiscal year.
- 7.4.6 Industrial accident or illness leave shall commence on the first day of absence and shall be charged by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
- 7.4.7 Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the District authorizes travel outside the State.
- 7.4.8 During any industrial paid leave of absence, the employee shall endorse to the District any temporary disability indemnity checks received because of the industrial accident or illness. The District, in turn, shall issue the employee appropriate salary warrants for payment of salary less normal deductions providing that the required accident report has been properly filed.
- 7.4.9 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 Worker's Compensation, the individual shall be entitled to use only so much of his/her accumulated or available sick leave, accumulated compensating time, vacation, or other available leave which, when added to the Worker's Compensation award, provides for a full day's wage or salary.
- 7.4.10 Any employee receiving benefits under this industrial accident or injury section who has been medically released by the attending physician for return to duty, and who fails or refuses to accept an appropriate assignment, shall be deemed to have abandoned his/her position on the effective date of the assignment.

- 7.4.11 Any employee receiving benefits under this industrial accident or injury section who accepts other employment during the interim of this leave shall be deemed to have abandoned his/her position on the date of the acceptance of employment outside the District.

7.5 Personal Necessity Leave

- 7.5.1 Each year, up to eighty (80) hours of absence earned for sick leave under section 7.2 of this article may be used by the employee at his/her election in cases of personal necessity on the following basis:

- 7.5.1.1 the death of a member of the employee's immediate family when additional leave is required beyond that provided in Section 7.3 of this article. "Member of the immediate family" shall be defined as those persons listed in Section 7.15.1.

- 7.5.1.2 as a result of an accident or illness involving an employee's person or property or the person or property of his/her immediate family;

- 7.5.1.3 when resulting from an appearance in any court or before any administrative tribunal as a litigant or party.

- 7.5.1.4 parental leave at the time of the birth or adoption of children;

- 7.5.1.5 routine doctor and dental appointments not necessitated by illness or injury.

- 7.5.2 Up to five (5) days (not to exceed forty (40) hours) total of personal necessity leave specified above may be used at the employee's election for any one or combination of the following:

- 7.5.2.1 to attend the funeral of a close friend or a member of the employee's family other than the immediate family;

- 7.5.2.2 grandparenting leave at the time of the birth or adoption of children;

- 7.5.2.3 observance of major religious holidays of the employee's faith; and

- 7.5.2.4 natural disasters such as earthquakes, fires or floods, which conditions make it impossible for the unit member to be present at his/her work station.

7.5.2.5 Participate in the activities of the school or child care facility (licensed day care and Kindergarten through 12th grade) of any child of which the employee is the parent, guardian or custodial grandparent.

7.5.3 Employees may submit additional requests for items of personal necessity other than those listed above to the Vice President of Human Resources or his/her designee. The Vice President of Human Resources or his/her designee, shall be the final authority in terms of the appropriateness of granting a personal necessity leave for any reason other than those listed above. On the day of return from a personal necessity leave an employee must complete the approved District form indicating the specific section of this Article for which the leave was taken.

## 7.6 Jury Duty Leave

7.6.1 An employee shall be entitled to leave without loss of pay for any time the employee is required to perform jury duty. The employer shall pay the employee the difference, if any, between the amount received for jury duty and the employee's regular rate of pay. Any meal, mileage, and/or parking allowance provided the employee for jury duty shall not be considered in the amount received for jury duty. Any day that an employee in the bargaining unit is required to serve all or part of the day on jury duty, and when it is a day the employee would normally be required to work, the employee shall be relieved from work with full pay.

## 7.7 Subpoena as a Witness

7.7.1 Any employee subpoenaed by the exclusive representative in any Public Employment Relations Board hearing shall be charged personal necessity leave for such appearance.

7.7.2 Any employee subpoenaed by the District in any Public Employment Relations Board hearing shall be entitled to leave with pay and shall be reimbursed for mileage.

7.7.3 An employee subpoenaed to appear as a witness at a hearing before the Personnel Commission shall be allowed a paid absence from duty to appear as subpoenaed. In the event that the employee's appearance at the hearing requires the employee to stay beyond her/his work shift, the employee will be compensated for all additional time. If such hours are overtime, then the employee will receive overtime pay for any such hours.

## 7.8 Military Leave



- 7.8.1 An employee shall be entitled to any military leave provided by law and shall retain all rights and privileges granted by law arising out of the exercise of military leave.
- 7.8.2 Any employee of the bargaining unit who is ordered into active military duty as set forth in Military and Veterans Code Section 389 through 399.5 shall continue to receive full pay from the District including health benefits for the tour of duty, not to exceed 18 months starting from the date in which the employee is called into activity military duty. Any employee who is called into active military duty shall immediately inform the District as to the beginning and end date of his or her service and shall provide the District with a copy of written orders.
- 7.8.3 An employee covered under the provisions of Section 7.8.2 above shall as a condition of continuing to receive their full District salary, provide the District with the specific amount of salary that he/she will earn from military duty. The amount of pay to be received from military duty shall be deducted from the amount normally paid to the employee as his/her regular salary. It is the intent of the Section to provide an employee called into active military duty no more than his or her regular salary including taking into account any amount paid by the State or Federal Government as salary for military duty.

