

Human Resources
DRAFT as of 3/16/15

BP 7340 LEAVES

References:

Education Code Sections 87763 et seq., 87768.5, 88190 et seq., and 88210

NOTE: The language in red ink is legally required.

The Chancellor shall establish procedures for employee leaves as authorized by law and by any collective bargaining agreements entered into by the District. Such leaves shall include, but are not limited to:

- illness leaves for all classes of permanent employees;
- vacation leave for members of the classified service, administrators, supervisors and managers;
- leave for service as an elected official of a community college District public employee organization, or of any statewide or national employee organization with which the local organization is affiliated or leave for a reasonable number of unelected classified employees for the purpose of enabling an employee to attend important organizational activities authorized by the public employee organization (Education Code Sections 87768.5 and 88210);
- leave of absence to serve as an elected member of the legislature (Education Code Section 87701);
- pregnancy leave (Education Code Sections 87766 and 88193; Government Code Section 12945);
- use of illness leave for personal necessity (Education Code Sections 87784; 88207);
- industrial accident leave;
- bereavement leave;
- jury service or appearance as a witness in court (Education Code Sections 87036 and 87037);
- military service (Education Code Section 87700); and
- sabbatical leaves.

Vacation leave for confidential/supervisory employees and administrators shall not accumulate beyond 31 days of paid leave or 248 hours of paid leave. They shall be permitted to take vacation in a timely manner to avoid accumulation of excess vacation.

In addition to these policies and collective bargaining agreements, the Board retains the power to grant leaves with or without pay for other purposes or for other periods of time.

❖ **From the current CLPCCD Policy 4052 titled Extended Leave for Illness or Injury**

~~When an employee is absent from duties due to illness for a period of more than five (5) months, the employee shall, at the expiration of all paid sick leave, be placed on leave without pay. Medical examination(s) may be required to be performed by a physician(s) to be designated by the Chancellor to determine physical and mental condition for continued service.~~

NOTE: The following language in CLPCCD Policies 4040, 4042, 4044, 4046, 4058, 4150, and 4250 was moved to new AP 7340 titled Leaves due to the specificity contained therein.

❖ **From the current CLPCCD Policy 4040 titled Personal Necessity**

Statement of Purpose

~~Any days of absence for illness or injury, earned or allowed, by an employee may be used, at his or her election, in cases of personal necessity for the following purpose: (Deducted from sick leave)~~

- ~~1. Death of a Member of his or her immediate family (defined in Policy 4042) when additional leave is required beyond the number of days provided under the bereavement leave section of these rules and regulations;~~
- ~~2. Accident involving his or her person or property, or the person or property of a member of his or her immediate family;~~
- ~~3. Illness of a member of his or her immediate family;~~
- ~~4. Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction;~~
- ~~5. Matters of compelling personal importance which cannot be accomplished at times other than assigned working hours.~~

Maximum Number of Days

~~The maximum number of days of accumulated leave of absence for illness or injury which may be used for the purposes set forth above shall not exceed seven (7) days in any one (1) school year.~~

Verification

~~Each employee requesting leave of absence under these provisions shall file with the College President or Chancellor, upon forms provided, such proof or statement of facts as may be determined necessary to carry out the intent of this policy.~~

❖ **From the current CLPCCD Policy 4042 titled Bereavement Leave**

Definition of Immediate Family

~~For purposes of this policy, an immediate family member shall be limited to mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, sister, brother-in-law, or sister-in-law of the employee or any relative living in the immediate household of the employee, or upon approval of the College President or Chancellor, an equally significant other person.~~

Duration of Leave

~~An employee shall be entitled during the academic year to a maximum of three (3) days leave of absence, or five (5) days leave of absence if out-of-state travel or a distance exceeding 350 miles is required, without loss of salary or extra hours pay on account of the death of any member of his or her immediate family.~~

❖ **From the current CLPCCD Policy 4044 titled Jury Duty**

~~An employee who is employed for half time or more during the academic year and who has been regularly called for jury duty in the manner provided for by law, or who is ordered to appear as a witness in court other than as a litigant, shall be granted a paid leave of absence up to the amount of the difference between the employee's regular earnings excluding extra hours pay and any amount the individual receives for jury or witness fees. Upon notification of jury duty, it is the obligation of the employee to immediately inform his or her immediate supervisor.~~

~~No deduction shall be made from salary. Any daily jury or witness fee, exclusive of travel expenses, shall be deposited to the credit of the District. When the court appearance consumes only a portion of the day, the employee shall make reasonable attempts to report back to work.~~

❖ **From the current CLPCCD Policy 4046 titled Military Leave**

Purpose and Duration

~~A military leave of absence shall be granted to an employee who receives orders to active duty during the year, for a period not to exceed one hundred eighty (180) calendar days including travel time, for purposes of active military training, encampment, naval cruises, special exercises or like activity, excluding military drills, as a member of the reserve corps of force of the armed forces of the United States or the National Guard, or the Naval Militia.~~

Compensation

~~A staff member who has been employed continuously for not less than one (1) year, and for half-time or more, shall be entitled to receive his or her District salary excluding extra hours pay for the first thirty (30) calendar days of such military leave.~~

