



Joint Sick Leave Bank and Exchange Operational Guidelines

(Revised August 2020)

1. HISTORY AND MAINTENANCE

A Joint Sick Leave Bank for employees was jointly established by representatives of St. Mary's County Public Schools (SMCPS), the Education Association of St. Mary's County (EASMC), and the Collective Education of St. Mary's County (CEASMC) as a result of collective bargaining for the 2002-2003 negotiated agreements.

Through collective bargaining for the 2015-2016 negotiated agreements, CEASMC, EASMC, SMASA, and SMCPS agreed to enhance the Sick Leave Bank by adding an option to exchange sick leave among bank members, resulting in the current Joint Sick Leave Bank and Exchange. The exchange was implemented during the 2015-2016 school year beginning with open enrollment during the month of September 2015. Requests for eligibility to receive sick leave allocations through the exchange are approved by the current Joint Sick Leave Bank and Exchange Approval Committee. In 2017, EASMC and CEASMC merged into one association as EASMC with two units, certificated (EASMC-Certificated) and educational support professionals (EASMC-ESP).

The Joint Sick Leave Bank and Exchange Steering Committee includes the Joint Sick Leave Bank and Exchange Approval Committee; EASMC President/Certificated Designee, EASMC President/ESP Designee, and SMASA Presidents; one SMCPS chief negotiator; one Maryland State Education Association (MSEA) UniServ Director representing EASMC; and one MSEA UniServ Director representing SMASA. The steering committee will meet no less than annually for a Joint Sick Leave Bank and Exchange Procedural Review. If the SMCPS chief negotiator is not a current SMCPS employee, then SMCPS will appoint a designee to participate in the annual review in place of the SMCPS chief negotiator. The purpose of the meeting will be to review Joint Sick Leave Bank and Exchange guidelines and update them if deemed necessary by the majority of the review attendees.

The latest approved operational guidelines will be available on the SMCPS, EASMC, and SMASA web sites, and in the appendices of the EASMC, EASMC-ESP, and SMASA negotiated agreements. Employees desiring to apply for Joint Sick Leave Bank and Exchange benefits should request an SMCPS Joint Sick Leave Bank and Exchange Request and Waiver of Medical Records form from the SMCPS Department of Human Resources.

2. MEMBERSHIP

2.1 Membership Eligibility

Participation in the Joint Sick Leave Bank and Exchange is on a voluntary basis. Joint Sick Leave Bank and Exchange benefits are available to all SMCPs employees who are eligible to earn leave and have an accrued leave balance (consisting of sick, personal or annual leave) of at least ten (10) days, with a minimum of five (5) days of accrued sick leave. Pre-allocated leave, acquired hours and compensatory time will not be considered for purposes of membership eligibility. New employees may elect to enroll in the Joint Sick Leave Bank and Exchange within 30 calendar days of initial employment (if they have at least one day of sick leave to donate, regardless of their date of employment) or during the open enrollment held annually from August 15 – September 15.

The purpose of the Joint Sick Leave Bank and Exchange is to allow continuation of salary and benefits for the employee. The Joint Sick Leave Bank and Exchange operates independently, and is not governed by and does not impact the employee's rights under the Family and Medical Leave Act (FMLA). The use of leave allocated under the Joint Sick Leave Bank and Exchange does not guarantee that an employee will maintain his or her position.

2.2 Membership Enrollment

Employees may elect to enroll in the Joint Sick Leave Bank and Exchange within 30 calendar days of initial employment or during the open enrollment in September. Employees returning from a leave of absence in the following school year who were not previously members of the Joint Sick Leave Bank and Exchange may enroll within 30 days of their date of return. SMCPs will indicate on each employee's personal pay statement whether or not that employee is a member of the Joint Sick Leave Bank and Exchange.

2.3 Required Leave Contributions for Members

In order to participate in the Joint Sick Leave Bank and Exchange, an employee must contribute one day of sick leave to the bank. In order to remain a member, an employee must contribute an additional day of sick leave to the bank each time there is a replenishment request (see Paragraph 7.2, Ongoing Donations, below). Donated sick leave will not be returned. All members who utilize Sick Leave Bank benefits in a given year will be required to donate one day back to the bank from the sick days they are granted in the following school year.

2.4 Membership Cancellation

Members may cancel membership in or opt out of the Joint Sick Leave Bank and Exchange by sending a written notice to the Department of Human Resources or by choosing not to donate another day during a replenishment request.