7.9 Child-Rearing Leave

- 7.9.1 A permanent employee, who is the natural or adoptive parent of a child, shall be entitled to an unpaid leave of absence for the purpose of rearing his/her child for a specified period immediately after convalescence from maternity or immediately after completion of appropriate adoption papers. Such leave shall be for a maximum period of nine (9) months and shall be granted upon giving the District at least four (4) weeks notice prior to the anticipated date on which the leave is to commence.
- 7.9.2 An employee may request up to twelve (12) additional months of child-rearing leave to be granted at the discretion of the District.

7.10 Unpaid Personal Leave of Absence

- 7.10.1 The District may, in its sole discretion, grant a leave of absence without pay to permanent employees.
- 7.10.2 Leave of absence must, except under extenuating circumstances as approved by the District, be requested in writing 30 days prior to the date the leave is to commence. An employee on unpaid leave of absence for personal reasons may continue to participate in the health and welfare benefits at his/her option. If an employee on leave elects to continue in

the health and welfare program, he/she must pay the full premium for such participation.

- 7.10.3 The Superintendent/President or his/her designee may, in his/her sole discretion, approve short term personal leave of up to 30 days to any permanent unit member to meet emergency situations which arise out of circumstances which are unpredictable and unavoidable.

## 7.11 Retraining and Study Leave

- 7.11.1 The Board of Trustees may grant an unpaid retraining or study leave to any member of the bargaining unit for a period not to exceed one (1) year for the purposes of participating in an identified course of study and/or retraining program which has a direct relationship to either the employee's current or prospective District position. The employee shall apply in accord with District established procedures and shall enumerate the plan of study or retraining program

- 7.11.2 Such leave of absence may be taken in separate six (6) months segments or in any other appropriate segment, rather than for a continuous period, provided separate segments of leave shall be commenced and completed in a three (3) year period. Any period of service between periods of leave shall comprise a part of the service required for a subsequent leave of absence for study or retraining.

- 7.11.3 Such leave of absence shall not be granted to an individual who has not served at least three (3) years of satisfactory service preceding the granting of the leave or since the prior leave and no more than one such leave shall be granted in any three (3)-year period.

- 7.11.4 An employee granted such leave shall not earn vacation pay, sick leave, holiday or other benefits provided under this agreement but the employee may participate in the health benefit programs of the District, provided that the employee provides reimbursement of any District expense in accordance with procedures as established by the District.

## 7.12 Break in Service

- 7.12.1 No absence under any paid leave provisions of this article shall be considered as a break in service for any employee who is in paid status and all benefits accruing under the provisions of this agreement shall continue to accrue under such absence.

- 7.12.2 Approved absences under unpaid leave provisions of this article shall not constitute a break in service, but time absent on unpaid leave status shall

not be credited as time worked for the purposes of accruing seniority or longevity if taken pursuant to Sections 7.9, 7.10 or 7.11.

## 7.13 Family, Medical, and Pregnancy Leave

### 7.13.1

The District shall provide employees with family, medical, and pregnancy leave and related benefits as required by all applicable law, including the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and California Pregnancy Disability Leave Law (PDLL).

Under FMLA and CFRA, the leave that an employee is entitled to may be up to 12 workweeks in a “rolling” 12-month period measured backward from the date an employee uses any FMLA/CFRA leave. Under PDLL, the leave that an employee is entitled to may be up to 4 months per pregnancy. Employees should communicate with the District’s Office of Human Resources to obtain more information about their rights under all applicable leave laws, including FMLA, CFRA, and PDLL.

Health and welfare benefits shall be maintained when an employee is on leave that is designated as FMLA, CFRA and/or PDLL leave.

Any employee requesting leave for his or her own serious illness, injury, and/or disability under FMLA, CFRA and/or PDLL shall be required to use all accumulated sick leave. The District will then apply accrued and unused vacation days, unless the employee provides written notice to the District not to do so. Then, the District will apply difference pay if applicable under Article 7.2.6.

If an employee requests leave for any other purpose under FMLA and/or CFRA, the employee shall be required to use ten (10) days of personal necessity leave per year. The District will then apply accrued and unused vacation days, unless the employee provides written notice to the District not to do so.

Sick leave, vacation leave, difference pay leave, personal necessity leave, and comptime used by an employee runs concurrently with any FMLA and/or CFRA and/or PDLL leave that is applicable during the use of such leaves.

7.13.2 To the extent that the foregoing provisions are inconsistent with federal or state law applicable to the District, employees will be provided with leaves required by the federal or state law.

#### 7.14 Catastrophic Illness Leave/Injury Leave Donation

The purpose of this plan is to ensure that an employee with a catastrophic illness or injury continues to receive medical benefits during the recovery period and continues to receive his/her regular salary to the extent possible. This will be accomplished through the establishment of a program for leave donations which may be made to a specific individual or to a District-wide leave bank.

