

04-12. Leave Bank (Leave Assistance)

Internal Policies and Procedures of the Utah State Board of Education
Policy # 04-12
Subject: Leave Bank (Leave Assistance)
Effective Date: 11/01/2009 Revision Dates: 3/11/2013; 4/30/2018
Purpose: To establish policy and procedures for granting leave hours from the USBE Leave Bank to qualifying USBE employees to take an extended leave of absence from work and whose leave benefits have been, or will be, exhausted. This policy is not intended to underwrite abusive use of sick leave.
Policy: The USBE establishes and maintains a leave bank that may be used by eligible USBE employees. Use of the USBE Leave Bank is not an employee right and is authorized at the discretion of the Superintendent or the Superintendent’s designees, on a case-by-case basis. The USBE Leave Bank may be used for sick leave assistance for a USBE employee who has a qualifying event requiring extended absence from work. All provisions of this policy are subject to the Superintendent’s discretion.
References: DHRM Administrative Rule R477-7-19, Leave Bank

Procedures:

- “Qualifying event” means an illness, physical condition, or accident producing a life threatening or incapacitating situation for a USBE employee or a member of the employee’s immediate family, for which extensive medical treatment or prolonged absence from work is necessary.
 - Qualifying event includes parental leave, including pregnancy and the post-partum time for the employee or the employee’s immediate family member, or the adoption of a child.
- “Immediate family members” means the employee’s spouse, child, or parent, if the employee’s parent is living in the employee’s home.
- At the beginning of the calendar year, all annual leave hours in excess of 320 that are forfeited at the end of the year under DHRM Rule R477-3 (commonly referred to as “use or lose”) are automatically captured into the USBE Leave Bank.
 - Other leave donations, outside of the annual use or lose, are not accepted for the leave bank.
- A USBE benefitted employee is eligible to receive donations from the USBE Leave Bank.
- A USBE employee who has used sick leave inappropriately may not receive assistance from the USBE Leave Bank for one year from the inappropriate use of sick leave.

Request and Approval

- A USBE employee desiring to use hours from the USBE Leave Bank shall apply for leave under the Family Medical Leave Act (FMLA) by submitting an application form with DHRM.
 - Being ineligible for FMLA does not disqualify an employee from consideration for leave bank assistance.
- To request hours from the USBE Leave Bank, an eligible USBE employee shall submit a Leave Bank application form to DHRM.
 - If possible, a USBE employee should submit an application prior to going on leave-without-pay status.
 - The employee's supervisor may request the benefit on behalf of the employee if the employee is unable.
- DHRM consults with the Superintendency for approval or disapproval in each case, which shall be recorded in writing.
- When considering a request for use of Sick Leave Assistance, the Superintendent takes into account the availability of leave bank hours, need of the employee, previous history of leave use, and any previous or current performance improvement plans, disciplinary actions, or warning letters.
- DHRM may collect information from the employee's health care provider.
 - The eligible employee shall submit any medical documentation required by DHRM to support the use of the USBE Leave Bank.
 - All medical records created for the purpose of a leave bank, shall be maintained in accordance with confidentiality requirements in Utah Administrative Code Section R477-2-5.
 - A leave donor, supervisor, manager, or management team may not have access to or review a USBE employee's medical certification or physician statement. DHRM is the only entity at the USBE allowed to view an employee's medical certifications or physician statements.
- A DHRM representative notifies the employee of the approval or disapproval, and the number of hours approved.

Employee Use of Sick Leave Bank

- A USBE employee may not use USBE Leave Bank hours until all other forms of the employee's paid leave are exhausted.
- Leave Bank hours may not be used at the same time as Workers Compensation salary benefits, or Long Term Disability benefits.
- The maximum number of Leave Bank hours that a full-time employee may use is 480 hours per calendar year, when the leave is used for the employee's qualifying event.
 - This maximum allowable number of hours may be pro-rated proportionally for a part-time employee.

- The maximum number of Leave Bank hours that a full-time employee may use to care for an immediate family member with a qualifying event is 240 hours per calendar year.
 - This maximum allowable number of hours may be pro-rated proportionally for a part-time employee.
 - An employee may only be compensated for half of the hours needed to care for an immediate family member, up to 40 hours per pay period. For example, if the employee is away from work for 40 hours in a pay period, the employee could be compensated for 20 hours of the time from the USBE Leave Bank, and the remaining hours would be leave without pay.
- A USBE employee receiving USBE Leave Bank hours may not work a second job without the written consent of the Superintendent.
- An employee accrues all regular leave benefits while using hours from the Leave Bank.
- An employee's leave assistance from the Leave Bank shall end when:
 - The employee returns to work;
 - The employee's absence is no longer supported by a health care provider's written statement; or
 - The employee's absence extends beyond 480 Hours, unless the employee seeks and receives the Superintendent's, or the Superintendent's designee's written approval for an extension. Any extension is subject to the same, ongoing eligibility requirements as an initial approval.
- An employee who has been on leave due to a medical reason shall provide a release from a medical provider to return to work on or prior to the day the employee is scheduled to return to work.
- Any restrictions identified by the health care provider will be reviewed on a case by case basis to determine if allowing the employee to return to work with restrictions will create any liability for the agency.

Donating Leave

- Employees who donate leave to employees in other departments outside the USBE are subject to those department's policies and procedures.
 - The donation shall be approved by both the USBE and the agency receiving the donated hours.