LEAVES RESULTING FROM INDUSTRIAL ACCIDENT OR INDUSTRIAL ILLNESS

Education Code 87042

87042. Any school employee of a community college district who is absent because of injury or illness which arose out of and in the course of the person's employment, and for which the person is receiving temporary disability benefits under the workers' compensation laws of the state, shall not be entitled to received wages or salary from the district which, when added to the temporary disability benefits, will exceed a full day's wages or salary.

During such periods of temporary disability so long as the employee has available for the employee's use sick leave, vacation, compensating time off or other paid leave of absence, the district shall require that temporary disability checks be endorsed payable to the district. The district shall then cause the employee to receive the person's normal wage or salary less appropriate deductions including but not limited to employee retirement contributions.

When sick leave, vacation, compensating time off or other available paid leave is used in conjunction with temporary disability benefits derived from workers' compensation, as provided in this section, it shall be reduced only in that amount necessary to provide a full day's wage or salary when added to the temporary disability benefits.

Education Code 87043

87043. Notwithstanding the provisions of Sections 87042, 87787, and 88192, a community college district may waive the requirement that temporary disability checks be endorsed payable to the district, and may in lieu thereof, permit the employee to retain his temporary disability check, providing that notice be given to the district that such check has been delivered to the employee. In such cases, the district shall then cause the employee to receive his normal wage or salary less appropriate deductions, including, but not limited to, employee retirement contributions, and an amount equivalent to the face amount of the temporary disability check, which the employee has been permitted to retain. In all cases, employee benefits are to be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments.

CHANGES:
Revises Education Code Section 87042 to update code number and language. Addition of Education Code Section 87043 as approve by the 1973 Legislature.
Nothing contained herein shall be deemed to in any way diminish those rights and benefits which are granted to a school employee pursuant to the provisions of Sections 87042, 87787, and 88192.

Education Code 88192

88192. 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 which 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 as provided in Section 4064.

Such rules and regulations shall include 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.

CHANGES:
Revises Education Code Section 88192 to update code number and language.
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 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 may, by rule or regulation, provide for such additional leave of absence, paid or unpaid, as it deems appropriate and during such 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 shall, if not placed in another position 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.

CHANGES:
Clarification of language.
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 provided that such period shall not exceed three years and that 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 as provided in this section but without limitation as to the number of days of such 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) of this chapter.

A. General Provisions

1. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of Education Code Sections 87042 and 88192 and this Rule.

2. Whenever a certificated employee who has an additional assignment in the classified service is granted an industrial accident or industrial illness leave from his certificated assignment, he shall be granted an industrial accident or industrial illness leave from his classified assignment provided that he is eligible for industrial accident or industrial illness absence pay in that assignment.

Changes:
Clarification of language.
B.  Paid Industrial Accident Leave

1.  An employee in the classified service who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the workers' compensation insurance law shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits from workers' compensation provided that:

   a.  He has permanent status; or

   b.  He is a probationary classified employee who has completed at least 130 days of paid service; or

   c.  He has completed a total of three consecutive years of continuous employment with the District immediately preceding the beginning of the leave with any combination of limited-term, probationary, or permanent status, including at least 130 days of paid service during each of the three years. A day of paid service shall be defined as any day for which pay is received; or

   d.  The Chancellor or his designated representative has determined that the illness or injury was directly related to the performance of his duties and caused by assault and/or battery.

2.  Paid industrial accident leave shall be granted, as indicated in the employee's assignment, from the first day of absence to and including the last day of absence resulting from each separate industrial illness or industrial injury. A paid industrial accident leave granted under:

   a.  Paragraph B.1.a and b, above, shall be for not more than 60 working days.

   b.  Paragraph B.1.c, above, shall be for not more than the number of hours which corresponds to that proportion of 480 hours as the total number of hours the employee worked in the preceding 13 pay periods is in proportion to 2080 hours.

   c.  Paragraph B.1.d, above, shall be for not more than one calendar year.

CHANGES:
Adds new Section B.1.b., and changes subsequent lettering.
3. Paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance made under workers' compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled under Rule 808, ILLNESS LEAVE.

