

Policy and Procedure for Sick Leave Banks

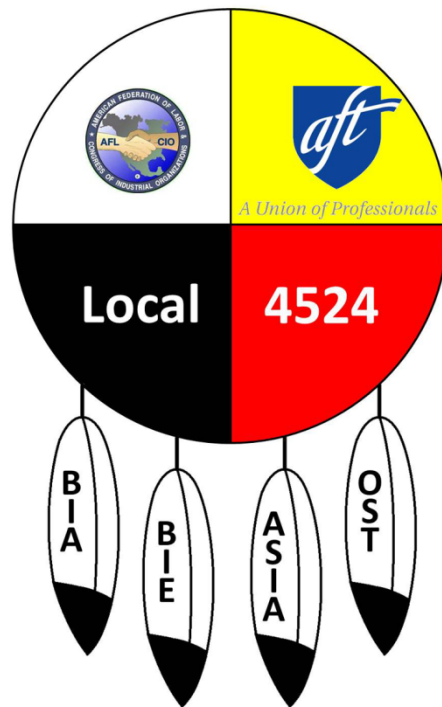


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Introduction

In accordance with the Collective Bargaining Agreement (CBA), Article 30, Section 9, Schools and worksites shall participate in the leave sharing program available for use by Contract Education employees in the bargaining unit represented by the Federation of Indian Service Employees (FISE or Union.) This policy and procedure guidance for Sick Leave Bank Committees will become effective on February 1, 2015, and will be in effect until altered, amended, replaced or otherwise superseded. This is intended to replace the agreement in effect since 1992 between the Union and Bureau of Indian Education (BIE) management concerning the sick leave bank which was incorporated into the CBA presently in effect between the parties. Terms in this document referring to the masculine gender include the feminine, and terms in the feminine gender include the masculine.

Purpose

The purpose of the sick leave bank is to provide additional leave for the Bargaining Unit Employees (Members) who have depleted his leave and needing additional sick leave due to unforeseeable/extended illness/injury of self, an employee's pregnancy or the serious health condition of such an employee, as defined by the Family and Medical Leave Act.

Definitions

Administrative Leave Contribution: Two hours of administrative leave will be contributed to the bank for every member during the pay period after their membership starts. It will be contributed every year based on the date on which their contract begins.

Membership: Every school year contract (CY) employee in BUS Code 1012 will automatically have a Membership Record created at the beginning of a contract for each year effective August 1, 2012, and thereafter. Yearlong employees who donate into the leave bank will also be considered as members. The record will remain open until it is ended. The record will be automatically shut down upon the employee's separation, retirement, death, or if they do not return for a subsequent contract term.

Personal Leave Contribution: Two hours of personal leave will be taken from CY employees every year he or she is a member and have contributed to their work site leave bank. This will occur annually during the pay period after their membership record has begun.

Workday: Monday through Friday 7:30 am to 4:30 pm, local time and excludes holidays and/or designated holidays.

Policy

The worksite leave bank will annually receive two (2) hours from each bargaining unit employee's personal leave. Management will donate two (2) hours of administrative leave per employee at each worksite for a total of four (4) hours each year, on the first day of the school term. The leave will be available for withdrawal on a first come, first served basis based upon the date and time an application for sick leave is submitted to the committee. Applications may be submitted digitally (preferred) or via hard copy.

The sick leave bank committee will be comprised of three committee members, two representatives from the union and one representative from management. Each committee position will be a three year staggered appointment, with the exception of the terms for the first appointment. The union's first appointments will be 1 and 2 years and management's first appointment will be 3 years. This committee will designate a regular meeting time to review the submitted applications. If a committee member is absent from the work place, the two remaining committee members will constitute a quorum. The committee's responsibilities include reviewing, approving and/or disapproving applications, monitoring the amount of leave in the sick leave bank, maintaining an accurate record of sick leave donations and allocations, and the number of applications submitted/received, and maintaining an adequate amount of sick leave in the bank to the extent possible. Applicants will be notified of the decisions in writing within five (5) work days from the date the application is received.

