

2011 AGREEMENT
between the
SCOTTS VALLEY UNIFIED SCHOOL DISTRICT
and the
SUPPORT PERSONNEL COMMITTEE

Revised: July 1, 2011

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I. **AGREEMENT**

This Agreement was made and entered into on the 16th day of March, 1982, by and between the Scotts Valley Unified School District (hereinafter referred to as "District") and the Support Personnel Committee (SPC) (hereinafter referred to as "Committee").

(NOTE: This agreement has been updated yearly since the original date above, to include all provisions and amendments as mutually agreed to by both parties as a result of the annual negotiations process, up to and including the agreement of July 1, 2011.

II. **SAVINGS CLAUSE**

1.0 If any provision of this Agreement, or any application thereof, is contrary to law or legal procedures, such provision or application will be deemed invalid, but all other provisions of applications shall continue in full force and effect.

2.0 The parties shall meet as soon as reasonably possible after such decision to renegotiate the provision or provisions affected.

III. **TERM**

This agreement may be reopened for purposes of meeting and negotiation regarding salary, benefits and two Articles chosen by each party each year.

IV. **RECOGNITION**

A. The District confirms its recognition of the Committee as the exclusive representative for the unit of support personnel recognized by the District in its official action by the governing Board of Trustees on October 5, 1976. The unit of support personnel consists of all positions listed on the attached Appendix A: *Support Personnel Hourly Salary Schedule*.

B. The Support Personnel Group will be asked to provide a representative to site or district-wide committees convened for advisory or policy development purposes; the group will make every effort to provide a representative if it is required by a process (e.g., WASC Accreditation).

C. Release time will be granted to Support Personnel Committee Negotiating Team members to participate in the negotiation process. Release time will be limited to a total of 16 hours per site (Brook Knoll, Vine Hill, Scotts Valley Middle School, Scotts Valley High School, District Office) per fiscal year to be shared among any team members representing that site for purposes of negotiations. Every effort will be made to accommodate the employee's absence for a reasonable schedule of negotiation meetings.

V. RECOGNITION OF PRIOR CONFIDENTIAL STATUS

In recognition of prior confidential status, one unit member shall retain all the benefits currently provided to her as a confidential unit member. This will remain in effect as long as this member remains in this current position. The employee subject to this provision is: Anna Foster, Account/Payroll Technician.

VI. COMPENSATION

A. Salaries

1. Employees are categorized by classification on a salary schedule with a beginning and a maximum rate reached in six (6) steps. See Appendix A (Support Personnel Hourly Salary Schedule).
2. Initial placement above step one (1) requires previous related experience or two (2) years of college coursework. No initial placement will be made above step three (3).
3. An employee is eligible for a step increase after successful completion of one (1) year of service, and each year thereafter until reaching step six (6). An anniversary date shall be established for each classified employee as a basis for annual increased step placement on the salary schedule in accordance with Administrative Regulation (AR) 4251.
See Appendix B (AR 4251 Anniversary Date).
4. If a current employee accepts a position in a higher classification but with no previous experience in this classification, placement will be at the rate equal to or immediately above their current rate of pay.
5. If a current employee accepts a position in a higher classification and has previous experience in the classification, placement will be dependent upon experience.
6. Overtime for work performed in excess of eight (8) hours in one (1) day or forty (40) hours in one (1) week will be paid at the appropriate rate in compliance with current labor law.

B. Work Year

The work year for twelve (12) Month Classified employees is 260 days.

The work year for Eleven (11) Month Classified employees is 239 days.

The work year for Ten (10) Month classified employees is the number of instructional days established in the Student Calendar as set by the Board of Trustees each fiscal year.

C. Work Hours

Classified employees agree to the site administrator's discretion for reasonable and necessary adjustment of the hours stated when the employee was hired and a reasonable and necessary number of times of adjustment in one school year. If the employee believes the adjustments to be unreasonable, the employee may appeal the request to Human Resources.

Breaks:

Employees working eight (8) hours a day are allowed a fifteen (15) minute rest period in mid-morning and a fifteen (15) minute rest period mid-afternoon, and are encouraged to take this time for relaxation.

Employees working six (6) hours a day are allowed a ten (10) minute rest period in mid-morning and a ten (10) minute rest period mid-afternoon.

A four (4) hour employee is entitled to one fifteen (15) minute rest period.

A three hour employee is entitled to one ten (10) minute rest period.

If breaks are not taken, such time may not be used to shorten the workday.

Meal Period:

Classified employees working more than five hours per day are entitled to an unpaid, duty free meal period of no less than 30 minutes. If the employee works no more than six hours per day, the lunch period may be waived by mutual consent of both the District and the employee.

D. Comp Time Earned/Taken

Compensatory time may be earned and taken only with **prior approval** of site administrator or supervisor. Mutual agreement will be documented using the comp time form (See Appendix C). Compensatory time earned will be at a rate in compliance with current labor law.

E. Holidays

All classified employees shall be entitled to the following paid holidays, provided they are in a paid status in their normal assignment during any portion of the working day immediately preceding or succeeding the holiday.

Independence Day
Labor Day

New Year's Eve
New Year's Day

Veteran's Day	Martin Luther King Day
Thanksgiving and the following day	Lincoln's Birthday*
Christmas Eve	Washington's Birthday*
Christmas	Two days in observance of Easter*
Memorial Day	

** May be observed on a different day. Refer to Classified calendar.*

When a legal holiday falls on Sunday, the following Monday is declared a holiday. When a legal holiday falls on Saturday, the preceding Friday is declared a holiday.

10 month classified employees receive holiday pay in lieu of time off.

F. **Longevity**

The Longevity Plan includes the following:

1. An employee who completes six (6) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule.
2. An employee who completes nine (9) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule, for a total of 5%.
3. An employee who completes twelve (12) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule, for a total of 7.5%.
4. An employee who completes sixteen (16) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule, for a total of 10%.
5. An employee who completes twenty (20) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule, for a total of 12.5%.
6. An employee who completes twenty-four (24) years of continuous service shall receive an additional 2.5% of their placement on the salary schedule, for a total of 15%.
7. For the purpose of longevity increments, the anniversary date is as defined in Administrative Regulation (AR) 4251. See Appendix B (AR 4251 Anniversary Date).

G. **Retirement Benefits:**

1. Permanent employees meeting CALPERS membership eligibility will be enrolled as members in the appropriate State Public Employees Retirement System.
2. Classified employees hired April 2013 or after, who are new PERS members, will be responsible for paying the employee share of the contribution amount. Currently the rate is 6%. This rate will be set by CalPERS each year. Further information on CalPERS is available at: <http://www.calpers.ca.gov>.

H. **Vacations**

1. Vacation allowances for each work year (July 1, through June 30th) are as follows:

10-Month Employees:

The first year of service:	10 working days
The second year of service:	11 working days
The third year of service:	12 working days
The fourth year of service:	13 working days
The fifth year of service:	15 working days
The tenth year of service:	18 working days
The fifteenth year of service:	20 working days
The twentieth year of service:	22 working days

11-Month Employees

The first year of service:	10.5 working days
The second year of service:	11.5 working days
The third year of service:	12.5 working days
The fourth year of service:	13.5 working days
The fifth year of service:	15.5 working days
The tenth year of service:	19 working days
The fifteenth year of service:	21 working days
The twentieth year of service:	23 working days

12-Month Employees

1-4 years of service	15 working days
5-9 years of service	18 working days
10-14 years of service	20 working days
15-19 years of service	22 working days
20 ⁺ years of service	24 working days

2. 11 and 12 month classified employees contracted to work four (4) hours or more per day will be permitted to "carry over" one half (1/2) of their vacation entitlement into the subsequent year. The maximum vacation days eligible employees may have in a given year is one and one-half (1-1/2) times their annual entitlement. These vacation entitlements may only be utilized when schools are not in session, unless prior permission is obtained from the supervisor. All vacation usage requires prior approval from the supervisor.
3. 10 month classified employees receive vacation pay in lieu of time off.

