ARTICLE XIII

LEAVES OF ABSENCE

1.0 Leave of Absence Defined: Employees shall be eligible for certain leaves of absence as specified in this Article. Employees on approved leaves of absence are in unpaid status unless the employee chooses to utilize accrued "paid non-work days" pursuant to Section 17.0 below. A leave is an authorized absence from a job classification for a specified purpose and period of time, with the right to return to active service with salary rate status and Degree Track status remaining intact unless the employee's service would otherwise have been terminated. Leaves are either "permissive" or "mandatory." As to permissive leaves, the term "may" is used and the District retains discretion as to whether they are to be granted and as to the starting and ending dates of the leave. As to mandatory leaves, the term "shall" is used and the District has no discretion as to whether the leave is to be granted to a qualified employee. An employee returning from a leave will be returned to the location from which the leave was taken except that the employee may be transferred or laid off if such an action would have been taken, in accordance with the provisions of this Agreement, had the employee remained on duty.

2.0 Applications/Notification: Applications for extended leaves of absence (anticipated twenty (20) working days or more) must be submitted to the appropriate site administrator (or designee) as soon as possible (normally no less than ten (10) working days prior to start date). For short term absences, the employee must make every reasonable effort to contact and notify the appropriate administrator (or designee) the working day prior to the beginning of an absence. If such advance notice is not possible, notification should be given as soon as possible before work on the first day of absence, but not later than the first working hour of that day, except that specific reporting requirements may be established for certain positions requiring adherence to strict time schedules. Notwithstanding other provisions of this Article, an employee intending to be absent in excess of five (5) working days must also submit to the appropriate administrator a written explanation covering the period of absence no later than the third day of absence. Unless such an explanation is submitted, failure to return to work after the fifth consecutive working day of absence may be considered resignation from service.

2.1 Extension or Renewal of Leaves: Any request or application for extension or renewal of a leave must be submitted as provided in 2.0 above so that the District has adequate time to review the request and make appropriate arrangements.

3.0 Cancellation or Early Return from Leave:

3.1 From Extended Mandatory Leave: A request by an employee for cancellation of, or early return from an extended mandatory leave shall be granted, provided the employee gives notice sufficiently in advance for the school to notify the replacement, if any.
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3.2 From Extended Permissive Leave: A request by an employee for cancellation of, or early return from, an extended permissive leave may be denied if the school has entered into a contract with a replacement employee. If so denied, the returning employee shall be granted preference for the first open assignment at the school for which he or she is qualified, including an opening created by the expiration of the replacement employee’s contract.

4.0 Expiration/Return:

4.1 From Extended Leave: An employee intending to return to work upon expiration of an extended leave of absence, or intending to request an extension of such leave, shall give notice of his/her intention to the school’s administrator (or designee) as early as practical, normally not later than ten (10) working days prior to expiration. Failure to return to work upon expiration of the leave, may be treated as a resignation.

4.2 From Short-Term Absence: An employee intending to return to work must notify the appropriate administrator (or designee) at least one hour before the end of the regular working day prior to the day of anticipated return. If such notice is not given and both the employee and a replacement or substitute report for work, only the replacement/ substitute is entitled to work and to be paid for that day.

5.0 Pregnancy and Related Disability Leave: Leaves under this Section shall be granted to a pregnant employee prior to and during the period of disability related to pregnancy and childbirth, with the period of disability leave not to exceed fifty-two (52) consecutive calendar weeks. A pregnant employee shall be permitted to continue on active duty until such date as she and her physician determine that she must absent herself due to pregnancy disability, provided that she can and does continue to perform the full duties and responsibilities of her position. The employee must also supply to the District her physician’s release to return to active duty. For child care, see Section 10.0 and 18.0 below.

6.0 Illness Leave: An employee shall be granted a leave of absence because of illness, or injury, or quarantine of the employee. The employee shall be required to certify the reason for absence by completing the appropriate form. Also, the District may verify any claim under this Section when it reasonably suspects abuse or deems it necessary for health and safety reasons. An employee absent from duty under this Section for more than five (5) consecutive working days shall be required to submit a signed attending physician’s statement or appropriate health form to the immediate administrator and may be referred by the District for health approval prior to readmission. An approved extended mandatory illness leave shall not exceed fifty-two (52) calendar weeks for any given illness or injury.

