

ONTARIO REGULATION 1/13

made under the

EDUCATION ACT

SICK LEAVE CREDITS AND SICK LEAVE CREDIT GRATUITIES

Eligibility for sick leave credits

1. (1) An employee of a board shall only be eligible for sick leave credits in accordance with this section.

(2) A permanent employee shall be eligible for the following sick leave credits during a board's fiscal year:

1. 10 days of sick leave paid at a rate of pay equal to 100 per cent of the employee's salary for the year.
2. 120 days of sick leave paid at a rate of pay equal to,
 - i. 90 per cent of the employee's salary for the year, if the employee's entitlement to that rate has been determined through an adjudicative process agreed to by the employee and the board, or
 - ii. 66.67 per cent of the employee's salary for the year, for all other employees.

(3) Subsection (2) only applies to an employee who is in a class of employees that, on August 31, 2012, was eligible to accumulate sick leave credits, which, for greater certainty, includes employees who became members of that class after August 31, 2012.

(4) A teacher who is employed by a board to fill a long-term assignment position that is 10 months shall be eligible for the following sick leave credits during a board's fiscal year:

1. 10 days of sick leave paid at a rate of pay equal to 100 per cent of the employee's salary for the year.
2. 60 days of sick leave paid at a rate of pay equal to,

- i. 90 per cent of the employee's salary for the year, if the employee's entitlement to that rate has been determined through an adjudicative process agreed to by the employee and the board, or
- ii. 66.67 per cent of the employee's salary for the year, for all other employees.

(5) A teacher who is employed by a board to fill a long-term assignment position that is less than 10 months shall be eligible for the following sick leave credits during a board's fiscal year:

- 1. 10 days of sick leave, reduced to reflect the proportion that the assignment bears to the school year, paid at a rate of pay equal to 100 per cent of the employee's salary for the year.
- 2. 3 days of sick leave per month, paid at a rate of pay equal to,
 - i. 90 per cent of the employee's salary for the year, if the employee's entitlement to that rate has been determined through an adjudicative process agreed to by the employee and the board, or
 - ii. 66.67 per cent of the employee's salary for the year, for all other employees.

(6) For the purposes of subsection (2), if an employee of a board is only employed to work for part of a year, the employee's eligibility for sick leave credits shall be reduced in accordance with the policy of the board, as it existed on August 31, 2012.

(7) For the purposes of the references in subparagraphs 2 i of subsection (2), 2 i of subsection (4) and 2 i of subsection (5) to an adjudicative process agreed to by the employee and the board, the following modifications apply:

- 1. Where an employee is a member of a teachers' bargaining unit represented by the Ontario English Catholic Teachers' Association, those references shall be read as references to the adjudicative process set out in the "Memorandum of Understanding between the Ministry of Education and the Ontario English Catholic Teachers' Association (OECTA)", dated July 5, 2012.
- 2. Where an employee is represented by an employee bargaining agent that entered into a Memorandum of Understanding with the Ministry of Education on or before August 31, 2012, those references shall be read as references to the adjudicative process set out in the Memorandum of Understanding.

(8) In the case of a conflict between paragraph 2 of subsection (2) and a provision of Ontario Regulation 313/12 (Sick Leave Provisions, 2012-2013) made under the *Putting Students First Act, 2012*, the provision of Ontario Regulation 313/12 shall prevail.

Provision of sick leave credits

2. All sick leave credits that an employee is eligible for during a board's fiscal year shall be provided to the employee on,

- (a) the first day in the fiscal year, for a permanent employee; or
- (b) the first day of a long-term assignment, for a teacher employed to fill a long-term assignment position.

Use of sick leave credits

3. (1) A sick leave credit may be used by an employee only in respect of a day that the employee is sick or injured.

(2) Despite subsection (1), an employee who is a member of any of the following bargaining units may use a sick leave credit paid at a rate of pay equal to 100 per cent of the employee's salary for the year in respect of an illness within the meaning of the collective agreement that applied on August 31, 2012 or, if the meaning is not set out in the agreement, within the meaning of a policy of the board, as it existed on August 31, 2012:

- 1. A bargaining unit represented by the Ontario English Catholic Teachers' Association.
- 2. A bargaining unit represented by l' Association des enseignantes et des enseignants franco-ontariens.
- 3. A bargaining unit represented by the Association of Professional Student Services Personnel.
- 4. A bargaining unit represented by the Halton District Educational Assistants Association.
- 5. A bargaining unit represented by the Educational Assistants Association of the Waterloo Region District School Board.
- 6. A bargaining unit represented by the Dufferin-Peel Educational Resource Workers' Association.