Orders

~~A copy of the official orders shall be submitted to the Chancellor at the time of such request and in advance of the approval by the Board of Trustees.~~

❖ From the current CLPCCD Policy 4058 titled Leave of Absence Without Pay

~~Management and classified supervisory/confidential employees with regular or permanent or contract status may be granted leaves of absence without pay by the Board not to exceed one (1) fiscal year. Such leave shall be granted only upon written request to the Chancellor and at the convenience and best interests of the District and then only if the leave applicant has been employed in his/her current position for a minimum of four (4) years immediately preceding the request for leave unless otherwise allowed by the District. Leave requested for the purpose of employment with a different employer, including self-employment, shall normally not be granted. Employees whose employment status is based upon a multi-year written contract, shall only be eligible for such leave if upon being granted leave, the employee and District mutually agree to terminate the remaining term of the employment contract effective upon the date such leave is to begin. In addition, supervisory and confidential employees on such leave shall notify the District Human Resource Office no later than sixty (60) days prior to termination date of the leave; management employees no later than ninety (90) days prior to the termination date of the leave as to an intent to return to employment in the District. Failure to so notify will constitute and be considered as abandonment of the position. Management employees who return to employment at end of the leave, shall be placed in active duty paid status pursuant to provisions of the education code.~~

❖ From the current CLPCCD Policy 4150 titled Vacations

- ~~1. Management personnel assigned to the Management Salary Schedule shall be entitled to vacation at the rate of twenty-two (22) days for twelve (12) months service, or a proportional amount for less than twelve (12) months service.~~
- ~~2. No vacation may be accrued after the accumulation of 31 earned vacation days.~~
- ~~3. A management employee will be credited with 1.833333 days of vacation at the end of each calendar month worked if the employee has not exceeded the earning limit of 31 days.~~

- ~~4. A management employee may take vacation prior to earning the days subject to the restriction that no more vacation may be taken than that which will be earned during the current fiscal year.~~
- ~~5. Managers are encouraged to take vacations in the year in which the days are earned.~~
- ~~6. If a manager discontinues service in a management position during a fiscal year and has taken vacation prior to earning it, the number of days owed must be reimbursed by the manager.~~

❖ From the current CLPCCD Policy 4250 titled Annual Vacation Leave

~~Confidential and supervisory employees with permanent status shall earn annual vacation at the regular rate of pay earned at the time the vacation is commenced.~~

~~The amount of vacation leave shall depend on the length of service.~~

~~When a classified employee changes to a confidential or supervisory position, the employee can use earned vacation from the classified position during the probationary period.~~

~~1. Vacation Credit~~

- ~~a. No vacation credit shall be earned during the first six (6) months of employment. At the end of the sixth (6th) month, the confidential/supervisory employee shall immediately accrue .0384615 vacation hours for each hour worked or on authorized paid leave during this six (6) month period.~~
- ~~b. Thereafter, vacation shall be accrued at the following rates:~~

~~Years of Service Vacation Hrs/Hour Worked~~

~~5 full years or less 10 (.83 working days per month)~~

~~Beginning of 6th year to completion of 8 years 15 (1.25 working days per month)~~

~~Beginning of 9th year to completion of 15 years 20 (1.66 working days per month)~~

~~More than 15 years 22 (1.83 working days per month)~~

~~2. Vacation Credit for Part-time Employees~~

~~Staff who are designated as confidential or supervisory and are assigned to regular part-time positions shall be granted vacation leave at the same rate as full-time employees with equal years of service, proportional to the number of hours worked per month and the number of months per school year in relation to a full-time working schedule, as provided by law.~~

~~3. When Vacation Leave Shall be Earned~~

~~Vacation leave shall continue to be earned during active service and during other authorized leaves with pay.~~

~~4. When Taken~~

- ~~a. Vacation leave shall not be taken before it has been earned. No vacation may be taken until the original probationary period and any extensions thereto have been completed.~~
- ~~b. The specific dates on which a permanent classified employee takes annual vacation shall be approved by the immediate supervisor and the designated dean or Vice Chancellor prior to such dates. All applications are subject to final approval by the Chancellor. The needs of the District will govern the scheduling of vacations.~~
- ~~c. If there is a conflict between two (2) or more confidential or supervisory employees in the same section who have made a timely request for the same otherwise acceptable vacation dates, the preferred dates will be available on a rotating basis.~~

~~5. Maximum Earned Vacation Days~~

~~Confidential or supervisory employees may have a maximum of thirty-one (31) earned vacation days. No vacation will be accrued beyond thirty-one (31) days.~~

~~6. Probationary Period~~

~~An employee leaving the District before the end of the initial probationary period will receive no vacation credit payment.~~

~~7. Vacation Compensation Upon Separation~~

~~Upon separation from employment, an employee with permanent status will be paid the vacation leave accrued and not used, at his or her current rate of pay.~~

~~8. Holidays~~

~~Any paid holiday to which an employee would have been entitled had he or she not been on vacation shall not be charged as a day of vacation. When a holiday falls during the scheduled vacation of any confidential or supervisory employees, such employee shall be granted an additional day's vacation and pay for each holiday falling within that period.~~

