

# PALERMO UNION SCHOOL DISTRICT

7390 Bulldog Way  
Palermo, CA 95968-9700  
(530) 533-4842  
Fax (530) 532-1047

Superintendent  
Dr. Bryan L. Caples

Board of Trustees  
Debbie Hoffman  
William Bynum  
Susan Short  
Loretta Long  
Jessica King

Helen Wilcox School  
5737 Autrey Lane  
Oroville, CA 95966  
(530) 533-7626  
Fax (530) 533-6949  
Heather Scott, Principal

Honcut School  
68 School Street  
Oroville, CA 95966  
(530) 742-5284  
Fax (530) 742-2955  
Kathleen Andoe-Nolind, Principal

Palermo School  
7350 Bulldog Way  
Palermo, CA 95968  
(530) 533-4708  
Fax (530) 532-7801  
Andee Farrar, Principal

Golden Hills School  
2400 Via Canela  
Oroville, CA 95966  
(530) 532-6000  
Fax (530) 534-7982  
Kristi Robinson, Principal

## BOARD MEETING AGENDA

September 19, 2018

Place: District Office

7390 Bulldog Way, Palermo, CA 95968

Palermo School Tour 4:15pm

**The Board will reconvene at the Regular Board Meeting  
in the District Office Board Room  
5:00 p.m.**

[Note: The Board of Trustees may take action on any item posted on this Agenda. Members of the public may directly address the Board concerning any item on this Agenda prior to or during the Board consideration of that item, as determined by the Board President. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in these meetings, please contact the Superintendent's Office (530) 533-4842, ext. 7. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to these meetings. This Agenda and all supporting documents are available for public review at the District Office, 7390 Bulldog Way, Palermo, CA. Documents that have been distributed to the Board less than 72 hours before the meeting are available for public inspection at the District Office, 7390 Bulldog Way, Palermo, CA 95968]

### INTRODUCTION

1. **Call to Order.** (Time \_\_\_\_\_)
2. **Flag Salute.**
3. **Roll Call.**
4. **Approval of Agenda.**

ACTION \_\_\_\_\_ MOTION \_\_\_\_\_ SECOND \_\_\_\_\_ VOTE \_\_\_\_\_

5. **Audience with the Board.**

### **Non-Agenda Items:**

At this time the Board President will invite anyone in the audience wishing to address the Board on a matter not listed on the agenda to stand, state your name for the record and make your presentation. Presentations may be limited to five (5) minutes. The Brown Act, however, does not allow the Governing Board to discuss or take action on any item that is not on the posted agenda. The item may, by Board direction, be placed on a later Board Meeting Agenda for discussion and/or action. The Board may direct the Superintendent to investigate the subject and present a follow-up report at a future Board Meeting.

6. **Audience with the Board.**

**Agenda Items:**

This is the time the Board President will invite anyone in the audience wishing to address the Board on a matter that is on the agenda to state your name and the agenda item on which you wish to speak. When that item comes up on the agenda you will be asked to stand and repeat your name for the record, and make your presentation [five (5) minute time limit per person].

**PUBLIC HEARING**

President asks Superintendent to introduce agenda item.

President opens item for public comments.

The public is invited at this time to provide input and comments to the Governing Board, regarding the sufficiency of instructional materials in the District for the fiscal year 2018-2019, Grades K-8, including English learners, for pupil textbooks and instructional materials consistent with the cycles and content of the curriculum frameworks pursuant to Education Code Section 60119 and 60422(b).

President closes item for public comments.

Board discussion.

7. **CONSENT AGENDA**

The consent agenda will be approved by a single motion and vote unless items are removed by a Board member and placed on the regular agenda for discussion and action.

**Action Items**

- a. Minutes of September 5, 2018 Regular Board Meeting.
- b. Surplus and Obsolete Requests.  
Requests to declare surplus/obsolete equipment and District property be approved and the Superintendent be directed to dispose of said equipment and property, according to the appropriate method, including disposal, as per Education Code Sections 60500-01, 60510-11, 60520-21, 60530, and Board Policy #3270. Surplus/Obsolete Items (which may include disposal of surplus property in the local dump or donation to a charitable organization due to value of such property not defraying the cost of its sale. All items below are valued at less than \$2,500).  
Surplus/Obsolete Items:

Note: Paperwork on these items is available at the District Office for review.

White Mini-Refrigerator #C2003601605 (no PUSD #)

7. **CONSENT AGENDA** (continued)

**Reports**

c. Events Calendar.

REFERENCE #1

d. Certificated Substitute List as of September 13, 2018

REFERENCE #2

e. Classified Substitute List as of September 13, 2018

REFERENCE #3

f. Donation from Romo Loseth of toys with a value of \$100 to Helen Wilcox School.

ACTION\_\_\_\_MOTION\_\_\_\_SECOND\_\_\_\_VOTE\_\_\_\_\_

8. **ITEMS REMOVED FROM CONSENT AGENDA**

a.

ACTION\_\_\_\_MOTION\_\_\_\_SECOND\_\_\_\_VOTE\_\_\_\_\_

b.

ACTION\_\_\_\_MOTION\_\_\_\_SECOND\_\_\_\_VOTE\_\_\_\_\_

9. **Staff Reports/Business Items.**

a. It is recommended that Board Resolution No. 18-11, Section 60119 regarding the sufficiency of pupil textbooks and instructional materials consistent with the cycles and content of the curriculum frameworks for the fiscal year 2018-2019 Grades K-8, including English learners, pursuant to Education Code Section 60119 and 60422(b), and Instructional Materials Funding Realignment Program (IMFRP) Certification and Certification of Provision of Standards-Aligned Instructional Materials be approved.

REFERENCE #4

ACTION\_\_\_\_MOTION\_\_\_\_SECOND\_\_\_\_VOTE\_\_\_\_\_

b. Andee Farrar, Principal of Palermo School, would like to consider changing the 8<sup>th</sup> Grade graduation ceremony to the morning.

ACTION\_\_\_\_MOTION\_\_\_\_SECOND\_\_\_\_VOTE\_\_\_\_\_

c. California School Employees Association, Bargaining Unit 366. (Comments from CSEA, if any, to the Governing Board.)

d. Palermo Teachers Association Bargaining Unit (PTA/CTA/NEA). (Comments from PTA, if any, to the Governing Board.)

10. **Board Policies and Administrative Regulations.**

- a. Board Policy and Administrative Regulation 5022 Student and Family Privacy is presented for first reading.  
REFERENCE #5
- b. Administrative Regulation 4161.8, 4261.8, 4361.8 Family Care and Medical Leave is presented for first reading.  
REFERENCE #6
- c. Administrative Regulation 4161.1, 4361.1 Certificated Personal Illness/ Injury Leave is presented for first reading.  
REFERENCE #7
- d. Administrative Regulation 4261.1, Classified Personal Illness/ Injury Leave is presented for first reading.  
REFERENCE #8

11. **Correspondence.**

12. **Superintendent's Reports.**

- a. Parent Education Night
- b. CAASPP Scores

13. **Board Items.**

- a. Discussion regarding rescheduling the October 17, 2018 Board meeting.

**CLOSED SESSION** (Time \_\_\_\_\_)

- 1. Closed session and conference call with Legal Counsel regarding matters of personnel/employment/ resignation/release all in accordance with Government Code Section 54957.
- 2. Matters of negotiations with the Palermo Teachers Association (PTA/CTA/NEA) and Classified School Employees Association, Bargaining Unit 366, in accordance with Government Code Section 54957.6, with designated representative Dr. Bryan Caples, Superintendent; and matters of negotiations with unrepresented groups, certificated management and classified management/ confidential, in accordance with Government Code Section 54957.6, with designated representative Dr. Bryan Caples, Superintendent.

**OPEN SESSION** (Time \_\_\_\_\_)

**REPORT ON ACTION(S) TAKEN IN CLOSED SESSION**

**ACTION ITEMS**

14. **Personnel – Recommendation: Approval.** (Pending successful completion of pre-employment requirements.)