I. **Insurance Benefits**

1. All employees regularly assigned to work a minimum of thirty (30) hours per week shall be eligible to participate in the District medical/dental/vision/group term life and accidental death and dismemberment insurance plans. Eligible unit members who work less than forty (40) hours per week shall receive a pro rata share of the district contribution towards the premiums based upon hours worked. In addition, these unit members shall be responsible for the employee's share of the premiums as described in the Collective Bargaining Agreement.

With the exception of:

- 1.1 For all 12 month employees who work a minimum of 30 hours per week, the District shall pay the same district contribution towards the insurance premiums as for full time employees.
- 1.2 Effective July 1, 2005, the district will provide \$8,000 per fiscal year to subsidize out-of-pocket costs for eligible part-time employees who participate in district health and welfare benefits. This amount will be prorated among all of these employees, beginning with the highest FTE first, until the amount provided is exhausted. In no case shall the employee receive a district contribution greater than that of a full time employee.
- 1.3 The following employees, who currently participate in district benefit plans, but work less than thirty (30) hours per week and more than twenty (20) hours per week, were grandfathered in, effective June 15, 2004, to continue to be eligible for benefits: Karen Alexander and Bonnie Scherer.

2. The parties agree to participate in a Joint Powers Agreement for delivery of benefit service and for funding of the benefit specifications. Each employee covered by this Agreement shall be eligible to participate in district insurance plans. Beginning with the 1993-94 school year and each subsequent year, the District contribution will be the base premium costs, defined as the actual premium costs as of last day of the previous plan year, and both the District and the employees will each contribute one-half of the dollar amount of the premium cost increase over the prior year's premium cost.

For benefit plans, see Appendix D. For plan coverage, refer to the summary of benefits document.

3. IRS 125 Plan - for all eligible employees, with monthly fee paid by the employee.
4. The District does not participate in the State Disability Insurance Program (SDI).

5. **Medical/Dental Insurance After Retirement**

1. For Employees Hired Before June 30, 1988: The District will provide, at District cost, medical and dental insurance after retirement, if a retiring classified employee meets the following eligibility requirements;
 - a. Is a regular employee in paid status of six (6) hours or more per day as of July 1, 1995 and employed 75% or more of the fiscal year at the time of retirement and;
 - b. Is between the ages of 55 and 70 years, and is employed by the District immediately prior to retirement, for a period of at least 12 consecutive years or;
 - c. Is between the ages of 50 and 55 years, and is employed by the District immediately prior to retirement, for a period of at least 20 years and;
 - d. Is eligible to draw retirement benefits from the Public Employees Retirement System.

When an employee is eligible for coverage under Medicare Plan, the District will continue coverage of those plans which supplement Medicare coverage.

The retiring employee may elect to retain coverage for spouse and dependents by paying the additional premium involved.

The surviving spouse may elect to continue coverage by paying, through the District, the premium cost involved if allowed by law and the insurance carriers.

2. For Employees Hired on or After July 1, 1988:

The District shall contribute toward employee medical or dental insurance coverage for unit members who retire between the ages of 50 and 65 years who meet all of the following eligibility requirements:

- a. Have rendered at least ten (10) years of continuous service in the District, including Board-approved leave, in paid status of six (6) hours or more per day and;
- b. Is employed 75% or more of the fiscal year at the time of retirement.

Such District-paid insurance shall in no event continue [a] for more than five (5) years or [b] until the employee otherwise receives medical or dental insurance, whichever occurs first. Such District-paid insurance shall be the same or equivalent to the insurance benefits furnished to regular full-time employees. When an employee is eligible for coverage under Medicare Plan, the District will continue the annual district contribution towards coverage of those district plans which supplement Medicare Coverage.

The District shall contribute the following to eligible retirees:

<u>Years of District Service at six or more hours per day</u>	<u>Annual District Contribution Toward Health Benefits /Medicare Supplemental</u>
10	\$2,300
15	\$2,500
20	\$3,000
25	\$3,500

The retiring employee may elect to retain coverage for spouse and dependents by paying the additional premium cost involved.

Any such continued coverage is contingent upon availability of the coverage to the District and acceptance of the insurance carrier.

VII. PROBATIONARY STATUS

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed six months of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed six months of service in that position. A permanent employee who accepts a promotion and fails to satisfactorily complete the probationary period for that new position shall be returned to a position in the classification from which he/she was promoted.

See Appendix J Board Policy (BP) 4216 Probationary/Permanent Status.

VIII. LEAVES OF ABSENCE

A. General Provisions

The Board of Trustees shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policies (BP) 4161(a), 4261, 4361, and associated administrative regulations as applicable. See Appendix F (BP 4161(a), 4261, 4361 Leaves).

All leave entitlements are prorated based on the number of hours assigned per day.

An employee returning from a leave of absence is not entitled to the exact position held at the time of the granting of the Leave, but rather guaranteed that the employee will be reinstated to a similar position within the district.

B. Personal Illness/Injury Leave

Personal Illness/Injury Leave is defined, and shall be accrued and taken in accordance with Administrative Regulation (AR) 4261.1(a). See Appendix E (AR 4261.1(a) Personal Illness/Injury Leave).

C. Personal Necessity Leave

Personal Necessity Leave is defined, and shall be taken in accordance with Administrative Regulations (AR) 4261.2(a), 4261.2(a), 4361.2(a). See Appendix G (AR 4261.2(a), 4261.2(a), 4361.2(a) Personal Leaves).

D. Personal Business Leave

Ten (10) and eleven (11) month employees shall be entitled to three (3) days per school year for Personal Business Leave. Such leave shall be deducted from accrued Sick Leave.

Twelve (12) month employees are granted three (3) Personal Business days in addition to sick leave and vacation. These days must be used in the year they are earned.

Personal Business Leave shall be used only for personal business and not for work stoppage, recreation purposes, extension of holidays or vacations, or for matters of personal convenience.

Administration will consult with the employee before making a decision regarding a substitute. If a substitute is to be retained, the employee shall arrange for the substitute according to procedures established by the District. District absence reporting procedures shall be followed upon return to work.

The Supervisor is to be notified at least one day in advance of use of days unless the use is for an emergency.

E. Family Illness Leave

Three (3) days family illness leave are granted each year but are not accumulative and may only be used for emergencies or serious illness of immediate family members. Family Illness Leave is not deducted from accrued Sick Leave.

F. Disability Leave

A classified employee who has exhausted all paid leave will be eligible for extended sick leave, not to exceed a total of five (5) school months, during which the employee will be paid the difference between their regular rate of pay and the amount paid a substitute employed to fill the employee's position during his/her absence. The five (5) month extended sick leave shall begin to run the 1st day of the absence.

Extended Sick Leave as described above, falls within Personal Illness / Injury Leave, and shall be and taken in accordance with Administrative Regulation (AR) 4261.1(a). See Appendix E (AR 4261.1(a) Personal Illness/Injury Leave).

