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COVID-19 Leaves Chart

Check your collective bargaining agreements for additional, expanded, or modified leave entitlements.
Current as of March 19, 2020.

	Employee tested COVID-19 Positive	Employee is Medically Quarantined (Per health care provider)	Employee is Self-Quarantined Due to Potential Exposure (No symptoms)	Employee is Self-Quarantined (No symptoms) Medically Vulnerable Family Member in Household	Employee is Medically Vulnerable (Including persons over 65)	Employee is Caring for COVID-19 Positive Immediate Family Member or Member of Household	Employee is on Childcare Leave Due to Child's School Closure
1 <u>Sick Leave Entitlement:</u> One day per month for full time employees (Ed. Code, §§ 44978, 45191)				Might be able to use sick leave – district will need to determine how liberally it wants to apply sick leave parameters.	Available if employee unable to perform one or more essential job duties safely ¹		This is limited and is only available under Kin Care Leave (See row (3))
2 <u>Accumulated Sick Leave:</u> Unused from previous years of district employment (Ed. Code, §§ 44978, 45191)				Might be able to use sick leave – district will need to determine how liberally it wants to apply sick leave parameters.	Available if employee unable to perform one or more essential job duties safely ²		This is limited and is only available under Kin Care Leave (See row (3))

¹ Case by case basis.

² Case by case basis.

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3 <u>Kin Care:</u> Care for an employee's family member (Lab. Code § 246.5). Not a new bank; pulled from accrued and available sick leave. (Lab. Code § 233)				Depends on how medically sensitive family member. Amount available is one-half of "accrued and available sick leave." (Lab. Code § 233) (See rows (1) and 2))		Amount available for use is one-half of "accrued and available sick leave." (Lab. Code § 233) (See rows (1) and 2))	
4 <u>Differential Leave:</u> Extended illness leave beyond current and accumulated sick leave (Ed. Code, §§ 44977, 45196)	One 5-month period per illness or accident. (Or classified may have total 100 Working Days for sick leave.) <u>Certificated</u> starts after exhaustion of sick leave; <u>Classified</u> runs concurrently with sick leave		Can use differential leave for remainder of quarantine period after sick leave exhausted ³		Available if employee unable to perform one or more essential job duties safely ⁴		

³ Quarantine period is approximately 2-3 weeks.

⁴ Case by case basis.

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<p>5 FMLA/HR 6201: Runs concurrently with sick leave (29 U.S.C. § 2601 et seq., Gov. Code, § 12945.1 et seq.)</p>	Regular unpaid FMLA available, if employee is eligible and has not exhausted annual FMLA leave entitlement (“eligibility requirements”). Runs concurrently with paid sick/differential leave, so may be paid if employee has sick/differential leave available.	Eligibility requirements apply. Unpaid FMLA leave may be available if for a qualifying serious health condition of designated family member. Runs concurrently with paid sick leave and differential leave.				Eligibility requirements apply. Unpaid FMLA available. Runs concurrently with paid sick/differential leave, so may be paid if employee has sick/differential leave available.	First ten days unpaid unless substituted with other paid leave; 2/3 of employee’s average monthly earnings for remaining 10 weeks not to exceed \$200 per day and \$10,000 in the aggregate. ⁵

⁵ FMLA temporarily expanded by HR 6201 – “Emergency Family and Medical Leave Expansion Act”; must have been employee for at least 30 calendar days (1,250 hour requirement waived); expires Dec. 31, 2020. Applies to employers with 500 or fewer employees.

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6 <u>Emergency Paid Sick Leave Act/HR 6201⁶</u>	80 hours (two work weeks) of employer-paid sick leave for full-time employees not to exceed \$511 per day and \$5,110 in the aggregate ⁷ ("Higher Amount"). Part-time employees get number of hours of paid leave equal to the average hours worked over a two week period.			If not subject to State, Federal, of Local isolation order or health care provider advice, Lesser Amount likely applies.	If subject to State, Federal, or Local isolation order or health care provider advice, Higher Amount applies.	80 hours (two work weeks) of employer-paid sick leave at 2/3 pay amount for full-time employees not to exceed \$200 per day and \$2,000 in the aggregate ("Lesser Amount"). Part-time employees get number of hours of paid leave equal to the average hours over a two work week period.	
7 <u>Quarantine Leave:</u> If negotiated or Board grants. Can be paid or unpaid. (Ed. Code, §§ 44964, 45199)	If leave based on quarantine						

⁶ Seems to be a new bank of leave that can run before regular sick leave, at employee's election. No requirement for length of employment before use; cannot require employee to use other paid leave before paid sick leave provided under the emergency act expires Dec. 31, 2020. Applies to public agencies with one or more employees.

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8 Leave as ADA Reasonable Accommodation (42 U.S.C. §§ 12101 et seq., 29 C.F.R. §§ 1630 et seq.)	Not automatic; must conduct interactive process (may be done telephonically or via email)				If employee is temporarily unable to perform job safely due to medical vulnerability		
9 Personal Necessity : All days of sick leave may be used and up to 7 days of accumulated sick leave; additional upon negotiation (Ed. Code §§ 44981, 45207)							
10 Industrial Accident/Illness : 60 days of leave	Available if employee establishes COVID-19 was contracted while at work (w/ doctor's note)						

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(Ed. Code §§ 44984, 45192)							
11 <u>Child-Related Activities Leave:</u> Comes from sick leave bank(Labor Code § 230.8)							Up to 40 hours of personal or sick time (See rows (1), (2), (9))
12 <u>Vacation:</u> Calculated pursuant to CBA and Ed. Code. Renews annually. (for classified only; Ed. Code, § 45197)							
13 <u>Compensatory Time Off:</u> In lieu of overtime (negotiated for							

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certificated; Ed. Code, §§ 45128, 45129							
14 <u>Discretionary Leave:</u> Within Board's discretion (Ed. Code, §§ 44962, 44963, 44964, 45190)							



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Disclaimer: As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this document does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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