

EMPLOYEE LEAVE LAWS

For Alabama Public School Employees

Sick Leave Banks State laws for sick leave banks for employees of local boards of education are contained in Title 16, Chapter 22, Section 16-22-9 of the Code of Alabama (last amended by Act No. 99-581). Act No. 99-581 made significant changes in the operation of sick leave banks. Local boards of education operating sick leave banks prior to the 1999 law are required to change their policies regarding sick leave banks in order to comply with the 1999 law. This law also covers two-year postsecondary institutions and other agencies. In addition to sick leave banks, this law includes provisions for the operation of catastrophic sick leave. A summary of the sick leave bank provisions of this law follows:

1. The law covers full-time and part-time employees of local boards of education, Alabama Institute of Deaf and Blind, Department of Youth Services School District, Alabama School of Fine Arts, Alabama High School of Mathematics and Science, two-year postsecondary institutions, and Alabama A& M University.
2. Upon the request 10% or more of its full-time certificated and full-time support personnel, a local board of education will establish a sick leave bank plan for each of the two groups either jointly or separately.
3. Employees of the local board of education will vote by secret ballot to determine whether to have a joint sick leave bank or to have separate sick leave banks.
4. Each sick leave bank will have a sick leave bank committee consisting of five employees.
5. The local superintendent will appoint an employee (to be approved by the local board of education) to serve as one sick leave bank committee member.
6. The members of each sick leave bank will elect (by secret ballot at the beginning of each scholastic year) four of its members to serve a one year term on the sick leave bank committee. No member can serve on the committee for longer than 5 years.
7. The sick leave bank committee will write the guidelines for the operation of the sick leave bank.
8. The sick leave bank committee may adopt appropriate and beneficial guidelines in addition to the regulations contained in Section 16-22-9, if the additional guidelines do not conflict with this section of the law.
9. The guidelines developed by the sick leave bank committee must contain a provision whether or not to allow employees, who have previously failed or refused to join the sick leave bank, the option to join the sick leave bank upon the deposit of the prerequisite number of sick leave days.

10. The guidelines developed by the sick leave bank committee must establish an equal number of sick leave days (not to exceed five days) for deposit by each participating employee in order to become a member of the sick leave bank.

11. The guidelines developed by the sick leave bank committee are to be approved by a secret ballot vote of the participating members of the sick leave bank.

12. The sick leave bank committee will develop the forms and administrative procedures for the sick leave bank.

13. The sick leave bank committee will investigate any alleged abuse of the sick leave bank.

14. Sick leave days can only be used for the reasons stated in Section 16-1-18.1.

15. Employee membership in the sick leave bank is voluntary.

16. The revised law contains a provision that allows a new employee of a local board of education to join the sick leave bank at the beginning of employment. If the new employee does not have the required number of sick leave days to join the sick leave bank, the appropriate number of sick leave days will be credited (advanced) to the new employee as the deposit to join the sick leave bank. (The credit balance will be reduced by one day each month as the sick leave days are earned by the employee. After the credit balance is reduced to zero, sick leave days earned by the employee will be used to repay any outstanding loan to the sick leave bank.)

17. A participating member of a sick leave bank whose sick leave has been exhausted may borrow days from the sick leave bank.

18. An employee cannot owe more than 15 days to the sick leave bank, unless over 50 percent of the members of the sick leave bank vote to extend the limit.

19. Days are to be repaid to the sick leave bank by the borrowing member monthly, as the sick leave day is earned each month by the employee.

20. Upon the resignation or termination of an employee who owes days to the sick leave bank, the value for each of the owed days will be deducted from the final paycheck at the employee's current daily rate of pay.

21. Upon the transfer of a sick leave bank member, the days the employee has on deposit in the sick leave bank are withdrawn from the bank and transferred with the employee.

22. Upon the retirement of a sick leave bank member, the days the employee has on deposit in the sick leave bank are withdrawn from the bank and made accessible for retirement credit.

[NOTE: ALTHOUGH THIS ACT APPEARS TO INCLUDE PART-TIME EMPLOYEES AS ELIGIBLE TO JOIN THE SICK LEAVE BANK, THE PROVISIONS FOR SICK LEAVE CONTAINED IN §16-1-18.1 EXCLUDE PART-TIME EMPLOYEES.]

Brief descriptions of selected legal opinions relating to sick leave banks are shown below. Although some of the opinions were issued prior to Act No. 99-581, the legal interpretations are still applicable.

1) A member of a sick leave bank can give only the number of days to the sick leave bank allowed by law. AG Opinion 2000-200 [August 2, 2000]

2) If the final paycheck does not cover the value of the days owed to a sick leave bank when the employee leaves the school system, the local board of education must exercise due diligence and appropriate procedures to collect the debt. If the debt cannot be collected, it becomes a loss to the sick leave bank. AG Opinion 86-00024 Catastrophic Sick Leave State laws for catastrophic sick leave for employees of local boards of education are contained in Title 16, Chapter 22, Section 16-22-9 of the Code of Alabama (last amended by Act No. 99-581). This law also covers two-year postsecondary institutions and other agencies. In addition to catastrophic sick leave, this law includes provisions for the operation of sick leave banks. A summary of the catastrophic sick leave provisions of this law follows:

1. The law covers full-time and part-time employees of local boards of education, Alabama Institute of Deaf and Blind, Department of Youth Services School District, Alabama School of Fine Arts, Alabama High School of Mathematics and Science, two-year postsecondary institutions, and Alabama A& M University.
2. An employee must be a member of a sick leave bank to donate or receive catastrophic sick leave days.
3. A catastrophic illness is defined as “Any illness, injury, or pregnancy or medical condition related to childbirth, certified by a licensed physician which causes the employee to be absent from work for an extended period of time.”
4. Each sick leave bank committee is responsible for writing guidelines and administrative procedures for catastrophic sick leave.
5. An employee must exhaust all sick and personal leave days before using catastrophic sick leave days.
6. An employee must borrow and utilize days from the sick leave bank (up to a maximum of 15 days) before being eligible to use catastrophic sick leave days.
7. Donated catastrophic sick leave may be used to repay days owed to a sick leave bank.
8. Sick and personal leave days earned while the employee is utilizing catastrophic sick leave days must be exhausted before continuing the use of catastrophic sick leave days.
9. An employee may use catastrophic sick leave days for a catastrophic illness for himself or herself or for the following covered persons: parent, spouse, child, foster

child currently in the custody and care of the employee, sibling, or an individual with a close personal tie.

10. A sick leave bank member may donate a specific number of days (not to exceed 30 sick leave days) to a sick leave bank for a specific employee to use against a catastrophic illness.

11. The employee donating sick leave for a catastrophic illness does not have to be a member of the same sick leave bank as the recipient employee.

12. The employee donating sick leave for a catastrophic illness cannot be required to donate a minimum number of days.

13. The donated catastrophic sick leave days revert to the donating employee only if the recipient employee does not use all of the donated days.

14. The sick leave bank committee will adopt guidelines for reverting unused donated days to the employees who donated the days.

[NOTE: ALTHOUGH THIS ACT APPEARS TO INCLUDE PART-TIME EMPLOYEES AS ELIGIBLE TO RECEIVE OR DONATE SICK LEAVE DAYS, THE PROVISIONS FOR SICK LEAVE CONTAINED IN §16-1-18.1 EXCLUDE PART-TIME EMPLOYEES.]

A brief description of a legal opinion relating to catastrophic sick leave is shown below:

1) State laws do not contain a limitation on the number of catastrophic sick leave days that an employee can receive by donations from other sick leave bank members. State Department of Education, Office of General Counsel [December 13, 2000]