



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Leaves of Absence		Article: 1306	
APPROVED: TR Merickel, Chief Probation Officer			
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SICK LEAVE POLICY

A. EMPLOYEE:

Pursuant to Kern County Administrative Policy and Procedures Manual, Chapter 1, Section 104, sick leave is defined as;” A paid leave of absence taken by an employee using accrued sick leave hours due to illness, accidental injury, or pregnancy and related complications.” The maximum sick leave accrual and the accrual rate for represented employees are as specified in the applicable MOU. The maximum sick leave accrual and the accrual rate for part-time employees shall be proportionate to the maximum accrual and accrual rate of full-time employees based on the number of regular hours worked per pay period by the part time employee.

1. The time constraint for the employee to notify the supervisor of an absence due to illness is, in general, as soon as possible. While off duty, institutional and probation staff scheduled to work shifts shall notify their immediate supervisor or designee a minimum of two (2) hours before the start of his or her shift. All other staff shall notify the immediate supervisor at the beginning of the workday. If the illness occurs at work, notification to the supervisor shall be made immediately. In the absence of the immediate supervisor notification should be made to the next superior in the chain of command.

The employee shall make notification personally; however, if the illness is of such a serious nature that precludes personal notification, a family member or friend should be requested to make the call. The above described notification shall be made each day the employee is ill unless an indication is made that a physician has recommended a number of consecutive days off, in which case the employee must assure that the physician’s order is immediately transmitted to the Administrative Services Division.

2. If the employee has insufficient accrued sick leave credits, but has other leave credits, the use of those credits will only occur upon request of the employee. Such request must be made when the employee notifies the supervisor of their illness. It is the employee’s responsibility to know their leave balances as well as their accrual rate. Failure to make a request that other available leave balances be used will result in leave without pay.

Recurring incidents of overdrawn sick leave will result in disciplinary action as indicated below. Supervisors shall adhere to the below-stated sanctions.

OFFENSE: SANCTION: Overdrawing Sick Leave

First Offense -	Verbal Admonishment with written documentation on an Employee Performance Update form.
Second Offense -	Written Reprimand
Third Offense -	Suspension, 1-5 days
Repeated Offenses -	5-30 days suspension, and/or demotion, potential for termination

Prior to discipline, supervisors must confer with Probation Personnel to ensure there are no personal leave issues, i.e. FMLA, Worker's Compensation, Personal Necessity Leave, etc.

Employees can access their most recent pay stubs containing sick leave balances through the Auditor-Controller-County Clerk's Intranet-Homepage:

<https://auditornet.co.kern.ca.us/usermaintazm/Account/login.aspx?ReturnUrl=%2fusermaintazm%2fhome>

OR if outside the intranet:

<http://www.kerncountyemployees.com/>

If an employee exhausts their available sick leave and requests a Leave of Absence (whether covered by other leave accruals or not) they must submit a doctor's statement supporting the reason for the leave.

This type of Leave of Absence is limited to 480 hours in any twelve-month period.

3. When an employee learns of a pregnancy, a scheduled surgical procedure or the need for another type of medical leave he/she must notify the Human Resource Specialist (HRS) immediately. The HRS will consult with them and provide them with instructions outlining the employee's responsibilities.
4. An employee must submit a doctor's certificate if paid sick leave is taken in excess of five consecutive days or five days in one month. A department head or the County Administrative Officer may require a doctor's certificate if an employee has been or will be absent due to illness three consecutive days or three days within one month. If either the County Administrative Officer or the department head is dissatisfied with the doctor's certificate, the employee can be required to submit to an examination by a doctor selected and paid for by the County. In this instance, only if the doctor determines that the employee was indeed ill will the employee be entitled to paid sick leave. An employee refusing to submit to this exam will not be entitled to receive paid sick leave. Employees having a loss of salary pursuant to this provision may appeal the loss as a suspension pursuant to Civil Service Rule 1700 et. seq. No employee shall suffer any loss of pay until the appeal is final.
5. The Federal Family Medical Leave Act (FMLA) also requires a Physician's statement whenever an employee is absent from work as a result of a Serious Medical Problem as defined by that act.

6. Non-Job-Related Illness or Disability:
 - a. County employees shall be granted a leave without pay for an incapacitating non-job-related illness or disability of the employee, including a disability resulting from pregnancy, childbirth, or related condition. The leave entitlement shall be subject to the following conditions:
 - i. The necessity for the leave shall be certified by a medical doctor, who shall also state that the employee will be medically able to return to work at the expiration of the leave period;
 - ii. The leave period shall not exceed six months during any twelve-month period except as required by law; and an employee shall not be entitled to more than one leave of absence pursuant to this section per incapacitating illness or disability. Use of this leave is subject to the employee using all sick leave accrued prior to the effective date of the leave of absence. Employees shall be entitled to use any other accrued leave balances, concurrently with the leave given by this section.
 - iii. Verification from a medical doctor of continued incapacity to perform the job duties shall be requested by the appointing authority. The employee may be required to pass a physical examination or medical examination, at County expense, prior to returning to duty if the illness or disability may affect job performance or the health and safety of the employee, co-workers, or the public.

