

Administrative Procedure 411

DEFERRED SALARY LEAVE PLAN – DIVISION OFFICE STAFF

Background

This Deferred Salary Leave Plan has been developed to afford an eligible full-time employee the opportunity to finance a one (1) year leave of absence without compensation by deferring portions of his/her regular salary to finance the year of the leave. It is the intent that this Plan will be of no cost to the Division.

Definitions

Accrued Interest means the amount of interest earned on the monies retained by the Division on behalf of the participant calculated from:

- The first date any of such monies have been so retained by the Division, or
- The last date to which interest has been paid, whichever is later.

Employee means the Division Office Staff Member.

Board means the Board of Trustees of Black Gold Regional Division No. 18.

Current Compensation Amount means the total compensation payable by the Division to the Participant for the school year, including his/her proper grid salary and all allowances, per the current Salary Agreement in force between the Association and the Board.

Deferral Period will be the number of years for which compensation is deferred including any postponed leaves, if applicable.

Deferred Compensation Amount means the portion of the Current Compensation Amount which is retained by the Division for a Participant in each year and augmented from time to time by interest thereon calculated but less all interest paid to the Participant and any monies required by law to be paid by the Division for or on behalf of the participant.

Eligible Investor means Manufacturers Life Insurance Company, any Canadian chartered bank in the Province of Alberta, and any credit union authorized to carry on business in the Province of Alberta or the Treasury Branches in Alberta.

Eligible Employee means an employee on full-time continuing contract with the Division.

Leave of Absence means the twelve (12) month period taken in accordance with the provisions of this Administrative Procedure.

Individual Agreement means the agreement described in the “Deferred Salary Individual Agreement – Division Office Employee”.

Participant means an Eligible Employee whose application for participation in the Plan has been approved by the Superintendent and has completed an Individual Agreement.

Plan means the plan set out in this Administrative Procedure and includes all amendments thereto.

Salary Agreement means the agreement in force between the Employee and the Board pursuant to the applicable section of the Alberta Labour Relations Act.

School Year means the school operating year as established from time to time by the Superintendent pursuant to the School Act. Where references are made to September 1 as the start of a school year, this means the actual date or the date of the beginning of the first pay period of the school year if it is not September 1.

Procedures

1. Application

- 1.1 In order to enrol in the Plan, an Eligible Employee must make written application to the Associate Superintendent, Human Resources and Administration, stating the date when the Eligible Employee wishes to participate in the Plan and the year in which the Leave of Absence is to be taken.
- 1.2 The approval of each application will rest solely with the Superintendent.
 - 1.2.1 The Associate Superintendent, Human Resources and Administration will by May 15 of that year, advise each applicant of the approval or disapproval of his/her application, and if the latter, an explanation theretofore.
- 1.3 If the Associate Superintendent, Human Resources and Administration gives approval, the participation of the Eligible Employee in the Plan will become effective at the start of the school year immediately following the date of approval, or if such date is not agreed to by the Superintendent, then on a date which is approved by the Superintendent.
- 1.4 Before becoming a Participant, an Eligible Employee must complete and sign an Individual Agreement which is accepted on behalf of the Board by the Associate Superintendent, Human Resources and Administration.

2. Funding for Leave of Absence

- 2.1 During each year prior to the Leave of Absence, the Participant, for a minimum of two (2) and a maximum of six (6) school years, will receive his/her Current Compensation Amount, less the percentage determined under clause 3 of the Individual Agreement which the Participant has specified in the Individual Agreement for the year in question which is to be retained by the Division.
- 2.2 Such amount will be retained by the Division and be invested as outlined in this Administrative Procedure.
- 2.3 The Participant is not permitted to have a percentage of his/her Current Compensation Amount withheld which is in excess of thirty-three and one-third percent (33 1/3%) of the amount of salary that the Participant would normally receive in that year.

- 2.4 The monies retained by the Division for each Participant will be pooled and will be invested and reinvested by the Division in investments offered from time to time by any one (1) or more of Manufacturers Life, any Canadian chartered bank in the Province of Alberta, any credit union authorized to do business in the Province of Alberta, or the Treasury Branches of Alberta.
- 2.4.1 In consideration of the administrative services performed by the Division, the participating Employee will indemnify and save the Division harmless against any expense, claim or liability arising out of or resulting from such investments authorized by this clause.
- 2.5 The Division will choose such Eligible Investor and in making such determination, the Division will not be liable to any Participant for any investments made which are authorized by this clause.
- 2.6 So long as this Agreement is considered by Revenue Canada (Taxation) to be a "Salary Deferral Arrangement" coming within section 6801 of the Draft Income Tax Regulations (Canada), or a similar provision applies, the Division will on each date specified in clause 7 of the Individual Agreement, pay to the Participant, the Accrued Interest to such date.
- 2.7 The Participant hereby irrevocably directs the Division to cause the Eligible Investor to make such payment on its behalf into an account of the Participant with the Eligible Investor.
- 2.8 The Eligible Investor will make an Annual Report covering the previous year to each Participant under this Plan as to the amount of deferred salary together with interest accrued to that date.
- 2.8.1 The Annual Report will be made no later than December 31 of each year under the Plan.
- 2.9 The amount of income tax to be deducted is dependent upon the Division receiving a ruling, to the satisfaction of its solicitor, from Revenue Canada that the Deferred Salary Leave Plan contemplated hereby is not unlawful and is acceptable to Revenue Canada and that the amount of income tax to be deducted may be computed on the actual salary received by the participating Employee during each of the calendar years he/she is enrolled in the Plan.

