

PERSONNEL COMMISSION

SANTA MONICA COLLEGE

MERIT RULES

CHAPTER XI

Presented to the Personnel Commission for First Reading on July 8, 1992.

Approved by the Personnel Commission on August 26, 1992.

Rule Revision 11.10.5 Approved by the Personnel Commission on November 19, 2014.

Rule 11.3

SICK LEAVE (EDUCATION CODE 88191)

Sick leave provisions for unit members are contained in Article 7 of the District/CSEA Contract.

11.3.1

REGULAR SICK LEAVE PROVISIONS

- A. Sick leave is the authorized absence of a regular classified employee when absence is due to:
 - 1. Physical or mental inability to perform the usual and customary duties of his/her position due to illness, injury, pregnancy, miscarriage, childbirth or recovery therefrom, or exposure to contagious disease.
 - 2. A visit to a licensed physician, practitioner, or a psychological or other therapist for examination, treatment, consultation or therapy.
- B. For purposes of these rules, licensed physician, practitioner, or a psychological or other therapist shall be defined per Labor Code Section 3209.3.
- C. Every regular classified employee shall earn one (1) day of sick leave per full month of service as provided below:
 - 1. To qualify for a full month of service, the employee must be in paid status for 1/2 or more of the working days in a calendar month.
 - 2. At the beginning of each fiscal year, the sick leave bank of each regular classified employee assigned to a full time 12 month position shall be credited with 12 days (96 hours).
 - 3. Regular classified employees assigned to a work year of less than 12 months or a workweek of less than 40 hours shall receive sick leave prorated in the same proportion as the number of months bear to 12 and the number of hours worked bear to 40.
 - 4. An employee's sick leave bank shall be adjusted whenever a change of assignment alters the amount of sick leave which is earned.

Section 11.3.1.D

- D. Sick leave which is accrued, but not used, shall carry over from one fiscal year to another with no limit on accumulation.
- E. A new probationary employee may not use more than six (6) days of paid sick leave during the initial probationary period.
- F. Pay for any day of sick leave shall be the same pay the employee would have received if he/she had worked that day.
- G. In order to receive sick leave pay, the employee must follow the procedures listed below:
 - 1. Notify his/her supervisor or the party designated by the supervisor of the reason for his/her absence within the first scheduled hour of the first day of absence, as provided in Rule 11.2.2.
 - 2. Complete an Absence Report on the first day of return to work.
 - 3. When the absence period is five (5) consecutive working days or more, 40 work hours for employees on alternate work patterns, the employee must submit medical leave of absence request accompanied by medical verification to the Classified Personnel Office as soon as possible and a medical release from his/her physician prior to readmission to work as provided in Rule 11.3.5.
- H. The medical leave of absence request shall be presented to the Personnel Director for approval/disapproval.
- I. A medical release must include a statement of the nature of the illness and the dates when the employee has been under care or treatment and must be signed by a licensed physician, surgeon, practitioner, psychologist or other therapist.
- J. Upon separation any unearned sick leave which has been taken shall be deducted from the employee's last pay check.

- K. The minimum increment of paid sick leave which may be taken is one (1) hour.

11.3.2

INDUSTRIAL ACCIDENT AND INDUSTRIAL ILLNESS
LEAVE (EDUCATION CODE SECTION 88192)

- A. An industrial accident or illness shall be defined per Labor Code Section 3208 as any injury or disease arising out of employment. Industrial accident or industrial illness leave shall be granted in accordance with the provisions of Education Code Section 88192 and this Rule.
- B. An employee in the classified service, who is absent from duty because of an illness or injury defined as an industrial illness under provisions of the Worker's Compensation Insurance Law, shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits as specified under Labor Code Sections 4453 and 4460 provided that:
 - 1. The employee has probationary or permanent status.
 - 2. The employee has reported the injury or illness to his/her supervisor on a District Accident report form no later than the day of the injury or onset of illness.
 - 3. In the opinion of the Director of Administrative Services, the illness or injury constitutes an industrial accident or illness, or, if contested by the District, it is ultimately determined to be work connected.
- C. Paid industrial accident leave shall be for not more than 60 working days in any one fiscal year for the same industrial illness or accident. If the full 60 days will overlap into the next fiscal year, the employee shall be entitled only to that amount of leave remaining from the previous fiscal year.
- D. Paid industrial accident and illness leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under Labor Code Sections 4453 and 4460. Days absent while on paid industrial accident or illness shall not be deducted from the number of days of paid sick leave to which an employee may be entitled.

Section 11.3.2.E

- E. If the employee is still unable to return to duty after exhausting paid industrial accident or illness leave, the employee shall be placed on paid sick leave. Accumulated illness leave will be reduced only in the amount necessary to provide a full daily wage or salary, as indicated in the employee's assignment, when added to temporary disability benefits as specified under Labor Code Sections 4453 and 4460.
- F. After all paid illness leave has been exhausted following a paid industrial accident or illness leave, an employee shall be placed on verified illness leave and the employee shall utilize accrued vacation, earned compensatory time, or other earned leave to the extent necessary to make up the employee's full salary when combined with temporary disability benefits as specified under Labor Code Sections 4453 and 4460.
- G. An employee shall be permitted to return to service after an industrial accident or illness only upon presentation of a release from the District appointed physician and the licensed treating physician or practitioner. The physicians shall certify that the employee is able to return to his/her position without detriment to his/her emotional and physical well-being or the emotional and physical well-being of other employees.
- H. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in his/her former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his/her former class, he/she may displace the most recently appointed employee in the class with less seniority. If an employee's former class has been abolished, the employee may be reassigned or placed on an appropriate reemployment list.
- I. An employee returning from paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. An employee shall continue to receive appropriate seniority credit while on paid industrial accident or illness leave of absence.

