An act to amend Sections 1294, 44940.5, 44977, 44977.5, 44978, 44984, 45196, and 45196.1, 45196.1, 87780, 87780.1, 87781, 87787, 88196, and 88196.1 of, and to repeal Sections 44983 and 87786 of, the Education Code, relating to school and community college employees.

LEGISLATIVE COUNSEL’S DIGEST

SB 796, as amended, Leyva. School and community college employees: absences due to illness or accident.

Existing law requires, when a certificated or classified school employee, and an academic or classified community college employee, who exhausts all available sick leave and continues to be absent from duties on account of illness or accident for an additional period of 5 school months, the employee to receive during those 5 months either (1) the difference between the employee’s salary and the sum that is actually paid, or would have been paid, to a substitute employee employed to fill the position during the employee’s absence, or (2) at least 50% of the employee’s regular salary during the period of the absence.

This bill would instead require a certificated or classified school employee, and an academic or classified community college employee, who exhausts all available sick leave and continues to be absent from duties on account of illness or accident for an additional
period of 5 school months to receive the employee’s full salary during those 5 months. The bill would make numerous related conforming and clarifying changes.


The people of the State of California do enact as follows:

SECTION 1. Section 1294 of the Education Code is amended to read:

1294. (a) Each person employed by a county superintendent of schools in a position requiring certification qualifications, except employees included in the civil service system or in any merit system, or any person who holds an office by virtue of an election conducted under the Elections Code or this code, and whose salary is paid from the county school service fund, has the same right with respect to leaves of absence, sick leave, and bereavement leave as a person employed by a school district or a community college district in a position requiring certification qualifications.

Sections

(b) Sections 22724, 44845, 44922, 44949, 44955, 44962 to 44976, inclusive, 44977, 44979, 44983, 44984, 44985, 44987, 87413, 87414, 87740, 87743, 87763 to 87779, inclusive, 87780, 87781, 87782, 87786, 87787, and 87788 apply to persons so employed by a county superintendent of schools and so paid from the county school service fund. Whenever, in those provisions, a duty or power is imposed upon or granted to the governing board of a school district or community college district or an employee thereof, the power or duty shall, for the purposes of this section, be deemed to be granted to or imposed on the county superintendent of schools or his or her employee, the employee of the county superintendent of schools, respectively. When “district” is used in those provisions, it shall, for the purposes of this section, be deemed to mean “county superintendent of schools.” Compensation paid to employees during those leaves shall be paid from the county school service fund.

The
(c) The granting of leaves of absence to employees pursuant to Section 44966 or 87767 shall be by the county superintendent of schools, upon approval by the county board of education.

SECTION 1.

SEC. 2. Section 44940.5 of the Education Code is amended to read:

44940.5. A certificated employee placed on compulsory leave of absence pursuant to Section 44940, and a classified employee placed on compulsory leave of absence pursuant to Section 45304, shall be subject to the following procedures:

(a) The governing board of the school district may extend the compulsory leave of absence of the employee beyond the initial period specified in Section 44940 or 45304, whichever is applicable, by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

(b) An employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid the employee’s regular salary during the period of the compulsory leave of absence if and during that time the employee furnishes to the school district a suitable bond, or other security acceptable to the governing board of the school district, as a guarantee that the employee will repay to the school district the amount of salary so paid to the employee during the period of the compulsory leave of absence in case the employee is convicted of the charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon the employee’s return to service in the school district.

(c) If the employee does not elect to furnish bond, or other security acceptable to the governing board of the school district, and if the employee is acquitted of the offense, or the charges against the employee are dismissed without the employee’s guilt being established, the school district shall pay to the employee the full compensation for the period of the compulsory leave of absence upon the employee’s return to service in the school district. If the charges against the employee are dismissed as a result of the
employee’s successful completion of a drug diversion program,
upon the employee’s return to service in the school district, the
school district, at the employee’s election, shall pay to the
employee any accrued leave, and differential pay pursuant to
Section 44977, as that section read on January 1, 2020, Section
45195, and Section 45196, as that section read on January 1, 2020,
for up to the length of the employee’s compulsory leave of absence.
(d) An action taken pursuant to this section by a governing board
shall be reported immediately to the Commission on Teacher
Credentialing; commission. The commission shall give priority to
the investigation and resolution of these cases.

