

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION MEETING
Wednesday, August 5, 2020 – 12:30 p.m.

Via Teleconference:

<https://laccd.zoom.us/j/5603717342>

Dial by your location

+1 669 900 6833 US (San Jose)

Meeting ID: 560 371 7342

ORDER OF BUSINESS-CLOSED SESSION MEETING

- I. Roll Call
- II. Requests to Address the Personnel Commission on Closed Session Matters
- III. Convene in Closed Session
 - a. To Discuss Public Employment
Pursuant to Government Code Section 54957
 - b. Conference with Legal Counsel-Anticipated Litigation
Pursuant to Government Code Section 54957(b)(1)
- IV. Report of Action taken in Closed Session
- V. Adjourn

NEXT PERSONNEL COMMISSION MEETING:

Wednesday, August 19, 2020

Closed Meeting 12:30 p.m.

Open Meeting 1:00 p.m.

Via Teleconference

In compliance with Government Code Section 54957.5 (b), documents made available to the Personnel Commission after posting of the agenda that relate to an upcoming public session item will be made available by posting on the District's official bulletin board located in the lobby of the Educational Services Center located at 770 Wilshire Boulevard, Los Angeles, California 90017. Members of the public wishing to view the material will need to make their own parking arrangements at another location.

If requested, the agenda shall be made available in appropriate alternate formats to persons with a disability, as required by Section 202 of the American with Disability Act of 1990 (42 U.S.C. Section 12132), and the rules and regulations adopted in implementation thereof.

To make a request for disability-related modification or accommodation, including auxiliary aids or services, please contact the Personnel Commission Office at PersComm@laccd.edu no later than 12 p.m. (noon) on the Monday prior to the Personnel Commission meeting.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION MEETING
Wednesday, August 5, 2020 – 1:00 p.m.
Via Teleconference:
<https://lacc.zoom.us/j/5603717342>
Dial by your location
+1 669 900 6833 US (San Jose)
Meeting ID: 560 371 7342

ORDER OF BUSINESS – OPEN MEETING

- I. Convene Regular Meeting
- II. Report of Actions Taken in Closed Session
- III. Review and Approve Minutes of the Closed and Open Meetings of July 8, 2020 and July 22, 2020
- IV. Miscellaneous Personnel Commission Activities and Announcements
 - a. Classified Employment Opportunities Bulletin
 - b. Strictly Classified Employee Bulletins
- V. Revision of PC Rule 750, REASSIGNMENT OF REGULAR EMPLOYEES BECAUSE OF ILLNESS OR INJURY (Final Approval) (Case 3901)
- VI. Revision of Personnel Commission Rule 808, ILLNESS LEAVE (Tentative Approval) (Case 3903)
- VII. Revision of Personnel Commission Rule 809, PAID ILLNESS LEAVE FOR LIMITED TERM EMPLOYEES (Tentative Approval) (Case 3904)
- VIII. Correspondence
- IX. Notice of Anticipated Items: Revision of Personnel Commission Rule 808, ILLNESS LEAVE (Final Approval); Revision of Personnel Commission Rule 809, PAID ILLNESS LEAVE FOR LIMITED TERM EMPLOYEES (Final Approval); Class Description Revisions for: Assistant Programmer Analyst (AFT), Programmer Analyst (AFT), Senior Programmer Analyst (SEIU Local 721), Supervising Systems & Programming Analyst (CMA), Systems & Programming Manager (CMA)
- X. Hear Non-Agenda Speakers/Open Forum
- XI. Reconvene into Closed Session
- XII. Reconvene into Open Session
- XIII. Report of Actions Taken in Closed Session
- XIV. Adjourn

NEXT PERSONNEL COMMISSION MEETING:

Wednesday, August 19, 2020

Closed Meeting 12:30 p.m.

Open Meeting 1:00 p.m.

Via Teleconference

TBD

In compliance with Government Code Section 54957.5 (b), documents made available to the Personnel Commission after posting of the agenda that relate to an upcoming public session item will be made available by posting on the District's official bulletin board located in the lobby of the Educational Services Center located at 770 Wilshire Boulevard, Los Angeles, California 90017. Members of the public wishing to view the material will need to make their own parking arrangements at another location.

If requested, the agenda shall be made available in appropriate alternate formats to persons with a disability, as required by Section 202 of the American with Disability Act of 1990 (42 U.S.C. Section 12132), and the rules and regulations adopted in implementation thereof.

To make a request for disability-related modification or accommodation, including auxiliary aids or services, please contact the Personnel Commission Office at PersComm@laccd.edu no later than 12 p.m. (noon) on the Monday prior to the Personnel Commission meeting.

**LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION
Wednesday, July 8, 2020 – 12:30 p.m.**

Via Teleconference:
<https://laccd.zoom.us/j/5603717342>
Dial by your location
+1 669 900 6833 US (San Jose)
Meeting ID: 560 371 7342

MINUTES OF THE REGULAR MEETING – CLOSED SESSION

Present: Commissioners:
David Iwata, Chair
Henry Jones, Vice-Chair
Diva Sanchez Trevino

Staff: Ronald Delahoussaye, Personnel Director

- I. Roll Call
- II. **Requests to Address the Personnel Commission on Closed Session Matters** - None
- III. **Convene in Closed Session**
- a. **To Discuss Public Employment**
Pursuant to Government Code Section 54957
- a. **Conference with Legal Counsel – Anticipated Litigation**
Pursuant to Government Code Section 54957(b)(1)
- IV. **Report Out Actions Taken in Closed Session** - Mr. Iwata reported that no action was taken during Closed Session.
- V. **Correspondence** – No correspondence was received.
- VI. **Adjourn.** The meeting adjourned at 1:00 p.m.

This is to certify that these are the full and correct minutes of the Closed Session meeting of the Personnel Commission of the Los Angeles Community College District.

Date

David Iwata, Chair

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

Wednesday, July 8, 2020 – 1:00 p.m.

Via Teleconference:

<https://laccd.zoom.us/j/96840954213>

+1 669 900 6833

Meeting ID: 968 4095 4213

MINUTES OF THE OPEN MEETING

Present: Commissioners:
David Iwata, Chair
Henry Jones, Vice Chair
Diva Sanchez Trevino

Staff:
Ronald Delahoussaye, Personnel Director
Ute Severa, Assistant Personnel Director
Neely Miller, Executive Assistant
Justin L’Hommedieu, Assessment & Selection Analyst
Deborah Tsai, Assistant Personnel Analyst
Patrick Sung, Assistant Personnel Analyst
Sarah Hur, Senior Personnel Assistant

Guests:
Claudia Gallegos, Senior Administrative Assistant, Employee and Labor
Relations, Educational Services Center
Robert Mix, SEIU Local 721

- I. The Chair convened the regular meeting at 1:01 p.m.
- II. **Report of Actions Taken in Closed Session** – Mr. Iwata reported that the Personnel Commission took no action during closed session.
- III. **Review and Approve Minutes of the Special Meeting on May 22, 2020, and the Closed and Open Meetings on May 27, 2020 -** Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission approved the minutes for the May 22, 2020 Special Meeting and the May 27, 2020 Open and Closed meetings of the Personnel Commission.
- IV. **Miscellaneous Personnel Commission Activities and Announcements**
 - a. **Classified Employment Opportunities Bulletin**

Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission received the Classified Employment Opportunities Bulletin, as information.
- V. **Revisions to Personnel Commission Rule 600, REJECTION OF APPLICANTS, CANDIDATES, AND ELIGIBLES (Final Approval) (Case 3843) -** Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the

Personnel Commission granted final approval to the revisions to Personnel Commission Rule 600, with changes requested by Ms. Sanchez Trevino to paragraph E3.