7.0 Industrial Injury/Illness Leave: An employee who is absent from District service because of an injury or illness that arose out of and in the course of employment, and for which temporary disability benefits are received under the
worker's compensation laws, shall be entitled to a leave of absence under the following conditions:

a. Allowable leave of absence shall be for up to sixty (60) working days for the same injury or illness, unless extended upon application.

b. Each employee who received a work related injury or illness that requires medical attention or absence from work for more than the day of the occurrence must complete a written report of injury on a form to be provided by the District. This written report must be submitted to the immediate administrator within two (2) working days after the occurrence if the employee is physically able to do so. The site administrator shall, as a result of his or her own investigation, complete the Employer's Report of Occupational Injury or Illness, and shall attach the employee's report thereto. The employee must also report as soon as possible for examination and treatment by a physician who is on the District's Emergency Medical Panel. An employee may be required at any time during this leave to be evaluated by a physician designated and paid for by the District.

c. An employee absent under this Section shall remain within the State of California unless the District authorizes travel outside the State.

8.0 Bereavement Leave: An employee is entitled to a leave of absence from the District, not to exceed three (3) days, on account of the death of a member of the employee's immediate family provided acceptable proof of death and relationship is provided, if requested, and the leave of absence commences within ten (10) calendar days of notification of the death. If more than one such death occurs simultaneously, the leave may be taken consecutively. If out-of-state travel or more than two-hundred (200) miles one-way travel is required, and requested, an additional two (2) days shall be granted. The immediate family is defined as the parent, grandparent or grandchild of the employee or the employee's spouse, and the spouse, child (including foster child), brother, sister, daughter-in-law, or son-in-law of the employee, or any relative living in the immediate household of the employee.

9.0 Personal Necessity Leave: An employee shall, subject to the limits set forth below, be granted a personal necessity leave when the gravity of the situations described below require the personal attention of the employee during assigned hours of service:

a. Death or serious illness of a member of the employee's immediate family. The immediate family is defined as the parent, grandparent or grandchild of the employee or the employee's spouse, and the spouse, child (including foster child), brother, sister, daughter-in-law, or son-in-law of the employee, or any relative living in the immediate household of the employee;
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b. Accident involving the employee’s person or property or the person or property of a member of the employee’s immediate family;

c. Birth of the employee’s child or adoption of a child by the employee;

d. Religious holiday of the employee’s faith;

e. Imminent danger to the home of an employee occasioned by a disaster such as flood, fire, or earthquake;

f. An appearance of the employee in court as a litigant or as a witness under an official governmental order, provided that:

(1) Each day of necessary attendance as a litigant or as a witness under such an official governmental order must be certified by the clerk or other authorized officer of a court or other governmental jurisdiction;

(2) The employee must return to work in cases where it is not necessary to be absent the entire day;

g. One (1) of the six (6) days allowed under Personal Necessity Leave may be taken for registration or final examinations in an accredited institution of higher learning. Verification of the registration or examination schedule may be required by the appropriate administrator; or

h. Required attendance at the employee's child's or ward's classroom and meeting with the school administrator because of suspension pursuant to Education Code Section 48900.1.

i. An employee shall be allowed up to four (4) [one for Non-Degree Track] additional days of personal necessity leave in any calendar year to attend to the illness of a child, parent, or spouse of the employee as provided by Section 233 of the Labor Code. All existing contractual conditions for use of illness leave shall apply to this leave as well. Use of illness leave as provided above shall not extend the maximum period of leave to which an employee is entitled under Article XIII, Section 18.0 Family Care and Medical Leave.

j. On a maximum of two (2) occasions during a school year (up to a cumulative total of eight (8) hours in a school year), to attend the funeral of a close friend or relative not included in the definition of immediate family (immediate family as defined in Section 8.0 of this Article).

9.1 The following limits and conditions are placed upon allowing a personal necessity leave of absence:
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a. The total number of days allowed in one school year for such leave shall not exceed six (6) days;

b. The personal necessity leave may not be granted during a strike, demonstration or any work stoppage involving this bargaining unit;

c. Written request on the appropriate form shall be filed with the appropriate administrator no less than five (5) working days in advance of a religious holiday or court appearance; and

d. The employee may be required to verify the nature of such necessity.