SEC. 2.
SEC. 3. Section 44977 of the Education Code is amended to
read:
44977. (a) During each school year, when a person employed
in a position requiring certification qualifications has exhausted
all available sick leave, including all accumulated sick leave, and
continues to be absent from duties on account of illness or accident
for an additional period of five school months, whether or not the
absence arises out of or in the course of the employment of the
employee, the employee shall continue to receive the employee’s
full salary due the employee for any of the additional five months
in which the absence occurs. The school district shall make every
reasonable effort to secure the services of a substitute employee.
(b) For purposes of subdivision (a):
(1) The sick leave, including accumulated sick leave, and the
five-month period shall run consecutively.
(2) An employee shall not be provided more than one five-month
period per illness or accident. However, if a school year terminates
before the five-month period is exhausted, the employee may take
the balance of the five-month period in a subsequent school year.
(c) The governing board of every school district shall adopt a
salary schedule for substitute employees. The salary schedule shall
indicate a salary for a substitute for all categories or classes of
certificated employees of the school district.
(d) When a person employed in a position requiring certification
qualifications has exhausted all available sick leave, including all
accumulated sick leave, and is absent from duties on account of
illness for a period of more than five school months, or when a
person is absent from duties for a cause other than illness, the
amount deducted from the salary due to the employee for the month
in which the absence occurs shall be determined according to the
rules and regulations established by the governing board of the
school district. The rules and regulations shall not conflict with
rules and regulations of the state board.
(e) This section shall not be construed as depriving any school
district, city, or city and county of the right to make any reasonable
rule for the regulation of accident or sick leave or cumulative
accident or sick leave without loss of salary for persons acquiring
certification qualifications.
(f) This section shall apply whether or not the absence from
duty is by reason of a leave of absence granted by the governing
board of the employing school district.

SEC. 3.  
SEC. 4.  Section 44977.5 of the Education Code is amended to
read:
44977.5. (a) (1) Notwithstanding any other law, during each
school year, a person employed in a position requiring certification
qualifications may use sick leave for purposes of parental leave
for a period of up to 12 workweeks. A school district shall provide
parental leave to a person employed in a position requiring
certification qualifications pursuant to either paragraph (2) or
paragraph (3).
(2) In school districts that elect to provide differential pay
pursuant to this paragraph, when a person employed in a position
requiring certification qualifications has exhausted all available
sick leave, including all accumulated sick leave, and continues to
be absent from duties on account of parental leave pursuant to
Section 12945.2 of the Government Code, the amount deducted
from the salary due the person 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 the position during the person’s absence or, if no
substitute employee was employed, the amount that would have
been paid to a substitute had a substitute been employed. The
school district shall make every reasonable effort to secure the
services of a substitute employee.
(3) In school districts that elect not to provide differential pay
pursuant to paragraph (2), when a person employed in a position
requiring certification qualifications has exhausted all available
sick leave, including all accumulated sick leave, and continues to
be absent from duties on account of parental leave pursuant to
Section 12945.2 of the Government Code, the person shall be
compensated at no less than 50 percent of the person’s regular
salary for the remaining portion of the 12-workweek period of
parental leave.

(4) Regardless of the type of parental leave compensation
provided by the school district pursuant to paragraphs (2) and (3),
the compensation a person employed in a position requiring
certification qualifications shall receive shall be no less than 50
percent of the person’s 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 shall be reduced by any period of
sick leave, including accumulated sick leave, taken during a period
of parental leave.
(2) A person employed in a position requiring certification
qualifications shall not be provided more than one 12-week 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.
(c) This section shall apply whether or not the absence from
duty is by reason of a leave of absence granted by the governing
board of the employing school district.
(d) Notwithstanding subdivision (a) of Section 12945.2 of the
Government Code, a person employed in a position requiring
certification qualifications 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) This section shall not 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.