3. SICK LEAVE BANK BENEFITS

3.1 Sick Leave Bank Benefits Waiting Period

Employees who have been employed by SMCPs for a year or more must be enrolled in the Joint Sick Leave Bank and Exchange for a period of three months prior to receiving Sick Leave Bank benefits. Employees who have been employed by SMCPs for less than a year are exempt from the three-month waiting period requirement.

3.2 Sick Leave Bank Benefits Eligibility

Sick Leave Bank days may be awarded to Joint Sick Leave Bank and Exchange members for use on regularly scheduled duty days for temporarily incapacitating and debilitating personal illness,

injury, or isolation **of the member** that is not likely to result in permanent disability of that employee. In order to be eligible for sick leave bank benefits, a member must qualify for approved leave under personal illness. Terminal illness of the employee is a covered benefit if the employee is filing for disability retirement through Maryland State Retirement Agency. Once an employee is eligible for disability retirement, all Joint Sick Leave Bank and Exchange benefits will cease.

The purpose of the Joint Sick Leave Bank and Exchange is to allow continuation of salary and benefits for the employee. The Joint Sick Leave Bank and Exchange operates independently, and is not governed by and does not impact the employee's rights under the FMLA. The use of leave allocated under the Joint Sick Leave Bank and Exchange does not guarantee that an employee will maintain his or her position.

3.3 Sick Leave Bank Benefit Exclusions

Exclusions from Sick Leave Bank benefits include but are not limited to the following.

- a. Any illness, injury, or quarantine of anyone other than the Joint Sick Leave Bank and Exchange member.
- b. Any employee eligible for Worker's Compensation is not eligible for Sick Leave Bank benefits.
- c. Once an employee is eligible for disability retirement, all Joint Sick Leave Bank and Exchange benefits will cease.
- d. An employee who at the time of Joint Sick Leave Bank and Exchange application is on an approved leave of absence, suspended, or terminated from SMCPs is not eligible for Joint Sick Leave Bank and Exchange benefits.
- e. Normal pregnancies and childbirth are not considered eligible reasons for Sick Leave Bank benefits.
- f. Members with available accumulated leave (Examples: sick, personal, annual, compensatory time, etc.) are not eligible for Joint Sick Leave Bank and Exchange benefits. Members must use all accumulated leave (Examples: sick, personal, annual, compensatory time, etc.) before being eligible for awards from the bank. **Members eligible for direct sick leave exchange from other employees must exhaust those options first. (Refer to the appropriate negotiated agreement: EASMC-ESP Article 8.3, f, 1, 6th bullet – EASMC Article VIII, C, 1, a, 6 – SMASA Article VIII, C, 1, a, 4.)**
- g. Donated Sick Leave Bank days granted in one school year cannot be carried over and used in a subsequent school year. Unused Sick Leave Bank days will be returned to the bank.
- h. A member who is receiving benefits from the Joint Sick Leave Bank and Exchange may not work secondary employment. A member who is receiving benefits from the Joint Sick Leave Bank and Exchange may not perform actions contrary to the limitations set forth in the medical documentation provided in the application and supporting documents. To do so may result in disciplinary action, immediate termination of Joint Sick Leave Bank and Exchange benefits, and/or revocation of any previously granted days.

3.4 Leave Limits

The maximum number of Sick Leave Bank days available per employee per school year is 50 days with a maximum of no more than 120 days in any five-year period. Leave donations for other than full-time members will be proportionate to the hours worked of the individual requesting leave. Utilization will conform to the appropriate negotiated agreements. Total salary and Joint Sick Leave Bank and Exchange benefits shall not exceed a member's annual SMCPs salary.

4. **SICK LEAVE EXCHANGE BENEFITS**

4.1 Sick Leave Exchange Benefits Waiting Period

Excluding the requirement to utilize any available leave to the employee, there is no waiting period to request Sick Leave Exchange benefits.

4.2 Sick Leave Exchange Benefits Eligibility

Sick Leave Exchange days may be awarded to Joint Sick Leave Bank and Exchange members for use on regularly scheduled duty days for (1) temporarily incapacitating and debilitating personal illness, injury, isolation, or quarantine **of the member** that is not likely to result in permanent disability of that employee or (2) to allow the member to care for an immediate family member (adopted, foster, or natural child, grandchild, parent, brother, sister, spouse/life partner, or anyone who has lived regularly in the household) facing temporarily incapacitating and debilitating personal illness, injury, terminal illness or quarantine. In order to be eligible for Sick Leave Bank benefits, a member must qualify for approved leave under personal illness.

