

# CAUSE ADVISORY

## CUSD Acts to deny employees access to contractual LEAVE options.

### How must I word my MEDICAL RELEASE notification?

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Dear CUSD Colleagues,

You may have heard the saying, "**There is no problem that can't be solved by lowering your expectations.**" Unfortunately, even though it appears the CUSD has embraced the sentiment, **it does not apply to the COVID-19 pandemic.**

For this reason, many CUSD employees are considering their LEAVE options when faced with returning IN-PERSON on March 29, 2021. To that end, the Union has received a variety of concerns. Most recently; employees who have secured legitimate MEDICAL RELEASE letters from their physicians are now being told that the MEDICAL RELEASE letters are invalid and denied. The CUSD based this response upon their arbitrary interpretation of the wording contained in the employee's MEDICAL RELEASE.

Therefore, the Union will clarify, herein, how very simple and clear the medical release must be.

To gain access to the contractual LEAVE provisions contained in your contract, an employee's MEDICAL RELEASE letter must contain the following (*no more / no less*):

- 1.) **EMPLOYEE NAME**
- 2.) **PHYSICIAN's NAME, ADDRESS, CONTACT DATA**
- 3.) **The DATES (*from beginning date to end date*) you are released from IN-PERSON service and under your physician's care. (*If you are eligible to work REMOTELY, you may wish to include that also.*)**

Given the District's aggressive efforts to undermine employee HEALTH & WELL-BEING by denying legitimate MEDICAL RELEASE letters, the Union reminds District employees they are NOT REQUIRED to provide any other details. **Your medical history and condition is confidential.** The District does not have the authority to demand details on your condition, beyond those cited above. Only your physician is qualified and legally permitted to characterize your condition.

For more clarity, please review these sample MEDICAL RELEASE letters (# 1, # 2, & # 3 below). These clarify the depths to which the CUSD is willing to sink in order to deny employees their entitled LEAVE, and how a District employee can act to maintain their entitled LEAVE access.

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**SAMPLE MEDICAL RELEASE # 1: **Denied by District****

DATE, 2021

I recommend that XXXXemployee-nameXXXXX not work in person for the period of XXXdate windowXXX, 2021.

Signed,  
XXXXphysician's nameXXXXXX

The District has denied such letters, based on its subjective interpretation of the term, "**recommend**." The District states that the MEDICAL RELEASE is invalid, because it is only "**recommended**". Although the District's position would not hold water under legal scrutiny, do you really feel like wasting time arguing the point? **Instead, you are discouraged from and are not required to respond to questions about FMLA or your medical condition. Instead, you can immediately go back to your physician and seek a modified letter.**

**SAMPLE MEDICAL RELEASE # 2: **Denied by District****

DATE, 2021

It is advised that XXXemployee nameXXX not work in person for the period of ,XXXdate windowXXX 2021.

Signed,  
XXXXphysician's nameXXXXXX

The District has denied such letters, based its subjective interpretation of the term, "**advised**." The District states that the MEDICAL RELEASE is invalid, because the release is only "**advised**". Again, although the District's position would not hold water under scrutiny, do you really feel like wasting time arguing the point. **Instead, you are discouraged from and are not required to respond to questions about FMLA or your medical condition. Instead, you can immediately go back to your physician and seek a modified letter.**

**SAMPLE MEDICAL RELEASE # 3: District Unable to Legally Deny**

March 11, 2021

For the period of XXXdate windowXXX, 2021. XXXXemployee-nameXXXXX is under my care and released from IN-PERSON service.

Signed,  
XXXXphysician's nameXXXXX

The District may not legally deny such a concise statement. There is nothing to argue, as the District neither directs the physician, nor has the right to demand more information on your medical condition. Once again, you are not required to respond to any questions about FMLA or your medical condition. **You are discouraged from and not required to answer any such further medical questions to gain access to the LEAVE options contained in your contract.**

You are now eligible to access all available leave, starting with :

- \* 1st - ANNUAL LEAVE (10 days a year/100% FTE)
- \* 2nd - then EXTENDED LEAVE (up to 100 days a year @ your salary minus the cost of a substitute)
- \* 3rd - then the use of ACCUMULATED LEAVE (all unused LEAVE from year of past service)
- \* then, FMLA would be considered.

Most District employees have sufficient access to ANNUAL, ACCUMULATED, and EXTENDED LEAVE, the current timeline for the remainder of the 2020-21 school year should not require further discussion about FMLA.

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**RE: Have you requested your LEAVE TOTALS ?**

Finally, ALL DISTRICT PERSONNEL are still encouraged to consider seeking their personal LEAVE TOTALS. This will improve your ability to respond quickly, in the event

further transmission of the theyCOVID-19 virus occurs while on a CUSD campus. Given the outbreaks that have already occurred at our elementary sites, the Union anticipates similar at CUSD's secondary sites.

CAUSE leadership has included a TEMPLATE for requesting the LEAVE TOTALS you are entitled. You are welcome to cut & paste the TEMPLATE below.

. ===== Begin DRAFT  
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Dear Human Resource Director, Diana Zapata:

As I consider the return to IN-PERSON learning, I am compelled to confirm my most-current LEAVE status with CUSD. Therefore, please provide the following data at your earliest convenience, but before March 29, 2021.

1. Total available **annual LEAVE** , provided during the 2020-21 instructional year
  
2. Total available **accumulated LEAVE** , based on LEAVE accumulated from previous years of service.
  
3. My current eligibility for **FMLA - LEAVE**, in the event I initiated such a request for the remainder of the 2020-21 instructional year.
  
4. My current eligibility for **FFCRA - LEAVE**, in the event I initiated such a request for the remainder of the 2020-21 instructional year.

. Your prompt response is appreciated. Sincerely,  
Employee name & date

===== end DRAFT  
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As you process and consider the options available, please let us know how we can provide further support. Union Leadership recognizes the "Hunger Games" approach the CUSD

has taken to reopening. We also understand how that approach places increased responsibility on each District employee to best determine what they must do to protect the HEALTH & SAFETY of themselves, their students, and the families impacted by the District's decision to reopen schools amid the ongoing COVID-19 pandemic.

In Transparency,

~ j. Hotchner \* CAUSE President