SEC. 4.

SEC. 5. Section 44978 of the Education Code is amended to read:

44978. (a) Every certificated employee employed five days a week by a school district shall be entitled to 10 days’ leave of absence for illness or injury and 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 school year of service. A certificated employee employed for less than five schooldays a week shall be entitled, for a school year of service, to that proportion of 10 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 additional days in addition thereto as the governing board may allow for illness or injury to certificated employees employed for less than five schooldays a week. Pay for any day of this absence shall be the same as the pay that would have been received had the employee served during the day. Credit for leave of absence need not be accrued before taking the leave by the employee and the leave of absence may be taken at any time during the school year. If the employee does not take the full amount of leave allowed in any school year under this section the amount not taken shall be accumulated from year to year with additional days as the governing board may allow.

(b) The governing board of each school district shall adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for purposes of this section. The rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well-recognized church or denomination.

(c) This section shall not be deemed to modify or repeal any provision of law contained in Chapter 3 (commencing with Section 120175) of Part 1 of Division 105 of the Health and Safety Code.

(d) Section 44977, as that section read on January 1, 2020, relating to compensation, shall not apply to the first 10 days of absence on account of illness or accident of the employee employed...
five days a week or to the proportion of 10 days of absence to
which the employee employed less than five days a week is entitled
hereunder on account of illness or accident or to additional days
granted by the governing board. An employee shall have the right
to use sick leave provided for in this section and the benefit
provided by Section 44977, as that section read on January 1, 2020,
44977 for absences necessitated by pregnancy, miscarriage,
childbirth, and recovery therefrom.

SEC. 5.
SEC. 6. Section 44983 of the Education Code is repealed.
SEC. 6.
SEC. 7. Section 44984 of the Education Code is amended to
read:
44984. (a) The governing board of a school district shall
provide by rules and regulations for industrial accident and illness
leaves of absence for all certificated employees. The governing
board of a school district that is created or whose boundaries or
status is changed by an action to organize or reorganize school
districts completed after the effective date of this section shall
provide by rules and regulations for these leaves of absence on or
before the date on which the organization or reorganization of the
school district becomes effective for all purposes.
(b) The rules or regulations shall include all of the following
provisions:
(1) Allowable leave shall be for not less than 60 days during
which the schools of the school district are required to be in session
or when the employee would otherwise have been performing
work for the school district in any one fiscal year for the same
accident.
(2) Allowable leave shall not be accumulated from year to year.
(3) Industrial accident or illness leave shall commence on the
first day of absence.
(4) (A) If a certificated employee is absent from duties on
account of an industrial accident or illness, the employee shall be
paid the portion of the salary due the employee for any month in
which the absence occurs as, when added to the employee’s
temporary disability indemnity under Division 4 (commencing
with Section 3200) or Division 4.5 (commencing with Section
6100) of the Labor Code, will result in a payment to the employee
of not more than the employee’s full salary.
(B) The phrase “full salary” as used in this subdivision shall be computed so that it shall not be less than the employee’s “average weekly earnings” as that phrase is used in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not apply.

(5) Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award.

(6) When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due the employee for the same illness or injury.

(c) Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Section 44977, as that section read on January 1, 2020, Section 44978, and Section 44983, as that section read on January 1, 2020, and for purposes of each of these sections, the employee’s absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave, provided that if the employee continues to receive temporary disability indemnity, the employee may elect to take as much of the employee’s accumulated sick leave as, when added to the employee’s temporary disability indemnity, will result in a payment to the employee of not more than the employee’s full salary.

(d) The governing board of a school district may, by rule or regulation, provide for an additional leave of absence for industrial accident or illness as it deems appropriate.