**Certificated:**

- a. Alison Zuris, certificated substitute, effective September 6, 2018
- b. Joshua Harlan, certificated substitute, effective September 5, 2018
- c. Dalton Morley, certificated substitute, effective September 5, 2018
- d. Ioanna Lekkakou, certificated substitute, effective September 5, 2018

**Classified:**

- e. Betty Armitage, instructional aide, Golden Hills, resignation, effective September 29, 2018
- f. Patricia Corcoran, bus driver, class 16, step 1, 4.0 hours, effective September 20, 2018
- g. Avilene Pulido, substitute instructional aide child development, class 4, step 1, effective September 10, 2018
- h. Avilene Pulido, instructional aide child development, class 4, step 2, 3.75 hours, Palermo Preschool, effective September 20, 2018

ACTION\_\_\_\_\_MOTION\_\_\_\_\_SECOND\_\_\_\_\_VOTE\_\_\_\_\_

**ADJOURNMENT** (Time\_\_\_\_\_)

**REGULAR BOARD MEETING**

1. President Debbie Hoffman called the meeting to order at 5:00 p.m., and welcomed those in attendance.
2. President Debbie Hoffman led those in attendance in the flag salute.
3. Members of the Governing Board in attendance were: Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King.

Others present were: Dr. Bryan Caples, Ruthie Anaya, Kathleen Andoe-Nolind, Kristi Robinson and Cindy Daniluke.

4. A motion was made by Susan Short, seconded by Loretta Long, recommending that the agenda be approved. Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King voted aye. Motion unanimously carried.

5. **Audience with the Board.**

**Non-Agenda Items:**

No one had business to bring before the Board.

6. **Audience with the Board.**

**Agenda Items:**

No one had business to bring before the Board.

7. **CONSENT AGENDA**

A motion was made by Susan Short, seconded by Loretta Long, recommending that the following consent agenda items be approved. Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King voted aye. Motion unanimously carried.

**Action Items**

- a. Minutes of August 15, 2018 Regular Board Meeting.

**REGULAR BOARD MEETING****7. CONSENT AGENDA****Action Items**

- b. Surplus and Obsolete Requests.
  - (4) Tables #012072, 3800631, 3800771, 3801231
  - Computer Desk #011552
  - Television #010542
  - Imac Keyboard #00268
  - Imac Monitor #002567
  - Imac Computer, keyboard & mouse #002565, 002575
  - HP Printer #001742
  - Gateway Laptop #002010
  - Turning Point Clickers #001742
  - Gateway Laptop #001796
  - Gateway Laptop #001660
  - I Micro Speakers #3600, #3601

**Reports**

- c. Events Calendar
- d. Donation from Bruce Wristen of school supplies with a value of \$50 to Helen Wilcox School

**8. ITEMS REMOVED FROM CONSENT AGENDA**

There were no items removed from the consent agenda.

**9. Staff Reports/Business Items.**

- a . A motion was made by Susan Short, seconded by Loretta Long recommending the contract between Palermo Union School District and Discovery Education at Helen Wilcox School from July 1, 2018 through June 30, 2019 be approved. Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King voted aye. Motion unanimously carried.
- b. A motion was made by Susan Short, seconded by Loretta Long recommending the memorandum of understanding between Palermo Union School District and Butte County Office of Education for the After School Education and Safety (ASES) Program Grant for the 2018-2019 school year be approved. Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King voted aye. Motion unanimously carried.

## REGULAR BOARD MEETING

**9. Staff Reports/Business Items.** (continued)

- c. Dr. Bryan Caples, Superintendent, presented a PowerPoint discussing the Interdistrict process.
- d. There were no comments from the California School Employees Association Bargaining Unit 366.
- e. There were no comments from the Palermo Teachers Association Bargaining Unit (PTA/CTA/NEA).

**10. Board Policies and Administrative Regulations.**

None

**11. Correspondence.**

None

**12. Superintendent's Reports.**

- a. CAASP Scores are still encumbered. Dr. Caples is hoping they will be available for publication at the next board meeting.
- b. Student Safety – most summer safety projects are completed. The fencing project is ongoing. Golden Hills needs new cameras and Palermo School needs five more cameras.
- c. LCAP Goals – Dr. Caples reviewed the LCAP goals with the Board.
- d. Cafeteria participation is up at each school site.

**13. Board Items.**

Board members discussed who could attend the upcoming awards ceremonies.



**REGULAR BOARD MEETING****CLOSED SESSION**

1. The Board recessed into closed session at 6:06 p.m. regarding matters of personnel/employment/ (instructional aide, teacher, substitute instructional aide, instructional aide child development and superintendent) all in accordance with Government Code Section 54957.
2. Matters of negotiations with the Palermo Teachers Association (PTA/CTA/NEA) and Classified School Employees Association, Bargaining Unit 366, in accordance with Government Code Section 54957.6, with designated representative Dr. Bryan Caples, Superintendent; and matters of negotiations with unrepresented groups, certificated management and classified management/ confidential, in accordance with Government Code Section 54957.6, with designated representative Dr. Bryan Caples, Superintendent and for the purpose of public employee performance evaluation (Superintendent), in accordance with Government Code Section 54957.2.

**OPEN SESSION**

The Board reconvened into open session at 6:47 p.m.

**REPORT ON ACTION(S) TAKEN IN CLOSED SESSION**

No action was taken in closed session.

**ACTION ITEMS****14. Personnel – Recommendation: Approval.**

A motion was made by Susan Short, seconded by Loretta Long, recommending that the following personnel items be approved (pending successful completion of pre-employment requirements). Debbie Hoffman, Loretta Long, Susan Short, William Bynum and Jessica King voted aye. Motion unanimously carried.

**Certificated:**

- a. Tami Wood, after school tutor, Palermo School, effective August 15, 2018
- b. Sara Higgins, after school tutor, Palermo School, effective August 1,5 2018
- c. Chelsea Smith, after school tutor, Golden Hills, effective August 15, 2018
- d. Victor Borquez, resign as after school tutor, effective August 15, 2018
- e. Kelsi Greathouse, cross country co-coach, Palermo, effective August 15, 2018
- f. Rainbow Walker, cross country co-coach, Palermo, effective August 15, 2018
- g. Megan White, cross country co-coach, Palermo, effective August 15, 2018

**REGULAR BOARD MEETING****14. Personnel – Recommendation: Approval.** (continued)**Certificated:** (continued)

- h. Kimberly Solano, cross country co-coach, Palermo, effective August 15, 2018
- i. Sara Higgins, drill instructor, Palermo, effective August 15, 2018
- j. Carrie Cotter, yearbook 6, 7, 8, Palermo, effective August 15, 2018
- k. Victoria Brothers, cross country (spring only), Helen Wilcox, effective August 15, 2018
- l. Emily Pendell, technology coordinator, Palermo School, resignation, effective August 22, 2018

**Classified:**

- m. Alyssa Tomlinson, instructional aide, class 4, step 1, 3.5 hours, Helen Wilcox, effective September 6, 2018
- n. Raeanne Barth, instructional aide, class 4, step 1, 3.5 hours, Helen Wilcox, effective September 6, 2018

**Child Development Program:**

- o. Rosalba Juarez, instructional aide, resignation, effective September 8, 2018
- p. Tory Stepp, substitute instructional aide, class 4, step 1, effective August 22, 2018
- q. Tory Stepp, instructional aide child development, class 4, step 1, 3.75 hours, Palermo Preschool, effective September 6, 2018
- r. Karina Garcia, substitute instructional aide child development, class 4, step 1, effective August 13, 2018
- s. Karina Garcia, instructional aide child development, class 4, step 1, 3.75 hours, Helen Wilcox Preschool, effective September 6, 2018

**ADJOURNMENT**

President Debbie Hoffman declared the meeting adjourned at 6:47 p.m.

