

**North Orange County Regional Occupational Program
PERSONAL ILLNESS/INJURY LEAVE
ROP AR 4261.1**

AR 4261.1 (a)

Administrative Regulation

Classified

Classified employees working five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employee whose work hours are so few as to entitle him/her to less than 24 hours of paid sick leave per fiscal year shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible.

Use of Sick Leave

Employees may use sick leave for absences for the following:

1. Accident or illness, whether or not the absence arises out of or in the course of employment or by quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties.
2. Pregnancy, miscarriage, childbirth, and recovery.
3. Personal necessity as specified in Education Code 45207, in increment of at least two hours.
4. Medical and dental appointments, in increment of at least two hours.
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted.
6. Need of employee to bond with a child within a year of the child's birth, adoption, or foster care placement (parental leave).
7. Need for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or a family member of the employee. A family member for this purpose includes a child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling of the employee.

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8. Need to obtain or seek any relief or medical attention specified in Labor Code sections 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking.

For the purposes specified in items #7-8, an employee may use, in any calendar year, the amount of sick leave he/she would accrue during six months at his/her current rate of entitlement.

An employee may take personal illness or injury at any time during the year, even if credit for leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave until he/she has completed six months of active service with the ROP.

Unused days of sick leave shall be accumulated from year to year without limitation.

An employee shall reimburse the ROP for any unearned sick leave used as of the date of his/her termination.

The ROP shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board.

The Superintendent or designee shall notify any classified employee whose employment with the ROP is terminated after at least one calendar year for reasons other than for cause that, if he/she accepts employment in another district, county office of education, or community college district within one year of the termination of employment, he/she shall be entitled to request that the ROP transfer his/her accumulated sick leave to his/her new employer.

The Superintendent or designee shall establish regulations requiring proof of the employee's medical need for leave and specifying procedures for making such verification.

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Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time he/she works.

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of his/her disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives his/her disability rating decision, he/she shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the ROP may change the sick leave time used before the disability rating decision to an alternative leave balance.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited.

Extended Sick Leave

Upon exhaustion of regular sick leave, and presentation of a physician's written verification of the need for extended sick leave, classified employees who continue to be absent on account of illness or injury will be paid at one-half their regular rate of pay for up to five school months (100 workdays). Earned sick leave shall be used first and

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then one-half pay will be applied to the number of days left, not to exceed a total of 100 workdays. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled. Employees on extended sick leave must provide a physician's release to return to work, specifying any functional limitations, to the Human Resources Department, before returning to work.

Parental Leave

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave.

Eligibility for such leave shall not require 1,250 hours of service with the ROP during the previous 12 months.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive half pay for the remainder of the 12 work weeks. Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period.

Extension of Leave

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months.

If the employee is still unable to resume his/her duties after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes able to resume the duties of his/her position, he/she shall be offered reemployment in the first vacancy in the

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classification of his/her previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to his/her seniority.

Verification Requirements

When an employee is unable to report to work for a period of five or more days due to medical disability, it shall be his/her responsibility to provide the ROP with the "Medical Disability Certification" form that has been completed by the employee and his/her physician. This form must be submitted to the Human Resources Department, within ten working days of the first day of absence to ensure continued benefits and employment.

For long-term illness, it shall be the responsibility of the employee to submit a completed form every 30 days to ensure continued benefits and employment. Before returning to work, the employee must submit a final "Medical Disability Certification" form with a physician authorizing the return to work. This final form must be submitted to the Human Resources Department, no later than five workdays prior to the expected date of return. If there are any stipulating limitations or restrictions prescribed by the physician, an accommodation meeting shall include the supervisor and the employee to determine whether the employee can return to work with accommodation(s). Medical certification must be submitted on the ROP's "Medical Disability Certification" form.

If the absence is due to family care and medical leave, the employee shall verify the absence by submitting a completed and signed Family and Medical Leave Act (FMLA), or California Family Rights Act (CFRA), or Pregnancy Disability Leave (PDL), or parental leave form and provide all supporting documentation to the Human Resources Department.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the ROP, at the ROP's expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for additional leave of absence and a prognosis as to when the employee will be able to

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return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

Short-Term and Substitute Employees

Except for a retired annuitant who is not reinstated to the retirement system, any short-term or substitute employee who works for 30 or more days within a year of his/her employment shall accrue, on a regular basis, paid sick leave of up to 24 hours by the 120th calendar day of his/her employment or each calendar year or 12-month period. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours.

Any short-term or substitute 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.

A short-term or substitute employee may use accrued sick leave for absences due to:

1. His/her own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care.
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(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.

Healthy Workplaces, Healthy Families Act Requirements

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

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To ensure the ROP'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 and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the ROP 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 paycheck, of the amount of paid sick leave they have available.
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years.

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