

**North Orange County Regional Occupational Program
PERSONAL ILLNESS/INJURY LEAVE
ROP AR 4161.1**

AR 4161.1 (a)

Administrative Regulation

Certificated Personnel

Certificated employees working six hours per day, five days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service.

Certificated employees working less than six hours per day, five days per week per school year (part-time employees) shall accumulate sick leave in proportion to the time employed compared with full-time employees on an annual basis. However, any part-time employee who is entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if he/she is eligible.

Certificated Part-Time, Temporary, and Substitute Personnel Covered by Labor Code 246

Regular part-time employees who would be eligible for less than three days of sick leave under the regular sick leave provision above, and temporary and substitute employees who work at least 30 days within a year of initial employment, earn one hour of paid sick leave for every 30 hours they work. These employees may begin to use accrued paid sick days on the 90th day of employment, after which sick days may be used as they are accrued.

These employees may carry over up to 48 hours of accrued paid sick leave into the next year of employment and may not accrue more than 48 hours of paid sick leave.

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; quarantine which results from contact with other persons having a contagious disease during the employee's performance of his/her duties; or temporary inability to perform assigned duties because of illness, accident, or quarantine.
2. Pregnancy, miscarriage, childbirth, and recovery.

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AR 4161.1 (b)

3. Personal necessity, 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.
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 sick leave at any time during the school year, even if credit for sick leave has not yet been accrued.

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

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

The ROP shall not require new employees to waive leave accumulated in a previous district.

The Superintendent or designee shall notify any certificated employee who leaves the ROP after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, he/she may request that the ROP transfer his/her accumulated sick leave to the new employer.

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

Additional Leave for Disabled Military Veterans

In addition to any other entitlement for sick leave with pay, a certificated 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 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more 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 10-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 verification that a certificated employee continues to be absent on account of illness or injury, the employee will be paid at one-half the regular rate of pay for up to 100 workdays.

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AR 4161.1 (d)

Earned sick leave shall be used first and then one-half pay will be applied to the number of days left, not to exceed a total of 100 workdays. 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.

A certificated employee is entitled to only one 100-day period of leave per illness or injury. If the school year ends before the 100 workdays are exhausted, the employee may, if absent due to the same injury or illness, use the balance of the 100 days in the next school year.

Parental Leave

During each school year, a certificated 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 44977.5 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.

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.

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AR 4161.1 (e)

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 further leave of absence and a prognosis as to when the employee will be able to 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 further leave.

Any ROP request for additional verification by an employee's physician or a ROP-selected physician shall be in writing and shall specify that the report to be submitted to the ROP should not contain the employee's genetic information.

Any genetic information received by the ROP on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

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AR 4161.1 (f)

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from his/her physician stating that he/she is able to return to duty and stipulating any necessary restrictions or limitations.

Healthy Workplaces, Healthy Families Act Requirements

No 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.

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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