G. Pregnancy Disability Leave

An employee who is disabled as a result of pregnancy, childbirth or related medical condition may apply for an unpaid Pregnancy Disability Leave (PDL) during the duration of the disability, not to exceed four (4) months, by

submitting to the Human Resources Office a written statement from her physician indicating that the employee is disabled and medically unable to work, the last day the employee is anticipated to be able to work and the expected date of return to duty. Such statement must be provided as far in advance as possible. An employee on Pregnancy Disability Leave (PDL) may utilize accumulated sick leave, or accrued vacation if any.

Prior to return to duty from Pregnancy Disability Leave, an employee must provide a statement from her physician that she is medically able to perform the essential functions of her position.

H. Child Rearing Leave

The Board of Trustees may grant an unpaid leave of absence not to exceed one (1) school year to an employee for the purpose of caring for his / her newly born or adopted child.

I. Paternity Leave

An employee may use a maximum of three (3) days of accumulated sick leave in one school year for paternity leave. All or part of the leave must be taken immediately before, during or after the child's birth. The employee must follow District procedures for the absence request, reporting and arranging for a substitute.

J. Religious Observance Leave

Religious Observance Leave is defined, and shall be taken in accordance with Administrative Regulation (AR) 4261.2(a), 4261.2(a), 4361.2(a). See Appendix G (AR 4261.2(a), 4261.2(a), 4361.2(a) Personal Leaves).

K. Bereavement Leave

Bereavement Leave is defined, and shall be taken in accordance with Administrative Regulation (AR) 4261.2(a), 4261.2(a), 4361.2(a). See Appendix G (AR 4161.2(a), 4261.2(a), 4361.2(a) Personal Leaves).

L. Jury Duty

Leave for Legal Duties and Leaves for Crime Victims is defined, and shall be taken in accordance with Administrative Regulation (AR) 4261.2(a), 4261.2(a), 4361.2(a). See Appendix G (AR 4161.2(a), 4261.2(a), 4361.2(a) Personal Leaves).

M. Industrial Accident/Illness Leave

Employees are covered by Worker's Compensation and must report all on-the job injuries to their site administrator as soon as it occurs.

Industrial Accident/Illness Leave is defined, and shall be taken in accordance with Administrative Regulation (AR) 4261.11(a).

See Appendix H (AR 4261.11(a) Industrial Accident/Illness Leave).

N. Family and Medical Leave Act (FMLA)

FMLA is defined, and shall be taken in accordance with Administrative Regulation (AR) 4161.8(a), 4261.8(a) and 4361.8(a). See Appendix I (AR) 4161.8(a), 4261.8(a) and 4361.8(a) Family Care and Medical Leave).

IX. CALENDAR

The District will meet and consult with the Committee on the establishment of the annual school district calendar on matters which pertain to the support personnel employees' work year.

X. PROFESSIONAL GROWTH

Professional growth is the continuous, purposeful engagement in study and related activities designed to retain and extend the high standards of the educational support personnel. The professional growth program, as outlined in Appendix K, is a voluntary incentive program to encourage support personnel to broaden their education, improve their skills and expand horizons beyond the limits of regular job assignments.

XI. GOLDEN HANDSHAKE

The District may provide two (2) years of P.E.R.S. credit (pay both the District and employee's costs) if the employee is a PERS member, is 50 years of age, has been in the District fifteen (15) years, and retires. Implementation must result in a cost savings to the district as stated in the legal language of the program.

XII. SENIORITY

Seniority will be determined by both date of hire in a permanent position, and duration within each classification held.

XIII. EVALUATION

Appropriate supervision and regular, comprehensive evaluations can help employees to continually improve in the performance of their responsibilities.

Probationary employees will be evaluated during the second and fifth months of the probationary period.

Permanent employees will be evaluated at least annually.

Evaluations may be made at any time. Such evaluations will be completed on District Evaluation Forms and will describe the specific reasons for outstanding or unsatisfactory service and provide specific documentation. A copy of the evaluation will be placed in the employee's personnel file, and the employee has ten (10) working days to respond to the evaluation should they wish to do so. The employee's response will be placed in the employee's personnel file along with the evaluation.

Classified employees will be evaluated in accordance with Administrative Regulation 4215. See Appendix L (AR 4215 Evaluation/Supervision).

XIV. LAYOFF / RE-EMPLOYMENT PROCEDURE

- A. Classified employees shall be subject to layoff for lack of work or lack of funds (Education Code 45114, 45308). Layoff and rehiring procedures shall be in accordance with Administrative Regulation 4217.3(a). See Appendix M (AR 4217.3(a) Layoff/Rehire).
- B. A classified employee who has been laid off due to a cut-back in funds or decreased enrollment may retain all earned sick leave, vacation days, seniority and placement on the salary schedule if hired again within the statutory rehire period.
- C. A classified employee who has been laid off due to a cut-back in funds or decreased enrollment will be given consideration for placement in temporary positions on a site-by-site basis with the approval of the principal based on the needs of the position and seniority.

XV. GRIEVANCE PROCEDURE

See Appendix N.

Appendix A

Appendix B

ANNIVERSARY DATE

An anniversary date shall be established for each classified employee as a basis for annual increased step placement on the salary schedule.

If an employee begins work during the period from the first to the fifteenth day of the month, inclusive, the anniversary date shall be assigned as the first of that month.

If an employee begins work on the sixteenth to the thirty-first day of the month, inclusive, the anniversary date shall be assigned as the first day of the following month.

At the time that an employee has reached the last step on the salary schedule of their range, the anniversary date shall be established permanently as of July 1, except for the purpose of longevity increments when the anniversary date remains as the employment date referred to above.

Policy

adopted: December 23, 1974

revised: April 19, 1983

revised: November 22, 1999

revised: August 14, 2007

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

Appendix C

COMP TIME GRANTED/USED

20____/20____

NAME: _____

Granted**Used**

Date	Reason	Hours Worked	Supervisor Signature (prior approval)	Comp Hours Rec'd	Date Comp Hours Used	Supervisor Signature (prior approval)	Comp Hours Used	Balance of Comp Hours	EE Initial

The site administrator must authorize all comp time prior to the hours worked.

It is recommended that whenever possible comp time should be used within the month it was earned. Every reasonable effort should be made to use comp time by the end of the fiscal year.

***Comp time earned and taken must also be recorded on your timesheet.**

Appendix D

BENEFIT PLANS

Medical Insurance (including paid prescription coverage):

Athem Blue Cross PPO 90-E

Athem Blue Cross PPO 80-G

Athem Blue Cross Classic HMO (30/40/500/3 day/pharmacy 7/25)

Athem Blue Cross Value HMO (30/40/500/3 day/pharmacy 9/35)

Dental Insurance:

Delta Dental Insurance Plan with a \$2,000 annual maximum

Vision Insurance:

Vision Service Plan (VSP)

Group Term Life Insurance:

Metropolitan Life

Appendix E

PERSONAL ILLNESS/ INJURY LEAVE

Purposes of Leave

A classified employee may use personal illness or injury leave granted by the district 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 (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 accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

(cf. 4261.11 - Industrial Accident/ Illness Leave)

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)

Notification of Absence

An employee shall notify the Superintendent or the designated manager or supervisor of his/ her need to be absent as soon as such need is known so that the 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 not later than 3 p.m. of the day preceding the day on which he/ she intends to return to work.

PERSONAL ILLNESS/ INJURY LEAVE (continued)

Verification Requirements

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to his/ her immediate supervisor.

