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Catastrophic Leave
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Appendix D
CATASTROPHIC LEAVE BANK PROVISIONS

General Provisions

- A: The SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT ("District") and the CUESTA COLLEGE FEDERATION OF TEACHERS, AFT Local #4909 ("Union") have agreed to create a program, to be known as the Catastrophic Leave Bank ("Bank"). Further, the parties have agreed to attach this Appendix to the current Collective Bargaining Agreement ("Agreement").
1. The program constitutes a process through which an individual employee contributes one or more days of sick leave earned pursuant to Education Code section 87045 to the Bank on an annual basis in order to be eligible to request sick leave credits from the Bank pursuant to Education Code section 87045(b)(1). The Bank shall be administered by the Bank Oversight Committee ("Committee") in accordance with the terms of this Appendix.
 2. Except for the District's obligations contained in section A.3 of this Appendix, the administration of the Bank is the sole and entire responsibility of the Union. The District is not a party to any dispute or disagreement over any sick leave credits granted or denied pursuant to the terms of this Appendix. Any dispute between an employee and the Bank shall be resolved by an appeal to the Executive Board of the Union pursuant to the provisions of section D.7 of this Appendix. The Executive Board's determination shall be final.
 3. Consistent with the terms of this Appendix, the District's obligations to the program are (1) to calculate and transfer contributions of sick leave to the Bank upon receipt of an appropriate written request of an employee; (2) to apply sick leave credits to eligible employees upon written request of the Committee; (3) to appoint a liaison whose function is to provide a conduit for information between the District and the Committee chair; and (4) to provide the Committee with an accounting of sick leave contributed to the Bank, the name of each employee who has contributed to (or who has canceled participation in) the Bank, and the name of each employee who has been granted and has utilized Bank credits, with the amount of credits utilized and the cost to the District. The District's obligations shall be met on a quarterly basis.
 - a. Any allegation by the Union that the District has not complied with the agreed-on obligations set forth in this Appendix shall be subject to resolution pursuant to ARTICLE 13, GRIEVANCE PROCEDURE, section 13.9, of the Agreement.
 - b. The sole remedy for an alleged District violation of this Appendix shall be an order to fulfill the agreed-on obligation.
 - c. The grievance procedure of the Agreement may not be utilized to hear or resolve any other matter regarding the Bank.
 4. The Union's obligations to the Bank are (1) to appoint the voting members of the Committee, and (2) to participate in a joint District/Union review of the program.
 5. The program shall be terminated on June 30, 2002, unless the parties mutually agree to continue the program as a part of a successor Agreement to the current Agreement. If the program is terminated, any remaining sick leave credits that have not been applied to an eligible employee shall be returned to the individual sick leave balances of the then current members of the program. Credits will be returned on a pro rata basis of the total calculated amount remaining in the Bank applied in increments equal to one-half day of sick leave at each member's daily rate of pay. If there are not sufficient credits to return at least one-half day of sick leave, then no days shall be returned. A member shall not receive credits for more than the total number of sick leave

days that the member contributed to the Bank during the term of the program.

6. In return for the District's agreement to the terms of this Appendix, the Union agrees as follows:

- a. The Union agrees to pay to the District all legal fees and legal costs incurred by the District in defending against any court action and/or administrative action before the Public Employment Relations Board or other administrative agency challenging the legality or constitutionality of this Appendix or the implementation thereof, provided that the Union shall have the exclusive right to decide and determine whether any such action shall be compromised, resisted, defended, tried, or appealed.
- b. The Union shall indemnify and hold harmless the District, its officers, agents, and employees from any award or compromise of damages or liability arising out of any court action and/or administrative action before the Public Employment Relations Board or other administrative agency challenging the legality or constitutionality of the terms of this Appendix or the implementation thereof, provided that the Union shall have the exclusive right to decide and determine whether any such action or proceeding referred to shall be compromised, resisted, defended, tried, or appealed.

Bank Oversight Committee

- B. The Committee shall be composed of three voting members appointed by the Union President.
1. The Committee's duties are (1) to provide a process for the contribution of an employee's earned sick leave to the Bank; (2) to provide a process through which an employee may apply for sick leave credits due to a catastrophic illness or injury involving the employee or a member of the employee's family; (3) to verify the existence of the catastrophic illness or injury, verify that the employee is unable to work due to the catastrophic illness or injury, and determine whether to grant or deny an employee's request; and (4) to maintain records of its actions.
2. The Committee shall keep all applications, physician's reports, Committee determinations, and other records confidential to the extent that they are not public records. The Committee shall not be required to disclose the nature of any illness or injury upon which an application for catastrophic leave has been filed.