If the sick leave from the sick leave bank is not used within 6 pay periods, the hours will be returned to the bank. Sick leave may not be borrowed, contributed to or otherwise transferred between sick leave banks at different worksites or between donor and recipient. Any unused sick leave remaining in the sick leave bank will carry over from year to year.

There will only be one sick leave bank at each worksite and one sick leave bank committee for each sick leave bank. Sick leave and the sick leave bank's authority do not extend beyond an individual worksite.

Sick leave shall accrue to the credit of a sick leave recipient using sick leave withdrawn from the sick leave bank at the same rate as if the employee were then in paid leave status. The maximum amount of sick leave that may be accrued by a sick leave bank recipient may not exceed 40 hours or in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours in the employee's weekly tour of duty. If the sick leave recipient's injury or illness terminates, no sick leave will be credited to the employee under this section.

The committee chair will generally be responsible for liaison with servicing payroll and human resources officials.

An employee may not directly or indirectly intimidate, threaten, coerce, attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right such

employee may have with respect to freely choose to contribute or not contribute to the sick leave bank.

Establishing a Sick Leave Bank Committee

A sick leave bank committee must be formed at each worksite with bargaining unit employees. For the sick leave bank to be in effect a committee must be formed and operational. If a committee is not in place at an individual work site, the site manager or principal should contact the national Union office to ascertain the identities of the committee members. If the terms of committee members have expired the manager can work with the union representative to obtain new committee members and/or appoint a member to represent management's position.

The committees shall follow uniform procedures for the conduct of their meetings, such as Roberts' rules of order. This must include the recording and keeping of meeting minutes to document the decisions made by the committee. Each committee shall allocate leave to eligible members in accordance with uniform non-discriminatory procedures established by the committee and which conform to those set forth in the collective bargaining agreement (CBA).

The worksite manager must identify to the union the committee member being nominated.

Among its duties, the Committee will:

- (1) Establish uniform internal decision making procedures at each worksite.
- (2) Review, approve and disapprove applications.
- (3) Monitor leave in the bank (via QuickTime timekeeping application), the number of applications, and the number of recipients approved and disapproved.
- (4) Maintain an adequate amount of sick leave in the bank, to the extent possible, for the recipients approved.
- (5) Maintain an accurate record of sick leave donations and distributions.

Sick leave may not be borrowed, contributed to, or otherwise transferred between sick leave banks or between donors and recipients. There will be no more than one sick leave bank established for bargaining unit employees per work site. The authority of the sick leave bank committee does not extend beyond the boundaries of the worksite.

Procedure

All applicants must submit their application for sick leave to the sick leave bank committee who will in turn submit a copy to the immediate supervisor.

Committee:

The committee will be responsible for reviewing, approving and/disapproving submitted applications, monitoring the status of each recipient's injury or illness, monitoring the leave in the bank and recording the number of applications received, striving to maintain an adequate amount of sick leave in the bank to the extent possible, and maintaining an accurate record of sick leave donations and allocations.

Eligibility: All contract educators within the bargaining unit on a school year contract are members and eligible to apply for the sick leave bank. The applicant must have depleted all accrued leave, including sick, personal, vacation, and annual leave, as applicable, to apply for and receive hours from the sick leave bank.

Types of Sick Leave: Categories for the types of leave available are as follows:

- (1) **Leave for short term injury/illness** (less than three (3) weeks.) Eligible employees will receive up to twenty (20) hours of sick leave during each six-month interval for short-term injury or illness.
- (2) **Leave for long term injury/illness.** Eligible employees will receive forty (40) hours of sick leave for every three (3) weeks incapacitated due to a long term injury or illness.
- (3) **Leave for Maternity.** Employees absent for normal maternity shall be eligible to receive forty (40) hours of sick leave upon exhaustion of sick, school vacation, and personal leave.

Leave Bank Hours: The hours donated from the Employer's and employees' contributions to the worksite leave bank. Employees who transfer from one BIE worksite to another do not have their contributions transferred too. However, such employees will not need to have additional contributions deducted during the term of his or her contract if such a transfer is affected in order to be a member at the new worksite.