- VI. **Revisions to Personnel Commission Rule 836, APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES (Final Approval) (Case 3844)** - Upon motion by Ms. Sanchez Trevino, the item was pulled for further discussion with the Human Resources Division and will return to the commission at the next meeting.

Mr. Iwata requested that staff follow up to request that a representative from the Human Resources Division be present at Personnel Commission meetings.

- VII. **Revision to Personnel Commission Rule 522, class titles and descriptions (Final Approval) (Case 3847)** - Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission granted final approval to the revisions to Personnel Commission Rule 522, with an addendum to paragraph H., per the Personnel Director.

VIII. **Notice of Outstanding Work Performance for:**

- a. **Catherine Fleming, Administrative Aide, Plant Facilities, Los Angeles Pierce College**
- b. **Rodney Allen, Operations Manager, Plant Facilities, Los Angeles Pierce College**
- c. **Gerald Doucette, General Foreman, Plant Facilities, Los Angeles Pierce College**
- d. **Marcie Sakadjian, Farm Manager, Plant Facilities, Los Angeles Pierce College**
- e. **Mikel McMillin, Carpenter, Plant Facilities, Los Angeles Pierce College**
- f. **Rylan Downs, Stock Control Assistant, Plant Facilities, Los Angeles Pierce College**

- IX. **Correspondence** – No correspondence was received.

- X. **Notice of Anticipated Items** - Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission acknowledged notice of anticipated items: Establishment of a New Class of Supervising Auditor; Class Description Revisions for: Office Aide (AFT), Instructional Assistant, Nursing (AFT), Instructional Assistant, Registered Veterinary Technology (AFT); Revision of PC Rule 750, REASSIGNMENT OF REGULAR EMPLOYEES BECAUSE OF ILLNESS OR INJURY (Tentative Approval)

- XI. **Hear Non-Agenda Speakers/Open Forum** – None.

- XII. **Reconvene into Closed Session**

- XIII. **Reconvene into Open Session**

XIV. **Report of Actions Taken in Closed Session** - None

XV. **Adjourn** – The meeting adjourned at 1:31 p.m.

Ronald Delahoussaye, Personnel Director

This is to certify that these are the full and correct minutes of the regular meeting of the Personnel Commission of the Los Angeles Community College District.

Date

David Iwata, Chair

**LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION
Wednesday, July 22, 2020 – 12:30 p.m.**

Via Teleconference:
<https://laccd.zoom.us/j/5603717342>
Dial by your location
+1 669 900 6833 US (San Jose)
Meeting ID: 560 371 7342

MINUTES OF THE REGULAR MEETING – CLOSED SESSION

Present: Commissioners:
David Iwata, Chair
Henry Jones, Vice-Chair
Diva Sanchez Trevino

Staff: Ronald Delahoussaye, Personnel Director

- I. Roll Call
- II. **Requests to Address the Personnel Commission on Closed Session Matters** - None
- III. **Convene in Closed Session**
- a. **To Discuss Public Employment**
Pursuant to Government Code Section 54957
- a. **Conference with Legal Counsel – Anticipated Litigation**
Pursuant to Government Code Section 54957(b)(1)
- IV. **Report Out Actions Taken in Closed Session** - Mr. Iwata reported that no action was taken during Closed Session.
- V. **Correspondence** – No correspondence was received.
- VI. **Adjourn.** The meeting adjourned at 1:00 p.m.

This is to certify that these are the full and correct minutes of the Closed Session meeting of the Personnel Commission of the Los Angeles Community College District.

Date

David Iwata, Chair

**LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION**

Wednesday, July 22, 2020 – 1:00 p.m.

Via Teleconference:

<https://laccd.zoom.us/j/5603717342>

Dial by your location

+1 669 900 6833 US (San Jose)

Meeting ID: 560 371 7342

MINUTES OF THE OPEN MEETING

Present: Commissioners:
David Iwata, Chair
Henry Jones, Vice Chair
Diva Sanchez Trevino

Staff:
Ronald Delahoussaye, Personnel Director
Ute Severa, Assistant Personnel Director
Neely Miller, Executive Assistant
Ryan Pennock, Personnel Analyst
Justin L’Hommedieu, Assessment & Selection Analyst
Deborah Tsai, Assistant Personnel Analyst
Patrick Sung, Assistant Personnel Analyst
Sarah Hur, Senior Personnel Assistant

Guests:

Arnold Blanshard, Director of Internal Audit, Educational Services Center
Robert Mix, SEIU Local 721
Angela Killips, Instructional Assistant, Registered Veterinary Technology, Los Angeles Pierce College

- I. The Chair convened the regular meeting at 1:01 p.m.
- II. **Report of Actions Taken in Closed Session** – Mr. Iwata reported that the Personnel Commission took no action during closed session.
- III. **Review and Approve Minutes of the Closed and Open Meetings on June 10, 2020, and June 24, 2020** - Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission approved the minutes for the June 10, 2020 Open and Closed meetings of the Personnel Commission.

Upon motion by Mr. Jones and concurred with by the Chair, the Personnel Commission approved the minutes of the June 24, 2020 Open and Closed Meetings of the Personnel Commission. Ms. Sanchez Trevino abstained due to her absence at that meeting.

IV. Miscellaneous Personnel Commission Activities and Announcements

a. Classified Employment Opportunities Bulletin

b. Strictly Classified Employee Bulletin

Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission received the Classified Employment Opportunities Bulletin and Strictly Classified Employee Bulletin, as information.

- V. Establishment of a New Class of Supervising Auditor (Case 3900)** - Upon motion by Ms. Sanchez Trevino, seconded by Mr. Jones, and concurred with by the Chair, the Personnel Commission approved the establishment of the new class of Supervising Auditor. In addition, the Personnel Commission approved the reclassification EN 1019709 to the new classification of Supervising Auditor, effective July 7, 2020.

- VI. Revisions to Personnel Commission Rule 836, APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES (Final Approval) (Case 3844)** - Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission granted final approval to the revisions to Personnel Commission Rule 836, as presented.

- VII. Revision to Personnel Commission Rule 750, REASSIGNMENT OF REGULAR EMPLOYEES BECAUSE OF ILLNESS OR INJURY (Tentative Approval) (Case 3901)** - Upon motion by Ms. Sanchez Trevino, seconded by Mr. Jones, and concurred with by the Chair, the Personnel Commission granted tentative approval to the revisions to Personnel Commission Rule 750, as presented.

VIII. Class Description Revisions for:

a. Office Aide

b. Instructional Assistant, Registered Veterinary Technology

Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission approved the revisions to the class descriptions listed above, as presented.

- IX. Correspondence** – No correspondence was received.