Employee Participation and Contributions

- C. Participation in the Bank is voluntary. Any member of the faculty unit may contribute sick leave to the Bank without regard to membership status in the Union. However, only those employees who contribute to the Bank may request sick leave credits from the Bank. Contributions to the Bank shall be made on the appropriate Bank form, which shall constitute a continuing authorization, until the authorization is rescinded by the employee, in writing:
 1. The rate of contribution shall be one or more days of sick leave per participating employee per academic year as the legal minimum set forth in Education Code section 87045(c). Each day contributed to the Bank shall be calculated and converted to a dollar-value based on the contributor's daily rate of pay. Subsequently, the Bank shall be credited with the dollar-value of each contribution.
 2. Contributions to the Bank shall be made during an open enrollment period between July 1 and October 1 of each academic year (except for the first year of the program when the initial contribution must be made within 30 days of distribution of the authorization form by the Bank). An employee who is not assigned to regular duty during the open enrollment period, and any newly hired employee, shall have 30 days from the first day of regular assigned duty to the District to make an initial contribution to the Bank.

3. An employee who does not contribute to the Bank during the open enrollment period as set forth in section C.2 of this Appendix may contribute at a later date. Any such employee shall be required to wait for a period of 30 workdays following enrollment before the employee is eligible to request sick leave credits from the Bank.
4. An employee may cancel the authorization to make contributions to the Bank at any time. The employee may not request or receive sick leave credits from the Bank as of the date the cancellation is received. Any days of sick leave that have been donated to the Bank by the employee shall not be returned.
5. Sick leave credits that have been contributed to the Bank, but have not been utilized, shall accumulate from year to year. If, at the beginning of any academic year, the sick leave credits have a calculated value of \$50,000 or more, the Committee may determine that no contributions shall be required of any employee who made a contribution in the prior academic year.

Employee Application for Sick Leave Credits

- D. An employee who has contributed to the Bank may apply to withdraw sick leave credits due to a catastrophic illness or injury. The employee shall fill out the Bank's application form and shall attach a written statement and verification from a licensed physician or practitioner indicating the nature and extent of the illness or injury, the probable length of absence from work, and a statement that the employee is medically unable to work due to the illness or injury.
 1. Where the application for sick leave credits is based on the catastrophic illness or injury of a member of the employee's immediate family, all required medical information, statements, and verifications shall be related to the affected family member. In addition, the employee shall attach a written statement indicating the circumstances that require the employee's absence from work. The term "catastrophic illness or injury" shall be defined as set forth in Education Code section 87045(a)(1).
 2. In order to be eligible to receive sick leave credits from the Bank, the affected employee must have utilized all of his or her earned and accumulated full-paid sick leave days for the current academic year as set forth in ARTICLE 6, LEAVES OF ABSENCE, sections 6.5 and 6.5.3, of the Agreement. In cases where the employee has fewer than 10 days of full-paid sick leave available at the beginning point of the catastrophic illness or injury, however, the first 10 days of leave shall be charged to the affected employee's full-paid sick leave, extended sick leave, or leave without pay.
 - a. In cases of the catastrophic illness or injury of a member of the employee's immediate family, the employee must have utilized a combination of available personal necessity leave days for the current academic year as set forth in ARTICLE 6, LEAVES OF ABSENCE, section 6.8, of the Agreement and leave without pay for a total 10 workdays before the employee is eligible for sick leave credits from the Bank.
 - b. Sick leave credits may not be used for any illness or injury which qualify the employee for benefits under the State's workers' compensation program unless the affected employee has exhausted all applicable industrial accident and illness leave benefits set forth in ARTICLE 6, LEAVES OF ABSENCE, section 6.10, of the Agreement as well as all of the employee's full-paid sick leave. An employee may apply for and be eligible to receive sick leave credits from the Bank, even when the District has challenged the employee's workers' compensation claim. In the event that the employee prevails on the workers' compensation claim, the Bank shall be reimbursed for sick leave credits granted to the employee, up to the maximum amount of the workers' compensation award.