The Superintendent or designee may, at any time, require additional written verification by the employee's physician or medical 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.

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 statement as to the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the statement concludes that the employee's condition does not warrant continued absence, the Superintendent or designee, after giving notice to the employee, may deny further leave.

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

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 - Leaves)

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

PERSONAL ILLNESS/ INJURY LEAVE (continued)

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)

At the beginning of each school year, each employee shall be notified of the amount of leave which he/ she has accumulated.

Upon employment with the district, a new classified employee shall receive credit for any personal illness or injury leave accumulated in a previous school district, county office of education, or community college district if he/ she left employment with that district within the previous year and had been employed by the previous district for at least one year. If the employee's previous employment had been terminated for cause, the Governing Board may determine whether to accept the transfer of the accumulated leave. (Education Code 45202)

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

Extension of Leave

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available personal illness or injury 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. Total leave so granted shall not exceed 18 months. (Education Code 45195)

(cf. 4216 - Probationary/ Permanent Status)

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

PERSONAL ILLNESS/ INJURY LEAVE (continued)

the employee shall be ranked according to his/ her seniority. (Education Code 45195)

Compensation

A classified employee who has exhausted all paid leave, including personal illness or injury leave shall receive his/ her salary, minus the actual amount paid a substitute employed to fill the position during the employee's absence for the remaining days within a total five-month period of absence. (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.

*Legal Reference:*EDUCATION CODE45103 *Substitute employees*45190 *Leaves of absence and vacations*45191 *Leaves of absence for illness and injury*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*45202 *Transfer of accumulated sick leave and other benefits*LABOR CODE233 *Illness of child, parent, spouse or domestic partner*COURT DECISIONS*California School Employees Association v. Tustin Unified School District*, (2007) 148 Cal.App.4th 510ATTORNEY GENERAL OPINIONS53 *Ops.Cal.Atty.Gen.* 111 (1970)

Regulation
approved: April 8, 2008

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT
Scotts Valley, California

All Personnel

BP 4161(a)
4261
4361

LEAVES

The Board of Trustees shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policy, administrative regulation, collective bargaining agreements, and merit system rules, as applicable.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

The Board recognizes the following justifiable reasons for employee absence:

1. Personal illness or injury

(cf. 4161.1/4361.1 - Personal Illness/ Injury Leave)
(cf. 4261.1 - Personal Illness/ Injury Leave)

2. Industrial accident or illness

(cf. 4161.11/4361.11 - Industrial Accident/ Illness Leave)
(cf. 4261.11 - Industrial Accident/ Illness Leave)

3. Family care and medical leave

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

4. Military service

(cf. 4161.5/4261.5/4361.5 - Military Leave)

5. Personal necessity and personal emergencies

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

6. Disability leave for certificated employees in accordance with Education Code 44986

7. Vacations for classified staff and certificated management staff, as applicable

8. Sabbaticals for purposes of study or training related to the employee's job duties

(cf. 4161.3 - Professional Leaves)
(cf. 4261.3 - Professional Leaves)

LEAVES (continued)

9. Attendance at work-related meetings and staff development opportunities

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

10. Compulsory leave

(cf. 4118 - Suspension/ Disciplinary Action)

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

Long-Term Leaves

With Board approval, an employee may receive a leave of absence, without pay and without accruing seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated to a similar position as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

Administrative and Supervisory Personnel

Certificated administrative and supervisory employees who are not subject to the district's bargaining agreement for certificated employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other certificated employees unless otherwise specified in individual contract, memorandums of understanding, Board policy, administrative regulation, or law.

Classified administrative and supervisory employees who are not subject to the district's bargaining agreement for classified employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other classified employees unless otherwise specified in individual contract, memoranda of understanding, Board policy, administrative regulation, or law.

LEAVES (continued)*(cf. 2121 - Superintendent's Contract)**(cf. 4300 - Administrative and Supervisory Personnel)**(cf. 4312.1 - Contracts)**Legal Reference:*EDUCATION CODE*22850-22856 Pension benefits, STRS members on military leave**44018 Compensation for employees on active military duty**44036-44037 Leaves of absence for judicial and official appearances**44043.5 Catastrophic leave**44800 Effect of active military service on status of employees**44842 Failure to provide notice or to report to work**44940 Sex offenses and narcotic offenses; compulsory leave of absence**44962-44988 Leaves of absence (certificated)**45059 Employee ordered to active military/ naval duty, computation of salary**45190-45210 Leaves of absence (classified)*FAMILY CODE*297-297.5 Registered domestic partner rights, protections and benefits*GOVERNMENT CODE*3543.1 Release time for representatives of employee organizations**3543.2 Scope of representation**12945.1-12945.2 California Family Rights Act**20990-21013 Pension benefits, PERS members on military leave*LABOR CODE*230-230.2 Leaves for victims of domestic violence, sexual assault or specified felonies**230.3 Leave for emergency personnel**230.4 Leave for volunteer firefighters**230.8 Leave to visit child's school**233 Illness of child, parent, spouse or domestic partner*MILITARY AND VETERANS CODE*395-395.9 Military leave**395.10 Leave when spouse on leave from military deployment*UNITED STATES CODE, TITLE 29*2601-2654 Family and Medical Leave Act of 1993*UNITED STATES CODE, TITLE 38*4301-4334 Uniformed Services Employment and Reemployment Rights Act of 1994*

(12/ 88 10/ 98) 7/ 08

Policy

adopted: August 14, 2007

revised: November 18, 2008

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

All Personnel

AR 4161

4261

LEAVES

4361

Failure to Return to Service After Leave

In the case of a certificated employee who was on leave of absence for 20 or more consecutive working days after April 30 of the previous school year, the district may terminate the employment of such an employee if all of the following circumstances exist: (Education Code 44842)

1. The employee fails to report for duty, without good cause, at the beginning of the school year after having notified the Governing Board of his/her intention to remain in service with the district in accordance with Education Code 44842.
2. The district had specifically notified the employee, at least five days in advance, of the time and place at which the employee was to report to work.
3. The employee did not request or was not granted a leave of absence authorized by the Board.

(cf. 4112.1 - Contracts)

In any such case, the district may terminate the employee's employment on the day following 20 consecutive days of absence. (Education Code 44842)

(cf. 4117.4 - Dismissal)

Use of Leaves by Classified Employees

A classified employee may interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, as long as the employee provides adequate notice and relevant supporting information regarding the basis for such interruption or termination. (Education Code 45200)

(12/88 10/98) 7/08

Regulation

approved: August 14, 2007

revised: November 18, 2008

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

Appendix G

All Personnel

AR 4161.2(a)

4261.2

PERSONAL LEAVES

4361.2

For the purpose of any personal leave offered pursuant to state law, 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. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

(cf. 4121 - Temporary/ Substitute Personnel)

Bereavement

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

(cf. 4161/ 4261/ 4361 - Leaves)

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse
2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister, foster children
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

Personal Necessity

Employees may use a maximum of seven days of their accrued personal illness/ injury leave during each school year for reasons of personal necessity. (Education Code 44981, 45207)

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

(cf. 4261.1 - Personal Illness/ Injury Leave)

PERSONAL LEAVES (continued)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)
2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
3. A serious illness of a member of the employee's immediate family (Education Code 44981)

(cf. 4161.8/ 4261.8/ 4361.8 - Family Care and Medical Leave)

4. An employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)
5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects personal necessity.