- X. Notice of Anticipated Items** - Upon motion by Mr. Jones, seconded by Ms. Sanchez Trevino, and concurred with by the Chair, the Personnel Commission acknowledged notice of anticipated items: Revision of PC Rule 750, REASSIGNMENT OF REGULAR EMPLOYEES BECAUSE OF ILLNESS OR INJURY (Final Approval); Revision of Personnel Commission Rule 808, ILLNESS LEAVE (Tentative Approval); Revision of Personnel Commission Rule 809, PAID ILLNESS LEAVE FOR LIMITED TERM EMPLOYEES (Tentative Approval)

- XI. **Hear Non-Agenda Speakers/Open Forum** – None.
- XII. **Reconvene into Closed Session**
- XIII. **Reconvene into Open Session**
- XIV. **Report of Actions Taken in Closed Session** - None
- XV. **Adjourn** – The meeting adjourned at 1:19 p.m.

Ronald Delahoussaye, Personnel Director

This is to certify that these are the full and correct minutes of the regular meeting of the Personnel Commission of the Los Angeles Community College District.

Date

David Iwata, Chair

LOS ANGELES COMMUNITY COLLEGE DISTRICT

TO: THE PERSONNEL COMMISSION

FROM: Ronald Delahoussaye

SUBJECT: Revision to Personnel Commission Rule 750, REASSIGNMENT OF REGULAR EMPLOYEES BECAUSE OF ILLNESS OR INJURY (Final Approval) (Case 3901)

The proposed amendments to Rule 750 are part of the Personnel Commission's continuing review and update of Personnel Commission Laws and Rules. Education Code Sections 88080 and 88081 have been added. Editorial changes have also been made to the rule for clarity, consistency, and conciseness. Provisions of the Title I of the American with Disabilities Act of 1990 were incorporated in the rule since this law was created after the last amendment was made to this rule.

The following substantive changes are being recommended:

- A title change to emphasize that the focus of the rule is on reassignments of employees due to a disability.
- Paragraph A. was amended to account for applicable provisions of Title I of the American with Disabilities Act of 1990.
- A new paragraph B. was added to address cases where the District cannot accommodate the work restrictions of an employee within his/her current position.
- The sections of the rule that refer to a Light Duty and Special Class have been removed from the rule since this area is now covered under the provisions of ADA.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

750

LAW AND RULES

~~March 21, 1985~~ August 5, 2020

750 REASSIGNMENT OF ~~REGULAR EMPLOYEES~~ BECAUSE OF DISABILITY ILLNESS OR INJURY

Education Code Sections ~~88098~~

88080. (a) The commission shall prescribe and, amend, and interpret subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposal.

88081. (a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

88098. A regular employee who is determined by the governing board to be incapable of performing the duties of his or her class because of illness or injury may, at the ~~direction~~ discretion of the governing board, be assigned duties ~~which~~ that he or she is capable of performing. The position to which the employee is assigned shall be subject to classification by the personnel commission, but the employees shall receive no increase in wage or salary because of his or her assignment to the position unless he or she is appointed from an eligibility list

REASSIGNMENT OF ~~REGULAR EMPLOYEES~~ BECAUSE OF DISABILITY ILLNESS OR INJURY 750

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

750

LAW AND RULES

March 21, 1985-August 5, 2020

resulting from a competitive examination. In the event that the position is classified and allocated to a higher wage or salary than that previously attained by the employee, he or she may be assigned to the position without competitive examination, but shall continue to receive the wage or salary of his or her former classification. If the position is classified and allocated to a lower wage or salary than that attained by the employee, he or she shall be paid the wage or salary appropriate to the position.

A. Regardless of the source or nature of the disability, a classified employees who are is determined through the District's relevant procedures to be unable to continue performing the essential duties of their his/her regular duties position shall be provided with reasonable accommodations in accordance with Title I of the Americans with Disabilities Act of 1990. may be assigned to different duties, upon the recommendation of the division head, or College President and/or the District's Committee for the Physically Handicapped, under the following conditions: Such reasonable accommodations shall be established through a Good Faith Interactive Process and may include but are not limited to:

1. Adapting existing physical facilities used by the employee.
2. Restructuring the employee's job.
3. Modifying work schedules.
4. Adjusting or modifying training materials or policies.
5. Reassignment to an available vacant position.
6. Acquiring or modifying work equipment or devices.
7. Providing qualified readers or interpreters.

Accommodations that would pose an undue hardship on the operations of the District are considered unreasonable and shall not be granted.

1. ~~Any compensation insurance payments heretofore available on account of disability have been reduced or terminated because the employee is able to do light work, and~~

2. ~~The District Contract Physician and/or Workers' Compensation Administration Physician approve the physical ability of the employee to perform the new duties.~~

3. ~~Information and guidelines for the functions of the Committee for the Physically Handicapped are contained in Board Rules 10208 and 10209.~~

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

750

LAW AND RULES

March 21, 1985-August 5, 2020

~~B. — A disabled employee may be assigned to perform the duties of a class but with greater flexibility as to the daily time allowed for completion of work. However, a disabled employee may not work more than eight hours per day without payment for overtime.~~

E.B. In the event that the District determines through its relevant procedures that it cannot reasonably accommodate the work restrictions of an employee with a disability within his/her current position, the Personnel Commission shall evaluate the employee's education, experience, and current and past job classes to identify potential alternative placement opportunities in a lateral or lower-level class that may be available within a reasonable amount of time to the employee as a reasonable accommodation. The position to which the disabled employee with a disability is reassigned shall be classified by the Personnel Commission. The employee shall be required to qualify for higher-level classes by examination. If a current active eligibility list exists for a potential alternative position identified by the Personnel Commission and the employee is required to qualify by examination for the position, a special examination administration shall be granted to the employee and if successful, the employee's name will be added to the eligibility list based on his/her score.

~~If the position is evaluated at a higher level than any class in which the employee has held regular status and if he/she is not eligible for regular appointment, the position may be reclassified to a (Light Duty) or (Special) class on the same salary level as any class in which the employee holds or has held regular status. When a disabled employee is transferred, he/she shall be credited with seniority accumulated in the class from which transferred.~~

~~1. — A (Light Duty) class is one in which the employee continues to perform the duties and responsibilities most characteristic of his/her regular class but with some restriction on physical activity. The same knowledges, skills, and abilities continue to be utilized. The restriction on physical activity may take the form of a limitation on the weight of objects the employee may lift; being excused from duties that require bending, stooping, or climbing; or being assigned to a position that does not require operation of equipment. The foregoing are examples only and do not restrict the range of accommodations which may be made to keep the employee gainfully employed.~~

~~2. — A (Special) class is one in which the employee may perform somewhat different duties and responsibilities than are typical of his/her regular class. The assignment may take into consideration prior training and experience or it may involve a period of study and retraining.~~

~~D.C. When a disabled employee is appointed from an eligibility list to a position at a higher level than any class in which he/she has held regular appointment, he/she shall be placed at that step of the schedule for the class which is next higher than the rate of the step of the schedule he/she received immediately prior to the promotion, or the first step of the new class, whichever is higher. An employee with a disability who is appointed from an eligibility list to a higher class shall be paid the flat rate of the higher class, if~~

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

750

LAW AND RULES

March 21, 1985-August 5, 2020

applicable, or the step of the higher class which would apply upon promotion, in accordance with Rule 582, ALLOCATION TO APPROPRIATE SALARY STEP.