(e) During a paid leave of absence, the employee may endorse to the school district the temporary disability indemnity checks received on account of the employee’s industrial accident or illness. The school district, in turn, shall issue the employee appropriate salary warrants for payment of the employee’s salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

(f) In the absence of rules and regulations adopted by the governing board of a school district pursuant to this section, an employee shall be entitled to industrial accident or illness leave
as provided in this section but without limitation as to the number
of days of that leave.

SEC. 7.  Section 45196 of the Education Code is amended to
read:

45196. (a) When a person employed in the classified service
is absent from 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 employee shall
continue to receive the employee’s full salary due the employee
for any month in which the absence occurs.
(b) Entitlement to sick leave provisions under this section, if
any, section shall be considered “entitlement to other sick leave”
for purposes of computing benefits under Section 45192 if the
absence is for industrial accident or illness and shall be used after
entitlement to all regular sick leave, accumulated compensating
time, vacation, or other available paid leave has been exhausted.
The paid sick leave authorized by this section shall be exclusive
of any other paid leave, sick leave, industrial accident or illness
leave, holidays, vacation, or other accumulated compensating time
to which the employee may be entitled. The five-month period set
forth in this section shall commence after the exhaustion of all
other paid leaves or accumulated compensating time to which the
employee may be entitled, and the five-month period shall run
consecutively to all other paid leaves and accumulated
compensating time.

SEC. 8.  Section 45196.1 of the Education Code is amended to
read:

45196.1. (a) (1) Notwithstanding any other law, during each
school year, a classified employee may use sick leave for purposes
of parental leave for a period of up to 12 workweeks. A school
district shall provide parental leave to a classified employee
pursuant to either paragraph (2) or paragraph (3).
(2) In school districts that elect to provide differential pay
pursuant to this paragraph, when an employee has exhausted all
available sick leave, including all accumulated sick leave, and
continues to be absent from duties on account of parental leave
pursuant to Section 12945.2 of the Government Code, the amount
deducted from the salary due the employee 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 the position during the employee's absence.

(3) In school districts that elect not to provide differential pay pursuant to paragraph (2), when an employee has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from 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 parental leave compensation provided by the school district pursuant to paragraph (2) or (3), the compensation a classified employee shall receive shall be no less than 50 percent of the employee's 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.

(c) This section shall apply whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing school 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) This section shall not 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.
SEC. 10. Section 87780 of the Education Code is amended to
read:
87780. (a) When a person employed in an academic position
is absent from his or her duties on account of illness or accident
for a period of five school months or less, whether or not the
absence arises out of or in the course of the employment of the
employee, the amount deducted from the salary due the employee
shall continue to receive the employee’s full salary for any month
in which the absence occurs shall not exceed the sum that is
actually paid a temporary employee employed to fill his or her
position during his or her absence or, if no temporary employee
was employed, the amount that would have been paid to the
temporary employee had he or she been employed. The
community college district shall make every reasonable effort to
secure the services of a temporary employee.
(b) The governing board of every community college district
shall adopt a salary schedule for temporary employees. The salary
schedule shall indicate a salary for a temporary employee for all
categories or classes of academic employees of the community
college district.
Except in a district where the governing board has adopted a
salary schedule for temporary employees of the district, the amount
paid the temporary employee during any month shall be less than
the salary due the employee absent from his or her duties.
When
(c) When a person employed in an academic position is absent
from his or her duties on account of illness for a period of more
than five school months, or when a person is absent from his or
her duties for a cause other than illness, the amount deducted from
the salary due the person for the month in which the absence occurs
shall be determined according to the rules and regulations
established by the governing board of the community college
district. These rules and regulations shall not conflict with rules
and regulations of the board of governors.

Nothing in this section shall be construed to deprive

(d) This section shall not be construed as depriving any district,
city, or city and county of the right to make any reasonable rule
for the regulation of accident or sick leave or cumulative accident
or sick leave without loss of salary for academic employees.

This

(e) This section shall be applicable apply 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.

