

BP 7345 CATASTROPHIC LEAVE PROGRAM

Reference:

Education Code Section 87045

The Board of Trustees authorizes implementation of a Catastrophic Leave Program to permit employees of the District to donate eligible leave credits to an employee when that employee or a member of his or her family suffers from a catastrophic illness or injury.

The Chancellor shall establish administrative procedures to administer the program that comply with the requirements established by the Education Code. The administrative procedures shall assure that the program is administered in a nondiscriminatory way.

Date Adopted: November 18, 2008

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Education Code Section 87045

The District has established a Catastrophic Leave Bank (CLB) for full time and part-time/associate faculty, regular classified and confidential staff, and classified and academic management employees of the District to annually donate eligible leave credits for use when an employee, or a member of his or her immediate family, suffers from a catastrophic illness or injury. Short term employees (seasonal or substitutes) cannot accumulate sick leave and thus, are not eligible to participate.

For the purposes of this procedure, the following terms are defined as follows:

- "Catastrophic illness" or "injury" means an illness (mental or physical) or injury that is expected to incapacitate the employee for an extended period of time, or that incapacitates a member of the employee's immediate family requiring the employee to take time off from work for an extended period of time to care for that family member, and taking extended time off work creates a financial hardship for the employee because he or she has exhausted all of his or her eligible earned leave credits.
- "Eligible leave credits" means that only earned vacation and sick leave can be donated by the employee.
- "Immediate family member" means the employee's spouse/California registered domestic partner, parent or child as defined under the Family and Medical Leave Act and the California Family Rights Act or other dependent. In cases where the above definition is not clear the requestor can appeal to the Catastrophic Leave Committee (CLC) for an exception.
- "Catastrophic Leave Committee" (CLC) is the group designated to evaluate employee requests to utilize the catastrophic leave bank. The CLC will be made up of constituents from the Benefits Committee and will include one (1) representative from each of the following constituency groups: management, confidential, classified, and faculty; and one (1) alternate for each of the members of the CLC in cases where a CLC member cannot be reached in a timely fashion. The CLC may meet via telephone or electronically to increase the likelihood of a timely response.

Earned eligible leave credits may be donated to the CLB for a catastrophic illness or injury if all of the following requirements are met:

I. Catastrophic Leave Donation Requesting Requirements:

1. Must submit a sick leave donation request form requesting CLB benefits. Employees requesting leave donations may attach a cover letter describing their request if they choose to, however the letter alone will not suffice. In situations where the employee is unable to apply, an authorized person such as a spouse, CA registered domestic partner, legal guardian, person with power of attorney, adult child, co-worker, or family friend or relation may request donated leave. Forms are available from the Diversity and Human Resources Department.
2. Must submit medical certification from the employee's health care provider or certification from the health care provide of the employee's spouse, child or parent who has a serious health condition. The District may require additional medical verification from a physician selected by the District at District expense.
3. Must have exhausted all eligible earned leave credits.
4. Must have met the minimum contributions to the CLB to participate in the Catastrophic Leave Program.
5. Initial required minimum contributions are: three (3) hours for part-time/associate faculty; four (4) hours for classified permanent part-time; eight (8) hours for full time classified or confidential employees; and one (1) day for faculty and management employees. After an employee has donated the minimum contributions to the CLB, they are eligible to withdraw from the bank for two (2) years from the date of the donation. After the two (2) years has elapsed, the employee must donate at least the minimum contribution to maintain their eligibility for an additional two (2) years.

Donations will be collected annually at a set time determined by the District. As necessary, if there is a need to add to time bank balances, additional announcements will be made to collect additional donations.

6. Part time classified staff can only receive leave credits for the number of hours for which they are contracted to work.

II. Donating Employee Requirements:

1. Must donate the minimum required contribution in a two (2) year period.
2. Faculty may not donate overload sick leave.
3. Employees are not permitted to donate earned unused sick leave at the time of separation.
4. Leave donations are irrevocable.
5. Any unused donated leave will remain indefinitely in the District's CLB for use by other catastrophically ill/injured employees who request and are approved to use leave from this bank.