Respectfully submitted,

Bryan L. Caples, Ed.D  
Secretary to the Governing Board

## EVENTS CALENDAR

September 19, 2018	Regular Board Meeting School Tour - Palermo	<i>School Tour 4:15pm</i> <b>Time Amended</b> <b>5:00pm</b>
September 25-28, 2018	5 <sup>th</sup> Grade High Sierra Environmental Camp	
October 1 - 5, 2018	Intersession	<i>No School – students, teachers</i>
October 17, 2018	Regular Board Meeting	<b>Time Amended</b> <b>5:00pm</b>
October 24, 2018	STEAM Night	<i>Golden Hills</i> <i>5:00-6:30pm</i>
November 7, 2018	Regular Board Meeting	<b>Time Amended</b> <b>5:00pm</b>
November 12, 2018	Veterans Day	<i>No School – students, teachers, staff</i>
November 19-23, 2018	Thanksgiving Break	<i>No school – students, teachers</i> <i>(staff 22<sup>nd</sup>, 23<sup>rd</sup>)</i>
December 5, 2018	Regular Board Meeting Organizational Meeting	<b>Time Amended</b> <b>5:00pm</b>
December 12, 2018	Parent Education Night Topic: Adverse Childhood Experiences( <i>dinner &amp; childcare</i> )	<i>Palermo Cafeteria</i> <i>5:00-6:30pm</i>
December 19, 2018	Regular Board Meeting	<b>Time Amended</b> <b>5:00pm</b>
December 21, 2018 – January 4, 2019	Christmas Break	<i>No school – students, teachers</i> <i>(staff 24<sup>th</sup>, 25<sup>th</sup> 1<sup>st</sup>)</i>
January 31, 2019	Egyptian Tomb Night	<i>Palermo</i> <i>6:00-7:00pm</i>

Revised: 9/13/18 cc: L. Davis; D. Dudley; C. Wiemers; M. Tello; L. Davis; R. Anaya; K. Ray

**CERTIFICATED - TEACHER SUBSTITUTE**

**Full Name**

BECKER, SANDY  
BRUCE, AUDREY  
BURLESON HILLMAN, LAURA  
CAPUT PHILLIP  
CHAPMAN, JAMIE  
CONWAY, JANA  
DAVIS, LAURINE  
DEANDA, EDWARD  
DIAMOND, HAYLEE  
GAUTHREAUX, ERIC  
GRUTTER, KATHARINE  
HAGERMAN, JEANNE  
HARLAN, JOSHUA  
HENRIQUEZ, JESSICA  
HETHERWICK, MELISSA  
HUGHBANKS, GREGORY  
HUIE, JAMES  
HUYNH, NHUUYEN  
JACKSON, WILLIAM  
LANG, JOHN  
LIX, ELIZABETH  
LOGSDON, JESSICA  
LOUDERMILK, DAVID  
LUBNER, PAULA  
LYON, ROBIN  
MCBRIDE, KORILYN  
NOVAK, REBECCA  
OXLEY, ROBERT  
PADILLA, RICHARD  
PHILBECK, LARRY  
ROCKWELL, BRENDA  
SMITH, LARRY  
STANTON, TIMOTHY  
TAYLOR, CAROLE  
VALLERGA, ED  
WALBERG, DWAYNE  
WALLACE, KATELYND  
WILKERSON-NUNEZ, SHEILA  
ZANCANELLA, ERIC

9/13/2018

**CLASSIFIED SUB LIST**

**Bus Driver**

**Cafeteria Aide**

Belmontes, Elizabeth  
Clark, Misty  
Johnson Margaret  
Lara, Tiffany  
Norton, Taylor  
Perez, Sandra  
Shelton, Julia

**Cafeteria Cook**

**Cafeteria Helper**

Belmontes, Elizabeth  
Clark, Misty  
Johnson Margaret  
Lara, Tiffany  
Norton, Taylor  
Perez, Sandra  
Shelton, Julia

**Custodian**

Davis, Dustin  
Loomis, Nona  
Martinez, Imelda  
Robles, Alicia  
Tull, Marvin  
Valenzuela, Esmeralda  
Webber, Victor

**Custodian/Van Driver**

Tull, Marvin

**Health/Clerk Typist**

Kincaide, Tara  
Rodriguez, Bianca

9/13/2018

**Instructional Aide**

Aeschbocker, Roseanne

Davis, Dustin

Hultz, Joshua

Kincaide, Tara

Reniff, Sydney

Rodriguez, Bianca

Shelton, Julia

Shipman, Jennifer

Tweedt, MacKennah

Valdez, Melissa

**Mechanic**

Burg, Bill

**Preschool Instructional Aide**

Spoonemore, Alex

Valdez, Melissa

**Preschool Site Supervisor**

**Transportation Aide/Driver**

**PALERMO UNION SCHOOL DISTRICT**

**Resolution No. 18-11**

**Section 60119 Resolution**

**Resolution regarding sufficiency or insufficiency of instructional materials:**

Whereas, the local governing board of Palermo Union School District, in order to comply with the requirements of *Education Code* sections 60119 and 60422 (b) held a public hearing on September 19, 2018, at 5:00 p.m., which did not take place during or immediately following school hours; and

Whereas, the local governing board provided at least ten days notice of the public hearing posted in at least three public places within the district that stated the time, place and purpose of the hearing; and

Whereas, the local governing board encouraged participation by parents, teachers, members of the community and bargaining unit leaders in the public hearing; and

Whereas information provided at the public hearing and to the local governing board at the public meeting detailed that sufficient textbooks and instructional materials in all subjects consistent with the cycles and content of the curriculum frameworks were provided to all students, including English learners, in the district; and

Whereas, the definition of “sufficient textbooks or instructional materials” means that each pupil has a textbook or instructional materials, or both, to use in class and to take home; and

Whereas, sufficient textbooks and instructional materials were provided to each student, including English learners that are aligned to the academic content standards, in mathematics, science, history-social science, and English/language arts, including the English language development component of an adopted program, consistent with the cycles and content of the curriculum frameworks; now, therefore, be it

Resolved that for the 2018-2019 school year, the Palermo Union School District has provided each pupil with sufficient textbooks and instructional materials aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks.

PASSED AND ADOPTED on September 19, 2018, by the Board of Trustees of Palermo Union School District by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Bryan Caples, Ed.D Secretary of the  
Palermo Union School District Board

**Instructional Materials Funding Realignment Program (IMFRP)  
Certification**

**Certification of Provision of Standards-Aligned Instructional Materials**

The local governing board of the Palermo Union School District hereby certifies that as of this date, each pupil in the district in kindergarten through grade eight, including English learners, has been provided with a standards-aligned textbook or basic instructional materials in each of the following areas:

- History/Social Science
- Mathematics
- Reading/Language Arts
- Science

For students in K-8, the instructional materials were purchased from an approved standards-aligned state adoption list as required by CCR, Title 5, Section 9531.

Certification was approved by the local governing board at a public meeting held on September 19, 2018.

Bryan Caples, Ed.D September 20, 2018  
\_\_\_\_\_  
School District Superintendent's Name Date

September 20, 2018  
\_\_\_\_\_  
School District Superintendent's Signature Date

Future State Board adoptions are scheduled as follows:

Subject	Adoption Date
History/Social Science	November 2017
Math	November 2018
Science	November 2019
Reading/Language Arts	November 2020



**Definition**

~~Personal information means individually identifiable information including a student's or parent/guardian's first and last name, a home or other physical address (including street name and the name of the city or town), a telephone number, or a social security identification number. (20 USC 1232h)~~

~~District staff shall not administer or distribute to students any survey instrument that is designed for the purpose of collecting personal information for marketing or sale.~~

~~Requirements regarding the collection of personal information for marketing or sale shall not apply to the collection, disclosure, or use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following: (20 USC 1232h)~~

- ~~1. Book clubs, magazines, and programs providing access to low cost literary products~~
- ~~2. Curriculum and instructional materials used by schools~~
- ~~3. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments~~

~~(cf. 6162.51 Standardized Testing and Reporting Program)~~

- ~~4. The sale by students of products or services to raise funds for school-related or education-related activities~~

~~(cf. 1321 Solicitation of Funds from and by Students)~~

- ~~5. Student recognition programs~~

~~(cf. 5126 Awards for Achievement)~~

### Surveys Requesting Information about Beliefs and Practices

A student's parent/guardian, or a student who is an adult or emancipated minor, shall provide prior written consent before the student is required to participate in a survey inquiring about containing one or more of the following items: (~~20 USC 1232h; Education Code 51513~~) (Education Code 51513; 20 USC 1232h)

1. Political affiliations or beliefs of the student or his/her parent/guardian family
2. Mental or psychological problems of the student or his/her family
3. Sexual behavior or attitudes or personal beliefs and practices in family life or morality
4. Illegal, anti-social, self-incriminating or demeaning behavior
5. Critical appraisals of other individuals with whom students have close family relationships
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians or ministers
7. Religious practices, affiliations or beliefs of the student or his/her parent/guardian
8. Income, except to the extent that income is required to be disclosed by law for participation in a program or for receiving financial assistance under such a program

(cf. 3553 - Free and Reduced Price Meals)  
(cf. 5148 - Child Care and Development)

If a student participates in a survey regarding information about beliefs and practices as identified above, school officials and staff members shall not request or disclose the student's identity.

