

**1. TEST CLAIM TITLE**

School Officers and Employees - Sick Leave

**2. CLAIMANT INFORMATION**

Fresno Unified School District

Name of Local Agency or School District

Ruth F. Quinto

Claimant Contact

Deputy Superintendent / CFO

Title

2309 Tulare Street

Street Address

Fresno, CA 93721

City, State, Zip

559-457-6225

Telephone Number

559-457-6202

Fax Number

Ruthie.Quinto@fresnounified.org

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Arthur M. Palkowitz

Claimant Representative Name

Attorney

Title

Artiano Shinoff

Organization

2488 Historic Decatur Road, Suite 200

Street Address

San Diego, CA 92106

City, State, Zip

619-232-3122

Telephone Number

619-232-3264

Fax Number

apalkowitz@as7law.com

E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED  
December 21, 2016  
Commission on  
State Mandates

Test Claim #: 16-TC-01

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate.

Education Code section 44977.5  
Statutes 2015 Charter 400  
A.B. No. 375

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 4 to 10

6. Declarations: pages 11 to 12

7. Documentation: pages 13 to 18

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

## 5. WRITTEN NARRATIVE

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (A) A detailed description of the new activities and costs that arise from the mandate.
- (B) A detailed description of existing activities and costs that are modified by the mandate.
- (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
- (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (F) Identification of all of the following funding sources available for this program:
  - (i) Dedicated state funds
  - (ii) Dedicated federal funds
  - (iii) Other nonlocal agency funds
  - (iv) The local agency's general purpose funds
  - (v) Fee authority to offset costs
- (G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.
- (H) Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.

## 6. DECLARATIONS

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;
- (C) describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program);
- (D) If applicable, describe the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Section 17573, and the authority to file a test claim pursuant to paragraph (1) of Section 17574(c).
- (E) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

## 7. DOCUMENTATION

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement; and
- (E) statutes, chapters of original legislatively determined mandate and any amendments.

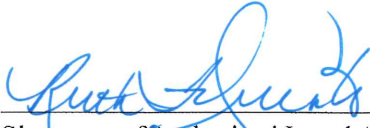
**8. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

**Ruth F. Quinto**

Print or Type Name of Authorized Local Agency  
or School District Official



Signature of Authorized Local Agency or  
School District Official

**Deputy Superintendent / CFO**

Print or Type Title

**January 11, 2017**

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

**BEFORE THE**  
**COMMISSION ON STATE MANDATES**  
**STATE OF CALIFORNIA**

Test Claim of:  
Fresno Unified School District  
Claimants.

No. CSM \_\_\_\_\_  
Statutes 2015 Chapter 400, A.B. No.; 375  
School Officers and Employees - Sick Leave

**STATEMENT OF THE CLAIM**

This test claim alleges reimbursable costs mandated by the State for school districts to provide differential pay benefits of up to 12 weeks, if the employee is absent on account of maternity or paternity leave, (“School Officers and Employees- Sick Leave”) pursuant to the requirements in Statutes 2015 Chapter 400, A.B. No 375.

Claimants allege that the test claim statutes impose a reimbursable state mandated program for school districts under Article XIII B, section 6 and Government Code section 17514. It was the intent of the Legislature in enacting the test claim statutes and regulations to require school employees on maternity or paternity leave to receive differential pay.

**AUTHORITY FOR THE CLAIM**

The Commission on State Mandates has the authority pursuant to Government Code section 17551, subdivision (a) to hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the State for costs mandated by the State as required by section 6 of Article XIII B of the California Constitution.

(*Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.) The determination of whether a statute or executive order imposes a reimbursable state-mandated program is a question of law. (*County of San Diego v. State of California*, (1997) 15 Cal.4th 68,109.)

Fresno Unified School District, (“Claimant”) is a school district as defined in Government Code Section 17519. This test claim is filed pursuant to title 2, California Code of Regulations section 1183.1.

**A. California Constitution requires the State to reimburse schools**

Article XIII B, section 6 of the California Constitution states:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of Article XIII B, section 6 is to:

[p]reclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that article XIII A and XIII B impose.

(*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.) Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government]...” (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.) Reimbursement under Article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity. (*San Diego Unified School Dist. v. Commission on State Mandates*, (2004) 33 Cal.4th 859, 874.)