SEC. 11. Section 87780.1 of the Education Code is amended
to read:

87780.1. (a) (1) Notwithstanding any other law, during each
school year, a person employed in an academic position may use
his or her sick leave for purposes of parental leave for a period of
up to 12 workweeks. A community college district shall provide
parental leave to a person employed in an academic position
pursuant to either paragraph (2) or (3).

(2) In community college districts that use the differential pay
system described in Section 87780, elect to provide differential
pay pursuant to this paragraph, 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 the employee 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
during his or her the employee’s absence or, if no temporary
employee was employed, the amount that would have been paid
to the temporary employee had he or she a temporary employee
been employed.

(3) In community college districts that use the differential pay
system described in Section 87786, elect not to provide differential
pay pursuant to paragraph (2), 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, parental leave compensation provided by the community college district pursuant to paragraphs (2) and (3), the compensation a person employed in an academic position shall receive shall be no less than 50 percent of his or her the person’s 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 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.
(c) This section shall apply 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 person employed in an academic position 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.
SEC. 12. Section 87781 of the Education Code is amended to read:

87781. (a) (1) Every academic employee employed five days a week by a community college district shall be entitled to 10 days’ leave of absence for illness or injury and any additional days in addition thereto that the governing board may allow for illness or injury, exclusive of all days he or she the employee is not required to render service to the district, with full pay for a college year of service.

(2) An employee employed for less than five schooldays a week shall be entitled, for a college year of service, to that proportion of 10 days’ leave of absence for illness or injury as the number of days he or she the employee is employed per week bears to five, and is entitled to those additional days in addition thereto as the governing board may allow for illness or injury to academic employees employed for less than five schooldays per week. Pay for any day of those absences shall be the same as the pay that would have been received had the employee served during the day.

(b) Credit for leave of absence need not be accrued prior to before taking leave by the employee, and the leave of absence may be taken at any time during the college year. If the employee does not take the full amount of leave allowed in any school year under this section, the amount not taken shall be accumulated from year to year with additional days as the governing board may allow.

(c) 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 purposes 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 church or denomination.

(d) Nothing in this section shall not be deemed to modify or repeal any provision in Chapter 3 (commencing with Section 120175) of Part 1 of Division 105 of the Health and Safety Code.

(e) Section 87780 does not apply to the first 10 days of absence on account of illness or accident of any employee employed five days per week or to the proportion of 10 days of absence to which the employee employed less than five days per week is entitled hereunder on account of illness or accident or to additional days
granted by the governing board. An employee shall have the right to utilize sick leave provided for in this section and the benefit provided by Section 87780 for absences necessitated by pregnancy, miscarriage, childbirth, and recovery therefrom.

SEC. 13. Section 87786 of the Education Code is repealed.

Section 87786. Section 87780 shall not apply to any community college district which adopts and maintains in effect a rule which provides that when a person employed in an academic position is absent from his or her duties on account of illness or accident for a period of five school months or less whether or not the absence arises out of or in the course of the employment of the employee, he or she shall receive 50 percent or more of his or her regular salary during the period of the absence and nothing in Section 87780 shall be construed as preventing the governing board of any district from adopting any such rule:

Notwithstanding the foregoing, when a person employed in an academic position is absent from his or her duties on account of illness for a period of more than five school months, or when a person is absent from his or her duties for a cause other than illness; the amount deducted from the salary due him or her for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. These rules and regulations shall not conflict with rules and regulations of the board of governors.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for academic employees.

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 district.

SEC. 14. Section 87787 of the Education Code is amended to read:

87787. (a) The governing board of a community college district shall provide by rules and regulations for industrial accident and illness leaves of absence for all academic employees. The governing board of a community college district that is created or whose boundaries or status is changed by an action to organize or reorganize community college districts completed after January
1, 1976, shall provide by rules and regulations for those leaves of absence on or before the date on which the organization or reorganization of the community college district becomes effective.