~~9. Illness or Injury Occurring During Vacation~~

- ~~a. If a confidential or supervisory employee becomes seriously ill, or is injured, during the scheduled vacation period, he or she may request that the time be deducted from his or her earned sick leave and the vacation period be terminated and rescheduled to a later date or be extended. Such request shall be made to the employee's manager who shall make the decision and shall be accompanied by a medical statement signed by a licensed physician or medical provider to be submitted prior to the~~

~~employee's returning to work, stating the reasons that the employee was unable to continue the scheduled vacation on the dates indicated.~~

- ~~b. When a request to terminate a vacation is the result of a recurrence of an industrial accident or illness, the employee will use any available industrial accident or illness leave.~~

Information on leaves and absences for represented employees can be found in the respective employee collective bargaining agreement.

Also see BP/AP 7341 titled Sabbaticals Professional Development Leave (Administrative), BP/AP 7342 titled Holidays, BP/AP 7343 titled Industrial Accidents and Illness Leave, AP 7344 titled Notifying the District of Illness, BP/AP 7345 titled Catastrophic Leave for Unrepresented Employees, BP/AP 7346 titled Employees Called to Military Duty, BP/AP 7347 titled Paid Family Medical Leave.

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 **black ink** is from current CLPCCD Policy 4040 titled Personal Necessity adopted on March 19, 1996; current CLPCCD Policy 4042 titled Bereavement Leave adopted on March 19, 1996; current CLPCCD Policy 4044 titled Jury Duty adopted on March 19, 1996; current CLPCCD Policy 4046 titled Military Leave adopted on March 19, 1996; current CLPCCD Policy 4052 titled Extended Leave for Illness or Injury adopted on March 19, 1996; current CLPCCD Policy 4058 titled Leave of Absence without Pay adopted on March 19, 1996; current CLPCCD Policy 4150 titled Vacations adopted on March 19, 1996 and revised on May 20, 2003 and January 16, 2007; and current CLPCCD Policy 4250 titled Annual Vacation Leave adopted on March 19, 1996 and revised on January 16, 2007. The language in **green ink** was added during the review by David and Kit on August 13, 2013 and on March 28, 2014 with Wyman, David, and Kit. The language in **blue ink** was changed by David on March 16, 2015.

Date Adopted:

(This policy replaces current CLPCCD Policies 4040, 4042, 4044, 4046, 4052, 4058, 4150, and 4250)

Legal Citations for BP 7340

Education Code Sections 87763 et seq. and 88190 et seq.; Labor Code Section 234

87763. Governing boards of community college districts may grant leaves of absence to persons employed in academic positions.

87764. When any provision of this **code** expressly authorizes or requires the governing board of a community college district to grant a leave of absence for any purpose or for any period of time to persons employed in academic positions, that express authorization or requirement does not deprive the governing board of the power to grant leaves of absence with or without pay to those employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he or she is entitled by law.

87765. The governing board of a community college district may provide for the leave of absence from duty and may grant compensation during the leave of absence to any employee of the district who is employed in an academic position and who is compelled to absent himself or herself from his or her duties because of accident or illness, whether or not the cause of absence arises out of and in the course of the employment of the employee, or because of quarantine which results from his or her contact with other persons having a contagious disease while performing his or her duties, or because of temporary inability to perform the services required of him or her because of illness, accident, or quarantine.

87766. The governing board of a community college district shall provide for leave of absence from duty for any academic employee of the district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of the leave of absence, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee's physician.

Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment by any school district.

Except as provided herein, written and unwritten employment policies and practices of a community college district shall be applied to disability due to pregnancy or childbirth on the same terms and conditions applied to other temporary disabilities.

This section shall be construed as requiring the governing board of a community college district to grant leave with pay only when it is necessary to do so in order that leaves of absence for disabilities caused or contributed to by pregnancy, miscarriage, or childbirth be treated the same as leaves for illness, injury, or disability.

87767. The governing board of a community college district may grant any employee of the district employed in an academic position, a leave of absence not to exceed one year for the purpose of permitting study or travel by the employee which will benefit the schools and students of the district. The governing board may provide that such a leave of absence be taken in separate six-month periods or separate quarters rather than for a continuous one-year period, provided that the leave of absence for both of the separate six-month periods or any or all quarters shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the two separate six-month periods or separate quarters of the leave of absence shall comprise a part of the service required for a subsequent leave of absence.

87768. Notwithstanding any other provision of this **code**, the governing board of any community college district may grant a leave of absence under Section 87767 to any academic employee who has rendered service to the district for at least six consecutive years preceding the granting of the leave, but not more than one such leave of absence shall be granted in each six-year period. The governing board granting the leave of absence may prescribe the standards of service which shall entitle the employee to the leave of absence. No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 87767, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of the absence shall not be included as service in computing the six consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the board of governors, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of the absence shall be included in computing the six consecutive years of service required by this section.

87768.5. The governing board of a community college district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local community college district public employee organization, or of any statewide or national public employee organization with which the local organization is affiliated.

The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the community college district as employer. Required retirement contributions shall include the amount necessary to pay any unfunded liability cost for the retirement plan. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22901. The maximum amount of the service credit earned shall not exceed 12 calendar years. Any employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the State Teachers' Retirement System while on the leave of absence.