An employee with a disability who is reassigned to a lower class shall be placed on the flat rate of the lower class, if applicable, or the step that provides the least reduction from the rate achieved in the class in which permanent status has most recently been acquired.

E. A disabled employee who promotes from a (Light Duty) or (Special) class to the corresponding regular class shall, upon specific finding by the Personnel Commission that he/she has performed and will perform the same duties in both classes, be credited with seniority in the regular class for his/her service in the (Light Duty) or (Special) class.

D.F. With the exceptions described above, reassignment under the provisions of this rule will not alter the employee's rights, burdens, and benefits, nor preclude subsequent reassignment in accordance with the above provisions.

The provisions of this rule are intended to be fully compatible with and enable the administration to comply with all laws and regulations issued by federal and state agencies relating to prohibition of discrimination against ~~handicapped~~ persons with a disability.

E.G. The time limits for return to a former or change to a related class set forth in the Education Code and other Personnel Commission Rules shall not apply ~~either to the initial or subsequent~~ placement of an ~~disabled~~ employee with a disability.

LOS ANGELES COMMUNITY COLLEGE DISTRICT

TO: THE PERSONNEL COMMISSION

FROM: Ronald Delahoussaye

SUBJECT: Revision of Personnel Commission Rule 808, ILLNESS LEAVE (Tentative Approval) (Case 3903)

The proposed amendments to Rule 808 are part of the Personnel Commission's continuing review and update of Personnel Commission Laws and Rules. Education Code Section 88196.1 was added and Government Code Section 20963 was removed and replaced with 20963.5 in accordance with legislative updates. Education Code Section 88192 was removed as industrial accident leave is addressed in Personnel Commission Rule 804, LEAVE RESULTING FROM INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS. Editorial changes have been made to the rule for consistency.

The following substantive change has been made to the rule:

- Paragraph A. updates the definition for illness leave in accordance with Labor Code Section 246.5 and Education Code Section 88199.
- Paragraph B.4 includes an update for one of the factors that must be met for an employee to transfer unused illness leave from a qualified former employer to LACCD.
- Paragraph C.7 removes reference to provisions of this rule not applying to an employee on maternity leave of absence as Education Code Section 88196.1 allows an employee to use paid illness leave for purposes of parental leave, as described in the newly added Paragraph C.8.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

808 ILLNESS LEAVE

Education Code Sections ~~88191~~

88191. ~~Leave of Absence for Illness or Injury.~~—Every classified employee employed five days a week by a community college district shall be entitled to 12 days leave of absence for illness or injury and such additional days, in addition thereto, as the governing board may allow for illness or injury, exclusive of all days the employee is not required to render service to the district, with full pay for a fiscal year of service.

A classified employee, employed five days a week, who is employed for less than a full fiscal year, is entitled to that proportion of 12 days leave of absence for illness or injury as the number of months the employee is employed bears to 12 and the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

A classified employee employed less than five days per week shall be entitled, for a fiscal year of service, to that proportion of 12 days leave of absence for illness or injury as the number of days the employee is employed per week bears to five and is entitled to the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five days a week for a full fiscal year of service.

When these persons are employed for less than a full fiscal year of service, this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which they are entitled.

Pay for any day of such absence shall be the same as the pay which would have been received had the employee served during the day. Credit for leave of absence need not be accrued prior to taking that leave by the employee and such leave of absence may be taken at any time during the year. However, a new employee of a district shall not be eligible to take more than six days, or the proportionate amount to which the employee may be entitled under this section, until the first day of the calendar month after completion of six months of active service with the district.

If the employee does not take the full amount of leave allowed in any year under this section, the amount not taken shall be accumulated from year to year with such additional days as the governing board may allow.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

The governing board of each community college district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for the purpose of this section. These rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized religious sect, denomination or organization.

This section shall not apply to a district in which the full-time equivalent student of the district is in excess of 400,000, if the district maintains sick leave policies not less than those in effect in such districts on January 1, 1961.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).

~~**88192. Industrial Accident and Illness Leaves for Classified Employees.** Governing boards of community college districts shall provide by rules and regulations for industrial accident or illness leaves of absence for employees who are a part of the classified service. The governing board of any district that is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after January 1, 1975, shall provide, by rules and regulations, for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for all purposes.~~

~~The rules and regulations shall include all of the following provisions:~~

- ~~(a) Allowable leave shall not be for less than 60 working days in any one fiscal year for the same accident.~~
- ~~(b) Allowable leave shall not be accumulative from year to year.~~
- ~~(c) Industrial accident or illness leave of absence will commence on the first day of absence.~~
- ~~(d) Payment for wages lost on any day shall not, when added to an award granted the employee under the workers' compensation laws of this state, exceed the normal wage for the day.~~
- ~~(e) Industrial accident leave will be reduced by one day for each day of authorized absence regardless of a compensation award made under workers' compensation.~~
- ~~(f) When an industrial accident or illness occurs at a time when the full 60 days will overlap into the next fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred, for the same illness or injury.~~

~~The industrial accident or illness leave of absence is to be used in lieu of entitlement acquired under Section 88191. When entitlement to industrial accident or illness leave has been exhausted, entitlement to other sick leave will then be used; but if an~~

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

~~employee is receiving workers' compensation, the person shall be entitled to use only so much of the person's accumulated or available sick leave, accumulated compensating time, vacation or other available leave which, when added to the workers' compensation award, provide for a full day's wage or salary.~~

~~The governing board, by rule or regulation, may provide for additional leave of absence, paid or unpaid, as it deems appropriate and during that leave the employee may return to the person's position without suffering any loss of status or benefits.~~

~~Periods of leave of absence, paid or unpaid, shall not be considered to be a break in service of the employee.~~

~~During all paid leaves of absence, whether industrial accident leave as provided in this section, sick leave, vacation, compensated time off or other available leave provided by law or the action of a governing board, the employee shall endorse to the district wage loss benefit checks received under the workers' compensation laws of this state. The district, in turn, shall issue the employee appropriate warrants for payment of wages or salary and shall deduct normal retirement and other authorized contributions. Reduction of entitlement to leave shall be made only in accordance with this section.~~

~~When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to assume the duties of the person's position, the person, if not placed in another position, shall be placed on a reemployment list for a period of 39 months. When available, during the 39-month period, the person shall be employed in a vacant position in the class of the person's previous assignment over all other available candidates except for a reemployment list established because of lack of work or lack of funds, in which case the person shall be listed in accordance with appropriate seniority regulations.~~

~~The governing board may require that an employee serve, or have served continuously, a specified period of time with the district before the benefits provided by this section are made available to the person. However, that period shall not exceed three years. All service of an employee prior to the effective date of this section shall be credited in determining compliance with the requirement.~~

~~Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of California unless the governing board authorizes travel outside the state.~~

~~In the absence of rules and regulations adopted by the governing board pursuant to this section, an employee shall be entitled to industrial and accident or illness leave~~

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

~~as provided in this section but without limitation as to the number of days of that leave and without any requirement of a specified period of service.~~

~~An employee who has been placed on a reemployment list, as provided herein, who has been medically released for return to duty and who fails to accept an appropriate assignment shall be dismissed.~~

~~This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).~~

88195. Additional Leave for Nonindustrial Accident or Illness; Reemployment Preference.—A permanent employee of the classified service who has exhausted all entitlement to sick leave, vacation, compensatory overtime, or other available paid leave and who is absent because of nonindustrial accident or illness may be granted additional leave, paid or unpaid, not to exceed six months. The board may renew the leave of absence, paid or unpaid, for two additional six-month periods or ~~such~~ lesser leave periods that it may provide but not to exceed a total of 18 months.