B. FAMILY:

1. Use of Paid Sick Leave.

Upon an oral or written request, an employee shall be permitted to use sick leave for the purposes required by Labor Code section 246.5, including:

- a. For the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member. Use of paid sick leave for an employee's family member is limited to a maximum of 80 hours per calendar year.
- b. For paid time off due to the death or funeral of an employee's family member. Use of paid sick leave due the death or funeral of an employee's family member is limited to a maximum of 80 hours per calendar year.
- c. For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code sections 230 (c) and 230.1 (a).
- d. For the purposes of this section, "family member" is generally defined by Labor Code section 245.5 (c), and shall include an employee's child (biological, adopted, foster child, stepchild, legal ward, or child to whom the employee stands in loco parentis), parent (biological, adopted, foster

parent, stepparent, legal guardian, or person who stood in loco parentis when the employee was a minor child), spouse, registered domestic partner, grandparent, grandchild, sibling, parent-in-law, grandparent-in-law, or sibling-in-law.

2. Bereavement Leave

SEIU represented employees will refer to their applicable MOU.

3. Family Care Leave:

Employees of the County with at least one year's continuous service and who are otherwise eligible for family care leave under the provisions of Public Law 103-3 ("Family and Medical Leave Act of 1993"; hereafter "FMLA"), Government Code Section 12945.2 (or any federal, state, or local rules or regulations adopted pursuant thereto) shall be entitled to unpaid leave of absence for family care. FMLA provides for an unpaid leave of absence for family care of up to twelve (12) work weeks during any twelve (12) month period and Government Code Section 12945.2 provides for an unpaid leave of absence for family care of up to four (4) months in a 24-month period. Employees electing to take family care leave shall exhaust all accrued vacation time and compensatory time off starting at the commencement of the family care leave, and any such accrued time shall be considered part of the authorized term of the family care leave.

Department policy requires Compensatory Time Off be utilized before vacation in this instance. Any medical or family care leave taken pursuant to Civil Service Rule 1201.20 or Government Code Section 12945.2 shall count as leave taken under FMLA. Similarly, any family care or medical leave taken pursuant to the FMLA shall count as leave taken pursuant to Government Code Section 12945.2 or Civil Service Rules 1201.20, as applicable.

C. Misuse of Sick Leave:

Sick Leave is insurance to protect the employee from income loss because of absences resulting from illness or injury. Sick leave abuse has a negative impact on the effectiveness of the employee and on the operation of the Department.

1. Sick leave abuse is defined as a demonstrable pattern of sick leave misuse which includes, but is not limited to the following:
 - a. Employee use of one or more sick leave days in connection with regular days off, holidays, or other scheduled time off.
 - b. Employee use of an excessive number of sick leave days. For example, usage that prevents any sick leave accrual or usage that is judged out of the ordinary as compared to other employees.
 - i. Excessive use is defined as 96 hours per year

- ii. Usage of a large block of sick leave (five or more consecutive days) for a serious illness/injury will be considered as one occurrence rather than considering the actual number of days.
 - c. Employee use of sick leave for a particular day every month.
 - d. Employee use of sick leave when denied other time off.
 - e. Employee use of sick leave for a known holiday not given off by the County, for a family celebration, or other special events.
 - f. Supervisor's assessment based on evidence that the absence was for an unauthorized reason.
2. Supervisors shall be responsible for monitoring their employee's sick leave usage. When there is a demonstrable pattern of sick leave misuse as previously described, the supervisor shall at the time of the annual performance evaluation or sooner via a special evaluation if extreme circumstances exist, strongly consider giving a below standard rating in one or more of the following areas:

Attendance.
 Compliance with rules and regulations.
 Interest in Job.
 Volume of Work Produced.

If an employee continues to receive a below standard rating in one or more of these areas, the following may result:

Referral to Employee Assistance Program.
 Merit increase withheld.
 Failure of probationary period if a new employee or if newly promoted.
 Progressive disciplinary action up to termination of employment.

D. Vacation

The employee may take whatever balance they have on credit at any time, provided the Department Head approves the vacation, and the amount taken at one time does not exceed twice the amount the employee currently earns for one year. Each bureau and division shall establish guidelines for scheduling employee leaves of absence on vacation at the beginning of each year. In the event of scheduling conflicts, rank and departmental seniority shall prevail.

New employees will accrue vacation leave the first day of regular and continuous employment. Any use of vacation leave while on a probationary period will extend the probationary period day for day in accordance with Kern County Policy and Procedures Manual Section 119.4.

The vacation entitlement for regular full-time employees is determined by the applicable employee MOU. (For specific accrual rates and applicable response time frame request, please consult the MOU which applies to your bargaining unit.)

The Probation Department's vacation policy allows an employee to submit a vacation/comp time request with a minimum of two weeks' notice and an employee may request a vacation/comp time day (maximum three (3) times per calendar year) with a minimum of 24 hours' notice.

The granting of any vacation request shall be subject to the workload and staffing requirements of the department. Denials because of staffing and workload requirements shall not be grounds for a formal grievance.

Employees shall not be downgraded on the Employee Performance Report for the use of authorized vacation.