(cf. 6162.51 - Standardized Testing and Reporting Program)  
(cf. 6162.8 - Research)

The parent/guardian of any district student, upon his/her request, shall have the right to inspect:  
(Education Code 51938; 20 USC 1232h)

Regulation  
Approved: November 16, 2011  
Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT  
Palermo, California

1. A survey or other instrument to be administered or distributed to his/her child that either collects personal information for marketing or sale or requests information about beliefs and practices
2. Any instructional material to be used as part of his/her child's educational curriculum

*(cf. 5020 - Parent Rights and Responsibilities)*

Within a reasonable period of time of receiving a parent/guardian's request, the principal or designee shall permit a parent/guardian to view the a survey or other document he/she requested. instrument or instructional material A parent/guardian may view the document any time during normal business hours.

~~A parent/guardian may refuse to allow his/her child to participate in the activity~~

~~Students whose parents/guardians exercise this option shall not be penalized by the district. (20 USC 1232h)~~

### **Health Examinations**

Authorized school officials may administer to any student any physical examination or screening permitted under California law. However, no school official or staff member shall subject a student student shall be subjected to a non-emergency, invasive physical examination without prior written notice to his/her parent/guardian, unless an applicable state law authorizes the student to provide consent without parent/guardian notification. as a condition for school attendance, except as permitted or required under California law. (20 USC 1232h)

Invasive physical examination means any medical examination that involves the exposure of private body parts or any act during such examination that includes incision, insertion or injection into the body, but does not include a properly authorized hearing, vision or scoliosis screening. (20 USC 1232h)

*(cf. 5131.61 - Drug Testing)*

*(cf. 5141.3 - Health Examinations)*

### **Notifications**

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians of: (20 USC 1232h)

1. The district's policy regarding student privacy
2. The process to opt their children out of participation in any activity described in this policy and administrative regulation and the accompanying Board policy.

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: November 16, 2011

Palermo, California

Revised: September 19, 2018

3. The specific or approximate dates during the school year when the following activities are scheduled:
  - a. Survey requesting personal information
  - b. Physical exams or screenings

AR 5022 (d)

Prior to administering any anonymous and voluntary survey regarding health risks and behaviors to students in grades 7-8, the district shall provide parents/guardians with written notice that the survey is to be administered. (Education Code 51938)

Parents/guardians shall also be notified of any substantive change to this policy and administrative regulation within a reasonable period of time after adoption of the change. (20 USC 1232h)

*(cf. 5145.6 - Parental Notifications)*

The Governing Board respects the rights of district students and their parents/guardians with regard to the privacy of their personal beliefs and the confidentiality of their personal information. The Superintendent or designee ~~shall develop regulations to ensure compliance with law when the district requests, retains, discloses, or otherwise uses the personal information of its students and their families.~~ **may collect, disclose, or use students' personal information for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as the following: (20 USC 1232h)**

- (cf. 0000 - Vision)*
- (cf. 0100 - Philosophy)*
- (cf. 0200 - Goals for the School District)*
- (cf. 5020 - Parent Rights and Responsibilities)*
- (cf. 5021 - Noncustodial Parents)*
- (cf. 5125 - Student Records)*
- (cf. 5125.1 - Release of Directory Information)*
- (cf. 6000 - Concepts and Roles)*
- (cf. 6162.8 - Research)*

~~The Board prohibits district staff from administering or distributing to students survey instruments that are designed for the purpose of collecting personal information for marketing or for selling that information.~~

The regulations shall, at a minimum, address the following: ~~(20 USC 1232h)~~

- ~~1. How the district will administer surveys that may request information about the personal beliefs and practices of students and their families~~
- ~~2. The rights of parents/guardians to inspect:
  - ~~a. Survey instruments requesting information about their personal beliefs and practices or those of their children~~
  - ~~b. Instructional materials used as part of their children's educational curriculum~~~~
- ~~3. Whether the district may administer any nonemergency invasive physical examination or screening~~
- ~~4. Notifications that the district will provide to students and parents/guardians with respect to their privacy rights~~

~~The Superintendent or designee shall consult with parents/guardians regarding the development and adoption of this policy during School Site Council meetings.~~

**Student and Family Privacy Rights (continued)**

**BP5022**

- 1. College or other postsecondary education recruitment or military recruitment**
- 2. Book clubs, magazines, and programs providing access to low-cost literary products**

3. Curriculum and instructional materials used by elementary and secondary schools

4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

5. The sale by students of products or services to raise funds for school-related or education-related activities

(cf. 1321 - Solicitation of Funds from and by Students)

6. Student recognition programs

(cf. 5126 - Awards for Achievement)

The Superintendent or designee is prohibited from collecting, disclosing, or using a student's individually identifiable information, including his/her name, parent/guardian's name, home or other physical address, telephone number, or social security number, for the purpose of marketing or selling that information or providing the information to others for that purpose.

The Superintendent or designee shall consult with parents/guardians regarding the development of regulations pertaining to other uses of personal information, which shall, at a minimum, address the following: (20 USC 1232h)

1. Arrangements for protecting student privacy when collecting, disclosing, or using students' individually identifiable information for any purpose

2. Arrangements to protect student privacy in the administration of surveys that may request information about the personal beliefs and practices of students and their families

3. The rights of parents/guardians to inspect the following, and any applicable procedures for granting reasonable access to the following in a reasonable period of time:

a. Survey instruments requesting information about their personal beliefs and practices or those of their children

b. Instructional materials used as part of their children's educational curriculum

4. Any nonemergency physical examinations or screenings that the school may administer

(cf. 0420 - School Plans/Site Councils)  
(cf. 1220 - Citizen Advisory Committee)  
(cf. 1230 - School-Connected Organizations)

The Superintendent or designee shall notify parents/guardians of the adoption or continued use of the district's policy pertaining to the rights specified in items #1-4 above. (20 USC 1232h)

(cf. 5145.6 - Parental Notifications)

*Legal Reference:*

EDUCATION CODE

49450-49457 Physical examinations

49602 Confidentiality of pupil information

51101 Parents Rights Act of 2002

51513 Personal beliefs

51938 Sexual Health and HIV/AIDS Prevention Education Act; notice and parental excuse

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1232h Protection of pupil rights

*Management Resources:*

WEB SITES

CSBA: <http://www.csba.org>

CDE: <http://www.cde.ca.gov>

USDOE, Family Policy Compliance Office: <http://www.ed.gov/offices/OM/fpco/>

~~The district shall not refuse to hire and shall not discharge, fine, suspend, expel or discriminate against any employee because he/she exercises the right to family care leave or because he/she gives information or testimony related to his/her or another person's family care leave in an inquiry related to family leave rights. (29 USC 2615; Government Code 12945.2)~~

The district shall not deny any eligible employee the right to family care, medical, or pregnancy disability leave (PDL) pursuant to the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA) nor restrain or interfere with the employee's exercise of such right. In addition, the district shall not discharge an employee or discriminate or retaliate against him/her for taking such leave or for his/her opposition to or challenge of any unlawful district practice in relation to any of these laws or for his/her involvement in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

## Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

**"Child"** (son or daughter) means a biological, adopted or foster child, a stepchild, a legal ward, or a child to whom the employee of a person stands ~~ing~~ in loco parentis as long as the child is under 18 years of age or an adult dependent child. (29 USC 2611; Government Code 12945.2)

**"Eligible employee"** for FMLA and CFRA purposes means an employee who has been employed with the district for at least 12 months of service with the district and who has at least 1,250 hours of service with the district during the previous 12-month period. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

*Full-time teachers* are deemed to meet the 1,250 hours of service requirement. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

~~"Full-time teacher" means an employee whose principal function is to teach and instruct students in a class, a small group, or individual setting and includes athletic coaches, driving instructors, special education assistants and signers for the hearing impaired. The term does not include teacher assistants or aides, counselors, psychologists, curriculum specialists or other primarily noninstructional employees. (29 CFR 825.600)~~

**Employee disabled by pregnancy** means an employee whose health care provider states that the employee is: (2 CCR 11035)

Regulation

Approved: October 1, 2009

Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT

Palermo, California



## FAMILY CARE AND MEDICAL LEAVE

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

"Parent" means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (CFR 825.122; CCR 7297.0) (29 USC 2611; Government Code 12945.2)

"Serious health condition" means an illness, injury, (including, but not limited to, on-the-job injuries), impairment or physical or mental condition of the employee or his/her child, parent, or spouse, including, but not limited to, treatment for substance abuse, that involves either of the following: (~~29 USC 2611; Government Code 12945.2~~) (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity.