3. Taking of Leave of Absence

- 3.1 The Leave of Absence will occur according to, and be governed by, Board policy and Division administrative procedures.
- 3.2 The monies retained by the Division will be paid to the Participant no later than the end of the first taxation year that commences after the end of the deferral period.
- 3.3 The manner of payment to the Participant during the Leave of Absence will be in twelve (12) instalments.
- 3.4 The salary to be paid to a Participant during a Leave of Absence will be drawn from the monies retained by the Division for such Participant but less any deductions made by the Division and any monies required by law to be paid by the Division for or on behalf of a Participant.

- 3.5 A participating Employee during the year of leave under the Plan will not accumulate nor be entitled to the following:
- 3.5.1 Salary increments;
 - 3.5.2 Statutory holidays, maternity, sick or any other leaves;
 - 3.5.3 Vacation accrual;
 - 3.5.4 Promotions.
- 3.6 The Associate Superintendent, Human Resources and Administration will make every endeavour to place the Participant, upon return from his/her leave, into a position no less favourable than that held prior to this leave.
- 3.7 The period of Leave of Absence will not interrupt the continuity of the participating Employee's service with the Division. After participation in the Plan, the Employee's salary and benefits will be as set out in the current Division Office agreement. A participating Employee on return to teaching following the leave will be reinstated at the same level of experience as that which existed prior to the commencement of the school year in which leave under the Plan was taken.
- 3.8 Notwithstanding the date shown in paragraph four of the Individual Agreement for a requested Leave of Absence, a Participant may, with the consent of the Associate Superintendent, Human Resources and Administration, given not less than six (6) months prior to the scheduled date, postpone such leave for one (1) year provided the deferral period does not exceed six (6) years in total.
- 3.9 A participating Employee will notify the Associate Superintendent, Human Resources and Administration, in writing within three (3) months of the expected return date, of his/her intention to return to duty with the Division.
- 3.10 Should a participating Employee fail to report as required, such Employee will be deemed to have abandoned both the position and his/her contract of employment with the Division, and the Associate Superintendent, Human Resources and Administration may without any further notice to said Employee, forthwith fill the position with someone other than the participating Employee.
- 3.11 The year's Leave of Absence will begin immediately following the Deferral Period.

4. Benefits

- 4.1 While a participating Employee is enrolled in the Plan, any applicable health and welfare benefits computed with reference to salary will be structured according to the current compensation amount.
- 4.2 The Division will continue paying its share of applicable health and welfare benefits for a participating Employee during the non-leave years of the Plan.
- 4.3 The Division will maintain applicable health and welfare benefit coverage for a participating Employee during the year of leave under the Plan, provided such Employee assumes the full responsibility of paying the total costs for said benefits.

5. Withdrawal

- 5.1 A Participant, who ceases to be employed by the Division, must withdraw from the Plan.

- 5.2 Within sixty (60) days, the Division will pay to the Participant, the Deferred Compensation Amount, in one (1) lump sum payment.
- 5.3 A Participant may apply to the Associate Superintendent, Human Resources and Administration to withdraw from the Plan at any time up to three (3) months prior to the month in which the Leave of Absence is scheduled to occur.
 - 5.3.1 The Associate Superintendent, Human Resources and Administration will approve the request to withdraw only if there are extenuating circumstances contributing to the Participant's request to withdraw from the Plan.
 - 5.3.2 Within sixty (60) days of approval by the Associate Superintendent, Human Resources and Administration of the withdrawal request, the Division will pay to the Participant the Deferred Compensation Amount.
- 5.4 Should a Participant die, the Division will within sixty (60) days of notification to the Division of such death, pay the Deferred Compensation Amount to the Participant's estate, subject to the Division receiving any necessary clearances and proofs normally required for payment to estates.
- 5.5 In the event of withdrawal, the Division will deduct one hundred dollars (\$100.00) from the Deferred Compensation Amount as an administrative fee.

6. Suspension from Financial Participation in the Plan

- 6.1 A Participant may give notice to the Associate Superintendent, Human Resources and Administration stating that the Participant wishes to suspend his/her participation in the Plan for one (1) school year as at September 1 which immediately follows such notice, in which case the Division until further notice will pay the Current Compensation Amount to the Participant as if he/she were not participating in the Plan, but the amount previously retained by the Division and interest thereon, but less all interest paid to the Participant, will continue to be held by the Division until the Participant withdraws from the Plan or takes the Leave of Absence.
 - 6.1.1 The amount so retained will continue to bear interest until the Leave of Absence is taken or the Participant withdraws from the Plan.
- 6.2 A Participant who has given notice in accordance with clause 6.1 may give notice to the Associate Superintendent, Human Resources and Administration advising that he/she wishes to become reinstated in the Plan in the month immediately following such notice, the Participant will participate in the Plan for the remaining years.
- 6.3 A Participant may not suspend his/her participation in the Plan more than once.
- 6.4 Suspension of participation under clause 6.1 will not change the year established for the Leave of Absence.

7. Termination of Amendment of Plan

- 7.1 The Plan may be amended or terminated by the Division.
- 7.2 Any amendment(s) will be binding upon all present and future Participants.
- 7.3 No amendment will be made to the Plan which will prejudice any tax ruling which is applicable to the Plan prior to the amendment.

8. General

- 8.1 The Division will not pledge any of the investments referred to in this Administrative Procedure for any purpose whatsoever.
- 8.2 The Participant will not pledge or hypothecate any of his/her rights under this Plan as security for a loan.

9. Leaves of Less than One (1) Year

- 9.1 The Associate Superintendent, Human Resources and Administration will consider, on a pro-rated basis, requests for leaves of less than one (1) year.

Reference: Section 60, 61, 111, 113 School Act
Employment Standards Code
Labour Relations Act
Section 248L, Canada Tax Act
Canada Income Tax Regulation 6801
Collective Agreements

Form: Deferred Salary Individual Agreement – Division Office Staff