

# **Administrative Regulation**

## **Temporary/Substitute Personnel Leave**

AR 4121

### **Personnel**

#### **Paid Sick Leave**

In reference to AB 1522, Healthy Workplaces/Healthy Families Act of 2014, AB 304 (Chapter 67/2015), Labor Code 230(c), 230.1(a), 245-249:

#### **ELIGIBILITY**

Any part-time employee who is entitled to less than three days of paid sick leave due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246. (Education Code 44978)

Any temporary, substitute, short term, walk-on, or student employee who works for 30 or more days within a year of his/her employment shall be entitled to one hour of paid sick leave for every 30 hours worked, accruing up to a maximum of 24 hours per fiscal year. Such employee may begin to use accrued paid sick days on the 90th day of his/her employment, after which he/she may use the sick days as they are accrued. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours at any time. (Labor Code 246)

#### **Long-Term Substitute Teachers**

A substitute teacher who has accepted a long-term assignment of 18 days or more, will earn one day of sick leave for each 18 days taught. In accordance with district regulations, those days may only be used during a long-term assignment. Substitute teachers could earn both kinds of sick leave with a maximum of 24 hours under of AB 1522 leave. If employees have already earned long-term sick leave days, the earned days will count against the maximum of 24 hours accruable under AB 1522. If eligible for additional long-term assignment sick leave days these may continue to be accrued beyond three days but used only as previously outlined under district policy, during a long-term assignment.

Employees covered by a collective bargaining agreement or who are retired members of CalPERS are NOT eligible under this act. Any employee covered under any other paid leave policy or paid time off policy that provides an amount of leave that may be used for the same purposes and under the same conditions as specified below will also not be eligible under this act.

### **Volunteers Paid By Stipend**

Use of paid sick leave by employees who volunteer and are paid by stipend for their volunteer activities will not increase the amount of the stipend. Volunteers who are not otherwise employed by the District will not be provided with paid sick leave.

Volunteering employees paid by stipend may not use accrued paid sick leave for time off from the volunteer activity.

### **INTENDED PURPOSE OF SICK LEAVE**

A temporary or substitute employee may use accrued sick leave for absences dueto: (Labor Code 246.5)

1. The diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or his/her family member as defined in Labor Code 245.5
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.l(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking

No employee shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

### **NOTIFICATION**

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days
  - b. The amount of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting or using sick leave is prohibited by law and an employee has the right to file a complaint with the Labor

Commissioner if the district discriminates or retaliates against  
him/her

2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available (cf. 4112.9/4212.9/4312.9 - Employee Notifications)
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

#### **USE OF SICK LEAVE**

To use sick leave accrued under the AB 1522 policy, an individual must have declined a position or be serving in a position already. Rate of pay will be at step 1 of the pay scale of the position declined or of the long-term position.

Sick leave must be used in a minimum of a two (2) hour block. Payout requested may not exceed eight (8) hours for one day. For substitute teachers, sick leave must be used in half-day (3.5 hours) or full day (7 hours) increments. Payout will not exceed the number of hours the employee has accrued.

The date and time requested for sick leave payment must be recorded on the substitute time sheet submitted the pay period sick leave was used. If an employee had already accepted a position or was in a long-term assignment the employee must follow normal procedures for declining a position or notifying school site and district if they must take sick leave time with as much prior notice as possible. It is the employee's responsibility to see that the sick leave time requested is marked on the time sheet before submitting.

#### **TERMINATION/RESIGNATION/RETIREMENT/TRANSFER**

Employees are not eligible to be paid off for their unused accrued AB1522 sick leave hours in the event of termination, resignation, or retirement. Unused accrued AB1522 hours may not be used towards retirement in either CalPERS or CalSTRS. CalPERS retirees may not accrue AB1522 sick leave hours (AB 304).

AB1522 sick leave hours paid out are creditable compensation and count towards retirement when paid as part of monthly earnings. AB1522 sick leave when paid

out will count towards the 1,000 hours needed to mandatorily qualify for CalPERS. AB1522 accrued hours are not transferrable to another employer. AB1522 accrued hours are not transferrable to another employee. The District must keep AB1522 sick leave accrual balances active for twelve (12) months after an employee separates from employment. If an employee returns to employment within the district, in a non-bargaining unit position, within a twelve (12) month period, the AB1522 sick leave balance accrual will be reinstated. An employee shall reimburse the district for any unearned sick leave used as of the date of his/her termination/resignation/separation/retirement.

#### **LABOR CODE**

220 Sections inapplicable to public employees

230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to time off

230.1 Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off

233 Illness of child, parent, spouse or domestic partner

234 Absence control policy

245-249 Healthy Workplaces, Healthy Families Act of 2014