



**LOS ANGELES UNIFIED SCHOOL DISTRICT
POLICY BULLETIN**

TITLE: Military Disability Treatment Leave

NUMBER: BUL-050498

DOCUMENT VISIBILITY: PROTECTED PUBLIC

ISSUER: Mampre Pomakian, Interim Chief Risk Officer
Division of Risk Management and Insurance Services

DATE: May 24, 2018

ROUTING
All Employees
All Locations

PURPOSE: The purpose of this Bulletin is to provide District employees with information and guidance concerning additional absence time for illness or injury with pay for the purpose of undergoing medical treatment, including mental health treatment, for the eligible employee’s service-connected disability.

BACKGROUND: Effective January 1, 2017, California Education code Sections 44978.2 and 45191.5, mandate that certificated and classified employees who are former active duty members of the U.S. Armed Forces or who are former or current members of the National Guard or a federal military reserve component, and who have a qualifying service-connected disability rating of 30 percent or more from the United States Department of Veteran Affairs (USDVA) receive additional absence time for illness or injury with pay for the purpose of undergoing medical treatment, including mental health treatment.

This bulletin applies to certificated and classified employees who are eligible and entitled to receive Military Disability Treatment Leave benefits. All further references to Military Disability Treatment Leave refer to additional absence time for illness or injury with pay for the purpose of undergoing medical treatment, including mental health treatment for a service-connected disability rated at 30% or more by the USDVA.

MAJOR CHANGES: This is a new bulletin.

GUIDELINES: The following guidelines apply.

I. ELIGIBILITY

To be eligible for a Military Disability Treatment Leave, an employee must:



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- A. Be a certificated or classified employee hired on or after, or employed on or after, January 1, 2017;
- B. Be a former active duty member of the U.S. Armed forces; or a former or current member of the California National Guard or a federal military reserve component (which includes Army National Guard; Army Reserve; Navy Reserve; Marine Corps Reserve; Air National Guard; Air Force Reserve; and Coast Guard Reserve); and
- C. Have a service-connected disability rated at 30 percent or more by the USDVA.

Employees who are neither certificated nor classified are not eligible for Military Disability Treatment Leave.

II. ENTITLEMENT

In addition to any other entitlement for leave of absence for illness or injury with pay, eligible employees are entitled as follows:

- A. Certificated Employees are eligible for up to 10 days of Military Disability Treatment Leave (8 hours per day maximum) with pay for the purpose of undergoing medical treatment for a qualifying service-connected disability.

A certificated employee employed less than 5 days per week shall be entitled to that proration of 10 days of Military Disability Treatment Leave, based on the employee's assigned work schedule.

- B. Classified Employees are eligible for up to 12 days of Military Disability Treatment (8 hours per day maximum) with pay for the purpose of undergoing medical treatment for a qualifying service-connected disability.

A classified employee employed less than 5 days per week shall be entitled to that proration of 12 days of Military Disability Treatment Leave based on the employee's assigned work schedule.

- C. Military Disability Treatment Leave granted under Sections 44978.2 and 45191.5 is a one-time credit and does not accrue. Any Military



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Disability Treatment Leave granted under Sections 44978.2 and 45191.5 that are not used during the 12 month period, as determined by the benefit start date outlined below, shall not be carried over and shall be forfeited.

III. DETERMINING THE BENEFIT START DATE

Military Disability Treatment Leave granted under Sections 44978.2 and 45191.5 shall be made and remain available for use for the next 12 months of employment on the later of one of the following benefit window start dates:

- A. If an employee already has a service-connected disability rated at 30 percent or more by the USDVA, the Military Disability Treatment Leave start date is as early as: (i) the effective date of the employee's qualifying rating; (ii) the first day the employee begins District employment; or (iii) the first day the employee returns to District employment after active duty; or
- B. If an employee has applied for, but not received a service-connected disability rating awarded by the USDVA, then the Military Disability Treatment Leave start date is as follows:
 1. Initial start date for the 12-month Military Disability Treatment Leave window is when the employee receives confirmation from the USDVA that the employee's application for a service-connected disability rating has been submitted; and
 2. Once an employee receives a decision from the USDVA, the employee must inform the District, and:
 - a. If USDVA awards a qualifying service-connected disability rating of 30 percent or more, then the employee continues to exercise the Military Disability Treatment Leave for the remainder of the 12-month period that began with proof of application submission; or
 - b. If USDVA does not award a qualifying service-connected disability rating of 30 percent or more, the District may change the Military Disability Treatment Leave consumed prior to the USDVA decision to a different employee leave balance.



