

CLIENT NEWS BRIEF

No. 13

February 2009

COURT INVALIDATES SCHOOL DISTRICT'S PRACTICE OF RUNNING CLASSIFIED EMPLOYEES' VACATION LEAVE CONCURRENTLY WITH EXTENDED SICK LEAVE

A California Court of Appeal has ruled in California School Employees Association v. Colton Joint Unified School District (2009) ___ Cal.App.4th ___ ("Colton"), that a school district's practice of deducting vacation leave from the 100-day period of extended sick leave for classified employees was invalid. The court, however, upheld the deduction of sick leave from the employee's entitlement to 100 days of extended sick leave.

School bus driver Donna Hayes, a classified employee with the Colton Unified School District ("District"), was absent for 73 days of work due to a knee injury. For the period of her absence, she was entitled to and received several different forms of compensation and leave. One such form of leave was extended sick leave pursuant to Education Code section 45196. This statute provides for two alternative forms of extended sick leave: (1) a five-month differential leave period during which the absent employee is paid the difference between his or her salary and the amount actually paid to a substitute to fill in for the employee's absence ("differential leave"); and (2) 100 days of sick leave paid at a rate of 50 percent of the employee's regular salary ("100-day leave").

Under Education Code section 45196, differential leave is the default extended sick leave alternative; districts must specifically negotiate for the 100-day leave alternative. The school district in this case had negotiated for the 100-day leave. In regard to 100-day leave, Education Code section 45196 provides that such leave "shall be exclusive of any other paid leave, holidays, vacation, or compensating time to which the employee may be entitled."

In calculating the 100-day period of extended sick leave, the District deducted both the sick leave to which the employee was entitled under Education Code section 45191 and the vacation leave to which she was entitled under Education Code section 45197. The employee and the California School Employees Association ("CSEA") challenged this practice, arguing that the District improperly deducted vacation leave from the 100-day leave, thereby reducing the overall leave that the employee was due.

The court agreed with CSEA, concluding that the express terms of Education Code section 45196 exclude vacation leave from the 100-day leave. The court further ruled that the legislative history of Education Code section 45196 clearly indicates that the extended sick leave and sick leave under Education Code section 45191 were intended to be combined to provide a total of 100 days of disability leave.

Colton clarifies that vacation leave must run separately from, or consecutive to, the 100-day period of extended sick leave. However, the ruling is limited in application to classified employee leave, and does not apply to differential leave or extended sick leave for certificated employees. If you have any questions regarding this case, or about extended sick leave laws in general, please contact any of our seven offices statewide.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

N

Written by

Leah Won and Namita Brown.

*Namita (nbrown@lozanosmith.com) is a shareholder in the San Ramon office,
and Leah (lwon@lozanosmith.com) is an associate in the San Ramon office.*

©2009 Lozano Smith