

AP 7343 INDUSTRIAL ACCIDENT AND ILLNESS LEAVE

References:

Education Code Sections 87787 and 88192

NOTE: The following language is from CLPCCD Policy 4054 titled Industrial Accident and Illness Leave (Classified).

An employee who is a regular member of the classified service and who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the workers' compensation laws of California and acknowledged as such by the District's Workers Compensation Provider, will be granted paid industrial accident leave for each accident or illness. This paid leave shall apply while the employee is receiving temporary disability benefits from the District's Workers Compensation Provider. Industrial accident or illness leave shall be reduced by one (1) day for each day of authorized absence regardless of a temporary disability indemnity award. Rules governing such leave are as follows:

Duration and Accumulation

Classified Employees: A maximum of 60 working days shall be granted in any one fiscal year for the same accident.

Academic Employees: Such leave shall not exceed 60 days during which the colleges of the District are required to be in session or when the academic employee would otherwise have been performing work for the District in any one fiscal year for the same industrial accident.

Medical Examination

Such leave will commence on the first day of absence caused by such accident or illness and verified as follows:

- Each employee who is absent for any period of time for reasons claimed to be due to a work-related injury or illness shall, before returning to work, bring a written medical verification, signed by the physician, or religious advisor if required by religious tenets, indicating the nature of the injury or illness, inclusive dates when the employee is unable to work because of medical condition, the

date the employee can return to work, and work limitations, if any. This medical statement shall be given to Human Resources.

- The District has the right to have the academic employee examined by a physician designated by the District to assist in determining the length of time during which the academic employee will be temporarily unable to perform assigned duties and the degree to which a disability is attributable to the injury involved.

Reimbursement

The payment for wages lost on any day shall not, when added to an award granted the employee, exceed the normal wage for the day.

Sick Industrial Accident and Illness Leave

- Such leave shall not affect the normal accumulated sick leave.
- Such leave is not accumulative from year to year. If an absence overlaps into a new school year, the employee will have available only that amount which was not used the prior year for the same accident or illness.
- Classified: If the employee is unable to return to duty after exhausting paid industrial accident and illness leave, the employee will receive paid illness leave and vacation leave provided such leaves have been accumulated. Such accumulated leave allowances will be reduced only in the amount necessary to provide a full day's wages or salary, when added to compensation from the District's Workers Compensation Provider. During all such paid leaves of absence, the employee shall endorse to the District all benefit checks received under the workers' compensation laws of the state.
- Academic: If the academic employee is unable to return to duty after exhausting paid industrial accident and illness leave, the academic employee will receive any accumulated paid sick leave and other extended sick leave benefits. Such leave shall not affect the normal accumulated sick leave. Such leave allowances will be reduced only in the amount necessary to provide a full day's wages or salary, when added to compensation from District's workers compensation fund.

Residency Requirement

An employee receiving benefits under these provisions shall, during periods of injury or illness, remain within the State of California unless otherwise authorized by the Governing Board.

Separation from District Employment

Classified: When all available leaves of absence paid or unpaid have been exhausted and if the classified employee is not medically able to assume the duties of the position,

the person shall be placed on a reemployment list for a period of 39 months. During the 39 month period, the employee if medically able shall be employed in a vacant position in the class of the person'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 person shall be listed in accordance with appropriate seniority regulations.

Academic: When all available leaves of absence, paid or unpaid, have been exhausted and if the academic employee is not medically able to assume the duties of the position, the person shall be separated from employment with the District.

NOTE: The following language is from CLPCCD Policy 4056 titled Industrial Accident and Illness Leave (Academic).

Academic employees will be entitled to industrial accident leave according to the provision in California Education Code Section 87787 for personal injury which has qualified for workers' compensation under the provisions of the District's workers compensation insurance fund.

Duration and Accumulation

Such leave shall not exceed 60 days during which the colleges of the District are required to be in session or when the academic employee would otherwise have been performing work for the District in any one fiscal year for the same industrial accident.

Industrial accident or illness leave shall be reduced by one (1) day for each day of authorized absence regardless of a temporary disability indemnity award. Such leave is not cumulative from year to year and if an absence overlaps into a new academic year, the academic employee will have available only that amount which was not used the prior year for the same illness or injury.

Medical Examination

The District has the right to have the academic employee examined by a physician designated by the District to assist in determining the length of time during which the academic employee will be temporarily unable to perform assigned duties and the degree to which a disability is attributable to the injury involved.

Reimbursement

For any days of absence from duty as a result of the same industrial accident, the academic employee shall endorse to the District any wage loss benefit check from the District's workers compensation fund which would make the total compensation from both sources exceed one hundred percent (100%) of the amount the academic employee would have received as salary had there been no industrial accident or illness.