10.0 Personal Leave: A personal leave may, at the discretion of the District, be granted to an employee for any period up to fifty-two (52) consecutive calendar weeks, except as provided in "f" and "h" below, for a specific personal reason satisfactory to the District, including but not limited to the following:

a. To be with a member of the immediate family who is ill;

b. To accept an opportunity of a superior character which will result in the employee rendering more effective service on return to the District;

c. To rest, subject to approval by the District;

d. To remain with spouse if a change of residence is required;

e. To pursue a program of study in residence in an approved institution of higher learning or under a fellowship foundation approved by the State Board of Education;

f. To serve as a State Legislator -- such leave shall be renewed annually during tenure of office, the above limitation notwithstanding;

g. To serve in an elective position in the city, county, state, or federal government, other than the State Legislature;

h. To care for the employee's own (including adopted) child or grandchild under five (5) years of age – such leave may be extended for up to an additional fifty-two (52) weeks, the above limitation notwithstanding; or

i. To attend a conference or convention which leads directly to the professional growth of the employee.

11.0 Military, Red Cross, Merchant Marine and Peace Corps Leaves:
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a. An appropriate military leave of absence shall be granted to any qualified employee in accordance with the provisions of the Education Code and Military and Veterans Code.

b. During any period of war or national emergency, Red Cross Leave or Merchant Marine Leave shall be granted to any employee who enters the full-time paid service of the American Red Cross or the U.S. Merchant Marine in accordance with the provisions of the Military and Veterans Code and the Education Code.

c. A leave of absence of up to twenty-five (25) months shall be granted to permit an employee to serve in the Peace Corps.

12.0 Subpoena Leave: A leave shall be granted to allow an employee to appear, in response to a subpoena duly served, when other than a litigant (a) in a case before a grand jury; (b) in a criminal case before a court within the State; in a civil case in a court within the county in which the employee resides or outside of said county if within 150 miles of place of residence; or (d) in a case before the State Workers Compensation Appeals Board, when arranged by the District’s Insurance Section. The employee shall promptly notify the site administrator upon receipt of the subpoena. Leave shall be granted for the days of attendance in court as certified by the clerk or other authorized officer. Subject to the possibility of making reasonable travel arrangements, the employee shall be required to report for work during the balance of her/his assigned working day or week when her/his presence is not required pursuant to said subpoena.

13.0 Jury Duty Leave: An employee summoned to jury duty shall notify the immediate administrator of such summons. The District and the employee shall jointly seek deferral of the obligation so that it can be performed on the employee’s non-work time. If the court denies deferral, leave shall be granted for full or partial days, as required by the court. The employee shall provide to the District written verification of jury service.

14.0 Employment Examination Leave: Subject to giving the immediate administrator advance notice of not less than two (2) working days, an employee shall be released to take an examination or participate in other District employment procedures during working hours.

15.0 Annual Physical Examination Leave: Subject to giving the immediate administrator advance notice of not less than two (2) working days, an employee may be granted up to one day per year for the purpose of a comprehensive physical examination provided that the verification of such an examination is submitted to the District.

16.0 Professional Growth Study Leave: A one-time leave not to exceed one (1) school year shall be granted to an employee who meets the following qualifications in order to pursue a program of study in residence at an
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institution of higher learning when such program is designed to improve the employee's professional services to the District:

a. The employee has three (3) or more years of paid service with the District in a classification in the Unit;

b. The courses or program taken by the employee must be directly related to the employee's position and be for the purpose of increasing the employee's knowledge, understanding and skills, i.e., coursework leading to qualification for certification as a teacher; and

c. The courses or program taken by the employee must be approved by the District in advance, and must be taken at an accredited institution of higher education.

16.1 The employee's administrator may terminate the leave of any employee on evidence of the employee's failure to pursue or accomplish the purpose of such leave.

17.0 Paid Non-Work Days: All employees shall accrue paid non-work day benefits. Employees who have achieved "Degree Track" status (see Article VIII) shall accrue .0445 hours of credit for each hour of paid Teacher Assistant service. Non-Degree Track Teacher Assistants shall accrue at the rate of .0112 hours. However, accrual shall exclude hours for which overtime premium is paid.