Following the community college district's payment of the employee for the leave of absence, the community college district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the

employee organization shall be made within 10 days after its receipt of the cc district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government **Code**.

87769. Every employee granted a leave of absence pursuant to Section 87767 may be required to perform such services during the leave as the governing board of the district and the employee may agree upon in writing, and the employee shall receive such compensation during the period of the leave as the governing board and the employee may agree upon in writing, which compensation shall be not less than the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. However, in lieu of such difference, the board may pay one-half of the salary of the employee on leave or any additional amount up to and including the full salary of the employee on leave.

87769.5. An employee granted a leave of absence pursuant to Section 87767 or 87768 may agree in writing with the governing board of the community college district not to receive compensation during the period of the leave.

87770. Every employee, as a condition to being granted a leave of absence pursuant to Section 87767, shall agree in writing to render a period of service in the employ of the governing board of the district following his or her return from the leave of absence which is equal to twice the period of the leave. Compensation granted by the governing board to the employee on leave for less than one year may be paid during the first year of service rendered in the employ of the governing board following the return of the employee from the leave of absence or, in the event that the leave is for a period of one year, the compensation may be paid in two equal annual installments during the first two years of service following the return of the employee. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were teaching in the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render the agreed upon period of service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in event the failure of the employee to return and render the agreed upon period of service is caused by the death or physical or mental disability of the employee. If the governing board finds, and by resolution declares, that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render the agreed upon period of service therein following his or her return from the leave, the governing board may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

87771. If the employee does not serve for the entire period of service agreed upon under Section 87770, the amount of compensation paid for the leave of absence shall be reduced by an amount which bears the same proportion to the total compensation as the amount of time which was not

served bears to the total amount of time agreed upon. If the employee furnished an indemnity bond, upon default, the proceeds of the bond shall be divided between the employee and the cc district in the same proportion as the actual amount of time served bears to the amount of time agreed upon.

87774. At the expiration of the leave of absence of the employee, the employee, unless he or she otherwise agrees, shall be reinstated in the position held by him or her at the time of the granting of the leave of absence.

87775. Both the governing board of a community college district and the district shall be freed from any liability for the payment of any compensation or damages provided by law for the death or injury of any employee of the district employed in an academic position when the death or injury occurs while the employee is on any leave of absence granted under the provisions of Sections **87763** to 87779, inclusive.

87776. No leave of absence when granted to a contract employee shall be construed as a break in the continuity of service required for the classification of the employee as tenure. However, time spent on any unpaid leave of absence shall not be included in computing the service required as a prerequisite to attainment of, or eligibility for, tenure.

87777. Whenever any permanent or probationary employee of a high school district is employed by a community college district pursuant to Sect. 87462 or 87464 such employee shall be entitled to retain all sickness & injury, sabbatical and other leave rights accumulated by service prior to such employment and the district shall recognize and grant such rights, including any accumulated rights allowed by the governing board of the high school district, as fully as if there was no change in the cc district.

87779. When a community college or other place of employment shall have been transferred from one district to another, any academic employees who transfer with the school or other place of employment shall be entitled to retain all sickness and injury, sabbatical and other leave rights accumulated by service prior to the transfer and the district to which the school or other place of employment has been transferred shall recognize or grant those rights, including any accumulated rights allowed by the governing board of the district from which the school or other place of employment was transferred, as fully as if there had been no change in the district maintaining the school or other place of employment.

87780. When a person employed in an academic position is absent from his or her duties on account of illness or accident for a period of five school months or less, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due the employee for any month in which the absence occurs shall not exceed the sum that is actually paid a temporary employee employed to fill his or her position during his or her absence or, if no temporary employee was employed, the amount that would have been paid to the temporary employee had he or she

been employed. The community college district shall make every reasonable effort to secure the services of a temporary employee.

The governing board of every community college district shall adopt a salary schedule for temporary employees. The salary schedule shall indicate a salary for a temporary employee for all categories or classes of academic employees of the district.

Except in a district where the governing board has adopted a salary schedule for temporary employees of the district, the amount paid the temporary employee during any month shall be less than the salary due the employee absent from his or her duties.

When a person employed in an academic position is absent from his/her duties on account of illness for a period of more than 5 school months, or when a person is absent from his or her duties for a cause other than illness, the amount deducted from the salary due the person for the month in which the absence occurs shall be determined according to the rules & regulations established by the governing board of the district. These rules & regs. shall not conflict with rules & regs. of the board of governors.

Nothing in this section shall be construed to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for academic employees.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

87781. (a) (1) Every academic employee employed five days a week by a community college district shall be entitled to 10 days' leave of absence for illness or injury and any additional days in addition thereto that the governing board may allow for illness or injury, exclusive of all days he or she is not required to render service to the district, with full pay for a college year of service.

(2) An employee employed for less than five schooldays a week shall be entitled, for a college year of service, to that proportion of 10 days' leave of absence for illness or injury as the number of days he or she is employed per week bears to five, and is entitled to those additional days in addition thereto as the governing board may allow for illness or injury to academic employees employed for less than five schooldays per week. Pay for any day of those absences shall be the same as the pay that would have been received had the employee served during the day.