Advance permission shall not be required of any employee in cases involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of his/ her immediate family, or the serious illness of a member of his/ her immediate family. (Education Code 44981, 45207)

However, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

PERSONAL LEAVES (continued)

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/ her immediate supervisor.

Legal Duties

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between his/ her regular earnings and any amount received for jury fees. (Education Code 44037)

A certificated employee also shall be granted leave for jury duty with pay up to the amount of the difference between his/ her regular earnings and any amount received for jury fees.

Employees shall be granted leave to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

Leaves for Crime Victims

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/ she is a victim, or an immediate family member, registered domestic partner, or child of a registered domestic partner of a victim, of any of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)

PERSONAL LEAVES (continued)

3. A felony provision of law proscribing theft or embezzlement

For these purposes, the employee may use vacation, personal leave, personal illness/ injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/ her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/ witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

Leaves for Victims of Domestic Violence or Sexual Assault

An employee who is a victim of domestic violence or sexual assault as defined by law may use vacation, personal leave, or compensatory time off that is otherwise available to him/ her under the terms of his/ her employment to attend to the following activities: (Labor Code 230, 230.1)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/ her child
2. Seek medical attention for injuries caused by domestic violence or sexual assault
3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
4. Obtain psychological counseling related to an experience of domestic violence or sexual assault

PERSONAL LEAVES (continued)

5. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

Prior to taking time off, an employee shall give reasonable notice to his/ her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following documents:
(Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

Personal Leave for a Child's School Activities

Any employee who is a parent/ guardian, or grandparent having custody, of one or more children who are enrolled in grades K-12 or who attend a licensed day care facility may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year. The employee shall give reasonable advance notice of the absence.
(Labor Code 230.8)

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

PERSONAL LEAVES (continued)

If both parents/ guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/ guardian who applies. Simultaneous absence by the second parent/ guardian may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/ she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

Service on Education Boards and Committees

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed within the state.
2. The board, commission, organization, or group informs the district in writing of the service.
3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employee Organization Activities

Upon request, any certificated or classified employee shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the employee organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

PERSONAL LEAVES (continued)

(cf. 4140/ 4240/ 4340 - Bargaining Units)
(cf. 4143/ 4243 - Negotiations)

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

Religious Leave

The Superintendent or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

The Superintendent or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

Spouse on Leave from Military Deployment

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/ her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

PERSONAL LEAVES (continued)

Within two business days of receiving official notice that his/ her spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of his/ her intention to take the leave. The employee shall submit written documentation certifying that his/ her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

Leave for Emergency Duty

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

Civil Air Patrol Leave

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to him/ her, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

PERSONAL LEAVES (continued)

Legal Reference:

EDUCATION CODE

44036-44037 Leaves of absence for judicial and official appearances
44963 Power to grant leaves of absence (certificated)
44981 Leave of absence for personal necessity (certificated)
44985 Leave of absence due to death in immediate family (certificated)
44987 Service as officer of employee organization (certificated)
44987.3 Leave of absence to serve on certain boards, commissions, etc.
45190 Leaves of absence and vacations (classified)
45194 Bereavement leave of absence (classified)
45198 Effect of provisions authorizing leaves of absence
45207 Personal necessity (classified)
45210 Service as officer of employee organization (classified)
45240-45320 Merit system, classified employees

FAMILY CODE

297-297.5 Registered domestic partner rights, protections, and benefits

GOVERNMENT CODE

3543.1 Release time for representatives of employee organizations
12945.1-12945.2 California Family Rights Act

LABOR CODE

230-230.2 Leave for victims of domestic violence, sexual assault, or specified felonies
230.3 Leave for emergency personnel
230.4 Leave for volunteer firefighters
230.8 Leave to visit child's school
233 Illness of child, parent, spouse, domestic partner or domestic partner's child
234 Absence control policy
1500-1507 Civil Air Patrol leave

MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

PENAL CODE

667.5 Violent felony, defined
1192.7 Serious felony, defined

CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

UNITED STATES CODE, TITLE 29

2601-2654 Family and Medical Leave Act

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VII, Civil Rights Act of 1964

COURT DECISIONS

Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954

Management Resources: (see next page)

AR 4161.2(j)
4261.2
4361.2

PERSONAL LEAVES (continued)

Management Resources:

WEB SITES

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

Public Employment Relations Board: <http://www.perb.ca.gov>

(11/07 3/10) 11/12

Regulation

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

approved: April 22, 2008

Scotts Valley, California

revised: 09/28/10; 04/23/13

Certificated Personnel

AR 4161.11(a)
4361.11

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the district are in session or when the employee would otherwise have been performing work for the district.

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

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261 - Leaves)

(cf. 4361 - Leaves)

Allowable industrial accident/illness leave shall not accumulate from year to year. (Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

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

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

AR 4161.11(b)
4361.11

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Board of Trustees authorizes travel outside the state.
(Education Code 44984)

Legal Reference:

EDUCATION CODE

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44983 Exception to sick leave

44984 Required rules for industrial accident and illness leave of absence

Management Resources:

WEB SITES

Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>

Regulation

approved: August 14, 2007

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

Appendix I

Personnel

FAMILY CARE AND MEDICAL LEAVE

AR 4161.8(a)

4261.8(a)

4361.8(a)

The district shall not interfere with, restrain, or deny the exercise of any right for family care and medical leave provided to an eligible employee, as defined below, under the law. In addition, 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)

Definitions

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing 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 means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

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. (29 USC 2611; 29 CFR 825.122; Government Code 12945.2; 2 CCR 7297.0)

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (29 USC 2611; 29 CFR 825.113, 825.114, 825.115; Government Code 12945.2)

1. Inpatient care in a hospital, hospice, or residential health care facility
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

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(b)
4261.8(b)
4361.8(b)

- c. For purposes of leave under the Family and Medical Leave Act (FMLA), any period of incapacity due to pregnancy or for prenatal care
- 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 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. (1 USC 7; 29 CFR 825.122; Family Code 297.5, 300; 2 CCR 7297.0)

Eligibility

The district shall grant family care and medical leave to eligible employees for the following reasons: (29 USC 2612; 29 CFR 825.112; Family Code 297.5; Government Code 12945.2)

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
2. To care for the employee's child, parent, or spouse with a serious health condition
3. Because of the employee's own serious health condition that makes him/ her unable to perform one or more essential functions of his/ her position, except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions
4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(c)

4261.8(c)

4361.8(c)

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical 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. (29 USC 2612; Government Code 12945.2)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

Leave taken pursuant to the CFRA shall run concurrently with leave taken pursuant to the 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)
2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

(cf. 4161.1/ 4361.1 - 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 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. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 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 combined total of 12 weeks. This restriction shall apply whether or not the parents are married, not married, or registered domestic partners. (29 USC 2612; Government Code 12945.2)

Use/ Substitution of Paid Leave

During the period of family care and medical leave or pregnancy disability leave, the employee may elect to use his/ her accrued vacation leave, other accrued time off, or any other paid or unpaid time off negotiated with the district. If the leave is because of the employee's own serious health condition, the employee may use accrued sick leave pursuant to the collective bargaining agreement and/ or Board policy. (29 USC 2612; Government Code 12945.2)

(cf. 4141/ 4241 - Collective Bargaining Agreement)

(cf. 4161/ 4261/ 4361 - Leaves)

Intermittent Leave/ Reduced Leave Schedule

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 leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