Catastrophic Illness or injury is defined as one that is expected to incapacitate the employee for an extended period of time, and taking extended time off work creates a financial hardship for the employee because he or she has exhausted all of his or her sick leave and other paid time off. Examples include, but are not limited to, life threatening injury or illness; cancer; AIDS; heart surgery; stroke; etc.

##### 7.14.1 Leave Bank

- a. Any employee may donate accumulated leave but MUST retain no fewer than twenty (20) days or 160 hours of sick leave in his/her personal account. An employee who is retiring or terminating and wishes to donate unused sick leave may do so with no limitation; 50% of their donation will be credited to the leave bank.
- b. Accumulated vacation days/hours may be donated with no restriction.
- c. All donated days/hours are irrevocable.
- d. Unused donated days will revert to the Leave Bank for use by other catastrophically ill or injured employees who request and are approved to use days/hours from the bank.
- e. Donated sick leave or vacation days/hours are credited and charged on the basis of day-for-day regardless of the classification and/or salary of either the donee or the donor.
- f. Leave may be donated either to an individual account or to the District wide leave bank at the option of the donee.

##### 7.14.2 Employee Eligibility

- a. The employee must be/expected to be incapacitated or absent for an extended period of time no fewer than 30 consecutive calendar days.
- b. The employee or authorized designee must submit a letter to the Vice President of Human Resources requesting either a call for specific donations or donations from the District leave bank.
- c. The employee must submit medical verification which is subject to verification by the District. The District may require additional medical verification from a physician selected by the District and at the expense of the District. The employee or his or her authorized representative must sign appropriate authorization to allow the Catastrophic Injury/Illness Committee to review all necessary documentation. In the absence of an authorized representative, the spouse or domestic partner may sign the authorization.
- d. Employees must use all accumulated/advanced sick leave plus all accrued vacation prior to using any donated leave. Once an employee starts using any donated leave, the employee shall use any leave credits that he or she continues to accrue on a monthly basis prior to using additional donated leave.
- e. All donated leave must be used within a 12-month period after the donation and may be used only for the specified catastrophic illness or injury. Leave days will be placed in a special donated account for up to one year. If the employee returns to work and has a reoccurrence of the same or related catastrophic illness or injury, after using any accumulated/advanced sick days, previously donated days may be used.
- f. In unusual circumstances, the Catastrophic Illness/Injury Committee may consider and approve a request to extend the period of use of donated days for a period of up to one additional year.
- g. *NOT COVERED:* Stress related illness; elective surgery, normal pregnancy, workers compensation claims, disabilities resulting from alcoholism or drug addictions, intentionally self inflicted injuries, or normal illness such as recurring colds, flu, allergies, headaches, etc.

- h. Any employee who has omitted relevant or provided falsified information on his/her medical history or other medical documentation may be denied access to the benefits of this plan.

7.14.3 Catastrophic Illness/Injury Committee

- a. A joint district catastrophic illness/injury committee will oversee the implementation of this plan. This committee will be chaired by the Vice President of Human Resources.
- b. The committee will be comprised of one (1) representative appointed by the Faculty Association, CSEA, and Management respectively. In circumstances in which a matter before the committee concerns a member of the SMCPOA, a representative of the Association shall participate in the committee's deliberations. In addition, either the Faculty Coordinator for Health Services or the Director of Health Services will serve as an advisor to the committee. In the event the committee is unable to reach a decision regarding eligibility for donated leave the District will obtain an advisory opinion from an appropriate physician and provide the committee with that information. In the event the committee is still unable to reach a decision the Vice President of Human Resources will make the final decision.

7.14.4 Miscellaneous

- a. Participation in this plan is voluntary on behalf of the donor(s) and the donee.
- b. Amendments/modifications to the plan shall be mutually agreed to by the Faculty Association, CSEA, SMCPOA, Management and the Board of Trustees.
- c. The Catastrophic Illness/Injury committee will meet to determine forms and procedures for implementation and appropriate participation by part-time faculty who accumulate sick leave.
- d. The provisions of this section shall be subject to the grievance procedure steps up to but not including arbitration.

7.15 Definitions

- 7.15.1 "Immediate family" means the spouse, domestic partner, mother, father, step parent, grandmother, grandfather, grandchild, son, son-in-law,

daughter, daughter-in-law, brother, sister, foster child or adopted child, either of the employee or of the spouse or of the domestic partner of the employee.

- 7.15.2 The “domestic partner” relationship shall be defined as two adults who have chosen to share their lives in a committed relationship of mutual caring, who live together in the same residence and who have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership.

Domestic partners must meet the following conditions:

- a. Must be an adult
- b. Must reside at the same address
- c. Must be limited to one domestic partner at any point in time
- d. Must meet any two of the following conditions:
  1. hold a joint mortgage or lease
  2. designate a partner as the beneficiary of life insurance or retirement benefits
  3. designate a partner as primary beneficiary in a will
  4. assign a health care power of attorney to the partner
  5. jointly own a bank account or credit account
  6. jointly own a car