A person is considered an inpatient when a health care facility formally admits him/her to the facility with the expectation that he/she will remain overnight and occupy a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
  - a. A period of incapacity of more than three consecutive full days
  - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
  - c. ~~For purposes of leave under the Family and Medical Leave Act (FMLA),~~ Any period of incapacity due to pregnancy or for prenatal care **under FMLA**

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

~~“Spouse” means a partner in marriage as defined in Family Code 300 including same sex partners in marriage, or a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122) or 1 USC 7. In addition, for purposes of rights under the California Family Rights Act (CFRA), a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (29 CFR 825.122; Family Code 297.5; 2 CCR 7297.0)~~

### Eligibility

~~The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)~~

~~Any eligible employee who has served the district more than one continuous year shall be eligible to take unpaid family care and medical leave under the provisions of state and federal law. The district may deny family care and medical leave to part-time employees who worked fewer than 500 hours during the previous year. (29 USC 2611; Government Code 12945.2; 29 CFR 825.110; 2 CCR.7297.0)~~

~~For eligibility purposes, full-time teachers are deemed to meet the 500-hour test. (29 CFR 825.110)~~

~~Family care and medical leave may be used for the following reasons: (29 USC 2612; Government Code 12945.2; 29 CFR 825.112; Family Code 297.5)~~

- ~~1. Because of~~ The birth of ~~a child of the employee's child, and in order to care for the child~~ or placement of a child with the employee in connection with ~~the employee's~~ adoption or foster care of the child (parental leave) ~~by the employee.~~
- ~~2. Because of the placement of a child with the employee for foster care or in connection with the employee's adoption of the child.~~
- ~~3. In order~~ To care for the employee's child, parent or spouse with a serious health condition.
- ~~4. Because of~~ The employee's own serious health condition ~~which that~~ makes the employee ~~him/her~~ unable to perform ~~one or more essential the~~ functions of his/her ~~position job,~~

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: October 1, 2009

Palermo, California

Revised: September 19, 2018

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

~~except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.~~

5. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) **in support of a contingency operation.**
  
6. To care for a covered servicemember with a serious injury or illness **if the covered servicemember is the employee's employee is the** spouse, child, parent, or **designated** next of kin, ~~of the servicemember;~~ as defined

**In addition, the district shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)**

~~The district shall not interfere with, restrain, or deny the exercise of any right provided to an eligible employee under the law. Also, the district shall not discharge or discriminate against any employee for opposing any practice made unlawful by, or because of, his/her involvement in any inquiry or proceeding related to the family care and medical leave. (29 USC 2615; Government Code 12945.2)~~

*(cf. 4030 Nondiscrimination in Employment)*

### Terms of Leave

~~Except in the case of leave to care for a covered servicemember, family care and medical leave shall not exceed 12 work weeks during any 12-month period. (29 USC 2612; 2 CCR 7297.3)~~

~~This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)~~

~~In the case of leave taken pursuant to the FMLA for the purpose of caring for a covered servicemember with a serious injury or illness, an eligible employee shall be entitled to a total of 26 work weeks of family care and medical leave during a single 12-month period measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins.~~

~~Leave taken pursuant to the California Family Rights Act shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA), except in the following circumstances:~~

1. ~~Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)~~

Regulation

Approved: October 1, 2009

Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT

Palermo, California

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

~~2. Leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. In addition to federal family care and medical leave, an employee may be entitled to take California pregnancy disability leave of up to four months. During the otherwise unpaid portion of pregnancy disability leave, the employee may use any accrued vacation, sick time or other paid leave. Such FMLA leave shall run concurrently with any pregnancy disability leave taken by the employee, except that CFRA leave shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)~~

~~(cf. 4161/4261 Leaves)~~

~~(cf. 4161.114361.1 Personal Illness/Injury Leave)~~

~~(cf. 4261.1 Personal Illness/Injury Leave)~~

---

~~Leave taken for the birth or placement of a child must be concluded within one year of the birth or placement of the child. Such leave does not have to be taken in one continuous period of time. The basic minimum duration of the leave shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (2 CCR 7297.3)~~

~~If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks. (Government Code 12945.2)~~

~~During the period of family care and medical leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district. Accrued sick leave shall be used when the purpose of the family care and medical leave is one for which sick leave may be taken pursuant to collective bargaining agreements and/or Board policy. During pregnancy disability leave, the employee may elect to use her accrued vacation leave or other accrued time off. (Government Code 12945.2)~~

~~(cf. 414114241 Collective Bargaining Agreement)~~

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

Regulation

Approved: October 1, 2009

Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT

Palermo, California

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks. This restriction shall apply regardless of the legal status of both parents' relationship. (Government Code 12945.2, 12945.6; 2 CCR 11088; 29 USC 2612)

### **Use/Substitution of Paid Leave**

An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with the district for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option. (Government Code 12945, 12945.2, 12945.6; 2 CCR 11044; 29 USC 2612)

The district and employee may also negotiate for the employee's use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or his/her child, parent, or spouse may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to

## FAMILY CARE AND MEDICAL LEAVE

be greater than one hour. (2 CCR 11042, 11090; 29 USC 2612)

(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.

3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### Requests, Advance Notice and Certification

~~The employee shall give the district at least 30 days' written advance notice of his/her need for family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4) Based on the information provided by the employee or his/her spokesperson, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2 CCR 7297.4) If the employee learns of the need for this leave fewer than 30 days in advance, he/she shall provide such notice as soon as practicable. (29 USC 2612; Government Code 12945.2)~~

~~When the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a~~

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: October 1, 2009

Palermo, California

Revised: September 19, 2018

## FAMILY CARE AND MEDICAL LEAVE

~~family member, the employee shall provide the district with at least 30 days advance notice before the leave.~~

~~If leave is needed for a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of district operations. This scheduling shall be subject to the health care provider's approval. (29 USC 2612; Government Code 12945.2)~~

**Request for Leave**

The district shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)



**Certification of Health Condition**

Within five business days of an employee's request for family care and medical leave for his/her own or his/her child's, parent's, or spouse's serious health condition, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11091; 29 CFR 825.305)

~~When requesting family care and medical leave because of a serious health condition, the request shall be supported by a certification from the health care provider of the person requiring care.~~

This certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began.
2. The probable duration of the condition.
3. If the employee is requesting leave to care for a child, spouse or parent who has a serious health condition, the health care provider's certification of both of the following:
  - a. Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse.
  - b. Statement that the serious health condition warrants the participation of ~~employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision~~ ~~a family member to provide care during a period of the treatment or supervision of the child, parent or spouse.~~ **employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision**
4. If the employee is requesting leave because of his/her own serious health condition, ~~the health care provider's certification that due to the serious health condition, the employee is unable to perform the functions of his/her job~~, **a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job**
5. If the employee is requesting leave for intermittent treatment or ~~requesting leave on a reduced~~ **on a reduced work or is** leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave



## FAMILY CARE AND MEDICAL LEAVE

~~At the time of the employee's request for leave or within five business days, the Superintendent or designee shall request that the employee provide certification of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)~~

When the employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the ~~district Superintendent or designee~~ shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The ~~district~~ Superintendent or designee may also retroactively designate leave as FMLA/CFRA as long as appropriate notice is given to the employee and there is no individualized harm or injury to the employee. (2 CCR 1109129; CFR 825.301)

~~The health care provider's certification need not identify the serious health condition involved. When the employee is requesting leave because of his/her own serious health condition, this information may be included at the employee's option. (2 CCR 7297.0)~~

~~If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification as specified above. (29 USC 2613; Government Code 12945.2)~~

~~If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave. (29 USC 2613)~~

If the ~~district~~ Superintendent or designee has reason to doubt the validity of a certification that accompanies a request for leave, for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. ~~the district may challenge the certification and require the employee to obtain, at district expense, a second opinion from a district approved health care practitioner.~~ If the second opinion is contrary to the first, the ~~district~~ Superintendent or designee may require, again at district expense, that the employee obtain a third medical opinion from a third health care practitioner provider, approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (29 USC 2613; Government Code 12945.2; 2 CCR 11091)

~~If additional leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified in items #1-5 above. (29 USC 2613; Government Code 12945.2)~~

## FAMILY CARE AND MEDICAL LEAVE

For PDL, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011.