An employee, upon ability to resume the duties of a position within the class to which he or she was assigned, may do so at any time during the leaves of absence granted under this section and time lost shall not be considered a break in service. The employee shall be restored to a position within the class to which he or she was assigned and, if at all possible, to his or her position with all the rights, benefits and burdens of a permanent employee.

If, at the conclusion of all leaves of absence, paid or unpaid, the employee is still unable to assume the duties of his or her position, the employee shall be placed on a reemployment list for a period of 39 months.

At any time during the prescribed 39 months that the employee is able to assume the duties of his or her position, the employee shall be reemployed in the first vacancy in the classification of his or her previous assignment. The employee's reemployment ~~shall~~ will take preference over all other applicants except for those laid off for lack of work or funds under Section 88117 in which case the employee shall be ranked according to his or her proper seniority. Upon resumption of the employee's duties, the break in service will be disregarded and the employee shall be fully restored as a permanent employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

88196.1 (a) (1) Notwithstanding any other law, during each school year, a classified employee may use his or her sick leave for purposes of parental leave for a period of up to 12 workweeks.

(2) In the community college districts that use the differential pay system described in the first paragraph of Section 88196, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the amount deducted from the salary due him or her for any of the remaining portion of the 12-workweek period in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence.

(3) In community college districts that use the differential pay system described in the last paragraph of Section 88196, when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties on account of parental leave pursuant to Section 12945.2 of the Government Code, the employee shall be compensated at no less than 50 percent of the employee's regular salary for the remaining portion of the 12-workweek period of parental leave.

(4) Regardless of the type of differential pay system used by the community college district pursuant to paragraphs (2) and (3), the compensation a classified employee shall receive shall be no less than 50 percent of his or her regular salary for the remaining portion of the 12-workweek period of parental leave.

(b) For purposes of subdivision (a), all of the following apply:

(1) The 12-workweek period of parental leave shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of parental leave.

(2) An employee shall not be provided more than one 12-workweek period for parental leave during any 12-month period.

(3) Parental leave taken pursuant to this section shall run concurrently with parental leave taken pursuant to Section 12945.2 of the Government Code. The aggregate amount of parental leave taken pursuant to this section and Section 12945.2 of the Government Code shall not exceed 12 workweeks in a 12-month period.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

(c) This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing community college district.

(d) Notwithstanding subdivision (a) of Section 12945.2 of the Government Code, a classified employee is not required to have 1,250 hours of service with the employer during the previous 12-month period in order to take parental leave pursuant to this section.

(e) Nothing in this section shall be construed to diminish the obligation of a public school employer to comply with any collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code that provides greater parental leave rights to employees than the rights established under this section.

(f) For purposes of this section, “parental leave” means leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

~~88199. Power of Governing Board to Grant Leave of Absence and Compensation for Accident or Illness.~~—Governing boards of community college districts may grant leaves of absence to persons employed in nonacademic positions, and at their discretion may pay compensation at the rate the board prescribes, during the absence, to any employee whose absence is caused by accident or illness, whether or not the absence arises out of or in the course of the employment of the employee, or because of quarantine which results from his or her contact with other persons having a contagious disease while performing his or her duties.

~~88202. Transfer of Accumulated Sick Leave and Other Benefits.~~—Any classified employee of a community college district, school district, or county superintendent of schools who has been employed for a period of one calendar year or more whose employment is terminated for reasons other than action initiated by the employer for cause and who subsequently accepts employment with a community college district or county superintendent of schools within one year of termination of his or her former employment, shall have transferred with him or her to the employing community college district or county superintendent of schools the total amount of earned leave of absence for illness or injury to which he or she is entitled under Section 45191 or 88191. This transfer shall be in the same manner as is provided for academic employees.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

In any case where an employee was terminated as a result of action initiated by the employer for cause, ~~the such~~ a transfer may be made if agreed to by the governing board of the community college district or the county superintendent of schools newly employing the employee.

All or any part of the previous service, not separated by a break in service greater than one year as of the last day of paid service, may, if agreed to by the employing entity, be construed to have been served in the employing community college district or county superintendent of schools of employment for seniority purposes, except that the previous service may not be counted, for seniority purposes, when position or personnel reduction is ordered, for any reason, by the board.

No governing board of a community college district shall adopt any policy or rule, written or unwritten, that requires all classified employees, or any individual classification, or group of classifications of employees transferring to its district to waive any part or all benefits which they may be entitled to have transferred in accordance with this section.

This section shall apply to community college districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

Government Code Section

~~20963. (a) A state, school, or school safety member, whose effective date of retirement is within four months of separation from employment with the employer subject to this section that granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall not include sick leave earned as a National Guard member as described in Section 20380.5.~~

~~(b) Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section. At the time of receipt of the certification, the allowance shall be adjusted to reflect any necessary changes.~~

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

~~(c) Notwithstanding any other provisions of this part, this section shall not apply to local members other than local miscellaneous members employed before July 1, 1980, by a school district that is a contracting agency or those school safety members employed before July 1, 1980, by a contracting agency that is a school district or community college district, as defined in subdivision (i) of Section 20057.~~

~~(d) This section shall not apply to any of the following:~~

~~(1) A person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district that is a contracting agency whether or not the person was ever a school member or local member prior to that date.~~

~~(2) A state employee, with respect to sick leave credits earned as a state member under Section 21353.5, except that the member shall be entitled to receive credit under this section for the sick leave he or she has earned as a state member subject to any other retirement formula, provided the member has a sick leave credit balance remaining at the time of retirement.~~

~~(e) For the purposes of this section, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence because of sickness.~~

20963.5 On and after January 1, 2020, a school member, a school safety member, or a local member employed by a contracting agency that is a school district, county office of education, or community college district, whose effective date of retirement is within four months of separation from employment with the employer subject to this section that granted the sick leave credit, shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall include sick leave granted by the employer subject to this section and any sick leave transferred to that employer pursuant to Section 44979, 45202, 87783, or 88202 of the Education Code.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

Labor Code Section

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

A. Definitions

Illness is defined as any deviation from a normal, healthy state which makes it disadvantageous to the Los Angeles Community College District and/or detrimental to the employee to be at work. This definition shall include emergency medical, dental, optical, and prosthetic work.

Illness leave is a paid or unpaid leave granted to an employee for the diagnosis, care, and/or treatment of a health condition for, or preventive care of, the employee or the employee's family member. Family member includes the employee's spouse, child, parent, registered domestic partner, parent-in-law, grandparent, grandchild, and siblings(s). Such a leave shall also be granted to an employee who is quarantined because of exposure to contagious disease or who is the victim of domestic violence, sexual assault, or stalking for the purposes described in Labor Code Sections 230 (c) and 230.1 (a).