Family and Medical Leave Act (FMLA) requirements do apply when FMLA-eligible employees are requesting sick leave from the sick leave bank and fall within the ambit of the FMLA. (Article 30, Section 10) In those circumstances, the employee will be required to provide information in accordance with the FMLA. This will substitute for information otherwise required by the leave bank application.

A Bargaining Unit Member may donate sick leave to the sick leave bank at any time. A Sick Leave Bank Donor may donate a maximum of 120 hours. Any portion of the sick leave donated

by an individual will remain in the bank to be used by other qualified applicants, as determined by the sick leave bank committee.

Becoming a Leave Bank Recipient

To become a leave bank recipient a member must submit an application, as noted in appendix 1 of this document. That application indicates that the recipient should identify his/her social security number and date of birth in addition to the surname, first name, and middle initial. The committee shall only require the date of birth and the last 4 digits of the applicant's social security number, if there are multiple employees at the worksite with the same first name, last name, and middle initial of the applicant.

The applicant submits the application to the sick leave bank committee. The committee will consult with the timekeeper or supervisor to ascertain the applicant's leave balance eligibility. To be eligible for leave donations from the sick leave bank, a member must exhaust accrued sick leave, personal leave, annual leave, and vacation leave, as applicable, during the pay period an application is submitted or already have exhausted such leave. If the applicant has not properly completed the form or additional information is necessary, the Committee shall return the document to the employee and identify the additional information which is needed. This should also occur within five (5) workdays. The Committee will be provided an additional five (5) workdays to make a determination after a complete application is returned to them. The committee will review the application based on the locally established criteria for approval or disapproval of an application and base their decision *solely* upon the information provided in or with the application.

Within five (5) workdays following the date a complete application is received, the committee will inform the applicant in writing whether the request has been approved or disapproved. Disapproved applications will be in writing and identify the reason(s) for disapproval. Written notice may be accomplished through use of the leave bank application. Disapproval of an application is excluded from the grievance process by agreement between the parties. If the application is approved or disapproved, the applicant, his supervisor, and the timekeeper will be informed of the decision. This will be accomplished by providing those individuals with a copy of the decision from the leave bank committee. Medical information should be redacted from those copies provided to the timekeeper. The approval document will indicate the number of hours being allocated to the applicant from the leave bank committee. This will be based upon the information provided by the applicant at the time the application is submitted. The applicant will be responsible for keeping the supervisor informed of his status during the absence from duty, including any changes from the estimated duration of the absence/illness, if applicable. Normal absence reporting procedures will apply during the applicant's absence.

Leave Bank recipients may not transfer leave donated to them from the leave bank to other employees. The distribution of leave from the sick leave bank may only be accomplished

through decisions of the committee. The application form is in digital format and can be completed entirely in electronic format, including digital signatures. The committees shall encourage the completion of the application in electronic format. This will assist the committee in maintaining the records in a more secure manner.

Eligibility is defined in the collective bargaining agreement (CBA) at Article 30 section 9, subsection D, as follows:

An injury or illness is defined as long term if it incapacitates the employee for three (3) or more weeks.

- (1) Leave for Short Term (less than three weeks) Injury/Illness. Eligible employees will receive up to twenty (20) hours of sick leave during each six-month interval for non-long term injury or illness.**
- (2) Leave for Long Term Injury/Illness. Eligible employees will receive forty (40) hours of sick leave for every three weeks incapacitated due to a long term injury or illness.**
- (3) Sick Leave Bank for Maternity. Employees absent for normal maternity shall be eligible to receive forty (40) hours of sick leave upon exhaustion of sick, school vacation, and personal leave. Employees who have complications associated with maternity may also meet the eligibility requirements for leave for long term illness or injury, if the complications would incapacitate the employee for more than three weeks. In those circumstances, the employee would be eligible under paragraph 2 above concerning long term illness.**
- (4) Use. Leave will be available for withdrawal on a first come, first served basis.**

Donating to the Sick Leave Bank

Only bargaining unit contract education employees may donate to the sick leave bank. Individual donors may donate no more than one hundred twenty (120) hours during the course of a contract year. An application must be submitted to become a donor to the leave bank. Donors must complete the Application to Donate Leave attached to this document in appendix 2. The donor submits the request to the Committee. The Committee reviews the application to determine if the applicant may become a donor and based on the established criteria for approval or denial of an application, notifies the applicant in writing within 5 workdays following the date it is received. The application should be approved unless any of the following conditions apply:

- (1) The employee is outside of the bargaining unit.
- (2) The employee is not a contract education employee.