### **Instructional Employees: Leaves Near the End of the Term**

~~The district may require an instructional employee to continue taking a requested leave until the end of the term in any of the following situations: (29 USC 2618)~~

- ~~1. If the instructional employee begins a leave of three or more weeks' duration more than five weeks before the end of a term and would subsequently return to work during the last three weeks of the term.~~
- ~~2. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than two weeks' duration during the period that begins five weeks before the end of the term and would subsequently return to work during the last two weeks of the term.~~
- ~~3. If the instructional employee, for reasons other than his/her own serious health condition, begins a leave of more than five days' duration during the period that begins three weeks before the end of the term.~~

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

### **Intermittent/Reduced Work Schedule Leave**

Leave related to the serious health condition of the employee or his/her child, parent or spouse may be taken intermittently or on a reduced work schedule when medically necessary. In such a case, the district may limit leave increments to the shortest period of time that the payroll system uses to account for absences or use of leave. The employee may also be required to transfer temporarily to a different job that has the equivalent pay and benefits but could better accommodate recurring periods of leave. The employee must be qualified for the position, but the position does not need to have equivalent duties. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule. (2 CCR 7297.3)

*(cf. 4113.414213.414313.4 - Temporary Modified/Light-Duty Assignment)*

### **Fitness for Duty Upon Return to Work**

~~Upon expiration of leave taken for his/her own serious health condition, an employee shall present certification from his/her health care provider that he/she is able to resume work.~~

~~*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*~~

~~The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.~~

### **Release to Return to Work**

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work. The certification shall address the employee's ability to perform the essential functions of his/her job.

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*

### **Reinstatement**

Upon granting an employee's request for ~~family care and medical leave~~ PDL or FMLA/CFRRA leave, the ~~district~~ **Superintendent or designee** shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. **(Government Code 12945.2; 2 CCR 11043,**

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: October 1, 2009

Palermo, California

Revised: September 19, 2018

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

**11089; 29 USC 2614** (~~29 USC 2614; Government Code 12945.2~~)

**However**, the district may refuse to reinstate an employee returning from ~~leave~~ **FMLA or CFRA leave** to the same or a comparable position if all of the following apply: (29 USC 2614, Government Code 12945.2)

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of those district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

The district may also refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

~~An employee who takes leave has no greater right to reinstatement or to other benefits and conditions than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise. (29 CFR 825.216)~~

~~(cf. 4117.3 - Personnel Reduction)~~

~~(cf. 4217.3 - Layoff/Rehire)~~

~~(cf. 4317.3 - Personnel Reduction)~~

### **Maintenance of Benefits/**Failure to Return from Leave****

~~During the period of family care and medical leave, the employee shall continue to be entitled to participate in the district's medical, dental and vision plan. (29 U.S.C 2614; Government Code 12945.2)~~

~~If the employee fails to return from leave after the leave period has expired for a reason other than the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control, the employee shall be required to reimburse any health premiums paid by the district during the period of leave. (Government Code 12945.2)~~

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: October 1, 2009

Palermo, California

Revised: September 19, 2018

## FAMILY CARE AND MEDICAL LEAVE

~~The employee shall also continue to be entitled to participate in life, disability and accident insurance plans, pension and retirement plans, supplemental unemployment benefit plans, and/or any other employee welfare benefit plan to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose. In the absence of these conditions, the employee shall continue to be entitled to participate in these plans and the district may, at its discretion, require the employee to pay the premium for periods not covered by accrued leave. (Government Code 12945.2)~~

**Maintenance of Status**

~~The employee shall retain his/her employee status with the district during the leave period, and the leave shall not constitute a break in service for purposes of longevity or seniority under any employee benefit plan or collective bargaining agreement. For purposes of layoff, recall, promotion, job assignment and seniority related benefits such as vacation, the employee returning from family care and medical leave shall return with no less seniority than he/she had when the leave began. (29 USC 2614; Government Code 12945.2)~~

During the period when an employee is on PDL or family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the leave if he/she fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

**Military Family Leave Resulting from Qualifying Exigencies**

## FAMILY CARE AND MEDICAL LEAVE

An eligible employee may take up to 12 work weeks of unpaid FMLA leave, during ~~the~~ each 12-month period established by the district while a covered military member is on active duty or call to active duty status for one or more qualifying exigencies. (29 CFR 825.126) in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while his/her child, parent, or spouse who is a military member is on covered active duty or on call to covered active duty status. (29 USC 2612; 29 CFR 825.126)

~~"Covered military member" means the employee's spouse, son, daughter, or parent on active duty or call to active duty status. Active duty or call to active duty status means a member of the National Guard or Reserves who is under a call or order to active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. (29 CFR 825.126)~~

~~"Qualifying exigencies" include time needed to (1) address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment); (2) attend military events and related activities, such as any official ceremony or family assistance program related to the active duty or call to active duty status; (3) arrange childcare or attend school activities arising from the active duty or call to active duty, such as arranging for alternative childcare, enrolling or transferring a child to a new school, or attending meetings; (4) make or update financial and legal arrangements to address a covered military member's absence; (5) attend counseling provided by someone other than a health care provider; (6) spend time (up to five days of leave per instance) with a covered military member who is on short-term temporary rest and recuperation leave during deployment; (7) attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings; and (8) address any other event that the employee and district agree is a qualifying exigency. (29 CFR 825.126)~~

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence

## FAMILY CARE AND MEDICAL LEAVE

5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the district's rule specified in "Terms of Leave" above, regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, shall apply. ~~regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, shall apply.~~ regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### Military Caregiver Leave

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of the leave is taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the up to the 12 work weeks of leave that may be taken for other FMLA qualifying reasons, but rather is inclusive of such 12 weeks. (29 USC 2611, 2612; 29 CFR 825.127)



## FAMILY CARE AND MEDICAL LEAVE

~~“Covered servicemember” means a current member, or member who is on the temporary disability retired list, of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty while on active duty for which he/she is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for that injury or illness. (29 USC 2611, 2612; 29 CFR 825.127)~~

**Covered servicemember may be: (29 CFR 825.127)**

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

~~“Son or daughter of a covered servicemember” means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)~~

~~“Parent of a covered servicemember” means the covered servicemember's biological, adopted, step or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except “parents in law”). (29 CFR 825.127)~~

~~“Next of kin” means the nearest blood relative to that individual the covered servicemember, or as designated in writing by the covered servicemember. (29 USC 2611, 2612)~~

~~“Outpatient status” means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)~~

~~“Serious injury or illness” means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (29 USC 2611; 29 CFR 825.127)~~

**Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)**

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.



