



**SICK LEAVE DONATION
PROGRAM GUIDE**

Ordinance 21-6293

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Introduction

A leave donation program is a method of addressing the temporary financial needs of employees who are on medical leave for their own serious medical issue. Employees may not apply for donated leave for job-related illness or injury covered under workers compensation.

The purpose of this policy is to establish criteria and standards for the donation of accrued sick leave to a sick leave pool and to establish the eligibility rules for qualified employees to withdraw sick leave from the pool.

Participation in the sick leave donor program is open to all employees who accrue PTO and/or extended sick leave and have donated the required hours to be eligible. Employees must be regular, full time employees and be employed for a minimum of 6 months to be eligible for participation and membership in the sick leave pool.

The purpose of the program is to assist those employees who have a long-term, terminal, mental, and/or non-City-job-related accidental illness or injury that results in the exhaustion of their own accrued leave with pay by providing them with additional sick leave.

For a plan to be considered what the IRS characterizes as a “bona-fide employer-sponsored (medical) leave-sharing arrangement,” the plan should:

1. Be in writing and be administered by the employer.
2. Be created as a leave bank or pool for employees to deposit donated leave, and from which, leave will be distributed to recipients who have a personal medical emergency.
3. State that employees should be eligible to receive leave only after their request has been approved and all other available paid leave has been exhausted.
4. Specify that leave is to be used only for medical emergencies. The plan should restrict these medical emergencies to major illnesses or medical conditions of employees that require extended absences.
5. Outline and specify limits on the amount of leave that may be donated by an individual in any given year.
6. Have a detailed procedure in place for employees to submit a written request for leave that describes the specific medical emergency or medical condition.
7. Have processes in place to confirm that all leave transferred under the plan is being used for medical leave by the recipient.

Becoming A Member

An initial donation of sixteen (16) sick leave hours or twenty-four (24) sick leave hours for fire suppression employees, is required to establish membership in the pool.

1. A member must have a minimum of forty (40), sixty (60) for suppression fire employees remaining in their combined PTO and extended sick leave bank after their donation, at the time of enrollment.
2. The donation of sick leave is strictly voluntary; however, to qualify to receive donated sick leave an employee must be a member of the pool.
3. Employees will be given the opportunity to become members annually during open enrollment for benefits.
4. Members must annually donate a minimum of 8 hours or 12 hours for fire suppression to maintain membership in the sick leave pool. The annual donation will automatically occur during open enrollment unless a member has provided advance written notice to the Human Resources Department that they wish to cancel their membership in the pool.
5. Any participating employee may request to cancel membership from the pool during open enrollment.
6. Any leave donations that occurred prior to a member requesting cancellation from pool membership will be forfeited and are not returned to the member.
7. Membership in the Pool ends at retirement, resignation, termination, or classification change from FT to PT or SN. All donated time is forfeited and not returned to the member.
8. All applications to use time from the Sick Leave Pool must be made in advance of anticipated use of leave.

9. New benefit eligible participants will be eligible to become a member and may join the pool at the next open enrollment after they have accumulated at least fifty six (56) hours or eighty four (84) hours for fire suppression employees of Sick Leave.
10. Members of the pool may not specify who will receive donated leave. At the end of each calendar year, all Sick Leave Pool balances are carried forward to the next year.
11. Members are not permitted to donate Comp Time or Floating Holiday Time.
 - a. Police Department employees may donate “Legacy Floating Holiday” time if they choose to contribute from their remaining balance.
 - b. Employees who do not have enough Extended Sick Time may donate PTO to obtain membership in the pool.

Recipient Eligibility

Members may utilize donated leave when they have exhausted all available accrued leave (paid time off, extended sick and comp time earned) and their care requires continuing treatment or supervision by a licensed health care provider, and requires absence from work of at least five days per illness or episode.

The employee must:

1. Provide a completed Medical Certification of Health Care Provider for Employee’s Serious Health Condition form from a licensed physician for a serious medical condition; or
2. Be in quarantine due to exposure to a contagious disease with documentation from a medical provider or testing facility.

Application to Receive Donated Sick Leave

An eligible employee may request donated leave by submitting a written request form combined with the required physician’s certification to the Human Resources Department.

If an employee is incapacitated, a family member or designee may request leave from the Sick Leave Pool on the employee’s behalf.