Sick Leave

If the academic employee is unable to return to duty after exhausting paid industrial accident and illness leave, the academic employee will receive any accumulated paid sick leave and other extended sick leave benefits. Such leave shall not affect the normal accumulated sick leave. Such leave allowances will be reduced only in the amount necessary to provide a full day's wages or salary, when added to compensation from District's workers compensation fund.

Residency Requirement

An academic employee receiving benefits under these provisions shall, during periods of injury or illness, remain within the State of California unless otherwise authorized by the Board of Trustees.

Separation from District Employment

When all available leaves of absence, paid or unpaid, have been exhausted and if the academic employee is not medically able to assume the duties of the position, the person shall be separated from employment with the District.

The Board of Trustees may require that an employee serve, or have served continuously, three years before the benefits provided by this section are made available to the person. All service of an employee prior to the effective date of any such requirement shall be credited in determining compliance with the requirement.

An employee who has been placed on a reemployment list, as provided above, who has been medically released for return to duty and who fails to accept an appropriate assignment, shall be dismissed.

Information on industrial illness leave for represented employees can be found in the respective collective bargaining agreement.

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **blue ink** is included for consideration. This document was reviewed by David on October 7, 2013. This document was reviewed by Wyman, David, and Kit on June 30, 2014. Changes in **green ink** were made by David on December 22, 2014. Changes in **purple ink** were made by David on March 16, 2015.

Date Approved:

(This is a new procedure recommended by the Policy and Procedure Service)

Legal Citations for AP 7343

Education Code Sections 87787 and 88192

87787. Governing boards of community college districts shall provide by rules and regulations for industrial accident and illness leaves of absence for all academic employees. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1976, shall provide by rules and regulations for those leaves of absence on or before the date on which the organization or reorganization of the district becomes effective.

The rules or regulations shall include all of the following provisions:

(a) Allowable leave shall be for not less than 60 days during which the schools of the district are required to be in session or when the employee would otherwise have been performing work for the district in any one fiscal year for the same accident.

(b) Allowable leave shall not be accumulated from year to year.

(c) Industrial accident or illness leave shall commence on the first day of absence.

(d) When an academic employee is absent from his or her duties on account of an industrial accident or illness, the employee shall be paid the portion of the salary due him or her for any month in which the absence occurs as, when added to his or her temporary disability indemnity under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor **Code**, will result in a payment to the employee of not more than his or her full salary.

The phrase "full salary," as utilized in this subdivision, shall be computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is utilized in Section 4453 of the Labor **Code**. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor **Code** shall otherwise not be deemed applicable.

(e) Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award.

(f) When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him or her for the same illness or injury.

Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 87780, 87781 and 87786, and, for the purposes of each of these sections, his/her absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave. However, if the employee continues to receive temporary disability indemnity, he or she may elect to take as much of his/her accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than his/her full salary.

The governing board, by rule or regulation, may provide for additional leave of absence for industrial accident or illness as it deems appropriate.

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his or her industrial accident or illness. The district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

Any employee receiving benefits as a result of this section, during periods of injury or illness, shall remain within the State of California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board pursuant to this section, an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of leave.

88192. Governing boards of community college districts shall provide, by rules and regulations, for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of any district that is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1975, shall provide, by rules and regulations, for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes.

The rules and regulations shall include all of the following provisions:

(a) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.

(b) Allowable leave shall not be accumulative from year to year.

(c) Industrial accident or illness leave of absence will commence on the first day of absence.

(d) 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.

(e) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.

(f) 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.

The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 88191. 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 person shall be entitled to use only so much of the person's accumulated or available sick leave, accumulated compensating time, vacation or other available leave which, when added to the workers' compensation award, provide for a full day's wage or salary.

The governing board, by rule or regulation, may provide for additional leave of absence, paid or unpaid, as it deems appropriate and during that leave the employee may return to the person's position without suffering any loss of status or benefits.

Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.

During all paid leaves 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, 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 payment of wages or salary & shall deduct normal retirement & other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.

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 the person's position, the person, if not placed in another position, shall be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the person shall be employed in a vacant position in the class of the person'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 person shall be listed in accordance with appropriate seniority regulations.

The governing board 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 person. However, that period shall not exceed three years. All service of an employee prior to the effective date of this section shall be credited in determining compliance with the requirement.

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 governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board pursuant to this section, an employee shall be entitled to industrial and accident or illness leave as provided in this section but without limitation as to the number of days of that leave and without any requirement of a specified period of service.

An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.

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 3 (commencing with Section 88060).