(b) The rules or regulations shall include all of the following provisions:

(1) Allowable leave shall be for not less than 60 days during which the community colleges of the district are required to be in session or when the employee would otherwise have been performing work for the community college district in any one fiscal year for the same accident.

(2) Allowable leave shall not be accumulated from year to year.

(3) Industrial accident or illness leave shall commence on the first day of absence.

(4) (A) When an academic employee is absent from his or her duties on account of an industrial accident or illness, the employee shall be paid the portion of the salary due him or her the employee for any month in which the absence occurs as, when added to his or her the employee’s temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code, will result in a payment to the employee of not more than his or her the employee’s full salary.

(B) The phrase “full salary,” as used in this subdivision, shall be computed so that it shall not be less than the employee’s “average weekly earnings” as that phrase is used in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

(5) Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award.

(6) When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him or her the employee for the same illness or injury.

(c) Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 87780, as that section read on January 1, 2020, 87781, and 87786, as that section read on January 1, 2020, and, for purposes of each
of these sections, his or her the employee’s absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave. However, if the employee continues to receive temporary disability indemnity, he or she the employee may elect to take as much of his or her the employee’s accumulated sick leave as, when added to his or her the employee’s temporary disability indemnity, will result in a payment to the employee of not more than his or her the employee’s full salary.

(d) The governing board of a community college district, by rule or regulation, may provide for an additional leave of absence for industrial accident or illness as it deems appropriate.

(e) During a paid leave of absence, the employee may endorse to the community college district the temporary disability indemnity checks received on account of his or her the employee’s industrial accident or illness. The community college district, in turn, shall issue the employee appropriate salary warrants for payment of the employee’s salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by the salary warrants.

(f) In the absence of rules and regulations adopted by the governing board of a community college district pursuant to this section, an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of leave.

SEC. 15. Section 88196 of the Education Code is amended to read:

88196. (a) When a person employed in the classified service is absent from his or her 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 the employee shall continue to receive the employee’s full salary for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill the employee’s position during his or her absence occurs.

Except in a district where the governing board has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any month shall be less than the salary due the employee absent from the employee’s duties.
Entitlement
(b) Entitlement to sick leave provisions under this section, if
any, shall be considered “entitlement to other sick leave”
for the purposes of computing benefits under Section 88192 if the
absence is for industrial accident or illness and shall be used after
entitlement to all regular sick leave, accumulated compensating
time, vacation, or other available paid leave has been
exhausted. The paid sick leave authorized by this section shall be
exclusive of any other paid leave, sick leave, industrial accident
or illness leave, holidays, vacation, or other accumulated
compensating time to which the employee may be entitled. The
five-month period set forth in this section shall commence after
the exhaustion of all other paid leaves or accumulated
compensating time to which the employee may be entitled, and the
five-month period shall run consecutively to all other paid leaves
and accumulated compensating time.

This section shall not apply to any community college district
that adopts and maintains, in effect, a rule which provides that a
regular classified employee shall be credited once a year with a
total of not less than 100 working days of paid sick leave, including
days to which he or she is entitled under Section 88191. These
days of paid sick leave, in addition to those required by Section
88191, shall be compensated at not less than 50 percent of the
employee’s regular salary. The paid sick leave authorized under
such a rule shall be exclusive of any other paid leave, holidays,
vacation, or compensating time to which the employee may be
entitled. Nothing in this section shall preclude the governing board
from adopting such a rule.

SEC. 16. Section 88196.1 of the Education Code is amended
to read:
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. A community college district shall provide parental
leave to a classified employee pursuant to either paragraph (2) or
(3).

(2) In the community college districts that use the differential
pay system described in the first paragraph of Section 88196, elect
to provide differential pay pursuant to this paragraph, 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 the employee 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 temporary
employee employed to fill his or her the position during his or her
the employee’s absence.

(3) In community college districts that use the differential pay
system described in the last paragraph of Section 88196, elect not
to provide differential pay pursuant to paragraph (2), 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
parental leave compensation provided 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 the employee’s 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.

(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.