2. The mandated activity either:

a. Carries out the governmental function of providing a service to the public;

or

b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state. (*San Diego Unified School Dist., supra*

33 Cal.4th at 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order, and it increases the level of service provided to the public. (*San Diego Unified School Dist.*, supra 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal 3d 830, 835.)

**B. The new program is mandated when the schools incur increased costs**

Government Code section 17514 provides that:

[c]osts mandated by the state means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17564 provides that:

[n]o claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551, or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars.

Claimant alleges increased costs mandated by the state in the amount of \$10,000,000.00, for schools in the districts impacted by the test claim statutes, which exceeds the \$1,000.00 minimum claim amount articulated in Government Code section 17564(a). Government Code section 17556(e) states that there are no costs mandated by the state, if additional revenue specifically intended to fund the costs of the mandated activities, in an amount sufficient to fund the cost of the state-mandated activities, has been appropriated in a Budget Act or other bill.

There is no evidence that additional on-going revenue has been appropriated, specifically to fund the costs of the mandated activities in this claim. Thus, Government Code section 17556(e) does not apply to deny this claim. Accordingly, the evidence in the record supports the finding that the claimant has incurred increased costs mandated by the state, pursuant to Government Code section 17514. However, to the extent a district receives any funding or grant funding and applies

those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district.

**Identify the specific sections of statutes or executive orders alleged to contain a mandate. Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000.00), and include all of the following elements for each statute or executive order alleged:**

**A. Statutes 2015 Chapter 400, A.B. No 375; Section 1**

Pursuant to this new legislation, when a person employed in a position requiring certification qualifications is absent on account of maternity or paternity leave for a 12 week period, they are entitled to receive the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee is employed, the amount that would have been paid to the substitute had he or she been employed.

The new legislation would prohibit a certificated school employee on maternity or paternity leave pursuant to the Moore–Brown–Roberti Family Rights Act from being denied access to differential pay while on that leave. The legislation provides that, to the extent these provisions conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, these provisions shall not apply until the expiration or renewal of that collective bargaining agreement.

**AB 375 added (SEC. 1.) Section 44977.5 of the Education Code is added to read:**

SECTION 1, section 44977.5 is added to the Education Code, to read:

44977.5. (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 his or her duties on account of maternity or paternity leave pursuant to Section 12945.2 of the Government Code for a period of up to 12 school weeks, 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 him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would

have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of maternity or paternity leave pursuant Section 12945.2 of the Government Code.

(2) An employee shall not be provided more than one 12-week period per maternity or paternity leave. However, if a school year terminates before the 12-week period is exhausted, the employee may take the balance of the 12-week period in the subsequent school year.

(3) An employee on maternity or paternity leave pursuant to Section 12945.2 of the Government Code shall not be denied access to differential pay while on that leave.

(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 school district.

(d) To the extent that this section conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2016, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this section shall not apply until expiration or renewal of that collective bargaining agreement.

(e) For purposes of this section, “maternity or paternity 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.

### **Other Activities**

Developing and implementation of internal policies, training, procedures and forms relating to the administration of the maternity or paternity Leave Program. (One-time)



**B. A detailed description of existing activities and costs that are modified by the mandate**

Prior activities and costs that are modified by the mandate include:

Under prior law, when a certificated school employee exhausts all available sick leave, and continues to be absent from his or her duties on account of paternity or maternity leave for an additional 12 weeks, the employee was not entitled to differential pay.

**C. The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate**

\$17,972.86.

**D. The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed**

Unknown at this time.

**E. A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

\$10,000,000.00.

**F. Identification of all of the following funding sources available for this program:**

**(i) Dedicated state funds<sup>1</sup>**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

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<sup>1</sup> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service. (Cal. Const. art. 13B, § 6)

(ii) **Dedicated federal funds**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

(iii) **Other nonlocal agency funds**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

(iv) **The local agency's general purpose funds**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

(v) **Fee authority to offset costs**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

**G. Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate**

*Claimant is unaware at this time of any prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.*

**H. Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order**

*Claimant is unaware at this time of any other dedicated state funds available for this program.*

Test Claim:  
School Officers and Employees- Sick Leave  
Claimants: Fresno Unified School District  
Section: 6 – Declaration

**SECTION NUMBER: 6**  
**Heading: DECLARATION**

I, Jacquie Canfield, Executive Officer, Fiscal Services for the Fresno Unified School District, declare as follows:

**Section A. The actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.**

It is estimated the increased costs that will be incurred by the claimant to implement the alleged mandate is approximately:

Actual Costs (2016)	\$17,972.86
Estimated Costs (2017)	Unknown

**Section B. Identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs:**

None known at this time.