If an employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on planned medical treatment for the employee or a family member, the district may require the employee to transfer temporarily to an available alternative position. This alternative position must have equivalent pay and benefits, the employee must be qualified for the position, and the position must better accommodate recurring periods of leave than the employee's regular job. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced leave schedule. (29 USC 2612; 2 CCR 7297.3)

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

Request for Leave

An employee shall provide at least verbal notice sufficient to make the district aware that he/ she needs family care and medical leave and the anticipated timing and duration of the leave. The employee need not expressly assert or

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(e)

4261.8(e)

4361.8(e)

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, 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)

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 family member, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the district and make a reasonable effort to schedule, subject to the health care provider's approval, any planned medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 7297.4)

When the 30 days notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee shall provide the district with notice as soon as practicable. (2 CCR 7297.4)

Certification of Health Condition

At the time of the employee's request for leave for his/ her own or his/ her child's, parent's, or spouse's serious health condition, or within five business days of the request, 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. (29 CFR 825.305; 2 CCR 7297.4)

FAMILY CARE AND MEDICAL LEAVE AR (continued)

AR 4161.8(f)

4261.8(f)

4361.8(f)

The 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, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/ her own serious health condition, 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 is requesting leave on a reduced 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

The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/ her family member except as necessary to comply with a certification requirement for FMLA/ CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/ CFRA as long as there is no individualized harm to the employee. (29 CFR 825.301)

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(g)

4261.8(g)

4361.8(g)

If the Superintendent or designee doubts 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. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care 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)

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)

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)

Rights to Reinstatement and Maintenance of Benefits

Upon granting an employee's request for family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (29 USC 2614; Government Code 12945.2)

However, the district may refuse to reinstate an employee returning from 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.

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(h)

4261.8(h)

4361.8(h)

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.

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/ Rehire)

During the period when an employee is on 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. (29 USC 2614; Government Code 12945.2)

For a period of 12 work weeks, the district shall continue to provide an eligible employee on family care and medical leave 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 family care and medical leave if he/ she fails to return to district employment after the expiration of the leave and the failure is for any reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/ her control. (29 USC 2614; 29 CFR 825.213; Government Code 12945.2)

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

In addition, during the period when an employee is on family care and medical leave, he/ she 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 apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a covered military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612)

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(i)

4261.8(i)

4361.8(i)

Covered military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (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 order to active duty. (29 USC 2611)

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

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
8. 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)

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(j)

4261.8(j)

4361.8(j)

An employee who is requesting such leave for the first time shall provide the Superintendent or designee with a copy of the covered 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 regarding an employee's use of his/ her accrued vacation leave and any other accrued paid or unpaid time off, as specified in "Use/ Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave 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 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)
Covered servicemember may be either: (29 USC 2611)

1. A 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, within the five years preceding his/ her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

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. (29 CFR 825.127)

FAMILY CARE AND MEDICAL LEAVE AR (continued)

AR 4161.8(k)

4261.8(k)

4361.8(k)

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 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: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service 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
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

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 regarding an employee's use of his/ her accrued vacation leave and other accrued paid or unpaid time off, as specified in "Use/ Substitution of Paid Leave" above, shall apply.

Notifications

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

1. General Notice: Information explaining the provisions of the FMLA/ CFRA and employee rights and obligations shall be posted 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 leave, when the need for the leave is reasonably foreseeable. (2 CCR 7297.4)

2. Eligibility Notice: When an employee requests leave 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, within five business days, provide notification to the employee of his/ her eligibility to take such leave. (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. A statement that the leave may be designated and counted against the employee's annual 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

FAMILY CARE AND MEDICAL LEAVE AR (continued)

AR 4161.8(m)

4261.8(m)

4361.8(m)

- c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave
- d. Any requirements for the employee to make any premium payments 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," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial
- f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

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, within five business days, provide written notification 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. (29 CFR 825.300)

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(n)

4261.8(n)

4361.8(n)

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty 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; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

Legal Reference:

EDUCATION CODE

44965 *Granting of leaves of absence for pregnancy and childbirth*

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*

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

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

Management Resources: (see next page)

FAMILY CARE AND MEDICAL LEAVEAR (continued)

AR 4161.8(o)

4261.8(o)

4361.8(o)

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/whd/fmla>

(3/08 3/09) 3/10

Regulation

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

approved: August 14, 2007

Scotts Valley, California

revised: September 23, 2008; October 13, 2009; September 28, 2010

Appendix J

PROBATIONARY/PERMANENT STATUS

Employees newly hired for regular positions in the classified service shall be considered probationary employees until they have satisfactorily completed six months of probationary service. Upon satisfactorily completing this period, they shall become permanent classified employees of the district.

Probationary employees shall receive written performance evaluations by their supervisor during the probationary period. These evaluations shall indicate whether the evaluator is satisfied or not satisfied with the employee's ability, performance, and compatibility with the job.

(cf. 4215 - Evaluation/Supervision)

The Superintendent or designee may dismiss an employee during the initial probationary period.

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

Permanent employees promoted to a higher classification shall be considered probationary in their new position until they have satisfactorily completed six months of service in that position.

A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which he/she was promoted. (Education Code 45113)

This policy shall be made available to classified employees and the public. (Education Code 45113)

Legal Reference:

EDUCATION CODE

45113 Rules and regulations for classified service in districts not incorporating the merit system

45240-45320 Merit system

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.org>

Policy

adopted: August 14, 2007

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

Appendix K
SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

PROFESSIONAL GROWTH PROGRAM FOR SUPPORT PERSONNEL

The goal of this program is to develop and retain support employees of the highest possible caliber, with maximum benefits to both employees and district.

I. Eligibility To Participate

All permanent support personnel are eligible to participate.

II. Participation Procedure

- A. Intent to Participate: Employee shall submit an Intent To Participate form stating course title and number, institution, workshop or adult education class to be attended, the objective in taking the course, and the number of units or actual hours to be completed. These hours need only be indicated for adult education classes and/or workshops for which credit is not given in semester or quarter units. Professional growth activities must be directly related to an employee's assignment with the District. Classes will be attended during non-working hours, at employee's expense.
1. As units are completed, employee shall submit grade cards or official transcripts to the Personnel Administrator. Certificates of attendance at workshops and completion of adult education classes must indicate total hours of attendance. When all units for each professional growth increment are completed and final approval given by the Personnel Administrator, the Personnel Administrator will submit an Employee Action Report to payroll indicating authorization of additional compensation for professional growth.
 2. Workshop and adult education certificates, grade reports, official transcripts, or copies thereof, will be filed permanently in employee's personnel file.
 3. The compensation increment shall become effective at the start of the fiscal year after verification has been received by the Personnel Administrator.
 4. Employees must be employed by the District for two (2) years before claiming units for professional growth.
 5. After qualifying for two increments, at least two (2) years must elapse before an additional increment may be granted.
 6. Five (5) is the maximum number of increments that may be earned through this program by any one individual.

III. Credit Basis

Credit shall be earned on the following basis:

A grade of "C" or better, or Pass on a Pass/Fail course, must be earned to receive credit for the course.