(b) Credit for leave of absence need not be accrued prior to taking leave by the employee, and the leave of absence may be taken at any time during the college year. If the employee does not take the full amount of leave allowed in any school year under this section, the amount not taken shall be accumulated from year to year with add'l days as the gov. board may allow.

(c) The governing board of each cc district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purposes of this section. These rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized church or denomination.

(d) Nothing in this section shall be deemed to modify or repeal any provision in Chapter 3 (commencing with Section 120175) of Part 1 of Division 105 of the Health and Safety Code.

(e) Section 87780 does not apply to the first 10 days of absence on account of illness or accident of any employee employed five days per week or to the proportion of 10 days of absence to which the employee employed less than five days per week is entitled hereunder on account of illness or

accident or to additional days granted by the governing board. Any employee shall have the right to utilize sick leave provided for in this section and the benefit provided by Section 87780 for absences necessitated by pregnancy, miscarriage, childbirth, and recovery therefrom.

87781.5. The governing board of a community college district may adopt rules permitting academic employees of the district to use leave earned pursuant to Section 87781 in cases of compelling personal importance.

Leave taken pursuant to this section, together with any leave taken pursuant to Sect. 87784, shall not exceed six days in any single school year.

87782. Any academic employee of a community college district who has been an employee of that district for a period of one school year or more and who accepts an academic position in a school district or cc district at any time during the second or any succeeding school year of his or her employment with the first district, or who, within the school year succeeding the school year in which the employment is terminated, signifies acceptance of his or her election or employment in an academic position in another district, shall have transferred with him or her to the second district the total amount of leave of absence for illness or injury to which he or she is entitled under Section 87781. The board of governors shall adopt rules and regulations prescribing the manner in which the first district shall certify to the second district the total amount of leave of absence for illness or injury to be transferred. No governing board shall adopt any policy or rule, written or unwritten, which requires any employee transferring to its district to waive any part or all of the leave of absence which he or she may be entitled to have transferred in accordance with this section.

87783. Any academic employee of a community college district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts an academic position in a community college district or office of another county superintendent of schools; or, any person employed by the board of governors in a position requiring certification qualifications or an employee of the office of the Chancellor of the California Community Colleges who accepts an academic position in a community college district or a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of the Commission for Teacher Preparation and Licensing who accepts an academic position in any community college district; shall have transferred with him or her to the second position his or her accumulated leave of absence for illness or injury. The amount of leave to be transferred shall be determined in the same manner as provided in Section 87782. All other provisions of Section 87782 shall also apply to the employees and employers described in this section.

87784. Any days of leave of absence for illness or injury allowed pursuant to Section 87781 may be used by the employee, at his election, in cases of personal necessity. The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for purposes of this section.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

(a) Death or serious illness of a member of his immediate family.

(b) Accident, involving his person or property, or the person or property of a member of his immediate family.

No such accumulated leave in excess of six (6) days may be used in any school year for the purposes enumerated in this section.

87785. Any person employed by a community college district, in an academic position who accepts a professional **education** position in the chancellor's office of the California community colleges, the appointment to which is, or is intended to become, permanent, shall have transferred with him or her to the chancellor's office of the California community colleges his accumulated leave of absence for illness or injury. The amount of leave to be transferred shall be determined in the same manner as provided in Section 87782, except in no case may the transferred accumulated sick leave exceed that amount of accumulated sick leave that the person would have earned as an employee in the system to which he or she is transferring. All other provisions of Section 87782 shall also apply to the employees and employers described in this section.

87786. Section 87780 shall not apply to any community college district which adopts and maintains in effect a rule which provides that when a person employed in an academic position is absent from his/her duties on account of illness or accident for a period of 5 school months or less whether or not the absence arises out of or in the course of the employment of the employee, he/she shall receive 50 percent or more of his/her regular salary during the period of the absence and nothing in Sect 87780 shall be construed as preventing the gov. board of any district from adopting any such rule.

Notwithstanding the foregoing, when a person employed in an academic position is absent from his or her duties on account of illness for a period of more than five school months, or when a person is absent from his or her duties for a cause other than illness, the amount deducted from the salary due him or her for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. These rules and regulations shall not conflict with rules and regulations of the board of governors.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for academic employees.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

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 or 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 or her accumulated sick leave which, when added to his or her temporary disability indemnity, will result in a payment to the employee of not more than his or 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.

87788. Every person employed by a community college district in an academic position is entitled to a leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his or her immediate family. No deduction shall be made from the salary of the employee or shall the leave be deducted from leave granted by other sections of this **code** or provided by the governing board of the

district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

87789. The governing board of a community college district may grant a leave of absence to any academic employee who has applied for disability allowance, not to exceed 30 days beyond final determination of the disability allowance by the State Teachers' Retirement System. If the employee is determined to be eligible for the disability allowance by the system, the leave shall be extended for the term of disability, but not more than 39 months.

Governing boards of community college districts shall classify as temporary employees those persons employed to fill vacancies caused by the absence of academic employees who are classified as permanent and are receiving a disability or insurance allowance or benefit from the system or from a group insurance plan for which the employer is paying the cost or deducting the cost from the employees' salaries.

