



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

October 26, 2018

**To:** Superintendents/Presidents/Chancellors, Member Community College Districts

**From:** Nancy L. Klein, Senior Associate General Counsel   
Sarah Hirschfeld-Sussman, Schools Legal Counsel 

**Subject:** Governor Signs Bill Amending Partial Pay During Parental Leave (AB 2012)  
Memo No. 15-2018(CC)

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Governor Brown signed Assembly Bill (“AB”) 2012 on September 30, 2018, amending “parental leave” pay for academic and classified employees of community college districts, effective January 1, 2019.<sup>1</sup>

Existing law allows academic and classified employees of community college districts to take “parental leave” to bond with their newborn, adopted, or foster child for a period of up to 12 workweeks within one year after the child’s date of birth or placement.<sup>2</sup> Employees are required to exhaust all of their current and accumulated sick leave before they are eligible to receive partial compensation for the remainder of the 12 workweeks pursuant to Education Code sections 87780.1 and 88196.1.

Under existing law, upon exhaustion of current and accumulated sick leave, employees are compensated in accordance with either the differential pay or the fifty percent pay system in effect at the community college district.

Under the differential pay system, academic employees receive the difference between their regular salary and the amount actually paid to 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 a temporary employee had one been hired.<sup>3</sup> Classified employees receive the difference between their regular salary and the amount actually paid to their

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<sup>1</sup> Assembly Bill 2012 is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB2012](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2012) .

<sup>2</sup> Education Code sections 87780.1 & 88196.1.

<sup>3</sup> Education Code section 87780.1(a)(2).



substitutes.<sup>4</sup> Under the fifty percent pay system, academic and classified employees are compensated at a rate of at least fifty percent of their regular salary.<sup>5</sup>

Effective January 1, 2019, employees who continue to take parental leave after exhaustion of all available sick leave must be paid at a rate not less than 50% of their regular salary, without regard to the pay system in effect at the community college district. If the community college district uses the differential pay system, they must pay the employee the differential rate or 50% of the employee's regular salary, whichever is greater.

Please note that, after exhaustion of all sick leave, employees are entitled to partial compensation only if they qualify and continue their leave of absence for baby bonding purposes pursuant to the California Family Rights Act (CFRA).<sup>6</sup> Employees who are not eligible for CFRA leave are not entitled to partial pay under Education Code sections 87780.1 and 88196.1.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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<sup>4</sup> Education Code section 88196.1(a)(2).

<sup>5</sup> Education Code sections 87780.1(a)(3) & 88196.1(a)(3).

<sup>6</sup> Government Code section 12954.2.