

## ONTARIO REGULATION 2/13

made under the

### PUTTING STUDENTS FIRST ACT, 2012

#### GENERAL

#### INTERPRETATION

##### **Interpretation**

1. (1) In this Regulation,

“professional activity day” has the same meaning as in Regulation 304 of the Revised Regulations of Ontario, 1990 (School Year Calendar, Professional Activity Days) made under the *Education Act*; (“journée pédagogique”)

“retirement gratuity” includes, but is not limited to, a gratuity in the form of,

- (a) a sick leave credit,
- (b) an early retirement incentive plan, and
- (c) a contribution to a registered retirement savings plan; (“gratification de retraite”)

“school day” has the same meaning as in the *Education Act*; (“jour de classe”)

“school year” has the same meaning as in the *Education Act*. (“année scolaire”)

(2) For greater certainty, any requirement in this Regulation that applies to an employee whose employment contract or collective agreement provides for movement on a salary grid applies to the employee even if the employee is not eligible for movement because he or she is at the top of the grid.

(3) For greater certainty, an employee who is entitled to benefits under O. Reg. 1/13 (Sick Leave Credits and Sick Leave Credit Gratuities) made under the *Education Act* is entitled to those benefits despite anything to the contrary in an employment contract or collective agreement.

#### EMPLOYEES WHO DO NOT BARGAIN COLLECTIVELY

##### **Employment contracts: prescribed terms, modifications, replacements and exemptions**

2. (1) The terms set out in subsections (2) to (5) are prescribed for the purposes of paragraph 11 of subsection 2 (1) of the Act.

(2) An employment contract between a board and a board employee shall contain the following terms:

1. The employee is not eligible to receive any form of retirement gratuity after August 31, 2012, except any retirement gratuity that the employee had accumulated and was eligible to receive as of that day.
2. If the employee is eligible to receive a retirement gratuity, upon the employee's retirement, the gratuity shall be paid out at the lesser of,
  - i. the rate of pay specified in the employment contract that applied to the employee on August 31, 2012 as the rate for payment of the retirement gratuity, and
  - ii. the employee's salary as of August 31, 2012.
3. If a retirement gratuity is payable upon the death of the employee, the gratuity shall be paid out in accordance with paragraph 2.
4. If the employee is eligible to receive a retirement gratuity, the board must provide the employee with a report, on or before May 31, 2013, that sets out the following information determined as of August 31, 2012:
  - i. The number of days of sick leave credits as have been accumulated by the employee.
  - ii. The number of years of service that are counted in determining the employee's retirement gratuity.
  - iii. The rate of pay described in subparagraph 2 i.
  - iv. The employee's salary.
  - v. The amount of the employee's retirement gratuity, together with the calculation used to determine that amount.
  - vi. Any conditions that affect the employee's eligibility to receive the retirement gratuity.
5. If the employee believes that any information in the report provided in accordance with paragraph 4 is inaccurate, the employee must advise the board of those inaccuracies on or before June 30, 2013.

6. If the 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.

7. If the employee retires before September 1, 2013, the following apply with respect to the employee’s retirement benefits:
- i. Any entitlement that the employee has to pay into a plan for health and dental benefits or life insurance after retiring shall be an entitlement to pay into the plan that, on August 31, 2012, the employment contract entitled the employee to pay into.
  - ii. After the employee retires, the board will only make contributions into the plan referred to in subparagraph i for the employee if, on August 31, 2012, the employment contract provided for such contributions by the board.
8. If the employee retires on or after September 1, 2013, the following apply with respect to the employee’s retirement benefits:
- i. Any entitlement that the employee has to pay into a plan for health and dental benefits or life insurance after retiring shall be an entitlement to pay into a plan that is separate from the plan paid into by individuals who at that time are current employees of the board.
  - ii. After the employee retires, the board will not make contributions into a plan described in subparagraph i for the employee.
9. The employee’s entitlement to maternity benefits is as follows:

- i. The employee is only entitled to maternity benefits if the employee is in a class of employees that, on August 31, 2012, was entitled to accumulate unused sick leave credits.
  - ii. Maternity benefits shall be paid for six weeks of the employee's maternity leave.
  - iii. Maternity benefits shall be paid at a rate of pay that is equal to 100 per cent of the employee's salary for the year, less any amount for unemployment insurance benefits received by or available to the employee during that time.
  - iv. Despite subparagraphs ii and iii, if, on August 31, 2012, the maternity benefits that the class of employees was entitled to receive were greater than the benefits set out in those subparagraphs, the employee is eligible to receive those benefits.
10. The employee's entitlement to receive an amount to top up benefits that he or she is entitled to under the *Workplace Safety and Insurance Act, 1997* is as follows:
  - i. The employee is only entitled to receive the top-up amount if the employee is in a class of employees that, on August 31, 2012, was entitled to use unused sick leave credits for the purpose of topping up benefits received under the *Workplace Safety and Insurance Act, 1997*.
  - ii. The top-up amount shall be paid for a maximum of four years and six months.
  - iii. The top-up amount shall be paid at a rate of pay that is equal to 100 per cent of the employee's salary for the year, less the amount for the benefits that the employee is entitled to under the *Workplace Safety and Insurance Act, 1997*.
  - iv. For the purposes of the 2012-2013 fiscal year, an employee is not entitled to receive a top-up amount under this section if,
    - A. on August 31, 2012, the employee was eligible to receive benefits under the *Workplace Safety and Insurance Act, 1997*, and
    - B. as of September 1, 2012, the employee had no unused sick leave credits that were provided in previous fiscal years.
  - v. If, as a result of an accident, an employee received benefits under the *Workplace Safety and Insurance Act, 1997* in respect of the first workday in the 2012-2013 fiscal year, the employee's entitlement to be topped up for four years and six months shall be reduced by the length of time for which the employee received benefits under that Act as a result of that accident.

(3) An employment contract between a board and an employee of the board who is a principal or vice-principal shall contain the following terms:

1. The principal or vice-principal must take three unpaid days of leave on professional activity days in the 2013-2014 school year.
2. If the contract provides for movement on the salary grid on the first school day of a school year, the movement will occur on the 97th school day after that day.
3. If the contract provides for movement on the salary grid on the anniversary of the first day the employee was employed by the board, the movement will occur on the 97th school day after that day.
4. If the contract provides for movement on the salary grid on a day other than a day described in paragraph 2 or 3, the movement will occur on the day that is six months after the day specified in the contract.

(4) An employment contract between a board and a board employee that provides for an annual salary that is less than \$100,000, and provides for movement on the salary grid, shall contain the following terms:

1. The employee must take one unpaid day of leave on a professional activity day in the 2013-2014 school year.
2. If the contract provides for movement on the salary grid on the first school day of a school year, the movement will occur on the 97th school day after that day.
3. If the contract provides for movement on the salary grid on the anniversary of the first day the employee was employed by the board, the movement will occur on the 97th school day after that day.
4. If the contract provides for movement on the salary grid on a day other than a day described in paragraph 2 or 3, the movement will occur on the day that is six months after the day specified in the contract.
5. If the contract provides for movement on the salary grid more than once in a fiscal year, paragraphs 2 to 4 do not apply and instead each movement will occur on the day that is the number of months determined using the following formula after the day specified in the contract:

$$A/(1 + B)$$

in which,

- “A” is the number of months that the employee is scheduled to work in the fiscal year, without deducting vacation days or statutory holidays, and
- “B” is the number of times in the fiscal year that movement on the salary grid is provided for in the contract.

(5) If an employment contract between a board and a board employee provides for movement on the salary grid, the contract is exempt from the application of paragraph 10 of subsection 2 (1) of the Act and instead shall contain the following term:

1. The employee shall be eligible for an additional 120 days of sick leave during a board’s fiscal year 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) If, on August 31, 2012, an employment contract between a board and a board employee did not provide for sick leave, the contract is exempt from the application of paragraphs 9 and 10 of subsection 2 (1) of the Act and, in that case, subsection (5) does not apply.

(7) If, on August 31, 2012, an employment contract between a board and a board employee entitled the employee to an increase in vacation time, including payment in lieu of vacation time, based on the employee’s years of experience, the following apply:

1. The contract is exempt from the application of paragraph 4 of subsection 2 (1) of the Act to the extent that it prohibits such an increase.
2. The employee is not entitled to receive an increase in vacation time that is greater than what was provided for in the contract on August 31, 2012.

#### EMPLOYEES WHO BARGAIN COLLECTIVELY

##### **Collective agreements: prescribed terms, modifications, replacements and exemptions**

3. (1) For the purposes of paragraphs 1 and 2 of subsection 4 (1) of the Act, the following are prescribed as terms that modify or replace terms set out in the “Memorandum of Understanding between the Ministry of Education and the Ontario English Catholic Teachers’ Association (OECTA)”, dated July 5, 2012, or in the Memorandum of Understanding described in subparagraph 2 i of subsection 4 (1) of the Act, and, for the purposes of paragraph 3 of subsection 4 (1) of the Act, are prescribed as terms that are to be included in every collective agreement:

1. The employee is not eligible to receive any form of retirement gratuity after August 31, 2012, except any retirement gratuity that the employee had accumulated and was eligible to receive as of that day.
2. If the employee is eligible to receive a retirement gratuity, upon the employee's retirement, the gratuity shall be paid out at the lesser of,
  - i. the rate of pay specified in the collective agreement that applied to the employee on August 31, 2012 as the rate for payment of the retirement gratuity, and
  - ii. the employee's salary as of August 31, 2012.
3. If a retirement gratuity is payable upon the death of the employee, the gratuity shall be paid out in accordance with paragraph 2.
4. If the employee is eligible to receive a retirement gratuity, the board must provide the employee and the employee's bargaining agent with a report, on or before May 31, 2013, that sets out the following information determined as of August 31, 2012:
  - i. The number of days of sick leave credits as have been accumulated by the employee.
  - ii. The number of years of service that are counted in determining the employee's retirement gratuity.
  - iii. The rate of pay described in subparagraph 2 i.
  - iv. The employee's salary.
  - v. The amount of the employee's retirement gratuity, together with the calculation used to determine that amount.
  - vi. Any conditions that affect the employee's eligibility to receive the retirement gratuity.
5. If the employee believes that any information in the report provided in accordance with paragraph 4 is inaccurate, the employee must advise the board of those inaccuracies on or before June 30, 2013.
6. If the 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.

7. The employee’s entitlement to maternity benefits is as follows:

i. The employee is only entitled to maternity benefits if the employee is in a class of employees that, on August 31, 2012, was entitled to accumulate unused sick leave credits.

ii. Maternity benefits shall be paid for six weeks of the employee’s maternity leave.

iii. Maternity benefits shall be paid at a rate of pay that is equal to 100 per cent of the employee’s salary for the year, less any amount for unemployment insurance benefits received by or available to the employee during that time.

iv. Despite subparagraph ii, an employee who is a teacher filling a long-term assignment is not entitled to be paid for maternity benefits after the last day of the long-term assignment.

v. Despite subparagraphs ii, iii and iv, if, on August 31, 2012, the maternity benefits that the class of employees was entitled to receive were greater than the benefits set out in those subparagraphs, the employee is eligible to receive those benefits.

8. The employee’s entitlement to receive an amount to top up benefits that he or she is entitled to under the *Workplace Safety and Insurance Act, 1997* is as follows:

i. The employee is only entitled to receive the top-up amount if the employee is in a class of employees that, on August 31, 2012, was entitled to use unused sick leave credits for the purpose of topping up benefits received under the *Workplace Safety and Insurance Act, 1997*.



- ii. The top-up amount shall be paid for a maximum of four years and six months.
  - iii. The top-up amount shall be paid at a rate of pay that is equal to 100 per cent of the employee's salary for the year, less the amount for the benefits that the employee is entitled to under the *Workplace Safety and Insurance Act, 1997*.
  - iv. For the purposes of the 2012-2013 fiscal year, an employee is not entitled to receive a top-up amount under this section if,
    - A. on August 31, 2012, the employee was eligible to receive benefits under the *Workplace Safety and Insurance Act, 1997*, and
    - B. as of September 1, 2012, the employee had no unused sick leave credits that were provided in previous fiscal years.
  - v. If, as a result of an accident, an employee received benefits under the *Workplace Safety and Insurance Act, 1997* in respect of the first workday in the 2012-2013 fiscal year, the employee's entitlement to be topped up for four years and six months shall be reduced by the length of time for which the employee received benefits under that Act as a result of that accident.
9. If the employee is an occasional teacher or a continuing education teacher, within the meaning of the *Education Act*, the following apply:
- i. The employee is not required to take an unpaid day of leave in the 2013-2014 school year.
  - ii. Paragraphs 2 to 6 of subsection (2) apply.

(2) The following are also prescribed as terms for the purposes referred to in subsection (1), except in respect of a collective agreement between a board and a designated bargaining agent for a teachers' bargaining unit, as those terms are defined in subsection 277.1 (1) of the *Education Act*:

1. If the collective agreement provides for movement on the salary grid, the employee must take one unpaid day of leave on a professional activity day in the 2013-2014 school year.
2. If the collective agreement provides for movement on the salary grid on the first school day of a school year, the movement will occur on the 97th school day after that day.

3. If the collective agreement provides for movement on the salary grid on the anniversary of the first day the employee was employed by the board, the movement will occur on the 97th school day after that day.
4. If the collective agreement provides for movement on the salary grid when the employee earns additional qualifications, the movement will occur on the 97th school day after the day specified for that purpose in the collective agreement.
5. If the collective agreement provides for movement on the salary grid on a day other than a day described in paragraph 2, 3 or 4, the movement will occur on the day that is six months after the day specified in the collective agreement.
6. If the collective agreement provides for movement on the salary grid more than once in a fiscal year, paragraphs 2 to 5 do not apply and instead each movement will occur on the day that is the number of months determined using the following formula after the day specified in the collective agreement:

$$A/(1 + B)$$

in which,

“A” is the number of months that the employee is scheduled to work in the fiscal year, without deducting vacation days or statutory holidays, and

“B” is the number of times in the fiscal year that movement on the salary grid is provided for in the collective agreement.