For purposes of this section, the term of employment of the temporary employee shall be equal to the number of days of absence of the employee receiving the disability allowance.

If the term of employment extends beyond this period, the employee shall be credited for all days served as a probationary employee.

87790. Notwithstanding any other provisions of this **code**, except Part 13 (commencing with Section 22000), the governing body of a community college district may adopt a workload balancing program for academic employees, under which time worked in excess of that required for a full-time position is banked and an equivalent paid leave of absence is granted in a subsequent quarter, semester, or academic year.

88190. Governing boards of community college districts may grant leaves of absence and vacations, with or without pay, to persons employed in the classified service of the district.

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) of this chapter.

88191. Every classified employee employed five days a week by a community college district shall be entitled to 12 days leave of absence for illness or injury and such additional days, in addition thereto, as the governing board may allow for illness or injury, exclusive of all days the employee is not required to render service to the district, with full pay for a fiscal year of service.

A classified employee, employed five days a week, who is employed for less than a full fiscal year, is entitled to that proportion of 12 days leave of absence for illness or injury as the number of months the employee is employed bears to 12 and the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

A classified employee employed less than five days per week shall be entitled, for a fiscal year of service, to that proportion of 12 days leave of absence for illness or injury as the number of days the employee is employed per week bears to five and is entitled to the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

When these persons are employed for less than a full fiscal year of service, this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which they are entitled.

Pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking that leave by the employee and such leave of absence may be taken at any time during the year. However, a new employee of a district shall not be eligible to take more than six days, or the proportionate amount to which the employee may be entitled under this section, until the first day of the calendar month after completion of six months of active service with the district.

If the employee does not take the full amount of leave allowed in any year under this section, the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purpose of this section. These rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized religious sect, denomination or organization.

This section shall not apply to a district in which the full-time equivalent student of the district is in excess of 400,000, if the district maintains sick leave policies not less than those in effect in such districts on January 1, 1961.

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).

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 gov. 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 and shall deduct normal retirement and 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).

88193. The governing board of any community college district may provide for such leave of absence from duty as it deems appropriate for any female employee in the classified service of the district who is required to absent herself from her duties because of pregnancy or convalescence following childbirth, and may adopt rules and regulations prescribing the manner of proof of pregnancy, the time during pregnancy at which the leave of absence shall be taken, and the length of time for which the leave of absence shall continue after birth of the child. The board may also provide in the rules and regulations whether leave granted under this section shall be with or without pay and, if with pay, the amount, if any, to be deducted from the salary due the employee for the period in which the absence occurs. However, nothing in this section shall be construed so as to deprive any employee of sick leave rights under other sections of this **code** for absences due to illness or injury resulting from pregnancy.

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) of this chapter.

88194. Every person employed in the classified service of any community college district shall be granted necessary leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his or her immediate family. No deduction shall be made from the salary of the employee nor shall such leave be deducted from leave granted by other sections of this **code** or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. "Members of the immediate family," as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

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).

88195. A permanent employee of the classified service who has exhausted all entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who is absent because of non-industrial accident or illness may be granted additional leave, paid or unpaid, not to exceed six months. The board may renew the leave of absence, paid or unpaid, for two additional six-month periods or lesser leave periods that it may provide but not to exceed a total of 18 months.

An employee, upon ability to resume the duties of a position within the class to which he/she was assigned, may do so at any time during the leaves of absence granted under this section and time lost shall not be considered a break in service. The employee shall be restored to a position within the class to which he/she was assigned and, if at all possible, to his/her position with all the rights, benefits and burdens of a permanent employee.

If, at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his or her position, the employee shall be placed on a reemployment list for a period of 39 months.

At any time during the prescribed 39 months that the employee is able to assume the duties of his/her position, the employee shall be reemployed in the first vacancy in the classification of his or her previous assignment. The employee's reemployment shall take preference over all other applicants

except for those laid off for lack of work or funds under Sect 88117 in which case the employee shall be ranked according to his/her proper seniority. Upon resumption of the employee's duties, the break in service will be disregarded and the employee shall be fully restored as a permanent employee.

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).

88196. When a person employed in the classified service is absent from his or her duties on account of illness or accident for a period of five months or less, whether or not the absence arises out of or in the course of employment of the employee, the amount deducted from the salary due the employee for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill the employee's position during his or her absence.

Except in a district where the governing board has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from the employee's duties.

Entitlement to sick leave provisions under this section, if any, shall be considered "entitlement to other sick leave" for the purposes of computing benefits under Section 88192 if the absence is for industrial accident or illness and shall be used after entitlement to all regular sick leave, accumulated compensating time, vacation or other available paid leave has been exhausted.

This section shall not apply to any community college district that adopts and maintains, in effect, a rule which provides that a regular classified employee shall be credited once a year with a total of not less than 100 working days of paid sick leave, including days to which he or she is entitled under Section 88191. These days of paid sick leave, in addition to those required by Section 88191, shall be compensated at not less than 50 percent of the employee's regular salary. The paid sick leave authorized under such a rule shall be exclusive of any other paid leave, holidays, vacation, or compensating time to which the employee may be entitled. Nothing in this section shall preclude the governing board from adopting such a rule.