The purpose of the Joint Sick Leave Bank and Exchange is to allow continuation of salary and benefits for the employee. The Joint Sick Leave Bank and Exchange operates independently, and is not governed by and does not impact the employee's rights under the FMLA. The use of leave allocated under the Joint Sick Leave Bank and Exchange does not guarantee that an employee will maintain his or her position.

4.3 Sick Leave Exchange Benefit Exclusions

Exclusions from Sick Leave Exchange benefits include but are not limited to the following.

- a. Employees may not request Sick Leave Exchange benefits to care for anyone other than themselves or immediate family members (adopted, foster, or natural child, grandchild, parent, brother, sister, spouse/life partner, or anyone who has lived regularly in the household).
- b. Any employee eligible for Worker's Compensation is not eligible for Sick Leave Exchange benefits.
- c. Once an employee is eligible for disability retirement, all Joint Sick Leave Bank and Exchange benefits will cease.
- d. An employee who at the time of Joint Sick Leave Bank and Exchange application is on an approved leave of absence, suspended, or terminated from SMCPs is not eligible for Joint Sick Leave Bank and Exchange benefits.
- i. Members with available accumulated leave (Examples: sick, personal, annual, compensatory time, etc.) are not eligible for Joint Sick Leave Bank and Exchange benefits. Members must use all available accumulated leave (Examples: sick, personal, annual, compensatory time, etc.) before being eligible for awards from the bank. **Members eligible for direct sick leave exchange from other employees must exhaust those options first. (Refer to the appropriate negotiated agreement: EASMC-ESP Article 8.3, f, 1, 6th bullet – EASMC Article VIII, C, 1, a, 6 – SMASA Article VIII, C, 1, a, 4.)**

- e. Donated sick leave exchange days, once granted, cannot be returned to the donor and remain available to the employee for use for the purposes stated in the application form until June 30 of that year, but shall not be applied to the sick leave balance reported at time of retirement, termination or resignation. All unused Sick Leave Exchange days not utilized by the employee by June 30 for the purposes stated in the application form shall be transferred to the Sick Leave Bank.
- f. A member who is receiving benefits from the Joint Sick Leave Bank and Exchange may not work secondary employment. A member who is receiving benefits from the Joint Sick Leave Bank and Exchange may not perform actions contrary to the limitations set forth in the medical documentation provided in the application and supporting documents. To do so may result in disciplinary action, immediate termination of Joint Sick Leave Bank and Exchange benefits. And/or revocation of any previously granted days.

4.4 Leave Limits

The maximum number of Sick Leave Exchange days available per employee per school year is 30 days if the employee has also been granted Sick Leave Bank days. The maximum number of Sick Leave Exchange days available per employee per school year is 60 days if the employee was ineligible for Sick Leave Bank days, but is eligible for Sick Leave Exchange Days. The maximum number of Sick Leave Exchange days that an employee may receive is no more than 120 in any five-year period. The maximum combined total of Sick Leave Bank and Exchange days is limited to 180 days in any five-year period. Leave donations for other than full-time members will be proportionate to the hours worked of the individual requesting leave. Utilization will conform to the appropriate negotiated agreements. Total salary and Joint Sick Leave Bank and Exchange benefits shall not exceed a member's annual SMCPs salary.

5. **APPLICATION REQUIREMENTS**

5.1 Application Timeline

When possible, all leave requests should be made within the 30 calendar days prior to the first date Joint Sick Leave Bank and Exchange usage is requested. (In extreme and unusual cases, an exception for retroactive days may be approved.)

5.2 Required Documentation

Requests for and allocation of sick leave days shall be in full day increments. A complete SMCPs Joint Sick Leave Bank and Exchange Request and Waiver of Medical Records form must be submitted prior to consideration of a request. If the request for Sick Leave Exchange is to care for an immediate family member, the family member must also sign a waiver allowing SMCPs to access medical records necessary to make a determination of benefits. Among other information, this form must include the following.

- History of the illness
- Date the illness began or that treatment was first administered
- A diagnosis and prognosis
- The physician's signature and stamp
- Any other related information that supports the benefits eligibility
- Detailed plan of treatment including any prescribed medications or therapies
- Anticipated return to work release date

5.3 Ethics

Any violation, withholding of information, or false representation of information may result in disciplinary action or termination of Joint Sick Leave Bank and Exchange benefits and may require repayment.