17.1 Upon the request of the employee, the accrued time may be used in order to receive pay for any absences permitted under this Article (including Family Care and Medical Leave for the employee's own serious health condition), but excluding industrial injury/illness absence and other Family Care and Medical Leave, or to receive pay for any legal or school holidays which fall within the employee's period of assignment. Any accrued, unused time shall be paid off in a lump sum after the close of the school year (32XX pay period, usually August), unless the balance is less than one (1) hour's pay in which case it shall be carried forward into the next school year.

17.2 The higher accrual rate for the Degree Track (pursuant to Article VIII) shall become effective the first pay period following submission of a certified transcript or valid certificate from the college.

17.3 Attendance Incentive: Effective July 1, 1995, employees who maintain a perfect attendance record, including punctuality, for their entire annual assignment period, shall earn one (1) additional paid non-work day at the conclusion of the school year. The additional day shall be paid off as part of the lump sum payment described in Paragraph 17.1 above.

18.0 Family Care and Medical Leave: An unpaid Family Care and Medical Leave shall be granted, to the extent of and subject to the restrictions as set
forth below, to an employee who has been employed for at least 12 months and who has served for 130 workdays during the twelve (12) months immediately preceding the effective date of the leave. Family Care and Medical Leave absences of twenty (20) consecutive working days or less can be granted by the immediate administrator or designee. Leaves of twenty (20) or more consecutive working days can be granted only by submission of a formal leave application to the immediate administrator or designee.

18.1 Definitions: For purposes of Family Care and Medical Leave, the following definitions shall apply: (1) "Child" means a biological, adopted or foster child; a stepchild; a legal ward; or a child of an employee standing "in loco parentis," such child being either under eighteen (18) years of age or an adult dependent who is incapable of self care due to a mental or physical disability. (2) "Spouse" means a husband or wife of an employee; (3) "Parent" means a biological, foster, or adoptive parent; a person who stood "in loco parentis" to the employee when the employee was a child; a stepparent; or a legal guardian; and does not include a parent-in-law. (4) "Family member" means "child", "spouse", or "parent" as defined above. (5) "Serious health condition" means an illness, injury, impairment, or other condition that involves either "in-patient care" or "continuing treatment". (6) "Inpatient care" means a stay in a hospital or other medical facility and includes any subsequent treatment in connection with inpatient care. (7)"Continuing treatment" means treatment by a "health care provider" that involves one or more of the following: (a) a period of incapacity of more than three consecutive calendar days (as well as any subsequent treatment or period of incapacity relating to the same condition) that also involves either two or more treatments by a "health care provider", or treatment by a "health care provider" on at least one occasion that results in a regimen of continuing treatment under the supervision of a "health care provider"; (b) any period of incapacity due to pregnancy (including morning sickness); (c) any period of incapacity or treatment for an incapacity due to a chronic health condition that requires periodic visits for treatment, which continues over an extended period of time, and may cause episodic (i.e., a period of incapacity for less than three days) rather than a continuing incapacity (such as asthma, diabetes, and migraine headaches); (d) a period of incapacity that is long-term due to a condition for which treatment may not be effective; and (e) any period of absence to receive multiple treatments, including treatment of a condition that would likely result in a period of incapacity for a period of more than three days if not treated. (8) "Health care provider" means an individual holding either a physician's and surgeon's certificate or an osteopathic physician's and surgeon's certificate issued pursuant to Article 4 of Chapter 5 of Division 2 of the California Business and Professions Code, or any other individual duly licensed to practice medicine in another state or jurisdiction who directly treats or supervises the treatment of the serious health condition, or by any other person determined by the Secretary of Labor to be capable of providing health care services. The definition includes podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited in scope), nurse practitioners, nurse midwives, and certain Christian Science practitioners.
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18.2 Reasons for Leave: Family Care and Medical Leave may be granted 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. If the leave is taken for any of these reasons, the leave must be concluded within twelve (12) months of the birth, the adoption, or the foster care placement of the child. In addition, leave may be granted because of the serious health condition of a child of the employee, the employee's own serious health condition, or the care of a parent or spouse who has a serious health condition.