4. A retired employee assigned for limited periods under Rule 763, EMPLOYMENT OF RETIRED PERSONS, who qualifies under Paragraph B.1., above, shall be granted only a paid industrial accident leave under the provisions of this rule. The paid industrial accident leave shall extend only to the last day of the employee's current period of 90 working days or less.

C. Illness Leave

1. If the District Medical Consultant determines that an employee is still unable to return to duty after exhausting paid industrial accident leave, the employee shall be placed on illness leave in accordance with Rule 808, ILLNESS LEAVE, provided he is eligible therefore.

2. Accumulated illness leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the employee's assignment, when added to compensation without penalties from the compensation fund. Accumulated half-pay illness leave shall be reduced by no more than eight hours for any one day or no more than the employee's basic daily assignment.

D. Vacation Pay

After all illness leave pay has been exhausted following a paid industrial accident leave, an employee may choose to receive pay from accrued vacation to the extent necessary to make up the employee's regular salary when receiving a temporary disability allowance without penalties from the compensation fund.

E. Industrial Accident Leave Without Pay

After the expiration of all accumulated paid leave privileges, Employee Health Services may approve an employee being placed on an industrial accident leave without pay. Vacancies caused by such unpaid leave may be filled by regular appointment. The total time of all leave benefits provided under this Rule, including unpaid industrial accident leave, shall not exceed 36 months for any one industrial accident or industrial illness.

CHANGES:
Clarification of language. Extends current working period in Section B.4. to 90 days.
F. Return to Service

1. From Paid and/or Unpaid Leave

   a. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, an employee shall be assigned to a position in his former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his former class, he may displace the most recently appointed employee in the class with less seniority. If an employee's former class has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.

   b. An employee returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. An employee shall continue to receive seniority credit for all purposes while on such a paid or unpaid leave of absence.

2. From a Reemployment List

   An employee on a reemployment list shall have the same rights and benefits as an employee laid off because of lack of work or lack of funds as provided in Rule 740, LAYOFF AND REEMPLOYMENT. The reemployment rights of an employee with limited-term status only shall be limited to the same status the employee had earned previous to the industrial accident or industrial illness.

G. Reemployment List

1. When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, an employee shall be terminated and his name shall be placed on the reemployment list for the class from which he was on leave for a period not to exceed 39 months.

Changes:
No substantive changes.
2. An employee who fails to accept an appropriate assignment after being medically approved by the District Medical Consultant shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class at the time of layoff, in his former status and time basis, and in assignment areas in which the employee has made himself available. Employees removed from a reemployment list under this rule may appeal the removal using the procedure indicated in Rule 600, REJECTION OF APPLICANTS, CANDIDATES, AND ELIGIBLES, except that an appeal of an administrative review decision relating to medical matters shall not be made to the Personnel Commission but shall be to such authorities as the Board of Trustees may designate.

H. Compensation

1. While an employee is on any paid leave resulting from an industrial accident or industrial illness, the employee's salary paid by the Los Angeles Community College District shall not, when added to a normal temporary disability allowance award without penalties granted the employee under workers' compensation laws exceed the employee's regular salary. A permanent employee's regular salary is computed on the basis of the number of hours and days in his basic daily assignment. An employee who is not permanent shall have his regular salary computed on the basis of the average number of hours worked each pay period in which the employee was in paid status during the preceding 13 pay periods. An employee who receives a salary differential other than shift differential shall lose the advantage of the differential after 10 consecutive days of paid industrial accident leave for any one accident or illness.

2. During all paid leaves resulting from an industrial accident or industrial illness, the employee shall endorse to the District all wage-loss benefit checks received under workers' compensation laws. The District shall issue to the employee appropriate warrants for payment of wages, loss benefits, salary, and/or leave benefits and shall deduct normal retirement and other authorized contributions.

3. Final allowance for permanent industrial disability settlements shall not be subject to remittance to the District under this rule.

I. Out of State Travel

An employee receiving benefits under the provisions of this rule shall obtain prior approval of the Board of Trustees for any travel outside the State of California.

CHANGES:
Adds Paragraph I., to reflect requirements of Education Code Section 88192.