1. Rank, seniority with the department, and department operation will normally be the determining factor if conflicts arise when two or more employees within the same work unit request the same period of vacation. Large blocks of time off (40-hour increments) are preferred for the benefit of the employee and operation of the department. Changes of vacation requests should be kept to a minimum as they are disruptive and inconvenient to other staff.

Vacation requests submitted and authorized within the designated time frame at the beginning of each year will receive preferential consideration. Subsequent requests for the time off must be submitted in a timely manner as outlined but will be honored only insofar as they do not disrupt vacation requests already authorized. Consideration will always be given for emergency and unusual situations requiring time off. Each employee may request a maximum of three (3) days' vacation/comp time off per year with a minimum of 24 hours' notice.

The scheduling of vacation/comp time off is still a matter of mutual agreement and is predicated upon operational needs. Vacations are to be coordinated so that both assigned staff in "two-person" offices are not on vacation at the same time. Vacation days granted during the Christmas and New Year holidays will be limited to assure proper supervision and coverage of all work stations.

E. Military Leave

Pursuant to Civil Service Commission Rule 1201.40 Temporary Military Leave Pursuant to California Military and Veterans Code sections 395 and 395.01, any County employee who is a member of the reserve corps of the Armed Forces of the United States or of the National Guard or the Naval Militia, is entitled to a temporary military leave of absence while engaged in military duty ordered for the purposes of active military training, inactive duty training, encampment, naval cruises, special exercises or like activity. Provided that the period of ordered duty does not exceed 190 calendar days, including time involved in going to and returning from that duty. Employee shall provide a copy of the military orders which must accompany the request for military leave.

Any employee who has been in the service of the County for at least one year, immediately prior to the date upon which a temporary military leave of absence begins, shall, to the extent required by law, be entitled to receive his/her salary for the first 30 calendar days of such leave and, shall receive the same vacation, sick leave and holiday

privileges and the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or re-employment that the employee would have enjoyed had he/she not been absent; however, any uncompleted probationary period must be completed upon reinstatement. (for purposes of this section, in determining the one year of service with the County, all service of the public employee in the recognized military service shall be counted as County service). The employee's seniority dates (i.e., County, Vacation and Increment) will not be adjusted for the duration of the leave. The employee may utilize vacation and compensatory time off accruals before beginning in a non-pay status. Notwithstanding the above, an employee on temporary military leave for the purpose of "inactive duty training" is not entitled to have any of his/her salary paid as described above.

Pursuant to Civil Service Commission Rule 1201.45

Other Military Leaves

Any County employee who volunteers for or is required to serve as a member of any branch of the armed forces (including, but not limited to, initial enlistment), shall be granted a military leave of absence without pay for a period of one enlistment, not to exceed five (5) years' duration, provided a copy of the military orders accompany the request for military leave. The employee's seniority dates (i.e., County, Vacation and Increment) will not be adjusted for the duration of the leave; however, the employee will not accrue benefits, which are based on merit or hours worked (including, but not limited to vacation and sick leave). Military leaves of absence are governed by both the California Military and Veterans Code sections 389 et seq. and Title 38 of the United States Code, sections 4301 et seq. (Rev. /01)

An employee returning from an approved military leave of absence shall be entitled to return to his/her formerly held classification and position, without loss of standing, provided the returning employee notifies the Department of the intent to return to work in accordance with the notice provisions listed in Civil Service Commission Rules 1201.45.10.

F. Jury Duty

All employees shall be entitled to time off without loss of pay, upon prior approval of the Department Head, to serve on a jury or to appear as a witness. The employee shall relinquish to the county all fees, except mileage fees, received while serving on a jury or as a witness.

1. Upon prior approval by their Department Head, all employees shall be entitled to time off without loss of pay to serve on a jury, to appear as a witness in Court other than as a litigant when duly serviced with a subpoena, and to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance of misconduct of the employee.
2. Such time off shall include any actual and necessary travel time from the regular place of employment to the Court of hearing place designated in the jury summons, subpoena, or official order.
3. Days and hours of Jury Service must be noted on the employee's timecard.

G. Compensatory Time Off

The Department Head may authorize up to one hundred twenty hours of accumulated compensatory time. Employees are encouraged to ensure that accumulation of compensatory time hours is being reduced.

H. **Family School And Licensed Child Day Care Activity Leave**

Any full-time or part-time County employee who is a parent, guardian or grandparent with custody of a child in grades Kindergarten through Twelve or attending a licensed child day care facility, is entitled, under the following conditions, to a leave from work up to a maximum of forty (40) hours per year, but no more than eight (8) hours per month, to participate in the activities of the school or licensed child care facility of any of his or her children.

The employee must use vacation or compensatory time off for this leave.

If the employee has no paid leave time accrued, leave without pay will be taken.

The employee must request such leave in writing to the Chief Probation Officer through the chain of command no less than three (3) working days prior to the scheduled activity. If both parents work for the same department, the Department Head may limit the leave to the parent initially making the request. Written verification of the employee's participation in the school or day care activity may be requested at the discretion of the Chief Probation Officer.