



## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

### Employee Leave FAQs

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Managing employee leaves is a continuous challenge for many local educational agencies' (LEAs') human resources (HR) and business staff. With changes to pre-existing laws and the creation of new leave laws, we at School Services of California Inc. (SSC) regularly receive technical questions asking for assistance in operationalizing leave laws, managing payroll deductions, and effectively tracking employee attendance and long-term leave. Employee leaves are also one of the most frequently discussed topics in our HR learning community as members of the [SSC HR Network](#) frequently reach out to their colleagues regarding leave management.

We are sharing a few of the most frequently asked questions (FAQs) as a reference. It is important to highlight that the information below is for practitioner purposes only and does not constitute legal advice. If you need legal advice, you should contact your attorney. Also keep in mind that most LEA collective bargaining agreements (CBAs) include negotiated procedures to process long-term leave for certificated and classified employees, which may deviate from what is prescribed in the Education Code. LEAs should comply with their employment contracts when processing leave.

**Q: Are classified probationary employees entitled to the same 5-month or 100-day rule for long-term leave as classified permanent employees?**

**A:** Yes, probationary employees are part of the classified service, while short-term and substitute employees are not. Probationary employees are also part of the bargaining unit, and are entitled to leave entitlements provided by the CBA:

[Education Code Section 45196](#): When a person employed in the classified service is absent from his duties on account of illness or accident for a period of five months or less, whether or not the absence arises out of or in the course of employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his position during his absence.

**Q: Can an employee use differential leave (or extended illness leave) concurrently with Pregnancy Disability Leave (PDL)?**

**A:** If an employee has a pregnancy-related disability before or after the child's birth, they may use all annual and accumulated sick leave and then up to five school months of differential pay leave, as long as their need for PDL is verified by a physician. There is no time in service requirements to take PDL. Your LEA can run PDL concurrently with this differential leave entitlement. Remember that, once the employee is no longer disabled, they are entitled to an additional 12 weeks of parental bonding leave, assuming they have not yet exhausted California Family Rights Act (CFRA)/Family and Medical Leave Act (FMLA) leave for that year.

**Q: If an employee is taking care of a family member, can they use up to 12 weeks of sick leave if they have it accrued under FMLA? Or is the employee only entitled to 7 days of personal necessity?**

**A:** Yes, if an employee has an FMLA-qualifying reason for the time off, they can exchange their unpaid FMLA leave for any accrued sick leave they have available.

It is common to focus on the technicalities of leave, but it is also equally important to consider the application of leave and how the LEA is managing its leave program. Leaves are a form of employee compensation and should be administered consistently, with and, most importantly, from an empathetic perspective. The upcoming [Employee Leave](#) webinar series, includes two Q&A roundtables and covers essential functions as they pertain to state and federal leave laws, tracking leaves and payroll deductions, accommodations, and how to address absenteeism and leave abuse.