(3) A sick leave credit may be used by an employee only in the fiscal year for which it was provided and may not be used in any subsequent fiscal year, except in accordance with subsection (5), (7) or (8).

(4) A sick leave credit provided for a fiscal year to a teacher who is employed by a board to fill a long-term assignment position may be used by the teacher in respect of a subsequent long-term assignment position in the same fiscal year.

(5) If a permanent employee has used all of the sick leave credits provided under paragraph 1 of subsection 1 (2) for the fiscal year, the employee may use any unused sick leave credits that were provided for the immediately preceding fiscal year under paragraph 1 of subsection 1 (2) in accordance with the following:

1. The employee may use the unused sick leave credits to top up sick leave credits provided for the current fiscal year under subparagraph 2 i of subsection 1 (2) to a rate of pay equal to 100 per cent of the employee's salary for the year.
2. Each unused sick leave credit may be used to top up a maximum of 10 sick leave credits provided under subparagraph 2 i of subsection 1 (2).

(6) For the 2012-2013 fiscal year, it shall be deemed that every permanent employee has a total of two unused sick leave credits that may be used in accordance with subsection (5).

(7) Where an employee is absent due to sickness or injury on his or her first work day in a fiscal year, a sick leave credit may only be used in respect of that day in accordance with the following:

1. If, on the last work day in the previous fiscal year, the employee used a sick leave credit due to the same sickness or injury that requires the employee to be absent on the first work day in the current fiscal year,
 - i. the employee may not use a sick leave credit provided for the current fiscal year in respect of the first work day, and
 - ii. the employee may use any unused sick leave credits provided for the immediately preceding fiscal year in respect of the first work day.
2. If paragraph 1 does not apply, the employee may use a sick leave credit provided for the current fiscal year in respect of the first work day if, for the purpose of providing proof of the sickness or injury, the employee submits,
 - i. the information specified for that purpose in the employee's employment contract or collective agreement, or
 - ii. if such information is not specified in the employment contract or collective agreement, the information specified for that purpose under a policy of the board, as it existed on August 31, 2012.

(8) If an employee is absent due to sickness or injury on his or her first work day in a fiscal year, subsection (7) also applies in respect of any work day immediately following the employee's first work day until the employee returns to work in accordance with the terms of employment.

(9) For greater certainty, for the purposes of employees referred to in subsection (2), the references in subsections (7) and (8) to a sickness or injury include a sickness or injury of a person other than the employee if, pursuant to subsection (2), the employee is entitled to use a sick leave credit in respect of a day on which the other person is sick or injured.

Sick leave credit gratuities

4. (1) An employee is not eligible to receive a sick leave credit gratuity after August 31, 2012, except a sick leave credit gratuity that the employee had accumulated and was eligible to receive as of that day.

(2) If the employee is eligible to receive a sick leave credit gratuity, upon the employee's retirement, the gratuity shall be paid out at the lesser of,

- (a) the rate of pay specified by the board's system of sick leave credit gratuities that applied to the employee on August 31, 2012; and
- (b) the employee's salary as of August 31, 2012.

(3) If a sick leave credit gratuity is payable upon the death of an employee, the gratuity shall be paid out in accordance with subsection (2).

(4) If an employee had accumulated a sick leave credit gratuity as of August 31, 2012 but is not eligible to receive it for the sole reason that he or she has not met an eligibility requirement relating to number of years of service as an employee with the board, the employee is eligible to receive, by June 30, 2013, an amount for gratuity wind-up determined using the following formula:

$$(X/30) \times (Y/200) \times (Z/10)$$

in which,

- “X” is the number of years of service as an employee with the board as of August 31, 2012,
- “Y” is the lesser of 200 and the number of days of sick leave credits as have been accumulated by the employee as of August 31, 2012, and
- “Z” is the employee's salary as of August 31, 2012.

(5) For the purposes of the following boards, despite anything in the board's system of sick leave credit gratuities, it is a condition of eligibility to receive a sick leave credit gratuity that the employee have 10 years of service with the board:

1. Near North District School Board.
2. Avon Maitland District School Board.
3. Hamilton-Wentworth District School Board.
4. Huron Perth Catholic District School Board.
5. Peterborough Victoria Northumberland and Clarington Catholic District School Board.
6. Hamilton-Wentworth Catholic District School Board.

Revocation

- 5. This Regulation is revoked on August 31, 2014.**

Commencement

- 6. This Regulation is deemed to have come into force on September 1, 2012.**