B. Accrual of Illness Leave

1. Upon initial employment in regular status, an employee will be credited, as of the date of appointment, with illness days as follows:
 - a. Employees assigned to a 12-month position shall receive 12 working days of full-pay illness leave and 88 days of half-pay illness leave.
 - b. Employees assigned to other than a 12-month position shall receive 10 working days of full-pay illness leave and 90 days of half-pay illness leave.
2. Thereafter, a regular employee will be credited annually, on the first date of the pay period in which July 1 falls, as follows:
 - a. Employees assigned to a 12-month position shall receive 12 working days of full-pay illness leave and up to 88 days of half-pay illness leave. The number of half-pay illness leave days to be credited shall be the difference between accumulated working days of full-pay illness leave and 100 days. Accrual of half-pay illness days shall cease when the accumulated working days of full-pay illness reaches 100 days or more and shall resume when the number of accumulated working days of full-pay illness falls below 100 days.
 - b. Employees assigned to other than a 12-month position shall receive 10 working days of full-pay illness leave and up to 90 days of half-pay illness leave. The number of half-pay illness leave days to be credited shall be the difference between accumulated working days of full-pay illness leave and 100 days. Accrual of half-pay illness days shall cease when the accumulated working days of full-pay illness reaches 100 days or more and shall resume when the number of accumulated working days of full-pay illness falls below 100 days.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

3. There shall be no limit to the accumulation of full-pay illness leave.
4. An individual who was employed with another school district, community college district, or county superintendent of schools within one year of accepting employment as a regular classified employee with the Los Angeles Community College District shall be credited with the number of days of unused illness or injury leave of absence accrued under Education Code Section 88191 while employed with the other agency provided that he/she was employed with the former employer for one calendar year or more and his/her employment with the former employer was not terminated for cause voluntarily resigned in good standing.

The District's Payroll Unit shall obtain verification of the amount of unused illness or injury leave the employee is entitled to bring to this District.

- a. The employee shall be credited, as of the date of appointment, with the verified full-pay illness balance brought from the other agency, in addition to the number of working days of full-pay illness leave authorized in Paragraph B.1., above.
- b. If the total number of working days of full-pay illness leave credited is less than 100 working days, he/she shall also be credited with a number of working days of half-pay illness leave which will bring the total number of working days credited to 100.

C. Use of Illness Leave

Any regular classified employee who is absent from duty on account of illness, injury, or other qualifying condition shall be allowed illness leave pay under the following conditions:

1. In order to receive compensation while absent on illness leave, the employee must notify his/her immediate supervisor of his/her absence within the first two working hours, if possible.
2. A new employee must render services before being entitled to illness leave.
3. An employee serving an initial probationary period shall not be eligible to be paid for more than six days of full-pay illness leave until the first day of the period after completion of 130 days of paid service in regular assignments. Half-pay illness leave shall not be paid during this time.
4. No half-pay illness leave shall be allowed until after all full-pay illness leave is exhausted.
5. Fractions of hours of an illness leave shall be reported in increments of one-quarter hour.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

~~September 8, 2015~~ August 5, 2020

6. When a regular employee (whose regular assignment is on other than a 12-month basis) is assigned to a substitute or relief assignment outside of his/her regular assignment basis, the employee shall be allowed to take illness leave with pay during such limited-term assignment in accordance with the limitations set forth in the provisions of this rule.
7. Provisions of this rule apply to absence due to temporary disability caused by pregnancy or childbirth. ~~However, such provisions do not apply to the period during which an employee is on maternity leave of absence.~~
8. An employee shall be allowed to use his or her paid illness leave for purposes of parental leave for a period of up to 12 workweeks in a 12-month period. Parental leave means leave for the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.
98. An employee whose record of illness appears to follow a pattern of habitual use of leave for trivial indispositions or absences so frequent that the efficiency of the service is impaired may be required to present acceptable proof to the supervisor of the reason for absence.
109. An employee shall not be allowed to undertake any gainful employment while absent because of illness, injury, or other qualifying condition. The employee shall certify on the Absence Certification/Request form that he/she was not gainfully employed during the period covered on the form.

D. Requests for Leave

1. An employee who is absent due to illness, injury, or other qualifying condition shall certify on the prescribed Absence Certification/Request form that the absence was due to illness or injury. Compensation for illness leave shall be paid only when the employee's supervisor certifies that the absence was on account of illness, injury, or other qualifying condition. Nothing shall preclude the employee's supervisor from taking necessary steps to verify the validity of the illness leave, which may include requesting documentation for the illness leave.

When an employee is absent because of illness, injury, or other qualifying condition for more than five consecutive days, the Absence Certification/Request form must be accompanied by an attending licensed physician or other recognized practitioner's statement certifying that the absence was due to illness, injury, or other qualifying condition.

If an employee is incapacitated and unable to sign the prescribed form, the ~~Division of~~ Human Resources Division may approve an illness leave and the employee's supervisor may approve the prescribed form in lieu of the employee's certification in order that payment of illness leave benefits may be authorized.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

~~September 8, 2015~~ August 5, 2020

2. When an employee is absent because of illness, injury, or other qualifying condition for more than 20 consecutive days, a request for a formal leave of absence must be submitted by the employee and is subject to the approval of the ~~Division of Human Resources~~ Division. The Leave of Absence Request form must be accompanied by an attending licensed physician or other recognized practitioner's statement certifying that the absence is due to illness or injury. A Leave of Absence Request Form shall be sent by any employee who has been absent because of illness or injury for ten consecutive days by the employing college or division.
3. A permanent employee who has exhausted all paid illness privileges, vacation, and other available paid leave may be granted additional unpaid illness leave, not to exceed a total of 18 months in three six month or lesser increments, upon approval of the ~~Division of Human Resources~~ Division and the employee's division head or college president. Such approval shall be required for each additional six month or lesser extension.

An employee who declines to use available paid vacation and other available paid leave may not be granted additional illness leave under the provision of this paragraph.

An employee shall be required to interrupt an unpaid illness leave granted under the provisions of this paragraph to use all paid leave that may accrue due to the annual renewal of illness balances, including paid vacation time or other paid leave that may become available due to return to paid status. The resulting period in paid status shall not serve to restart or extend the 18-month maximum unpaid illness leave allowed under the provisions of this paragraph.

Eligibility for additional unpaid illness leave under the provisions of this paragraph shall not be granted to an employee who returns to active service for a period of less than six months following a previous period of unpaid illness leave granted under the provisions of this paragraph.

- a. Unless notified to the contrary within 30 days, the employee may properly assume the leave has been granted.
- b. Denial of the requested leave for medical reasons may be a basis for appeal in accordance with Rule 836, APPEALS OF MEDICAL DISQUALIFICATIONS OF CLASSIFIED EMPLOYEES AND ELIGIBLES.
- c. Denial of the requested leave for other than medical reasons may be a basis for the employee to avail himself/herself of Rule 893, PROCEDURE FOR THE ADJUSTMENT OF GRIEVANCES OF CLASSIFIED PERSONNEL.