88196.5. A cc district may deduct from the salary otherwise payable to an employee under Section 88196 an amount which is payable, in lieu of salary and on account of the absence for illness or accident, to the employee as the beneficiary under a policy of insurance purchased by the district.

This section shall not be applicable unless specifically included in a collective bargaining agreement between the exclusive representative and the school employer.

88197. (a) Every community college district shall grant to regular classified employees an annual vacation at the regular rate of pay earned at the time the vacation is commenced. The vacation shall be as determined by the community college district, but shall be not less than five-sixths of a day for each month in which the employee is in a paid status for more than one-half the working days in the month, if the employee is regularly employed five days per week, seven to eight hours a day. An employee in a paid status for less than one-half the working days in a month shall have his or her vacation credit accrued on the basis provided for in subdivision (b) or (c).

(b) In lieu of accrual of vacation credit on a monthly basis and proration as prescribed in subdivision (a), a district may provide for accrual of vacation credit on any of the following bases:

(1) For all employees or classes of employees who work a full workweek of 40 hours, the district shall provide 0.03846 hour of vacation credit for each hour of paid service, not including overtime.

(2) For all employees or classes of employees who work a full workweek of 37.5 hours, the district shall provide 0.04087 hour of vacation credit for each hour of paid service, not including overtime.

(3) For all employees or classes of employees who work a full workweek of 35 hours, the district shall provide 0.04379 hour of vacation credit for each hour of paid service, not including overtime.

(c) For all employees regularly employed for fewer than 35 hours a week, regardless of the number of hours or days worked per week, the vacation credit shall be computed at the rate of 0.03846 for each hour the employee is in paid status, not including overtime.

(d) Vacation, with the approval of the employer, may be taken at any time during the college year. If the employee is not permitted to take his or her full annual vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash at the option of the governing board.

(e) Earned vacation shall not become a vested right until completion of the initial six months of employment.

(f) The employee may be granted vacation during the college year even though not earned at the time the vacation is taken.

(g) If an employee is terminated and had been granted vacation which was not yet earned at the time of termination of his or her services, the employer shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken.

(h) Upon separation from service, the employee shall be entitled to lump-sum compensation for all earned and unused vacation, except that employees who have not completed six months of employment in regular status shall not be entitled to such compensation.

(i) This section shall not apply to substitute, short-term, or limited-term employees, as defined in Sections 88003 and 88105, unless those employees are specifically included by the district.

(j) The district may expand the benefits provided for in this section.

(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 3 (commencing with Section 88060).

88198. When any provision of this **code** expressly authorizes or requires the governing board of a community college district to grant a leave of absence for any purpose or for any period of time to persons employed in classified positions, that express authorization or requirement shall not deprive the governing board of the power to grant leaves of absence with or without pay to those employees for other purposes or for other periods of time, so long as the governing board does not deprive any employee of any leave of absence to which he or she is entitled by law.

88199. Governing boards of community college districts may grant leaves of absence to persons employed in nonacademic positions, and at their discretion may pay compensation at the rate the board prescribes, during the absence, to any employee whose absence is caused by accident or illness, whether or not the absence arises out of or in the course of the employment of the

employee, or because of quarantine which results from his or her contact with other persons having a contagious disease while performing his or her duties.

88200. Governing boards of community college districts may allow permanent classified employees to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption or termination.

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) of this chapter.

88201. The governing boards of any community college district may accept the resignation of any employee and may fix the time when the resignation shall take effect, which shall not be later than the close of the school year during which the resignation is received by the board.

88202. Any classified employee of a community college district, school district, or county superintendent of schools who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with a community college district or county superintendent of schools within one year of the termination of his or her former employment, shall have transferred with him or her to the employing community college district or county superintendent of schools the total amount of earned leave of absence for illness or injury to which he or she is entitled under Section 45191 or 88191. This transfer shall be in the same manner as is provided for academic employees.

In any case where an employee was terminated as a result of action initiated by the employer for cause, the transfer may be made if agreed to by the governing board of the community college district or the county superintendent of schools newly employing the employee.

All or any part of the previous service, not separated by a break in service greater than one year as of the last day of paid service, may, if agreed to by the employing entity, be construed to have been served in the employing community college district or county superintendent of schools of employment for seniority purposes, except that the previous service may not be counted, for seniority purposes, when position or personnel reduction is ordered, for any reason, by the board.

No governing board of a community college district shall adopt any policy or rule, written or unwritten, that requires all classified employees, or any individual classification, or group of classifications of employees transferring to its district to waive any part or all benefits which they may be entitled to have transferred in accordance with this section.

This section shall apply to community college 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) of this chapter.

88203. All probationary or permanent employees who are part of the classified service shall be entitled to the following paid holidays if they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the

last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (c) and (d) of Section 79020 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 for classified or academic employees. College recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period; provided, however, that this shall not be construed as affecting vacation rights specified in this section.

Regular employees of the district who are not normally assigned to duty during the college holidays of December 25 and January 1 shall be paid for those two holidays if they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed.