## FAMILY CARE AND MEDICAL LEAVE

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran
  - d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310

The leave may be taken intermittently or on a reduced schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the district's rule ~~specified in "Terms of Leave" above, regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, shall apply.~~ regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

## Notifications

Regulation

Approved: October 1, 2009

Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT

Palermo, California

## FAMILY CARE AND MEDICAL LEAVE

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

~~In accordance with law, the district shall notify employees of their right to request family care and medical leave. Separate notices about federal and state law related to family care and medical leave shall be posted in a conspicuous place. Information about employee rights and obligations related to such leaves shall be disseminated to employee. (29 USC 2619; 2 CCR 7297.9)~~

1. **General Notice:** Information shall be posted in a conspicuous place on district premises or electronically explaining the provisions of the FEHA/PDL and FMLA/CFRA and information about employee rights and obligations shall be included in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (29 USC 2619; 2 CCR 7297.9)

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

2. **Eligibility Notice:** When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall provide notification, within five business days, provide notification to the employee of his/her eligibility to take such leave (i.e., whether the employee has met the months of employment, hours of service, and worksite requirements). (29 CFR 825.300) (2 CCR 11049, 11091; 29 CFR 825.300)

3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)

- a. Notice A statement that the leave may be designated and will be counted against the employee's annual family care and medical leave— FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying.
- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
- c. The employee's right to substitute— use paid leave, conditions related to any substitution, and whether the district will requires this substitution use of paid leave, conditions related to any substitution use of paid leave , and the employee's

## FAMILY CARE AND MEDICAL LEAVE

entitlement to take unpaid leave if the employee does not meet the conditions for paid leave.

- d. ~~Health benefit arrangements.~~ Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. ~~If applicable,~~ The employee's status as a "key employee", if applicable, **potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial** ~~and information related to restoration of that status.~~
- f. The employee's right to maintenance of benefits during the leave and
  - i. restoration to the same or an equivalent job upon return from leave.
- g. The employee's potential liability for health ~~benefits~~ **insurance premiums paid by the district during the employee's unpaid FMLA leave** should the employee not
  - i. return to service **after the leave.**
- h. ~~The district's requirement that the employee, upon return, present medical~~
  - i. ~~certification to the effect that he/she is able to resume work.~~

**Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)**

4. **Designation Notice:** When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall provide written notification, within five business days, designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (**2 CCR 11091**; 29 CFR 825.300)

**If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at**

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

If the district requires paid leave to be substituted for used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a ~~fitness-for-duty certification~~ release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement.

Any time the information provided in the Designation Notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

### Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 29 CFR 825.500; Government Code 12946)

*Legal Reference: (see next page)*

*Legal Reference:*

FAMILY CODE

297-297.5 Rights, protections and benefits under law; registered domestic partners

300 Validity of marriage

GOVERNMENT CODE

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions

7297.0-7297.11 Family care leave

UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

COURT DECISIONS

*Faust v. California Portland Cement Company*, (2007) 150 Cal.App. 4th 864

*Tellis v. Alaska Airlines*, (9th Cir., 2005) 414 F.3d 1045

Regulation

PALERMO UNION SCHOOL DISTRICT

Approved: October 1, 2009

Palermo, California

Revised: September 19, 2018

All Personnel

AR 4161.8

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

*Management Resources:*

FEDERAL REGISTER

*Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133*

U.S. DEPARTMENT OF LABOR PUBLICATIONS

*Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers*

WEB SITES

*California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>*

*U.S. Department of Labor, FMLA: <http://www.dol.gov/esa/whd/fmla>*

Regulation

Approved: October 1, 2009

Revised: September 19, 2018

PALERMO UNION SCHOOL DISTRICT

Palermo, California

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

~~Full-time certificated employees are entitled to 10 days leave of absence for personal illness or injury (sick leave) per school year, with full pay. Employees working less than five school days per week shall be granted comparable sick leave in proportion to the time they work. (Education Code 44978)~~

Certificated employees employed five school 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. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. 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. (Education Code 44978; Labor Code 245-249)

*(cf. 4161/4261 - Leaves)*

*(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)*

*(cf. 4361 - Leaves)*

~~An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)~~

~~An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.~~

~~Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)~~

~~At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.~~

~~Any certificated employee who leaves the district after at least one year of employment and accepts a certificated position in another district, county office of education or community college district within one year shall have transferred with him/her the total amount of accumulated sick leave. The district may not require new employees to waive their leave accumulated in a previous district. (Education Code 44979, 44980)~~

Sick leave may be used by certificated employees for absences due to:

1. ~~Cases of temporary inability to perform duties because of illness, accident or quarantine, whether or not the cause of absence arises out of and in the course of employment (Education Code 44964)~~ 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 (Education Code 44964) (cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

Regulation  
Approved: September 7, 2011  
Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

2. ~~Absences due to~~ Pregnancy, miscarriage, childbirth and recovery (Education Code 44965, 44978) (cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
3. ~~Cases of~~ Personal necessity (Education Code 44981) (cf. 4161.2/4261.2/4361.2 - Personal Leaves)
4. Medical and dental appointments, in increments of not less than one hour
5. ~~Cases of~~ Industrial accidents or illnesses when leave granted specifically for that purpose has expired (Education Code 44984) (cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)
6. ~~Illness of the employee's child, parent, spouse, registered domestic partner, or domestic partner's child in an amount not less than the sick leave that would be accrued by the~~
  - a. ~~employee during six months at his/her then current rate of entitlement (Labor Code 233)~~ Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)
  - b. ~~employee during six months at his/her then current rate of entitlement (Labor Code 233)~~ Need of the employee or his/her family member, as defined in Labor Code 245.5, (Labor Code 245.5 defines "family member" as an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling) for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
7. Need of the employee or his/her family member, as defined in Labor Code 245.5, (Labor Code 245.5 defines "family member" as an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling) for the diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and/or 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 (Labor Code 233, 246.5)

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. (Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee shall reimburse the district 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. (Education Code 44978)

Regulation  
Approved: September 7, 2011  
Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

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. (Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

An employee shall reimburse the district 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. (Education Code 44978)

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

The Superintendent or designee shall notify any certificated employee who leaves the district 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 district transfer his/her accumulated sick leave to the new employer. (Education Code 44979, 44980)

**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. (Education Code 44978.2)

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

Regulation  
Approved: September 7, 2011  
Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California



**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

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 district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

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. (Education Code 44978.2)

**Notification of Absence**

An employee shall notify the district of his/her need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than 3 p.m. of the day preceding the day on which he/she intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

*(cf. 4121 - Temporary/Substitute Personnel)*

**Continued Absence After Available Sick Leave Is Exhausted**

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or injury, continues to be absent from his/her duties ~~due to illness or accident~~ for an additional period up to five school months, the employee shall receive his/her regular salary minus the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that might have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

~~The sick leave, including accumulated sick leave, and the five-month period shall run consecutively. (Education Code 44977)~~

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

Regulation  
Approved: September 7, 2011  
Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

### **Absence Beyond Five-Month Period/Reemployment List**

~~After five months, if a certificated employee has exhausted all available sick leave and is not medically able to resume his/her duties, the employee shall be placed either in another position or on a reemployment list. If the employee is on probationary status, he/she shall be placed on the reemployment list for 24 months beginning at the expiration of the five month period provided pursuant to Education Code 44977; if on permanent status, the employee shall be placed on the reemployment list for 39 months. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)~~

If a certificated employee is not medically able to resume his/her duties after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

*(cf. 4116 - Probationary/Permanent Status)*

### **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 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. (Education Code 44977.5)

In order to qualify for parental leave, employees must have worked for the District a total of 12 months, but eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

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 differential pay for the remainder of the 12 work weeks. (Education Code 44977.5)

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. (Education Code 44977.5; Government Code 12945.2, 12945.6)

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

**Verification Requirements**

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to the District Personnel Office.

The Superintendent **or designee** may, ~~at any time,~~ require ~~additional written verification by the employee's physician or practitioner.~~ Such verification shall be required 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** clear 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 district and at district 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 for 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 may, after giving notice to the employee, deny further leave.

