

**782 ABSENCE FOR JURY DUTY**

**Education Code Section**

**87036.** The governing board of a community college shall grant leave of absence to any employee serving in a classified or other nonacademic position regularly called for jury duty in the manner provided for by law. The governing board shall grant such leave with pay up to the amount of the difference between the employee's regular earnings and any amount he or she receives as juror's fees.

It is unlawful for the governing board or personnel commission of any community college district to adopt or maintain any rule, regulation, or policy which has as its purpose or effect a tendency to encourage employees to seek exemption from jury duty, or to directly or by indirection solicit or suggest to any employee that he or she seek exemption from jury duty, or to discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of such employee's service on any jury panel.

Nothing in the foregoing provisions shall preclude the district superintendent or his or her agent from discussing with the affected employee the practicality of seeking exemption when acceptance would tend to materially disrupt the district's operations.

**Labor Code Section**

**230.** (a) An employer shall not discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if the employee, prior to taking the time off, gives reasonable notice to the employer that the employee is required to serve.

(b) An employer shall not discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(c) An employer shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work to 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 victim or his or her child.

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(d) (1) As a condition of taking time off for a purpose set forth in subdivision (c), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a licensed medical professional, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, sexual assault, or stalking.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f), the employer shall maintain the confidentiality of any employee requesting leave under subdivision (c).

(e) An employer shall not discharge or in any manner discriminate or retaliate against an employee because of the employee's status as a victim of domestic violence, sexual assault, or stalking, if the victim provides notice to the employer of the status or the employer has actual knowledge of the status.

(f) (1) An employer shall provide reasonable accommodations for a victim of domestic violence, sexual assault, or stalking who requests an accommodation for the safety of the victim while at work.

(2) For purposes of this subdivision, reasonable accommodations may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, or stalking, or referral to a victim assistance organization.

(3) An employer is not required to provide a reasonable accommodation to an employee who has not disclosed his or her status as a victim of domestic violence, sexual assault, or stalking.

(4) The employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

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(5) In determining whether the accommodation is reasonable, the employer shall consider an exigent circumstance or danger facing the employee.

(6) This subdivision does not require the employer to undertake an action that constitutes an undue hardship on the employer's business operations, as defined by Section 12926 of the Government Code. For the purposes of this subdivision, an undue hardship also includes an action that would violate an employer's duty to furnish and maintain a place of employment that is safe and healthful for all employees as required by Section 6400 of the Labor Code.

(7) (A) Upon the request of an employer, an employee requesting a reasonable accommodation pursuant to this subdivision shall provide the employer a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for a purpose authorized under this subdivision.

(B) The employer may also request certification from an employee requesting an accommodation pursuant to this subdivision demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (d).

(C) An employer who requests certification pursuant to subparagraph (B) may request recertification of an employee's status as a victim of domestic violence, sexual assault, or stalking every six months after the date of the previous certificate.

(D) Any verbal or written statement, police or court record, or other documentation provided to an employer identifying an employee as a victim of domestic violence, sexual assault, or stalking shall be maintained as confidential by the employer and shall not be disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be given notice before any authorized disclosure.

(E) (i) If circumstances change and an employee needs a new accommodation, the employee shall request a new accommodation from the employer.

(ii) Upon receiving the request, the employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(F) If an employee no longer needs an accommodation, the employee shall notify the employer that the accommodation is no longer needed.

(8) An employer shall not retaliate against a victim of domestic violence, sexual assault, or stalking for requesting a reasonable accommodation, regardless of whether the request was granted.

(g) (1) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the

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terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a) or (b) shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.

(2) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer for reasons prohibited in subdivision (c) or (e), or because the employee has requested or received a reasonable accommodation as set forth in subdivision (f), shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief.

(3) An employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(h) (1) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a), (b), (c), (e), or (f) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee may file a complaint with the division based upon a violation of subdivision (c), (e), or (f) within one year from the date of occurrence of the violation.

(i) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a), (b), or (c). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(j) For purposes of this section:

(1) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(2) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288a, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code, as amended.

(3) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

A. District Policy

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A regular classified employee shall be granted paid leave for a maximum of two (2) weeks within any two (2) consecutive fiscal years in response to a summons for jury duty, in accordance with regulations established by the Chancellor. The Chancellor may grant additional paid leave when it has been compelled by court order.

B. Use of Jury Duty Leave

A regular classified employee who receives a summons for jury duty shall:

1. Notify their immediate supervisor as soon as possible after receipt of a jury summons and discuss with their supervisor its impact on the operation of the work unit.
2. If requested, attempt to arrange jury service at a time within the limits of the court order convenient to the Chancellor, Division Head, College President, or their designated representative.
3. Complete and submit in a timely manner all forms required for Jury Duty Leave prescribed by the District.
4. Provide a certification of jury service at the end of each pay period and at the conclusion of jury service from the court clerk or other authorized officer indicating attendance and/or service rendered during each day of absence from work for jury duty and the rate of pay received per day.
5. Collect all jury fees and remit them along with the certification of jury service to their location timekeeper, except as follows:
  - a. Mileage fees shall be retained by the employee.
  - b. Jury fees earned on days for which the District does not pay the employee shall be retained by the employee.
  - c. If the daily jury fee exceeds the employee's daily gross earnings, the amount in excess of their daily gross earnings shall be retained by the employee.

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6. Report to work at their work location during the portion of their normal working hours, with allowance for reasonable travel time, when their presence is not required for jury duty. If the employee's regular assignment is to other than the day shift, the employee shall report to work between the hours of 8 a.m. and 5 p.m. when their presence is not required for jury duty.

C. Postponements and Excuses

1. When in the judgment of a supervisor an employee's absence would materially disrupt the operation of the work unit, they should discuss with the employee the possibility of requesting postponement or excuse from jury service. In making this determination, a supervisor should consider factors such as work overloads, deadlines, the absence of other unit employees, and the availability of qualified substitute personnel. Employees to whom this provision may apply typically fall within the following categories:
  - a. Executive, administrative, or supervisory employees
  - b. Employees in a single position job classification
  - c. Employees who have special responsibilities related to emergencies and who must be available on a standby basis.
2. If the employee prefers to serve, or if the postponement or excuse is not granted, the supervisor shall release the employee as required by the jury summons.

D. Pay Provisions

1. Pay under this rule is limited to those days and hours for which the employee would otherwise have received pay for their assignment if not excused for jury duty.
2. The number of hours, the time of the day, or the days of the week during which an employee is required to be absent for jury duty shall not be the basis for any overtime or shift differential payment by the District, except as provided below.

When an employee who is eligible for overtime reports to work as set forth in Paragraph B.6. above, they shall be paid overtime for time worked, including time absent from work for jury duty, in excess of 40 hours in one workweek or in excess of the employee's established workday schedule as follows:

- a. Hours worked in excess of eight hours per workday for employees assigned to a standard five-day, 40-hour workweek.
- b. Hours worked in excess of nine or eight hours per workday for employees assigned to a 9/80 work schedule, 80 hours within a two-workweek period.

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c. Hours worked in excess of ten hours per workday for employees assigned to a 4/40 work schedule.

E. Limited-Term Employees

Limited-term assignments of persons with substitute, relief, or temporary status only shall not be terminated by the employing college or division when such employees receive a jury summons while serving in an active assignment and have provided reasonable notice.

F. This rule shall have no force and effect upon employees of any collective bargaining unit to the extent that the provisions of this rule are negotiable.