3. All applications for catastrophic leave shall be acted upon by the Committee within seven days of receipt. The Committee shall inform the employee of its determination to grant or to deny the application, in writing, within five days of the meeting at which the determination was made. No application may be denied solely on the basis of the type of illness or injury.
 - a. An employee who has applied for sick leave credits from the Bank may be required by the Committee to apply for disability retirement under the State Teachers Retirement System ("STRS") as a condition precedent to granting sick leave credits from the Bank. The Committee's decision to require the application shall be based on a reasonable presumption that the employee may be eligible for disability retirement benefits. If the employee fails to submit proof of full compliance with the Committee's requirement within 20 days of notice of the requirement, the Committee may refuse to grant any sick leave credits to the employee. If the employee's application for disability retirement is denied, the employee must appeal to STRS or the employee's eligibility for sick leave credits will cease as of the date that the application was denied.
 - b. The Committee may grant sick leave credits in units of up to 30 days during which the employee would have been assigned to regular duty, as determined by the Committee.
 - c. If, at any time, the Bank does not contain sufficient sick leave credits to fund an employee's request, the Committee has no obligation to grant the request.
4. Sick leave credits granted by the Committee shall provide a full day's pay to an affected employee on the following basis:
 - a. For an employee who otherwise would receive extended sick leave pay pursuant to the terms of ARTICLE 6, LEAVES OF ABSENCE, section 6.7, inclusive, of the Agreement, the District shall apply sick leave credits to the employee for the days granted by the Committee in an amount that is equal to the actual pay rate of the employee's substitute or is equal to the amount that the District would have paid to a substitute for the employee had one been utilized. (Since the employee is in regular, paid status when receiving extended sick leave pay, the employee shall receive the employee benefits coverages provided by the District pursuant to the provisions of ARTICLE 6, COMPENSATION, sections 4.1 through 4.4, of the Agreement.)
 - b. For an employee who has exhausted all full and extended sick leave pay, the District shall apply sick leave credits to the employee for the days granted by the Committee in an amount equal to the employee's daily rate of pay. (Since the employee is not in regular, paid status when the employee has exhausted all full and extended sick leave pay, the employee shall be eligible to continue to participate in the District's employee benefits coverages only upon making the required contribution to the District pursuant to the provisions of ARTICLE 6, LEAVES, section 6.1.1, of the Agreement.)
 - c. For an employee who has exhausted the 10-day combination of available personal necessity leave days and leave without pay due to the catastrophic illness or injury of a member of the employee's immediate family, the District shall apply sick leave credits to the employee for the days granted by the Committee in an amount equal to the employee's daily rate of pay. (Since the employee is not in regular, paid status when the employee has exhausted the 10 days, the employee shall be eligible to continue to participate in the District's employee benefits coverages only upon making the required contribution to the District pursuant to the provisions of ARTICLE 6, LEAVES, section 6.1.1, of the Agreement.)
5. An employee may request additional sick leave credits due to the same illness or injury, on a schedule established by the Committee, for a period of up to 12 consecutive months from the

beginning point of the catastrophic illness or injury. The Committee may require a medical review by a physician designated by the Committee at the employee's expense. Failure to comply with the Committee's direction will result in a loss of eligibility for additional sick leave credits.

6. If an employee applies for sick leave credits due to a subsequent catastrophic illness or injury within 12 consecutive months of a prior grant of sick leave credits, the first five workdays of leave for the subsequent illness or injury shall be charged to the affected employee's full-paid sick leave, personal necessity leave, extended sick leave, or leave without pay, as set forth in section D.2, inclusive, of this Appendix, whichever applies.
7. If an application for sick leave credits pursuant to the provisions of this Appendix is denied by the Committee, the affected employee may appeal to the Executive Board of the Union.
 - a. The appeal must be filed no later than 30 days from the date of the Committee's written denial.
 - b. The Executive Board shall hold a hearing within 10 days of receipt of the appeal and shall issue a written decision on the appeal to the affected employee and the Committee within 10 days of the close of the hearing.
 - c. The Executive Board shall keep all applications, physician's reports, Committee determinations, and other records confidential to the extent that they are not public records. The Executive Board shall not be required to disclose the nature of any illness or injury upon which an appeal of a Committee determination has been filed.