6. **APPLICATION REVIEW**

6.1 Joint Sick Leave Bank and Exchange Approval Committee Members

The Joint Sick Leave Bank and Exchange Approval Committee will be comprised of a representative of the Department of Human Resources, one SMASA representative appointed by the SMASA President, two EASMC-Certificated representatives appointed by the EASMC President, two EASMC-ESP representatives appointed by the EASMC President, and one non-voting member who would be the Supervisor of Health Services or an SMCPS registered nurse. The respective organizations will submit the name of their appointees annually on July 1 to the Superintendent. One of the SMCPS appointees and one of the EASMC-Certificated, EASMC-ESP, or SMASA appointees will serve as co-chairpersons, as determined by the Joint Sick Leave Bank and Exchange Committee. The respective presidents will appoint replacements. All parties recognize that due to the personal and sensitive nature of sick leave donation review, the complete confidentiality by the Joint Sick Leave Bank and Exchange Approval Committee members is essential. All correspondence pertaining to the Joint Sick Leave Bank and Exchange will be issued by the Director of Human Resources. A quorum of the committee will be four members and will be required to make official decisions relative to leave requests.

6.2 Joint Sick Leave Bank and Exchange Approval Review Process

The six-member Joint Sick Leave Bank and Exchange Approval Committee will review all applications for the donation of sick leave in accordance with the following process. The Joint Sick Leave Bank and Exchange Approval Committee will meet regularly each month to consider any complete application packages that have been received. The Joint Sick Leave Bank and Exchange application allows a Joint Sick Leave Bank and Exchange co-chairperson or designee to contact the physician(s) who provided the necessary documentation. The committee may also confer with the SMCPS Insurance Specialist. The committee may also review and request additional documentation during the course of the eligibility period. Decision of the committee will be by consensus.

6.3 Final Decision

The Joint Sick Leave Bank and Exchange Approval Committee's decision and reason will be communicated in writing to the employee within seven business days following the decision of the Joint Sick Leave Bank and Exchange Approval Committee. The decision of the Joint Sick Leave Bank and Exchange Approval Committee is final. **There is no process to appeal a decision of the Joint Sick Leave Bank and Exchange Approval Committee.** If employees believe it would be advantageous, they may reapply with additional information within 15 days of the notice of denial for the same condition considered in the original application. If leave is granted, allocation will be equal to the normal workday of the individual requesting leave. Utilization will conform to the appropriate negotiated agreements.

7. MAINTENANCE OF JOINT SICK LEAVE BANK AND EXCHANGE

7.1 Initial Donations

New employees may elect to join the Joint Sick Leave Bank and Exchange within 30 calendar days of initial employment or during the open enrollment in September. Joint Sick Leave Bank and Exchange membership requires an initial donation of one sick leave day per member. To participate, current employees (those not new to SMCPs) must have at least 10 days of accrued sick leave. New Joint Sick Leave Bank and Exchange members cannot be asked to donate more than one sick leave day in their initial year of enrollment.

7.2 Ongoing Donations

When the Joint Sick Leave Bank and Exchange balance drops to 25% of the membership, then EASMC-Certificated, EASMC-ESP, SMASA and SMCPs representatives will convene to review the status of the bank and determine if a request for replenishment is necessary.

7.2.1 Replenishment

If the sick leave bank needs to be replenished, all members will be requested to donate an additional day. Members with a current sick leave balance of at least 50 days may contribute a maximum of two days during open enrollment, or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 100 days may contribute a maximum of three days during open enrollment or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 150 days may contribute a maximum of four days during open enrollment or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 200 days may contribute a maximum of five days during open enrollment or a request to replenish the sick leave bank. Members who cannot or do not donate another day during a replenishment request will be removed from Joint Sick Leave Bank and Exchange membership. A Joint Sick Leave Bank and Exchange member returning from a leave of absence has 30 days to make the required donation to maintain Joint Sick Leave Bank and Exchange membership.

7.2.2 Repayment

Members who utilized Sick Leave Bank benefits in a given year will be required to donate one day back to the bank from the new sick days they are granted by SMCPs in the following school year. Members who cannot or do not donate another day during the following year will be removed from Joint Sick Leave Bank and Exchange membership.

7.2.3 Voluntary Donations

Members with a current sick leave balance of at least 50 days may contribute a maximum of two days during open enrollment, or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 100 days may contribute a maximum of three days during open enrollment or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 150 days may contribute a maximum of four days during open enrollment or a request to replenish the sick leave bank. Members with a current sick leave balance of at least 200 days may contribute a maximum of five days during open enrollment or a request to replenish the sick leave bank. Current Joint Sick Leave Bank and Exchange Members, at time of retirement, may contribute no more than ten days of their current sick leave balance to the sick leave bank.