**Section C. Describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections or page numbers alleged to impose a reimbursable state mandated program):**

1. Statutes 2015 Chapter 400, A.B. No 375;
2. Education Code § 44977.5.

**New Activities**

This new legislation requires that 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 his or her duties on account of maternity or paternity leave for a period of up to 12 school weeks, whether or not the absence arises out of or in the course of the employment of the

Test Claim:  
School Officers and Employees- Sick Leave  
Claimants: Fresno Unified School District  
Section: 6 – Declaration

employee, the amount deducted from the salary due him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid to a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.


Developing and implementation of internal policies, training, procedures and forms relating to the administration of the Sick Leave Program. (One-time)

#### Section F.

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Dated: December 15, 2016

  
\_\_\_\_\_  
JACQUIE CANFIELD,  
EXECUTIVE OFFICER, FISCAL SERVICES  
FRESNO UNIFIED SCHOOL DISTRICT

Phone Number: (559) 457-3907  
Office Fax: (559) 457-3559  
Jacquie.Canfield@fresnounified.org

BILL NUMBER: AB 375      CHAPTERED  
BILL TEXT

CHAPTER 400  
FILED WITH SECRETARY OF STATE OCTOBER 1, 2015  
APPROVED BY GOVERNOR OCTOBER 1, 2015  
PASSED THE SENATE SEPTEMBER 3, 2015  
PASSED THE ASSEMBLY SEPTEMBER 8, 2015  
AMENDED IN SENATE JULY 8, 2015  
AMENDED IN ASSEMBLY MAY 4, 2015

INTRODUCED BY Assembly Member Campos

FEBRUARY 18, 2015

An act to add Section 44977.5 to the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, Campos. School employees: sick leave: paternity and maternity leave.

Under existing law, when a certificated school employee exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, the employee during that additional period receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.

This bill would additionally provide the differential pay benefit described above for up to 12 weeks if the certificated school employee is absent on account of maternity or paternity leave, as defined, as specified. The bill would provide that the 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, during a period of maternity or paternity leave. The bill would prohibit a certificated school employee on maternity or paternity leave pursuant to the Moore-Brown-Roberti Family Rights Act from being denied access to differential pay while on that leave. The bill would provide that, to the extent these provisions conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, these provisions shall not apply until the expiration or renewal of that collective bargaining agreement.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 44977.5 is added to the Education Code, to read:

44977.5. (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 his or her duties on account of maternity or paternity leave pursuant to Section 12945.2 of the Government Code for a period of up to 12 school weeks, 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 him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

West's Annotated California **Codes**

**Education Code** (Refs & Annos)

Title 2. Elementary and Secondary **Education** (Refs & Annos)

Division 3. Local Administration (Refs & Annos)

Part 25. Employees (Refs & Annos)

Chapter 4. Employment--Certificated Employees (Refs & Annos)

Article 3. Resignations, Dismissals, and Leaves of Absence (Refs & Annos)

West's Ann.Cal.Educ.Code § **44977.5**

§ **44977.5**. Absence from duties on account of maternity or paternity leave; exhaustion of available sick leave; deduction from salary

Effective: January 1, 2016 to December 31, 2016  
Currentness

(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 his or her duties on account of maternity or paternity leave pursuant to Section 12945.2 of the Government Code for a period of up to 12 school weeks, 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 him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of maternity or paternity leave pursuant Section 12945.2 of the Government Code.

(2) An employee shall not be provided more than one 12-week period per maternity or paternity leave. However, if a school year terminates before the 12-week period is exhausted, the employee may take the balance of the 12-week period in the subsequent school year.

(3) An employee on maternity or paternity leave pursuant to Section 12945.2 of the Government Code shall not be denied access to differential pay while on that leave.