- (3) The employee's position of record is domiciled at a separate work site.
- (4) The employee's donation was coerced, involuntary, or otherwise not freely offered.
- (5) The employee has already donated the maximum amount permissible.

If the Committee determines that any one of these conditions are present, it shall disapprove the request in writing and identify to the applicant why the donation is disapproved. If the employee has not yet reached the maximum donation amount, the Committee shall approve the application up to the maximum number of hours and explain that to the donor, in writing.

The Committee must respond to the applicant, in writing, within five (5) work days whether or not the donation has been approved. Approved applications will be submitted to the timekeeper who will process the action using the appropriate QuickTime timekeeping code.

Once donations have been approved by the Committee and transferred to the leave bank, the decision is irrevocable and the hours shall not be returned to the donor.

Committee Members

Committee members are responsible for establishing uniform non-discriminatory procedures to be applied at the work site at which they work. Committee members must act promptly and appropriately when deciding whether or not to approve applications to become donors and/or recipients.

Committee members must decide whether to approve or disapprove requests to become a recipient based solely on the information provided by the applicant. Committee members shall approve or disapprove requests to donate leave based solely on the criteria set forth herein.

Committee members will work with the Business Technician, Business Manager or whoever normally works with BIE human resources to process personnel actions (HR Liaison). That individual will be responsible for processing commands required in the Federal Personnel/Payroll System (FPPS) as identified by the Interior Business Center (IBC) in Appendix 3.

Committee members are responsible for monitoring the leave balance available in the sick leave bank, for accepting leave contributed by donors, and for tracking leave allocated to approved recipients. Committee members are able to view the records of the sick leave bank. However, donations to or distribution from the bank is accomplished via the HR Liaison based upon actions taken by the Committee. The HR Liaison will assist the Committee by providing reports to them, when requested, concerning balances maintained in the worksite sick leave bank. All donations to or distribution from the bank shall only be accomplished through the electronic medium established for that purpose by IBC.

Timekeepers

Timekeepers will record recipients' leave in accordance with the instructions received from the sick leave bank committee. The hours will be recorded using only the leave codes established by the IBC. Timekeepers shall not charge leave as distributed from the sick leave bank except as specifically authorized by the committee.

Business Technician/HR Liaison

The work site Business Manager shall identify a Business Technician to interact with the sick leave bank committee, the timekeeper, and IBC, as necessary and act as the HR Liaison, as noted above. This person will be able to view balances in the bank and to produce reports for the committee, if requested. The HR Liaison will not make decisions concerning requests to donate or receive leave; however, the HR Liaison will be responsible for implementing within FPPS the decisions of the sick leave bank committee to allocate donated leave or to make other changes, as necessary.

Recordkeeping and Safeguarding of Information

Committee members are responsible for appropriately safeguarding information they receive based on their committee membership and must not divulge medical information or other Privacy Act protected information to those without a cognizable need to know such information. Committee members are responsible for advising the appropriate timekeeper of their decisions concerning allocation of leave from the bank and approval of donations to the bank, in order for the correct collection and allocation of leave to occur. Any medical information submitted to the committee shall be safeguarded as medical records, such as:

- (1) Such records must be maintained in a locked file cabinet with access permitted only to those with a legitimate need to know.
- (2) Each applicant will have a separate file created for them, by name. Included in the file will be:
 - a) The application;
 - b) The supporting documentation submitted with the application;
 - c) The committee's decision about the application and;
 - d) Any instructions provided to the timekeeper.

- (3) Each file will also have a record established for each time the file is accessed. This will include:
 - a) The name and title of the person accessing the file,
 - b) The date and time it was accessed, and;
 - c) The reason(s) for accessing the file.
- (4) Digital records are an alternative to hard copy files and if utilized will be password protected.

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