

ONTARIO REGULATION 11/13

made under the

EDUCATION ACT

Amending O. Reg. 1/13

(SICK LEAVE CREDITS AND SICK LEAVE CREDIT GRATUITIES)

Note: Ontario Regulation 1/13 has not previously been amended.

1. (1) Paragraph 1 of subsection 1 (2) of Ontario Regulation 1/13 is amended by striking out “10 days of sick leave” at the beginning and substituting “11 days of sick leave”.

(2) Section 1 of the Regulation is amended by adding the following subsections:

(3.1) An employee in a bargaining unit that is represented by the Canadian Union of Public Employees is eligible for sick leave credits in addition to those provided under subsection (2) for a fiscal year, but only if both of the following circumstances exist:

1. Under a collective agreement that was in effect on August 31, 2012, the employee was required to wait more than 131 days before being eligible for benefits under a long-term disability plan.
2. The collective agreement did not allow the employee the option of reducing that waiting period.

(3.2) An employee who is eligible for additional sick leave credits under subsection (3.1) is entitled to the number of additional days of sick leave credits (to be paid at the rate of pay specified in paragraph 2 of subsection (2)) that is determined using the formula,

$$A - B$$

in which,

“A” is the number of days that, under a collective agreement that was in effect on August 31, 2012, the employee was required to wait before being eligible for benefits under a long-term disability plan, and

“B” is 131 days.

(3.3) An employee is eligible for sick leave credits in addition to those provided under subsection (2) for a fiscal year, but only if all of the following circumstances exist:

1. Within six weeks after the birth of the employee's child, the employee will be eligible for maternity benefits under the *Employment Insurance Act* (Canada).
2. The employee 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.
3. The employee is represented by an employee bargaining agent.
4. The employee is not a teacher.
5. The employee is not employed by the board to fill a long-term assignment position that is 10 months or less.

(3.4) An employee who is eligible for additional sick leave credits under subsection (3.3) is entitled to additional days of sick leave credits (to be paid at a rate of pay equal to 100 per cent of the employee's salary for the year) for the period beginning on the date of birth of the employee's child and ending on the date as of which the employee becomes eligible for maternity benefits under the *Employment Insurance Act* (Canada).

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(5.1) Subsections (4) and (5) also apply to an employee of a board 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.

2. (1) Subsection 3 (2) of the Regulation is amended by adding the following paragraph:

- 2.1 A bargaining unit represented by the Canadian Union of Public Employees.

(2) Subsection 3 (4) of the Regulation is revoked and the following substituted:

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

(3) Section 3 of the Regulation is amended by adding the following subsection:

(10) While an employee, other than a teacher, is working less than a full day in the course of a graduated return to work as he or she recovers from a sickness or injury, the employee may

use any unused sick leave credits that are provided under subsection 1 (2) for the fiscal year to top up his or her salary as follows:

1. The employee may use the unused sick leave credits provided under paragraph 1 of subsection 1 (2) to top up his or her salary to a rate of pay equal to 100 per cent of the employee's salary for the fiscal year.
2. The employee may use the unused sick leave credits provided under paragraph 2 of subsection 1 (2) to top up his or her salary to a rate of pay equal to 90 per cent of the employee's salary for the fiscal year.
3. However, the employee is not entitled to use any unused sick leave credits to top up his or her salary if the employee is receiving benefits under the *Workplace Safety and Insurance Act, 1997* or under a long term disability plan.
4. An unused sick leave credit provided under paragraph 2 of subsection 1 (2) cannot be used to top up the employee's salary on more than one day. The remaining portion of a sick day used, in part, to top up his or her salary is cancelled.

3. (1) Subsection 4 (4) of the Regulation is revoked and the following substituted:

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

1. If the collective agreement or employment contract, as the case may be, that was in effect on August 31, 2012 or a board policy that was in effect on that date provided for a payment for a sick leave credit gratuity, the amount that is the lesser of,
 - i. the amount of the payment that would be provided under the collective agreement, employment contract or board policy, calculated using the number of years of his or her service as an employee with the board as of August 31, 2012 and using the number of days of sick leave credits accumulated by him or her as of August 31, 2012, and
 - ii. the amount calculated using the formula in paragraph 2.
2. In any other case, the amount calculated using the formula,

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

in which,

“X” is the number of years of his or her 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 accumulated by the employee as of August 31, 2012, and

“Z” is the employee’s salary as of August 31, 2012.

(2) Subsection 4 (5) of the Regulation is amended by adding the following paragraph:

7. Waterloo Catholic District School Board.

Commencement

4. This Regulation is deemed to have come into force on September 1, 2012.