**Any genetic information received by the district 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.**

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

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*

**Healthy Workplaces, Healthy Families Act Requirements**

**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.**

**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**

Regulation  
Approved: September 7, 2011  
Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

- 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 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
  1. (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

Legal Reference:

**EDUCATION CODE**

- 44964 Power to grant leave of absence in case of illness, accident, or quarantine
- 44965 Granting of leaves of absence for pregnancy and childbirth
- 44976 Transfer of leave rights when school is transferred to another district
- 44977 Salary deduction during absence from duties up to five months after sick leave is exhausted
- 44977.5 Differential pay during parental leave up to 12 weeks after sick leave is exhausted
- 44978 Provisions for sick leave of certificated employees
- 44978.1 Inability to return to duty; placement in another position or on reemployment list
- 44978.2 Leave for military service connected disability
- 44979 Transfer of accumulated sick leave to another district
- 44980 Transfer of accumulated sick leave to a county office of education
- 44981 Leave of absence for personal necessity
- 44983 Exception to sick leave when district adopts specific rule
- 44984 Industrial accident or illness
- 44986 Leave of absence for disability allowance applicant

**GOVERNMENT CODE**

- 12945.1-12945.2 California Family Rights Act
- 12945.6 Parental leave

**LABOR CODE**

- 220 Sections inapplicable to public employees
- 230 Jury duty; legal actions by domestic violence, sexual assault and stalking victims, right to

Regulation

- Approved: September 7, 2011
- Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**  
Palermo, California

**Certificated Personnel**  
**PERSONAL ILLNESS/INJURY LEAVE**

AR 4161.1  
4361.1

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

CODE OF REGULATIONS, TITLE 5

5601 Transfer of accumulated sick leave

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.702 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

Veguez v. Governing Board of Long Beach Unified School District, (2005) 127 Cal.App.4th 406

(3/16 3/17) 3/18

Regulation

Approved: September 7, 2011

Revised: September 19, 2018

**PALERMO UNION SCHOOL DISTRICT**

Palermo, California

~~Full-time classified employees are entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. Employees who serve less than a full fiscal year or less than five days a week shall be granted comparable sick leave in proportion to the time they work. (Education Code 45191)~~

~~(cf. 4161/4261 - Leaves)~~

~~(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)~~

Classified employees employed 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. (Education Code 45191; Labor Code 245-249)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

### **Accrual of Leave**

~~Any classified employee employed five days a week is entitled to 12 days leave of absence, with full pay, for personal illness or injury per fiscal year. An employee who serves less than a full fiscal year or fewer than five days a week shall be granted comparable leave in proportion to the time he/she works. (Education Code 45191)~~

~~(cf. 4161/4261/4361 - Leaves)~~

~~(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)~~

~~An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new employee shall not be entitled to more than six days of such leave until he/she has completed six months of active service with the district. (Education Code 45191)~~

~~Unused days of personal illness or injury leave shall be accumulated from year to year without limitation. (Education Code 45191)~~

~~An employee may take sick leave at any time during the year, even if credit for sick leave has not yet been accrued. However, new employees shall not be entitled to more than six days of sick leave until they have completed six months of active service with the district. (Education Code 45191)~~

~~When available paid leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request additional leave. (Education Code 45195)~~

~~An employee who does not complete a given year of service shall be charged for any unearned sick leave used as of the date of termination.~~

~~Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)~~

~~A classified employee who leaves the district after at least one year of employment and accepts employment in another district or county office of education within one year shall have transferred with him/her the total amount of accumulated sick leave. This provision shall not apply to employees whose employment is terminated due to action initiated by the district for cause. The district may not require new employees to waive their leave accumulated in a previous district. (Education Code 45202)~~

~~(cf. 4218 - Dismissal/Suspension/Disciplinary Action)~~

### **Purposes of Leave** **Use of Sick Leave**

**A classified employee may use sick leave for absences due to:** ~~Sick leave may be used by classified employees for the following purposes:~~

1. ~~Absences caused by~~ Accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact ~~during the performance of the employee's duties with other persons having a contagious disease with other persons having a contagious disease during the employee's performance of his/her duties.~~ (Education Code 45199)
2. ~~Absences due to~~ Pregnancy, childbirth and recovery (Education Code 45193)  
*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*
3. ~~Cases of~~ Personal necessity as specified in Education Code 45207  
*(cf. 4161.2/4261.2/4361.2 - Personal Leaves)*
4. Medical or dental appointments, in increments of not less than one hour
5. ~~Cases of~~ Industrial accidents or illnesses when leave granted specifically for that purpose has expired **been exhausted.** (Education Code 45192)
  - a. *(cf. 4261.11 - Industrial Accident/Illness Leave)*
6. **Need of an employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 45196.1; Government Code 12945.2, 12945.6; 29 USC 2612; 29 CFR 825.112)**
7. **Need of the employee or his/her family member, as defined in Labor Code 245.5, for the**

diagnosis, care, or treatment of an existing health condition or for preventive care (Labor Code 233, 246.5)

8. Need of the employee to seek or obtain 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 (Labor Code 233, 246.5)

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. (Labor Code 233)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such 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 district. (Education Code 45191)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

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

The district 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. (Education Code 45202)

~~6. Illness of the employee's child, parent, spouse, registered domestic partner, or domestic partner's child, up to the amount of leave that would be accrued during six months for personal illness or injury (Labor Code 233)~~

#### **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. (Education Code 45191.5)

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 district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

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. (Education Code 45191.5)

### **Notification of Absence**

An employee shall notify the district Superintendent or the designated manager or supervisor of his/her need to be absent as soon as such need is known, so that substitute services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district by not later than 2:00 3:00 p.m. of the day preceding the day on which he/she intends to return to work. If the employee fails failure to so notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

### **Continued Absence After Available Sick Leave Is Exhausted/Differential Pay**

A classified employee who has exhausted all paid leaves, including sick leave, shall for the remainder of the five-month period of absence to which he/she is entitled, receive his/her salary minus the actual amount paid a substitute to fill the employee's position during his/her absence. (Education Code 45196)

~~After an employee has exhausted all paid leave, including personal illness or injury leave he/she shall receive his/her regular salary minus the amount actually paid to any substitute employed to fill the position. The employee is entitled to this differential pay for a period up to five months. (Education Code 45196)~~

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

### **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 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. (Education Code 45196.1)

In order to qualify for parental leave, employees must have worked for the District a total of 12 months, but eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

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 differential pay for the remainder of the 12 work weeks. (Education Code 45196.1)

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. (Education Code 45196.1; Government Code 12945.2, 12945.6)

### **Extension of Leave**

~~After~~ 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. (Education Code 45195)

(cf. 4216 - Probationary/Permanent Status)

~~When a classified~~ If the employee has exhausted all available leaves, paid or unpaid, and 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 ~~reemployed~~ offered reemployment in the first vacancy in the 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. (Education Code 45195)

### **Verification Requirements**

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to the District Personnel Office.

The Superintendent or designee may, ~~at any time,~~ require additional written verification by the employee's physician or practitioner. ~~Such verification shall be required~~ whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately

before or after weekends and/or holidays or whenever clear evidence 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 district and at district 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 additional** leave of absence and a prognosis for 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, ~~may~~ deny **the request for additional further** leave.

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

**Any genetic information received by the district 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.**

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

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4113.4/4213.4/4313.4 - Temporary Modified/Light-Duty Assignment)*

~~Verification requirements shall not discriminate against any employee on the basis of his/her religious practice.~~

~~*(cf. 4030 - Nondiscrimination in Employment)*~~

~~*(cf. 4031 - Complaints Concerning Discrimination in Employment)*~~

### **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 be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)**

**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. (Labor Code 246)**

**A short-term or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)**

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 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.

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 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 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

#### Legal Reference: EDUCATION CODE

45103 Substitute employees  
45190 Leaves of absence and vacations  
45191 Leaves of absence for illness and injury  
45191.5 Leave for military service connected disability  
45193 Leave of absence for pregnancy (re use of sick leave under certain circumstances)  
45195 Additional leave for nonindustrial accident or illness; reemployment preference  
45196 Salary; deductions during sick leave  
45196.1 Differential pay during parental leave up to 12 weeks after sick leave is exhausted  
45202 Transfer of accumulated sick leave and other benefits

GOVERNMENT CODE

12945.1-12945.2 California Family Rights Act

12945.6 Parental leave

LABOR CODE

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

245-249 Healthy Workplaces, Healthy Families Act of 2014

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.702 Family and Medical Leave Act of 1993

1635.1-1635.12 Genetic Information Nondiscrimination Act of 2008

COURT DECISIONS

California School Employees Association v. Colton Joint Unified School District, (2009) 170 Cal.App.4th 957

California School Employees Association v. Tustin Unified School District, (2007) 148 Cal.App.4th 510

ATTORNEY GENERAL OPINIONS

53 Ops.Cal.Atty.Gen. 111 (1970)

(3/16 3/17) 3/18