When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed.

When a classified employee is required to work on any of said holidays, he or she shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half his or her regular rate of pay.

Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 of this division shall not be construed to in any way limit this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the academic and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the academic and the classified services, on any school day during which students would otherwise have been in attendance, but are not and for which faculty receive regular pay, classified personnel shall also receive regular pay whether or not they are required to report for duty that day.

In addition to the other paid holidays specified in this section, the classified service may be entitled to a paid holiday on March 31 known as "Cesar Chavez Day" and a paid holiday on the fourth Friday in September known as "Native American Day," if they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday, if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government **Code**, agrees to the paid holiday.

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).

88204. Notwithstanding the provisions of Section 88203, if a community college district establishes a position or class of positions for which employees are required to work exclusively on weekends and holidays, and for which a special salary rate is established that recognizes the exclusive weekend and holiday peculiarity, the employees and positions may be exempted, by the personnel commission, where applicable, or the governing board from the benefits of Section 88203. No governing board may create a position or a class of positions, under this section, to avoid payment of overtime.

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) of this chapter.

88205. Prior to July 1 of any college year, the governing board of any community college district may designate other days during that year as the holidays to which classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," or November 11 known as "Veterans Day" as specified in Section 88203, if the designated days provide for at least a three-day weekend. Classified employees shall be required to work on the regular holiday for which another day is designated pursuant to this section, and for work of eight hours or less, shall be paid compensation at their regular rate of pay.

If any classified employee would be entitled to the regular paid holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of that holiday and therefore would not be entitled to a day in lieu of the holiday, he or she shall be entitled to the regular holiday; however, if the employee is required to work on that holiday, he or she shall be paid compensation at the rate of time and one-half of his or her regular rate of pay in addition to the regular pay received for the holiday.

This section shall not be construed to authorize the maintenance of colleges on holidays other than as provided in Article 3 (commencing with Section 79020) of Chapter 8 of Part 48.

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).

88205.5. Notwithstanding any other provision of law, if the governing board of a community college district does not designate September 9 known as "Admission Day" as a paid holiday for classified employees, the district shall provide a substitute holiday for those employees. The substitute holiday shall be provided as specified in Section 88205.

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).

88206. Any community college district that requires any classified employee to work a workweek other than Monday through Friday, or if the classified employee consents to a workweek including Saturday or Sunday, or both, and as a result thereof the employee loses a holiday to which he or she would otherwise be entitled, shall provide a substitute holiday for the employee, or provide compensation in the amount to which the employee would have been entitled had the holiday fallen within his or her normal work schedule.

88207. (a) A contract or regular employee may, at the employee's election, use any days of absence for illness or injury earned pursuant to Section 88191 in cases of personal necessity, including any of the following:

(1) Death of a member of the employee's immediate family when additional leave is required beyond that provided both in Section 88194 and as a right by the governing board.

(2) Accident involving the person or property of the employee or of a member of his or her immediate family.

(3) Appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction.

(4) Any other reasons that the governing board may prescribe.

(b) The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for the purpose of this section. The adopted rules and regulations may not require an employee to secure advance permission for leave taken for the purposes specified in paragraphs (1) and (2) of subdivision (a). Earned leave in excess of seven days may not be used in any college year for the purposes enumerated in this section except if either of the following conditions exist:

(1) A maximum number of days in excess of seven is specified for that purpose in an agreement between the exclusive representative of the employees and the community college district.

(2) If there is no exclusive representative of the employees, the governing board of the community college district, by resolution, adopts a policy allowing earned leave in excess of seven days to be used in any school year for the purposes enumerated in this section.

(c) Authorized necessity leave shall be deducted from sick leave earned under the exemption of Section 88191.

(d) For purposes of this section, "immediate family" has the same meaning as in Section 88194.

(e) This section applies 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) and to community college districts that may be exempted from Section 88191.

88209. The Director of Employment Development is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance **Code**.

88210. (a) The governing board of a community college district shall grant to any classified employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local community college district public employee organization, or of any statewide or national public employee organization with which the local organization is affiliated.

The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the cc district employer. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by subdivision (a) of Sect. 20677 of the Gov't **Code**. The maximum amount of the service credit earned shall not exceed 12 years.

Following the community college district's payment of the employee for the leave of absence, the cc district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the community college district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Gov't **Code**.

(b) A classified employee who after August 31, 1987, was absent on account of elected-officer service, shall receive full service credit in the Public Employees' Retirement System; provided that, not later than April 30, 1988: (1) the employee makes a written request to the employer for a leave of absence for the period of the elected-officer service, and (2) the employee organization of which the employee is an elected officer pays to the employee's community college district an amount equal to the required Public Employees' Retirement System member and employer retirement contributions, as prescribed by this section.

The community college district, following the written request and payment, shall transmit the amount received to the Public Employees' Retirement System, informing it of the period of the employee's leave of absence. The Public Employees' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

If the employee has been compensated by the community college district for the period of the service, then, as a condition to the employee's entitlement to service credit for the period, the community college district shall be reimbursed by the employee organization for the amount of the compensation.

The provisions of this subdivision shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1987.

Labor Code 234. An employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.