(3) For the purposes of paragraph 3 of subsection 4 (1) of the Act, the following is prescribed as a term that is to be included in a collective agreement between a board listed in subsection (4) and an employee bargaining agent:

1. It is a condition of eligibility to receive a sick leave credit gratuity that the employee have 10 years of service with the board.

(4) The boards referred to in subsection (3) are the following:

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.

(5) If, on August 31, 2012, a collective agreement between a board and an employee bargaining agent for a bargaining unit did not provide for sick leave, a collective agreement between those parties for that bargaining unit is exempt from the application of subsection 4 (1) of the Act to the extent that it requires terms to be included in the collective agreement that provide for sick leave.

(6) For the purposes of subparagraphs 2 i and ii of subsection 4 (1) of the Act, a collective agreement between a board and an employee bargaining agent, other than a designated bargaining agent for a teachers' bargaining unit, is exempt from the requirement that terms be included in the collective agreement that are substantially similar or substantively identical to the terms set out under the heading "Long Term Disability (LTD) Plans" in the "Memorandum of Understanding between the Ministry of Education and the Ontario English Catholic Teachers' Association (OECTA)", dated July 5, 2012.

(7) For the purposes of subparagraph 2 ii of subsection 4 (1) of the Act, the "Memorandum of Understanding between the Ministry of Education and the Ontario English Catholic Teachers' Association (OECTA)", dated July 5, 2012, is modified as follows:

1. The requirement that the third party adjudication process set out in the appendix to the Memorandum of Understanding be used for the purposes set out under the heading "Short Term Leave and Disability Plan (STLDP)" shall instead be a requirement that either the adjudication process set out in the appendix to the Memorandum of Understanding or the adjudication process used by the board on August 31, 2012 be used for those purposes.

(8) For the purposes of subparagraph 2 i of subsection 4 (1) of the Act, the "Memorandum of Understanding between Association of Professional Student Services Personnel (APSSP) and the Ministry of Education", dated July 30, 2012, is modified as follows:

1. The requirement that employees take three unpaid days of leave on professional activity days in the 2013-2014 school year, as set out in paragraph 1 under the heading "G. Unpaid Leave Days" in the Memorandum of Understanding, shall instead be a requirement that employees take one unpaid day of leave on a professional activity day in that year.
2. The employees shall take the unpaid day of leave on one of the dates set out in paragraph 1 under the heading "G. Unpaid Leave Days" in the Memorandum of Understanding.

(9) For the purposes of subparagraph 2 ii of subsection 4 (1) of the Act, in respect of a collective agreement between the Upper Grand District School Board and a designated bargaining agent for a teachers' bargaining unit, the following apply:

1. To the extent that they apply to teachers, the terms set out under the heading "G. Unpaid Leave Days" in the "Memorandum of Understanding between the Ministry of Education and the Ontario English Catholic Teachers' Association (OECTA)", dated July 5, 2012, are replaced by the terms described in paragraph 2.
2. The terms referred to in paragraph 1 are the terms set out under the headings "K. Voluntary Unpaid Leave of Absence Program", "P. Offsetting Measures" and "Q. Reconciliation" in the document entitled "Memorandum of Understanding Between Upper Grand District School Board and Ontario Secondary School Teachers' Federation District 19 Teachers' Bargaining Unit", dated November 17, 2012.

#### **Exemption, construction industry**

4. The Act does not apply in respect of a provincial agreement within the meaning of subsection 151 (1) of the *Labour Relations Act, 1995*.

#### MISCELLANEOUS

#### **Deemed receipt of collective agreements**

5. (1) The Minister is deemed to have received the collective agreement required by subsection 8 (2) of the Act on,

- (a) the third day after the day it was mailed, if delivered by mail;
- (b) the day after the day it was emailed or faxed, if delivered by email or fax; or
- (c) the day it was personally delivered, if personally delivered.

(2) For the purposes of subsection (1), a collective agreement that is delivered on a Saturday, Sunday or public holiday or on any other day after 5 p.m. is deemed to have been delivered on the next day that is not a Saturday, Sunday or public holiday.

(3) For greater certainty, the collective agreement referred to in subsection (1) includes a collective agreement that is considered to have been settled, as described in subsection 1 (6) of the Act.

#### **Commencement**

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