Usage of Allocated Donated Sick Leave Time:

- The hours allocated to an employee must be substantiated by the medical certification form completed by the physician.
- Eligible employees who are participating members of the leave donation program may request sick leave withdrawals in increments not to exceed 80 hours or 106 hours for fire suppression employees.
- Members will then need to submit an additional request if they need additional sick leave withdrawn from the sick leave pool.
- Withdrawal/usage is capped at 480 hours within a calendar year.
- Sick leave pool usage requests are not applied retroactively.

In the event of a chronic illness or injury requiring episodic treatment (dialysis, chemotherapy, radiation therapy and physical therapy), the recipient may use donated leave in non-consecutive increments which may not exceed 480 hours within the calendar year.

A participating employee utilizing sick leave days from the pool will not accrue additional leave of any kind or be paid for any holiday for those days. Wages paid to employees from donated time will be reported to TCRS as earnings.

Review Process and Notification of Approval/Denial

The Mayor will appoint a Sick Leave Pool Committee to review the applications and issue a denial or approval.

The Human Resources Department staff will review the medical certification and will notify the committee whether the leave is medically certified. The committee will issue a decision of approval or denial within 5 business days of receipt of request. Committee decisions for approvals and denials must be non-discriminatory. Human Resources will then advise the applicant, department head and payroll of the committee's decision.

The Human Resources Department will guard the privacy of sick leave pool recipients. This information will be kept confidential between all parties. Federal regulations require that information related to medical leave requests be treated as "confidential medical records" and Private Health Information (PHI) must be protected.

Donated sick leave will be paid at 100% of the receiving employee's current rate of pay.

- An appeal may be made to for review only if the reason for denial was not that the maximum donated sick leave usage within a 12-month period has been exhausted or if the sick leave bank is depleted and there are no hours available to donate.
- In the case of an appeal, all information will be submitted to the Human Resources in writing to request an appeal
- The appeal committee consists of the Mayor, City Attorney and HR Director. The appeal committee will evaluate and discuss the appeal and issue a decision.
- The decisions of the appeal committee shall be final and binding and will not be subject to the City's grievance procedure or litigation.
- Employees whose applications for leave donation are denied may still qualify for FMLA, ADA leave or short term disability, according to the terms and conditions of those programs and regulations.

Unused Time

If the member is released to return to work prior to the expected date, the unused days will remain in the pool.

Donor employees may not claim an expense, a tax deduction, or a charitable contribution for any of the leave donated under the pool. All paid leave granted to the recipient is considered wages and is subject to appropriate tax withholding. Any benefits premiums owed will be deducted from those wages as would normally occur.

Members consent to payroll deduction and reimbursement of sick leave to the bank for any use or fraud due to misrepresentation of facts.

Conditions or Circumstances that do not Qualify for Receipt of Donated Sick Leave

Employees may not receive donated sick leave in the following circumstances:

- Any occupationally related accident or illness which is compensable under Workers' Compensation benefits;
- Disability incurred in the course of the commission of a crime;
- During the period of any disciplinary suspension;
- While receiving the City's Short-Term Disability, Long-Term Disability, or Social Security Income (SSDI),
- While serving in the United States military services.

Sick Leave donation requests may be declined if the sick leave pool does not have enough hours to cover a request. The Sick Leave Pool must have an available balance to cover the requested time. If the balance falls below 80 hours, Human Resources will send out a request for donations outside of open enrollment.

Policy Definitions:

- Incapable of self-care - Requiring active assistance or supervision to provide daily self-care in three or more basic or instrumental "activities of daily living." Such as grooming, and hygiene, bathing, dressing, eating, cooking, taking public transportation, etc.

- Physical or mental disability - One that substantially limits one or more major life functions as defined under the American with Disabilities Act as Amended.
- Serious medical condition - A health condition involving a serious illness, injury, impairment, or condition that is likely to require the employee's absence from work for an extended period of time, longer than the amount of paid time available to the employee, and the health condition is such that it is not medically appropriate for the employee to delay the absence in order to accrue additional paid time off prior to the absence.
 - Some examples of such conditions include advanced or rapidly growing cancers, acute serious illnesses, chronic life-threatening conditions involving failure of bodily organs or system (e.g., heart attack) or chronic conditions requiring extended rehabilitation such as back surgery.
 - The absence may be continuous, as in hospitalization following surgery or an accident, or intermittent, as in period absences for chemotherapy or other medical procedures.

Donated Time:

- Donated time will be tracked by payroll and calculated on a dollar-for-dollar basis.
- Donations submitted as hours will be converted to dollars in the leave donation bank based on the donating employee's current rate of pay.
- Withdrawals will be calculated based on the employee's current rate of pay.
- Timesheets for the employee on leave will be coded with the appropriate earning code as instructed by payroll.