E. Payment of Illness Leave

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

September 8, 2015 August 5, 2020

1. Salary differentials shall be included in computing illness pay for employees who receive such salary differentials.
2. No half-pay illness leave shall be allowed until after all full-pay illness leave is exhausted.
3. A day of paid illness leave for an employee assigned to a position for less than eight hours or 40 hours a week shall consist of the number of hours in his/her basic daily assignment. Authorization to work additional hours beyond the basic daily assignment shall not increase illness leave benefits. When additional working hours are authorized for longer than one month, the employee's basic daily assignment shall be increased.
4. Salary payment shall be withheld from an employee who has been absent because of illness, injury, or other qualifying condition for more than 20 consecutive days if a formal leave of absence has not been approved by the ~~Division of Human Resources~~ Division.
5. Neither layoff nor leave of absence shall be considered as an interruption of continuous service, but no paid illness leave shall be allowed during layoff or leave of absence except illness leave of absence or leave to accept other employment in the District's classified service.
6. When an employee has exhausted full-pay paid illness leave, he/she may request using vacation pay in lieu of illness pay. In order to effect this change, the employee shall notify his/her supervisor and payroll office of the dates to be paid as vacation. The beginning date shall not be earlier than the date on which the request is made and the number of days to be paid as vacation shall not exceed the employee's vacation balance. Upon completion of payment for the designated vacation period, the employee may again be paid for illness leave.

F. Return to Service Following Leave

1. An employee shall notify his/her supervisor at least one day in advance of his/her expected return from illness leave in order that any substitute service may be terminated. If a returning employee fails to comply with this provision and in the event that both the regular employee and the substitute report for duty, the latter is entitled to the assignment for the day.
2. Upon return to service from illness leave, an employee shall be placed in a position in his/her former job classification and, if vacant, to his/her former position in the class. If no vacancy exists in the former class, he/she shall have the right to exercise bumping rights provided that he/she does not have the least seniority in that class. If an employee's former class has ceased to exist, the employee may be reassigned or shall be placed on the reemployment lists for the classes in which he/she had attained regular status.
3. When all paid or unpaid leaves of absence have been exhausted, and the employee is not medically able to assume the duties of his/her position, the employee shall be placed on a

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

808

LAW AND RULES

~~September 8, 2015~~ August 5, 2020

reemployment list for a period of 39 months as if he/she were being laid off. An employee on a reemployment list shall have the same rights and benefits as an employee laid off for lack of work or lack of funds as provided in Rule 740, LAYOFF AND REEMPLOYMENT.

An employee subject to placement on a reemployment list for medical reasons may request a review of other placement options through the ~~Division of Human Resources~~ Division.

4. An employee returning to duty shall be subject to provisions of Rule ~~682~~47, HEALTH EVALUATIONS.

G. Termination of Employment

There shall not be a lump-sum payment for any unused accumulated illness leave upon separation from employment. Regular employees who are members of PERS and who retire within four months of separation from the District may be eligible for additional service credit for each unused day of earned illness leave in accordance with PERS policies and regulations.

H. Industrial Accident Leave

Employees in the classified service who are absent because of illness or injury resulting from industrial accidents or industrial illness qualifying under provisions of Workers' Compensation shall be allowed leave as provided in Rule 804, LEAVES RESULTING FROM INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS.

I. Change of Service

An employee of the Los Angeles Community College District who changes assignment from the academic service to a regular position in the classified service shall have transferred any unused paid illness or injury leave benefits previously accrued. Such an employee is not subject to the use restrictions on paid illness leave that apply to employees serving in an initial probationary period. Such employee shall not accrue additional illness leave benefits solely from the change of service.

LOS ANGELES COMMUNITY COLLEGE DISTRICT

TO: THE PERSONNEL COMMISSION

FROM: Ronald Delahoussaye

SUBJECT: Revision to Personnel Commission Rule 809, PAID ILLNESS LEAVE FOR LIMITED TERM EMPLOYEES (Tentative Approval) (Case 3904)

Personnel Commission Rule 809 has been reviewed as part of the Personnel Commission's continuing review and update of Personnel Commission Laws and Rules. Labor Code Sections 230, 230.1, 245.5, and 246 were updated in accordance with legislative updates. Editorial changes have been made to the rule for consistency purposes.

The following substantive changes have been made to the rule:

- Paragraph A. includes an update for the definition of illness leave in accordance with Labor Code Section 246.5.
- Paragraph B. includes an additional provision that addresses the accrual limit of illness time for an employee with multiple assignments.

809 PAID ILLNESS LEAVE FOR LIMITED TERM EMPLOYEES

Labor Code Section(s)

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.

(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.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(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.

(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 certification.

(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 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.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(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, 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.

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees 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 for any to attend to any of the following purposes:

(1) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.

(2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.

(3) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.

(4) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), 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 categories described in paragraph (2) of subdivision (d) of Section 230.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f) of Section 230, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) 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 taken time off for a purpose set forth in subdivision (a) is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief. 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.

(d) (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) 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 (a) within one year from the date of occurrence of the violation.

(e) 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). The entitlement of any employee under this section shall not be diminished by any term or condition of a collective bargaining agreement ~~term or condition~~.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

(g) 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.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(h) (1) Employers shall inform each employee of his or her rights established under this section and subdivisions (c), (e), and (f) of Section 230 in writing. The information shall be provided to new employees upon hire and to other employees upon request.

(2) The Labor Commissioner shall develop a form that an employer may use to comply with the notice requirements in paragraph (1). The form shall set forth the rights and duties of employers and employees under this section in clear and concise language. The Labor Commissioner shall post the form on the commissioner's Internet Web site to make it available to employers who are required to comply with this section. If an employer elects not to use the form developed by the Labor Commissioner, the notice provided by the employer to the employees shall be substantially similar in content and clarity to the form developed by the Labor Commissioner. The Labor Commissioner shall develop the form and post it in accordance with this paragraph on or before July 1, 2017.

(3) Employers shall not be required to comply with paragraph (1) until the Labor Commissioner posts the form on the commissioner's Internet Web site in accordance with paragraph (2).

245. (a) This article shall be known and may be cited as the Healthy Workplaces, Healthy Families Act of 2014.

(b) The provisions of this article are in addition to and independent of any other rights, remedies, or procedures available under any other law and do not diminish, alter, or negate any other legal rights, remedies, or procedures available to an aggrieved person.

245.5. As used in this article:

(a) "Employee" does not include the following:

(1) An employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, "employee in the construction industry" means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

~~(3) A provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code.~~

(34) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to the provisions of Title II of the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(45) An employee of the state, city, county, city and county, district, or any other public entity who is a recipient of a retirement allowance and employed without reinstatement into his or her respective retirement system pursuant to either Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code, or Article 8 (commencing with Section 31680) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(b) "Employer" means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(c) "Family member" means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(d) "Health care provider" has the same meaning as defined in paragraph (6) of subdivision (c) of Section 12945.2 of the Government Code.

(e) "Paid sick days" means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

246. (a) (1) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section. For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code who also provides in-home supportive services in an applicable month, eligibility shall be determined based on the aggregate number of monthly hours worked between in-home supportive services and waiver personal care services pursuant to subdivision (d) of Section 14132.971.

(2) On and after July 1, 2018, a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code, who works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in subdivision (e) and subject to the rate of accrual in paragraph (1) of subdivision (b). For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code, entitlement to paid sick days begins on July 1, 2019.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per 30 hours worked, provided that accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirement of this section by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of ~~the employee's~~ ~~his or her~~ 120th calendar day of employment.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee's use of accrued paid sick days to 24 hours or three days in each year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period. The term "full amount of leave" means three days or 24 hours.