1. All credit is granted in semester unit equivalents:

$$\begin{array}{lcl} 1 \frac{1}{2} \text{ quarter unit} & = & 1 \text{ semester unit} \\ 3 \text{ quarter units} & = & 2 \text{ semester units} \end{array}$$

2. Credit for non-college level or ungraded courses or activities will be equated as follows:

<u>Total Class Hours</u>	<u>Semester Units Earned</u>
8 hour workshop	1/2
11 - 15	1/2
16 - 20	1
21 - 30	1 - 1 1/2
31 - 40	2
41 - 50	2 - 2 1/2
51 or more	3

IV. Increment Values and Awards

- A. One increment is equal to 9 semester units. The increment earned through this 9 unit system shall be \$180 annually.
- B. The maximum stipend an employee can earn during employment with the District is \$900 per year; representing five professional growth increments of \$180 each, for a total of 45 semester units.
- C. The total annual professional growth stipend will be divided into 10 equal payments and included in the regular monthly salary warrants issued September through June.

V. Professional Growth Evaluation

- A. The Personnel Administrator shall determine correct application of courses or activities to general or job-related categories on an individual basis. Approval of the Personnel Administrator must be obtained for activities before credit for such courses or activities will be given.
- B. No course or activity credit will be verified for an increment award until the following items are on file: a grade slip for credit courses and proof of attendance at workshops or other classes or activities.
- C. It is the responsibility of each employee to furnish all data required for final approval of credits requested for an increment award.

Appendix L

EVALUATION/SUPERVISION

The Board of Trustees recognizes that appropriate supervision and regular, comprehensive evaluations can help employees to continually improve in the performance of their responsibilities. Evaluations shall be made in accordance with procedures specified in negotiated contracts and based on job-specific standards of performance.

(cf. 4141/4241 - Collective Bargaining Agreement)

The Board expects supervisors to gauge employees' on-the-job effectiveness and skills in a fair, objective, and consistent manner. Evaluations shall address the competence and care with which the employee executes his/her assigned responsibilities. As appropriate, evaluations also may address the extent to which the employee works cooperatively with others and observes school or district rules and regulations.

(cf. 4219.21 - Code of Ethics)

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning throughout the district.

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects employees to accept responsibility and take initiative to improve their performance. The Superintendent or designee shall assist employees in obtaining needed job skills.

(cf. 4231 - Staff Development)

The evaluation shall be dated and signed by both the employee and the supervisor.

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

The Superintendent or designee shall ensure that classified employees have access to rules and procedures related to performance evaluations.

Legal Reference:

EDUCATION CODE

45113 Rules and regulations for the classified service in districts not incorporating the merit system

45261 Subjects of rules (merit system districts)

45262 Distribution of rules

GOVERNMENT CODE

3543.2 Scope of representation

Management Resources:

WEB SITES

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

California School Employees Association: <http://www.csea.com>

Policy

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

adopted: August 14, 2007 revised: May 24, 2011

Scotts Valley, California

EVALUATION/SUPERVISION

1. Evaluation Dates:
 - a. Probationary employees will be evaluated during the second and fifth months of the probationary period.
 - b. Permanent employees will be evaluated, at least annually, on or before April 1.
2. Evaluators:
 - a. The Superintendent will evaluate supervisors and other personnel reporting directly to him/her.
 - b. Administrators and supervisors will evaluate all personnel assigned to them.
 - c. Aides will be evaluated by the principal, assisted by the teachers.
 - d. Personnel not directly assigned to one of the above will be evaluated by the Superintendent or designee.
3. Evaluation Conference:
 - a. The Classified Evaluation form for classified employees will be completed in triplicate; one copy for the employee, one for the evaluator, and one for the personnel file.
 - b. Evaluator and evaluatee will review the written evaluation.
 - c. Evaluations will be routed to the Personnel Office.
 - d. If the evaluatee disagrees with the evaluation he/she may write a dissenting report which should be discussed with the supervisor and made a part of the evaluation.
 - e. The supervisor should devise a system whereby those being supervised can respond truthfully and with confidence to the conditions surrounding the job environment. This should take place at least once a year.

Regulation

approved: April 26, 1973

revised: 11/17/88, 11/22/99, 08/14/07, 05/24/11

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

Scotts Valley, California

Appendix M

Classified Personnel

AR 4217.3(a)

LAYOFF/ REHIRE

Classified employees shall be subject to layoff for lack of work or lack of funds.
(Education Code 45114, 45308)

A classified employee shall not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render.
(Education Code 45117)

(cf. 4121 - Temporary/ Substitute Personnel)

Order of Layoff Within a Classification/ Determination of Seniority

Within each class, the order of layoff shall be determined by length of service.
(Education Code 45114, 45308)

For an employee who is a member of the Military Reserve or the National Guard, length of service credit shall be granted for military leave of absence, including voluntary or involuntary active duty during a period of national emergency or war. (Education Code 45297, 45308)

(cf. 4161.5/ 4261.5/ 4361.5 - Military Leave)

Length of service credit may be granted for time spent on unpaid illness or maternity leave, unpaid family care leave, or unpaid industrial accident leave. Length of service credit shall not be granted for other types of unpaid leaves.
(Education Code 45308)

(cf. 4161.8/ 4261.8/ 4361.8 - Family Care and Medical Leave)

(cf. 4261.1 - Personal Illness/ Injury Leave)

(cf. 4261.11 - Industrial Accident/ Illness Leave)

Length of service shall be determined by the date of hire. The employee who has been employed the shortest time by the district shall be laid off first.
(Education Code 45308)

For an employee in a "restricted position" under Education Code 45105 or 45259, the original date of employment in the restricted position shall be used to determine his/ her length of service, provided he/ she has completed six months of satisfactory service and has successfully passed the qualifying examination required for service in the class. (Education Code 45105)

(cf. 4200 - Classified Personnel)

LAYOFF/ REHIRE (continued)**Notice of Layoff**

Whenever a classified employee is to be laid off for lack of work or lack of funds, written notice shall be given to the employee, informing him/ her of the layoff, the date the layoff goes into effect, any displacement rights, and reemployment rights. The notice shall be given: (Education Code 45117)

1. At least 60 days prior to the effective date of the layoff, if the layoff is for lack of work resulting from a bona fide reduction or elimination of service being performed.
2. No later than April 29, if the layoff is for lack of funds due to the expiration of a specially funded program at the end of any school year. However, if the termination date of the specially funded program is other than June 30, the employee shall be given notice at least 60 days from the effective date of the layoff.

(cf. 4112.9/ 4212.9/ 4312.9 - Employee Notifications)

The district is not required to provide the 60-day notice in the event of an actual and existing financial inability to pay the salaries of classified employees or if the layoff is due to a lack of work resulting from conditions not foreseeable or preventable by the district. (Education Code 45117)

The district also is not required to provide the 60-day notice to any person hired as a short-term employee for a period not exceeding 60 days whose service may not be extended or renewed. (Education Code 45117)

Reemployment

Classified employees laid off because of lack of work or lack of funds shall be eligible for reemployment for a period of 39 months and shall be reemployed in preference to new applicants. Reemployment shall be in order of seniority. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298, 45308)

LAYOFF/ REHIRE (continued)

When a vacancy occurs, the district shall give the employee with the most seniority an opportunity to accept or reject the position, by first calling the employee at his/ her last known telephone number to notify him/ her of the vacancy and then sending written notice by certified and standard mail to his/ her last known address. The employee shall advise the district of his/ her decision by any means no later than 10 calendar days from the date the notice was sent. If the employee accepts, he/ she shall report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

In order to be reemployed, the employee must be capable of performing the essential duties of the job with or without reasonable accommodations. When an otherwise eligible employee is unable to perform the essential duties of the job, he/ she shall be kept on the reemployment list until another opportunity becomes available or the period of reemployment eligibility expires, whichever occurs first.