III. Catastrophic Leave Bank Provisions

In addition to the conditions specified above, the following items apply specifically to Catastrophic Leave Bank requests:

1. **EXCLUSIONS:** The following conditions are excluded from consideration for use of the CLB: Stress related illness; elective surgery; normal pregnancy; worker's compensation claims; disabilities resulting from alcoholism or drug addiction, unless the drugs are being administered by a physician; intentionally self-inflicted injuries; or illnesses such as colds, flu, allergies, headaches.
2. Use of donated leave credits shall not exceed a maximum period of 12 consecutive months and shall be used on a month-to-month basis, or increments thereof, as needed. Part time/associate faculty may use donated leave credits for an absence in a term in which they are currently assigned; donated leave may not be used for tentative or future assignments.
3. Catastrophic Leave can be used concurrently with Extended Illness Leave.
4. In the event that CLB benefits do not cover the period of estimated incapacity/absence, the CLB beneficiary may use donated time in partial day increments to remain in at least 50% paid status to maintain District paid health and welfare benefits. Regardless how donated time is used, benefits from the plan may not exceed 12 consecutive months.

5. An employee who receives paid leave pursuant to this procedure shall use any eligible earned leave credits accrued on a monthly basis prior to receiving such leave.
6. During annual open enrollment or as often as necessary the District will ask for donations to replenish the CLB. An annual review of the leave balances bank by the Diversity and Human Resources Department and the Benefits Committee will be conducted to assure that an adequate balance is maintained and minimum required contributions are sufficient to meet the need.
7. Unused donated leave and/or leave specifically donated to the CLB remains irrevocably in the CLB until used for catastrophic leave purposes.
8. Requests for leave are subject to CLB availability. If two or more employees are requesting leave simultaneously, they will share the available leave equally. The District is not responsible for honoring CLB requests if CLB leave is not available.
9. It is the responsibility of the employee or authorized person making the request for CLB hours to submit sufficient information or explanations for CLB use consideration. Insufficient information may be grounds for denial of the request.
10. Requests for use of the CLB shall be submitted directly to the Director, Diversity and Human Resources. The Director, Diversity and Human Resources along with internal DHR administrators as necessary shall evaluate the information submitted and shall make the initial determination for the employee to utilize and draw from the CLB, pending final approval by the CLC. All decisions made by the CLC must carry with a least three of the four votes. If the CLC determines that the employee does not qualify for the CLB, that employee will stop drawing from the bank and will not be required to pay back the hours that have already been used. Employees shall be notified in writing of all decisions. The Director, Diversity and Human Resources shall provide the representatives of the CLC with the applicant's information in compliance with HIPPA privacy requirements. The committee representatives shall review the leave request but shall not be told the name of the person making the request. All reasonable efforts will be made to ensure the privacy of the employee making the leave request. The CLC shall make a final determination to grant the applicant's leave request.
11. Should an employee be denied, they may appeal the decision to the Benefits committee within 30 days of the notification of denial. Determination of the Benefits committee shall be final.

12. The Payroll and Diversity and Human Resources departments will administer the transfer and verification of leave balances in the CLB.

IV. Current Catastrophic Leave Cases

1. Catastrophic leave cases which were approved and in effect prior to the approval and implementation of this updated Catastrophic Leave Procedure shall continue as normal. Upon the return of the employee to work or separation of that employee, any unused balances which were donated by any employee shall be returned to the donating employee.

An employee currently receiving donations under the existing Catastrophic Leave Policy who returns to work and has a new qualifying event must submit a new request via the updated process.

Once the new Catastrophic Leave Procedure is in place, all employees must make donations consistent with this updated policy and must make an initial donation to qualify under the updated bank provisions.

All donations are strictly voluntary. No employee, at any time, shall be required to participate in the Catastrophic Leave Program.

Office of Primary Responsibility: Vice Chancellor, Diversity and Human Resources

Administrative Approval: December 10, 2012