Section 11.3.2.J

- J. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness and the employee is unable to return to work, the employee's name shall be placed on the reemployment list for the class from which he/she was on leave for a period not to exceed 39 months.
- K. An employee receiving benefits under this Rule who fails to accept an appropriate assignment after being medically approved to return to work shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in his/her former status and time basis, and in assignment areas in which the employee has made himself/herself available. An employee removed from a reemployment list under this Rule may appeal the removal to the Personnel Commission.
- L. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the District shall when added to a normal temporary disability allowance as specified under Labor Code Sections 4453 and 4460, not exceed the employee's regular salary. A permanent employee's salary is computed on the basis of the number of hours and days in his/her basic daily assignment. An employee who is not full time shall have his/her regular salary computed on the basis of the average number of hours worked each month in which the employee was in paid status during the preceding year. During all paid leaves from an industrial accident or industrial illness, the employee shall endorse to the District wage loss benefit checks received from the District's claims management firm, if applicable. The District shall issue to the employee appropriate warrants for payment of wages, loss of benefits, salary, and/or leave benefits and shall deduct normal retirement and other authorized contributions. An employee receiving benefits under this Rule who accepts employment during the period of leave shall be deemed to have abandoned his/her position. See Rule 14.1.4.

Section 11.3.2.M

- M. The Final Award for permanent industrial disability settlement shall not be subject to remittance to the District under this Rule.
- N. The reassignment of an employee who incurs a permanent disability shall be processed according to Rule 9.8.

11.3.3

VERIFIED ILLNESS LEAVE (EXTENDED SICK LEAVE)
(EDUCATION CODE SECTION 88196)

- A. When a regular employee has exhausted all accumulated sick leave credit and the employee continues to be unable to resume the regular duties of his/her position due to illness or injury, the employee may request to be placed on verified illness leave or on unpaid illness leave.
- B. Within five (5) working days after the employee is first absent due to the illness or injury, the employee shall submit a request accompanied by a medical verification from a licensed physician or practitioner stating the nature of the illness or injury, the dates the employee has been under care and treatment and the expected date of return of the employee.
- C. Verified illness leave shall be limited to five (5) calendar months per fiscal year (108 days) and shall be subject to the following procedures:
 - 1. The employee's pay shall be his/her regular rate of pay less the amount actually paid to the substitute.
 - 2. If no substitute is hired, the employee shall receive full pay.
 - 3. For purposes of the Rule, a substitute shall be defined as the new employee hired due to the absence of the regular employee. A temporary upgrade of an existing employee shall not be counted for difference pay.
- D. The leave shall commence on the first day of illness or injury and shall run concurrent with all other leaves listed in the paragraph below.
- E. In order to be eligible for verified illness leave, the employee shall utilize available leave in the following order:
 - 1. All industrial accident or illness leave, when applicable.
 - 2. All current year credited sick leave.
 - 3. All accumulated sick leave.
 - 4. All accumulated compensatory time.
 - 5. All earned vacation.

11.3.4

UNPAID ILLNESS LEAVE (EDUCATION CODE SECTION 88195)

- A. A permanent classified employee, who has exhausted all entitlement to sick leave, vacation, compensatory time, or any other available paid leave, and who is absent because of non-industrial illness or injury may be granted an additional unpaid leave of absence for six (6) months, which may be extended for two additional six (6) month periods upon recommendation of the department supervisor, the Personnel Administrator and the approval of the Board of Trustees. In granting the leave, the following factors shall be considered:
1. The likelihood that the employee can return to normal duties upon completion of the leave of absence as evidenced by the treating doctor's prognosis.
 2. The seniority and the work record of the employee as documented in the official District personnel file.
 3. The employee's previous sick leave record and the degree and reasons for use of sick leave.
 4. The number of positions in the employee's classification, the uniqueness of duties performed by the employee, and availability of a substitute.
- B. The granting of a leave of absence, under this Rule, shall guarantee the employee the right to return to a position in his/her former class with equal rights and benefits.
- C. An employee may return from the leave of absence, upon adequate and proper notice as provided in Rule 11.3.5.
- D. An illness leave of absence without pay shall not constitute a break in service. Upon return the employee shall be reinstated to all rights and benefits of a regular employee.

11.3.5

RETURN FROM SICK LEAVE

- A. When an employee, who has been placed on paid or unpaid leave of absence due to illness for a duration of five (5) consecutive working days or more, wishes to return to work, the employee must submit a medical release from his/her licensed treating physician or practitioner. The release must provide medical verification acceptable to the District indicating that the employee has recovered sufficiently to return to his/her regularly assigned duties without detriment to his/her physical or emotional well-being, or the physical or emotional well-being of other employees. Clearance to return to work is subject to approval by the College physician, the Personnel Director and in the case of industrial injury or illness, the Director of Administrative Services.
- B. The employee shall give the Classified Personnel Department and his/her immediate supervisor adequate advance notification of his/her return.
- C. If, at the conclusion of all sick leave, paid or unpaid, granted under this Rule, the employee is still unable to resume the regular duties of his/her position, the employee shall be placed on a reemployment list for a period of 39 months in the same manner as if the employee were laid off for lack of work or lack of funds.

11.3.6

APPLICATION OF SICK LEAVE PROVISIONS TO UNIT MEMBERS

- A. Sick leave provisions for unit members shall be in accordance with Article 7 of the Agreement between the Santa Monica Community College District and Chapter 36, CSEA and this Rule, unless the Rule provision is specifically limited to management and confidential employees.