(e) For a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, and an individual provider of waiver personal care services under Section 14132.97 of, the Welfare and Institutions Code, the term "full amount of leave" is defined as follows:

(1) Eight hours or one day in each year of employment, calendar year, or 12-month period beginning July 1, 2018.

(2) Sixteen hours or two days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached thirteen dollars (\$13) per hour.

(3) Twenty-four hours or three days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached fifteen dollars (\$15) per hour.

~~(f)~~ An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave applicable to employees that may be used for the same purposes and under the same conditions as specified in this section, and the policy satisfies one ~~does either~~ of the following:

(1) Satisfies the accrual, carryover, and use requirements of this section.

(2) Provided paid sick leave policy or paid time off to a class of employees before January 1, 2015, pursuant to a sick leave policy or paid time off policy that used an accrual method

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

different than providing one hour per 30 hours worked, provided that the accrual is on a regular basis so that an employee, including an employee hired into that class after January 1, 2015, has no less than one day or eight hours or accrued sick leave or paid time off within three months of employment of each calendar year, or each 12-month period, and the employee was eligible to earn at least three days or 24 hours of sick leave or paid time off within nine months of employment. If an employer modifies the accrual methods used in the policy it had in place prior to January 1, 2015, the employer shall comply with any accrual method set forth in subdivision (b) or provide the full amount of leave at the beginning of each year of employment, calendar year, or 12-month period. This section does not prohibit the employer from increasing the accrual amount or rate for a class of employees covered by this subdivision.

(3) Notwithstanding any other law, sick leave benefits provided pursuant to the provisions of Sections 19859 to 19868.3, inclusive, of the Government Code, or annual leave benefits provided pursuant to the provisions of Sections 19858.3 to 19858.7, inclusive, of the Government Code, or by provisions of a memorandum of understanding reached pursuant to Section 3517.5 that incorporate or supersede provisions of Section 19859 to 19868.3, inclusive, or Sections 19858.3 to 19858.7, inclusive of the Government Code, meet the requirement of this section.

~~(gf)~~ (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring, subject to the use and accrual limitations set forth in this section. An employer is not required to reinstate accrued paid time off to an employee that was paid out at the time of termination, resignation, or separation of employment.

~~(hg)~~ An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

~~(ih)~~ An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited". The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226. This subdivision shall apply to employer covered by Wage Order 11 or 12 of the Industrial Welfare Commission only on and after January 21, 2016.

~~(ji)~~ An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave are not limited other than as allowed under this section.

~~(kj)~~ An employee may determine how much paid sick leave they ~~he or she~~ needs to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

~~(lk)~~ For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay ~~for~~ of the workweek in which the employee uses paid sick time, whether or not the employee actually worked overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

~~(m)~~ If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

~~(n)~~ An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

(o) The State Department of Social Services, in consultation with stakeholders, shall convene a workgroup to implement paid sick leave for in-home supportive services providers as specified in this section. This workgroup shall finish its implementation work by November 1, 2017, and the State Department of Social Services shall issue guidance such as an all-county letter or similar instructions by December 1, 2017.

(p) No later than February 1, 2019, the State Department of Social Services, in consultation with the Department of Finance and stakeholders, shall reconvene the paid sick leave workgroup for in-home supportive services providers. The workgroup shall discuss how paid sick leave affects the provision of in-home supportive services. The workgroup shall consider the potential need for a process to cover an in-home supportive services recipient's authorized hours when a provider needs to utilize their sick time. This workgroup shall finish its work by November 1, 2019. (q) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of an all-county letter, or similar instructions, without taking any regulatory action.

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

A. Definitions

Illness is defined as any deviation from a normal, healthy state which makes it disadvantageous to the Los Angeles Community College District and/or detrimental to the employee to be at work.

Paid illness leave shall be granted to an employee for the diagnosis, care, and/or treatment of a health condition for, or preventive care of, the employee or an employee's family member. Family member includes the employee's spouse, child, parent, registered domestic partner, parent-in-law, grandparent, grandchild, and sibling(s). Paid illness leave shall also be granted to an employee who is the victim of domestic violence, sexual assault, or stalking for the purposes described in Labor Code Sections 230 (c) and 230.1 (a).

B. Accrual of Illness Time

1. Effective July 1, 2015, an employee with limited-term status, who works for thirty (30) or more days within a year from the date employment commenced, shall accrue illness pay at of rate of 0.0334 hours for each paid working hour. The thirty (30) days need not be consecutive. If at the end of any pay period an employee has an accumulated illness balance of forty-eight (48) hours or six days, he/she shall cease to accrue additional hours until the balance falls below the accrual limit.

The hours accrued by an employee serving in multiple assignments shall be limited to forty-eight (48) hours or six days regardless of the number of assignments he/she may have.

Retired employees serving in a limited-term assignment are not entitled to illness time accrual.

2. Accrued illness leave shall be carried over from fiscal year-to-fiscal year up to a limit of forty-eight (48) hours or six days as long as the limited-term employee is in active status on July 1st.

C. Use of Accrued Illness Time

1. Accrued illness leave, up to a total of twenty-four (24) hours or three days in each fiscal year, can be used on the 90th day of employment. The ninety (90) days of employment

LOS ANGELES COMMUNITY COLLEGE DISTRICT
PERSONNEL COMMISSION

809

LAW AND RULES

~~October 13, 2015~~ August 5, 2020

need not be consecutive. Illness leave shall not be advanced to an employee before it is accrued or before eligibility requirements for use are met.

2. Accrued illness leave can only be used while the employee is serving in an active assignment. An employee shall not be allowed to undertake any gainful employment while absent because of illness or injury.
3. Accrued illness leave shall be taken at a minimum increment of two hours. Thereafter, fractions of hours can be reported in increments of one-quarter hour.
4. The employee shall notify his/her supervisor of the need to use illness leave in advance, when the absence can be foreseen, and within the first two working hours of his/her work shift, when practicable, in unforeseen situations.
5. An employee who is absent due to illness or injury shall certify on the Absence Certification/Request form (LACCD Form TA-1) at the earliest possible opportunity that the absence was due to illness, injury, or other qualifying option. Compensation for illness leave shall be paid only when the employee's supervisor certifies on the prescribed form that the absence was on account of illness, injury, or other qualifying option. Nothing shall preclude the supervisor from taking necessary steps to verify the validity of the illness leave. Salary payment may be withheld from an employee who does not comply with the provisions of this section.

D. Compensation for Illness Time

The rate of pay for illness leave shall be based on the employee's hourly wage in effect at the time the illness leave is taken.

E. Return to Duty

An employee returning to duty from illness leave shall be subject to the provisions of Rule ~~68247~~, HEALTH EVALUATIONS.

F. Effect of Separation from Employment

1. Upon separation from employment, there shall be no lump sum payment to the employee for any unused illness leave.
2. If an employee is rehired within one year from his/her separation date, previously accrued and unused paid sick days up to a maximum of forty-eight (48) hours or six days shall be reinstated and the employee shall be entitled to use his/her previously unused illness leave up to a total of twenty-four (24) hours or three days in a fiscal year.
3. An individual employed after one year from his/her separation date, shall be treated as a new employee who must again meet the service requirements identified in B.1. above.
4. Accrued paid illness leave from another employer will not be transferrable to the District.