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If an employee does not have a different leave balance available, the Military Disability Treatment Leave consumed prior to the USDVA decision will become an overpayment.

IV. CERTIFICATED HR/PERSONNEL COMMISSION

Certificated HR or Personnel Commission shall:

A. Identify a Potential Military Disability Treatment Leave

Certificated HR/ Personnel Commission shall include information regarding Military Disability Treatment Leave as a part of new hire packets and military leave of absence packets with instructions on where and how to submit a qualifying rating from the USDVA.

B. Determine the benefit start date and make Military Disability Leave available upon receipt of:

1. Documentation from the USDVA supporting an employee's service-connected disability rating of 30 percent or more, or
2. Confirmation from the employee that the employee's application for a service-connected disability rating has been submitted to the USDVA.

(See the "Determining Benefit Start Date" section of this policy bulletin for more information.)

C. Where a confirmation from the employee that the employee's application for a service-connected disability rating has been submitted, but a qualifying rating of 30 percent or more awarded by the USDVA has not yet been received, Certificated HR/Personnel Commission shall require the employee to provide the information once a disability rating decision has been received from the USDVA.

D. Designate Military Disability Treatment Leave as approved.

E. Maintain all documents pertaining to the employee's disability rating decision from the USDVA.

V. ADMINISTRATOR/DESIGNEE RESPONSIBILITIES



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The Administrator/Designee shall request appropriate forms and required documentation. Medical documentation demonstrating medical treatment for a service-connected disability is required to utilize Military Disability Treatment Leave granted under Sections 44978.2 and 45191.5.

All documentation relating to the employee's leave of absence for eligible military veterans with a service-connected disability must be kept in a *confidential* file separate from the employee's regular personnel records. All medical documentation, certifications, and medical histories of employees are subject to privacy protections as well as the Genetic Information Non-Discriminatory Act (GINA).

VI. EMPLOYEE RESPONSIBILITIES

If an employee's leave qualifies as Military Disability Treatment Leave, the employee will have the following responsibilities:

- A. Provide Certificated HR/Personnel Commission with documentation supporting a service-connected disability rating of 30 percent or more awarded by the USDVA.
- B. Where a qualifying rating of 30 percent or more awarded by the USDVA has not yet been received, provide Certificated HR/Personnel Commission with confirmation from the USDVA that the employee's application for a service-connected disability rating has been submitted. Once the employee receives a decision from the USDVA the employee must inform Certificated HR/Personnel Commission.
- C. An oral or written request to use Military Disability Treatment Leave must be documented on the "Certification/Request of Absence for Illness, Family Illness, and New Child Form No. 60.ILL (Certification of Absence form).
- D. Provide administrator/designee with medical documentation supporting the request is for the purpose of undergoing medical treatment for a service-connected disability.
- E. Comply with the usual and customary call-in and reporting procedures in accordance with their work location and Collective Bargaining Agreement (if applicable).



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- F. Make a reasonable effort to schedule medical treatment for a service-connected disability so as not to disrupt District operations.
- G. If the need for use of Military Disability Treatment Leave is foreseeable, an employee must provide reasonable advance notice.
- H. If the need for use of Military Disability Treatment Leave is not foreseeable, an employee must provide notice as soon as practicable.

VII. PROTECTED TIME OFF – ANTI-RETALIATION:

Time taken off under this policy is considered protected leave of absence and an employee cannot be subject to retaliation for exercising his/her rights under this policy. This does not mean that employees with excessive absenteeism outside of job protected absences are exempt from discipline. Employees with excessive absenteeism beyond the job protected absences are still subject to discipline, up to and including dismissal.

AUTHORITY: This is a policy of the Superintendent of Schools. This policy is established in accordance with Education Code Sections 44978.2 and 45191.5.

**RELATED
RESOURCES:**

California Education Code Sections 44978.2 and 45191.5

Legally-Mandated Paid Sick Leave for Eligible Employees,

BUL-6529.1, Office of the General Counsel, August 3, 2015

Certification of Absence Forms,

BUL-6307.5, Office of the Superintendent, April 2, 2018.

ASSISTANCE: For assistance or further information, please contact the Division of Risk Management and Insurance Services, Integrated Disability Management Branch by email at absencemanagement@lausd.net or call (213) 241-3138.