18.3 Length of Leave: The leave, together with any renewal thereof, shall not exceed the number of days equivalent to a total of twelve (12) normally scheduled workweeks in a fiscal year.

Any leave an employee takes for the reasons specified in Section 18.2 above will be counted against the employee’s annual leave entitlements under the federal Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991, as amended. This leave runs concurrently with any other leave the District offers for which the employee is qualified. Leave caused by pregnancy, childbirth or related medical conditions under Section 5.0 of this Article is separate and apart from the provisions of Family Care and Medical Leave herein. Employees are entitled to the leave allowed under Section 5.0 and, in addition, up to the full twelve (12) weeks of Family Care and Medical Leave. However, leave taken on account of pregnancy, childbirth, or related medical condition will be counted against the employee's annual leave entitlement under the federal Family and Medical Leave Act of 1993.

18.4 Intermittent Leave: The leave may be taken intermittently or on a reduced work schedule. If the leave is taken for reason of the birth, adoption, or foster care placement of a child of the employee, the basic minimum duration of the leave shall be two (2) weeks; however, the District shall grant the employee leave of less than two weeks’ duration on two occasions. If the leave is taken for a serious health condition of the employee or of the employee’s family member, leave may be taken intermittently or on a reduced schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. An employee may take such leave for as short a time as one (1) hour (can be less than one (1) hour, if necessary).

If an employee does take intermittent or a reduced-schedule leave that is foreseeable based on a planned medical treatment of the employee or the employee's family member or for the birth, adoption, or foster care placement of a child, the District has the right to transfer temporarily the employee to an available alternative position for which the employee is qualified and which better accommodates the recurring periods of leave during the duration of the intermittent or reduced-scheduled leave. The alternative position must have equivalent pay and benefits but does not have to have equivalent duties. The alternative position may include the altering of the employee's current job. The District may also transfer the employee to a part-time job with the same hourly rate of pay and benefits. Upon the
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conclusion of the intermittent or reduced-schedule leave, the District will place the employee in the same or equivalent job the employee had when the leave started.

18.5 Notification: If the need for the Family Care and Medical Leave is foreseeable more than thirty (30) calendar days prior to the employee's need for leave, the employee shall give at least thirty (30) days notice. If less than thirty (30) days, the employee must provide the immediate supervisor with as much advance notice as possible but, at the least, within two (2) business days of learning of the need for the leave. These advance notice requirements shall not be applicable in the event of unforeseeable circumstances or emergencies. Whenever possible, if the need for leave is foreseeable due to a planned medical treatment or supervision, the employee must make a reasonable, good faith effort, subject to the approval of the employee's or family member's health care provider, to schedule the treatment or supervision to avoid disruption to the District's operations. In giving notice, the employee must include the qualifying event for which the leave is needed, e.g., birth of a child, serious health condition of parent, etc.

18.6 Medical Certification: For leaves to care for a child, spouse or parent who has a serious health condition, the employee must submit to the immediate administrator or, if applying for a formal leave must attach to the leave application, medical certification from the health care provider which includes: (1) the date, if known on which the serious health condition commenced; (2) the probable duration of the condition; (3) an estimate of the time that the health care provider believes the employee needs to care for the individual; and (4) a statement that the serious health condition warrants the participation of the employee to provide care. If the leave is for the serious health condition of the employee, the employee must submit to the immediate administrator and/or, if applying for a formal leave, must attach to the leave application, medical certification as specified in (1) and (2), above, plus a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform one or more of the essential functions of the employee's position. Medical certification must be submitted no later than fifteen (15) calendar days after the leave request has been made. If the deadline by which the employee is to submit the medical certification is after the leave has started, the employee will be considered to have taken Family Care and Medical Leave pending the District's receipt of the proper certification. However, if the employee fails to provide proper certification, the employee will be treated as if he or she did not qualify for, and thus never took, Family Care and Medical Leave, will be treated as if he or she sought a leave of absence under another provision of this Agreement, and will not be given the protections set forth in this Article. In the case of leave due to a serious health condition of the employee, the District reserves the right to require, at its own expense, that the employee obtain the opinion of a second or even third health care provider designated by the District but not employed on a regular basis by the District. The second health care provider, if required, shall be selected by the District. The third health care provider, if necessary, shall be jointly approved by the District and the employee and this provider's opinion shall be binding. If the employee's leave has already begun during this medical review process, the employee will be considered to have taken Family Care and Medical Leave, pending
the result of the examinations by the second and, if necessary, third health care provider.