(cf. 4032 - Reasonable Accommodation)

Upon rejecting two offers of reemployment, the employee's name shall be removed from the reemployment list and he/ she will forfeit all reemployment rights to which he/ she would otherwise be entitled.

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, his/ her name shall be removed from the reemployment list and all reemployment rights to which he/ she would otherwise be entitled shall be forfeited.

If an employee is employed in a new position and fails to complete the probationary period in the new position, he/ she shall be returned to the reemployment list for the remainder of the 39-month period. The remaining time period shall be calculated as the time remaining in the 39-month period as of the date of reemployment. (Education Code 45114, 45298)

Reinstatement of Benefits

When a laid-off employee is reemployed, all accumulated sick leave credit shall be restored.

A laid-off permanent employee shall be reemployed with all rights and benefits accorded to him/ her at the time of layoff.

LAYOFF/ REHIRE (continued)

A laid-off probationary employee shall be reemployed as a probationary employee, and the previous time served toward the completion of the required probationary period shall be counted. He/ she shall also be reemployed with all rights and benefits accorded to a probationary employee at the time of layoff.

A laid-off employee, when reemployed, shall be placed on the salary step held at the time of layoff. An employee who was bumped into a lower class shall, when reinstated to the previous class, be placed on the salary step to which he/ she would have progressed had he/ she remained there. An adjusted anniversary date shall be established for step increment purposes so as to reflect the actual amount of time served in the district.

Voluntary Demotion or Reduction of Hours

Classified employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff, or in order to remain in their present position rather than be reclassified or reassigned, shall be granted the same rights as employees who are laid off. In addition, such employees shall retain eligibility to be considered for reemployment in their previously held class or position with increased assigned time, for an additional period of time up to 24 months as determined by the Board of Trustees on a class-by-class basis, provided that the same test of fitness under which they qualified for appointment to that class shall still apply. (Education Code 45114, 45298)

Employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assigned time as vacancies become available and without limitation of time. If there is a valid reemployment list, they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Legal Reference: (see next page)

LAYOFF/ REHIRE (continued)*Legal Reference:*EDUCATION CODE

45101 Definitions

45103 Classified service in districts not incorporating the merit system

45105 Positions under various acts not requiring certification qualifications; classification

45113 Rules and regulations for classified service in districts not incorporating the merit system

45114 Layoff and reemployment procedures; definitions

45115 Layoff: Reinstatement from service retirement

45117 Notice of layoff

45286 Limited term employees

45297 Right to take equivalent examination while employee in military service

45298 Reemployment of persons laid off; voluntary demotions or reductions in time; districts adopting merit system

45308 Order of layoff and reemployment; length of service

45309 Reinstatement of permanent noncertified employees after resignation

UNITED STATES CODE, TITLE 38

4301-4307 Veterans' Reemployment Rights

COURT DECISIONSTucker v. Grossmont Union High School District (2008) 168 Cal.App.4th 640San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850, 866*Management Resources:*WEB SITESCalifornia School Employees Association: <http://www.csea.com>

(11/03 11/11) 11/12

Regulation

SCOTTS VALLEY UNIFIED SCHOOL DISTRICT

approved: August 14, 2007

Scotts Valley, California

revised: 05/24/11; 04/24/12; 04/23/13

Appendix N
SCOTTS VALLEY UNIFIED SCHOOL DISTRICT
GRIEVANCE POLICY SUPPORT PERSONNEL CONTRACT

I. Definitions

- A. A "grievance" is an allegation by a grievant that she/he has been adversely affected by a violation, misapplication or misinterpretation of a specific provision or provisions of this Agreement, Board Policy, workplace rules, regulations, or policy.
- B. A "grievant" refers to any employee in the bargaining unit covered by the terms of this Agreement.
- C. A "day" for purposes of this Article is any work day as defined by the annual classified calendar.

II. Purpose

- A. The purpose of the grievance procedure is to secure, at the lowest possible administrative level, an acceptable solution to problems that may, from time to time, arise affecting the welfare or working conditions of Unit Members. These proceedings will be kept as informal as possible at each level of the procedure.
- B. Nothing contained herein will be construed as limiting the right of any Unit Member having a grievance to discuss the matter informally with the Superintendent or his/her designee, and to have the grievance adjusted without intervention, provided that the adjustment is not inconsistent with the terms of this Agreement.
- C. To minimize workplace discord, grievances must be processed as quickly as possible. Therefore, the parties agree that the time limits specified in each of the following levels will be considered to be the maximum allowable and every effort shall be made to expedite the process. The time limits specified may, however, be extended by mutual agreement. In the event a grievance is filed near the end of the school year such that the grievance procedure time frame could not be completed by the grievant's last working day of the school year, the parties agree to continue processing the grievance during the summer recess to the extent mutually agreeable or carry the grievance forward to the next school year.
- D. The failure of the grievant to meet any of the time limits established by this Article shall invalidate the grievance. The failure of the Immediate Supervisor/Superintendent to provide written response within the time limits automatically resolves the grievance in the favor of the grievant.

III. Procedure

A. Level 1 – Informal Resolution

1. Within twenty-one (21) days after the occurrence or discovery of an alleged act or omission giving rise to a grievance, the grievant must schedule a meeting to personally discuss the allegations with the grievant's immediate supervisor with the objective of resolving the matter

B. Level 2 – Immediate Supervisor

1. If the grievant is not satisfied with the informal disposition of her/his grievance at Level 1, or if the grievance has not been resolved within five (5) days after discussing the problem with the supervisor in Level 1, the grievant may, within ten (10) days following the date of the Level 1 disposition, file a formal grievance with the immediate supervisor.
2. The grievance shall be in writing and shall include the name of the bargaining agreement alleged to have been violated, the specific remedy sought by the grievant, and a description of the circumstances giving rise to the grievance.
3. Within ten (10) days after the receipt by the Immediate Supervisor of the written grievance, the Immediate Supervisor will meet with the grievant, who may be represented by the Employee Organization, in an effort to resolve the grievance. The immediate supervisor will render a written decision as to the resolution of the grievance within ten (10) days thereafter.

C. Level 3 – Superintendent

1. If the grievant is not satisfied with the disposition of her /his grievance at Level 2, or if no decision has been rendered within ten (10) days after the grievant has met with the Immediate Supervisor, the grievant may, within ten (10) days of the Level 2 disposition, file a grievance with the Superintendent.
2. The Level 3 grievance shall be in writing and shall include all documentation and correspondence concerning the disposition of the grievance at each of the prior levels.
3. Within ten (10) days after the receipt of the written grievance by the Superintendent, the Superintendent shall meet with the grievant, who may be represented by the Employee Organization, in an effort to resolve the grievance. The Superintendent will render a written decision concerning the resolution of the grievance within fifteen (15) days after meeting with the grievant concerning the Level 3 grievance.

D. Level 4 – Board of Trustees

1. In the event that either party is not satisfied with the recommendation or recommendations of the Superintendent, the Employee Organization or

the District may appeal the decision in writing within ten (10) days to the District Board of Trustees.

2. The Board alone has the power to render a final and binding determination of a grievance, which shall be rendered within thirty (30) days of receipt. If, upon review, the Board of Trustees determines that it is unable to render a final determination on the record, it may reopen the matter for the taking of additional evidence.
3. If the Board reopens the matter for additional evidence, a final decision shall be reached within sixty (60) days of the Board's determination to reopen. The grievant may be represented by the Employee Organization in an effort to resolve the grievance when presenting to the Board of Trustees.