(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 school district.

(d) To the extent that this section conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2016, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this section shall not apply until expiration or renewal of that collective bargaining agreement.

(e) For purposes of this section, “maternity or paternity 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.

**Credits**

(Added by Stats.2015, c. 400 (A.B.375), § 1, eff. Jan. 1, 2016.)

West's Ann. Cal. Educ. Code § 44977.5, CA EDUC § 44977.5

Current with all 2016 Reg.Sess. laws, Ch. 8 of 2015-2016 2nd Ex.Sess., and all propositions on 2016 ballot.

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## WESTLAW

2015 Cal. Legis. Serv. Ch. 400 (A.B. 375) (WEST)

CALIFORNIA 2015 LEGISLATIVE SERVICE  
 SCHOOL OFFICERS AND EMPLOYEES—COMPENSATION AND SALARIES—SICK LEAVE  
 2015 Cal. Legis. Serv. Ch. 400 (A.B. 375) (WEST) (Approx. 2 pages)

2015 Portion of 2015-2016 Regular Session

Additions are indicated by **Text**; deletions by

~~\*\*\*~~.

Vetoed are indicated by Text ;

stricken material by **Text-** .

CHAPTER 400

A.B. No. 375

SCHOOL OFFICERS AND EMPLOYEES—COMPENSATION  
 AND SALARIES—SICK LEAVE

AN ACT to add Section 44977.5 to the Education Code, relating to  
 school employees.

[Filed with Secretary of State October 1, 2015.]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 375, Campos. School employees: sick leave: paternity and  
 maternity leave.

Under existing law, when a certificated school employee exhausts all available sick leave, as specified, and continues to be absent from his or her duties on account of illness or accident for an additional period of up to 5 school months, the employee during that additional period receives the difference between his or her salary and the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed.

This bill would additionally provide the differential pay benefit described above for up to 12 weeks if the certificated school employee is absent on account of maternity or paternity leave, as defined, as specified. The bill would provide that the 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, during a period of maternity or paternity leave. The bill would prohibit a certificated school employee on maternity or paternity leave pursuant to the Moore–Brown–Roberti Family Rights Act from being denied access to differential pay while on that leave. The bill would provide that, to the extent these provisions conflict with any provision of a collective

TC016



bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, these provisions shall not apply until the expiration or renewal of that collective bargaining agreement.

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

SECTION 1. Section 44977.5 is added to the Education Code, to read:

<< CA EDUC § 44977.5 >>

44977.5. (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 his or her duties on account of maternity or paternity leave pursuant to Section 12945.2 of the Government Code for a period of up to 12 school weeks, 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 him or her for any of the additional 12 weeks in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to the substitute had he or she been employed. The school district shall make every reasonable effort to secure the services of a substitute employee.

(b) For purposes of subdivision (a):

(1) The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of maternity or paternity leave pursuant Section 12945.2 of the Government Code.

(2) An employee shall not be provided more than one 12-week period per maternity or paternity leave. However, if a school year terminates before the 12-week period is exhausted, the employee may take the balance of the 12-week period in the subsequent school year.

(3) An employee on maternity or paternity leave pursuant to Section 12945.2 of the Government Code shall not be denied access to differential pay while on that leave.

(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 school district.

(d) To the extent that this section conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2016, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, this section shall not apply until expiration or renewal of that collective bargaining agreement.

TC017

(e) For purposes of this section, “maternity or paternity 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.

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**End of  
Document**

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Government Works.

BEFORE THE BOARD OF EDUCATION  
OF THE FRESNO UNIFIED SCHOOL DISTRICT  
OF FRESNO COUNTY, CALIFORNIA

RESOLUTION NO. 15-11

On motion of Trustee Davis, seconded by Trustee De La Cerda, RESOLUTION NO 15-11 was adopted as follows:

BE IT RESOLVED by the Governing Board of the Fresno Unified School District and hereby ordered that  
Lindsay Cal Johnson, President, Board of Education  
Christopher De La Cerda, Clerk, Board of Education  
Brooke Ashjian, Board of Education  
Luis A. Chavez, Board of Education  
Valerie F Davis, Board of Education  
Carol Mills, J D , Board of Education  
Janet Ryan, Board of Education  
Michael E Hanson, Superintendent or  
Ruth F Quinto, Deputy Superintendent/CFO, Administrative Services

be authorized as fiscal agents to sign orders, warrants, contracts, budgets, budget transfers, or other papers for and on behalf of the school district, when the same are required or authorized to be signed in the regular course of the school business of the Fresno Unified School District, and when regularly authorized and ordered by the Governing Board of said school district, effective August 26, 2015

BE IT FURTHER RESOLVED and hereby ordered that:

Michael E Hanson, Superintendent  
Ruth F Quinto, Deputy Superintendent/CFO, Administrative Services

be authorized as fiscal agents to approve electronic business transactions, including budget transfers, in the regular course of the school business of the Fresno Unified School District, and when regularly authorized and ordered by the Governing Board of said school district, effective August 26, 2015

BE IT FUTURE RESOLVED and hereby ordered that.

Michael E Hanson, Superintendent  
Ruth F Quinto, Deputy Superintendent/CFO, Administrative Services  
Paul Idsvoog, Chief, Human Resources/Labor Relations

be authorized as fiscal agents to sign payroll and personnel records, orders and reports

This RESOLUTION revokes and supersedes Resolution No. 13-15 and is effective on August 26, 2015, until revoked or superseded

PASSED AND ADOPTED this 26<sup>th</sup> day of August 2015, by the Governing Board of the Fresno Unified school District of Fresno County, California, by the following vote

AYES 5

NOES 0

ABSENT 2

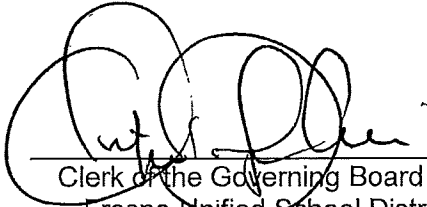
(Member Ryan absent and  
Member Chavez stepping away)



STATE OF CALIFORNIA )  
COUNTY OF FRESNO )

I, Christopher De La Cerda, authorized agent of the Governing Board of Fresno Unified School District of Fresno County, California, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the said Board at a regular meeting thereof held at its regular place of meeting at the time and by the vote above stated.

Witness my hand this 26<sup>th</sup> day of August 2015



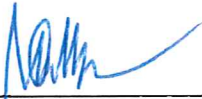
Clerk of the Governing Board of  
Fresno Unified School District

FRESNO UNIFIED SCHOOL DISTRICT  
CERTIFICATION OF SIGNATURES

I, Michael E. Hanson, Secretary of the Board of Education of the Fresno Unified School District of Fresno County, California, certify that the signatures shown below are the verified signatures of the members of the Governing Board of the above-named school district.

These approved signatures will be considered valid for the period of August 26, 2015, until revoked or superseded.

Date of Board Action August 26, 2015

Signature   
Michael E. Hanson  
Secretary to the Board

Signatures of Member of Board:

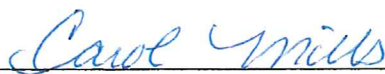
Signature   
Lindsay Cal Johnson  
President of the Board of Education

Signature   
Christopher De La Cerda  
Clerk of the Board of Education

Signature   
Brooke Ashjian  
Member of the Board of Education

Signature \_\_\_\_\_  
Luis A. Chavez  
Member of the Board of Education

Signature   
Valerie F. Davis  
Member of the Board of Education

Signature   
Carol Mills, J.D.  
Member of the Board of Education

Signature \_\_\_\_\_  
Janet Ryan  
Member of the Board of Education

The signatures of the majority of the members of the governing board constitute authority to sign orders of the school district in the event duly authorized staff agents are unable to do so

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 17, 2017, I served the:

**Test Claim Filing; Notice of Complete Test Claim Filing, Tentative Hearing Date, and Schedule for Comments**

*School Employees: Sick Leave, 16-TC-01*

Education Code Section 44977.5; Statutes 2015, Chapter 400 (AB 375)

Fresno Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 17, 2017 at Sacramento, California.



---

Jill L. Magee

Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/17/17

**Claim Number:** 16-TC-01

**Matter:** School Employees: Sick Leave

**Claimant:** Fresno Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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