If additional leave beyond that provided in the certification is required, the employee must submit a new certification by the relevant health care provider.

18.7 Restrictions: In the event that parents who are both District employees each wish to take Family Care and Medical Leave for the birth, adoption, or foster care placement of their child, the combined total amount of leave that will be granted such employees will be twelve (12) workweeks during a fiscal year. These employees will still be eligible to take the remainder of their individual twelve (12) workweek allotment for Family Care and Medical Leave for a purpose other than the birth, adoption or foster care placement of a child.

18.8 Compensation: The Family Care and Medical Leave shall be an unpaid leave and for all purposes treated comparably to other unpaid leaves except that, the District will continue to provide the health benefits package, and maintain the District contribution obligation pursuant to Article XV, Health and Welfare, during the Family Care and Medical Leave (except as provided below) to an employee who is otherwise eligible for health benefits. However, an employee who does not return from such leave, or who works less than thirty (30) days after returning from the leave (unless the employee retires within thirty (30) days after returning from leave) will be required to reimburse the District for the District's cost of providing the health benefits package. The District, however, will not provide such health benefits for an employee for any leave period beyond twelve (12) workweeks. Accordingly, if an employee combines pregnancy leave with a Family Care and Medical Leave, the employee will only be entitled to continued health benefits for the first twelve (12) workweeks of leave. Thereafter, the District will provide the employee with health benefits to the same extent and under the same conditions as it provides to employees on other, similar leaves of absence.

Pursuant to Article XIII, Section 17.1, an employee who takes leave for the employee's own serious health condition may elect, or the District may require, the employee to utilize accrued paid non-work day benefits for the leave.

18.9 Seniority: The period of Family Care and Medical Leave shall not be considered a break in service and the employee's hire date shall not be affected by the time spent on leave.

18.10 Certification to Return to Work: The provisions of Section 6.0 shall apply to employees returning to work from a Family Care and Medical Leave (absence) due to the employee's own serious health condition.

18.11 Early Return From Leave: If the amount of leave needed is actually less than initially requested, the employee must notify the immediate administrator of such an occurrence. Once the employee provides such notification,
the administrator must reinstate the employee to the same or equivalent position within two days.

19.0 Charter School Leave: An employee shall, subject to the limits set forth below, be granted a leave from their current school to serve in an assignment at a Board of Education-approved Charter School:

a. The leave shall be for a minimum of one (1) year. The leave shall be extended upon request of the employee; however, the total period of leave shall not exceed the duration of the initial charter;

b. For an employee not assigned to a school or program that is being converted to a Charter School, the leave shall commence at the beginning of the next school year (July 1); exceptions may be provided in the sole discretion of the District;

c. Salary and benefits received by the employee during the period of leave shall not be the responsibility of the District, but shall be established and provided by the Charter School in accordance with the Charter School petition approved by the Board of Education;

d. Return from leave shall be to the school from which the leave was taken in accordance with the provisions of this Article. (If the school from which the leave was taken is a Charter School, return rights shall be limited to return to that school upon expiration of its charter.) Upon return to District service from a Charter School leave, no employee shall receive more favorable treatment than employees in the same classification who remained with the District;

e. Employees separated involuntarily from their Charter School assignment who return to their former school may be subject to administrative or disciplinary action by the District for conduct which occurred at the Charter School in the same manner as if the conduct had occurred while the employee was actively employed by the District.

20.0 School Activities Leave: Up to forty (40) hours per school year (not to exceed eight hours per calendar month) shall be granted for attendance at the school of the employee’s own child, ward, or grandchild for purposes of a school activities leave provided by Section 230.8 of the Labor Code. The employee must notify the immediate administrator or designee at least five (5) working days prior to the absence. The advance notice requirement shall not be applicable in the event of unforeseeable circumstances or emergencies, in which case the employee shall provide as much notice as reasonably possible. The administrator or designee and employee must agree on the date and time of the leave and the employee must provide written verification from the school visited, upon request of the administrator or designee.