



Human Resources Division

Original Adoption: Resolution #4593-11

Updated: February 2019

Sick Leave Donation Bank Program Policy

The City of Foley recognizes that illnesses or injuries can occur to City of Foley employees or their immediate family member(s) and can cause extreme hardships on the employees and their families. To address this issue, the Foley City Council approved a Sick Leave Donation Program by Resolution #4593-11. Following is the policy statement and procedures to be followed in the event of a severe illness or injury which results in an employee's exhaustion of accumulated leave.

I. PURPOSE

The purpose of the Sick Leave Donation Bank (hereafter referred to as the "Bank") is to establish an equitable way of allowing employees to share their accumulated leave with others who are in need of additional sick leave until such time that the employee may become eligible for the City's short-term and long-term disability programs, or, to allow time to care for their "immediate family member" as defined by the City's Personnel System Policy.

The intent of this program is to protect benefit-eligible employees who may face financial hardship because they have exhausted all of their own vacation, sick, compensatory leave, or personal leave due to their own extended serious, or unforeseen illness or injury, or, that of an immediate family member.

II. DEFINITION

Illness/injury and/or injuries covered by this policy are ones that totally incapacitate the employee from work or totally incapacitate an immediate family member. Conditions which are short-term in nature (for example: flu, measles, common illnesses, common injuries, etc.) are not covered by this policy. Some chronic illnesses or injuries which result in intermittent absences from work may be covered (for example: cancer, AIDS, major surgery). But generally speaking, such chronic illnesses or injuries must be considered both long term in nature, require long term recuperation periods, and indicate a total incapacitation from work as medically certified by a licensed physician.

III. SCOPE

The Bank policy shall apply to all benefit-eligible employees who accrue and use sick leave. These employees are eligible to become a member and donate to and withdraw from the Bank. Withdrawals may be made for the employee themselves, or, members of the employee's immediate family (as defined by the City's Personnel System Policy), if this results in the

employee being required to take time off for an extended period of time in order to care for such immediate family member. All donations of accrued sick leave are strictly voluntary. This program is not available to temporary employees who do not earn leave. The administration of the policy and approval of Bank contributions and withdrawals are the responsibility of the Division of Human Resources.

IV. POLICY

1. Eligibility to Join the Sick Leave Donation Bank

- 1.1. Participation in the Bank is voluntary. However, only those employees who make voluntary contributions to the Bank will be allowed to participate in the Bank.
- 1.2. Membership in the Bank is limited to benefit-eligible employees who accrue and use sick leave. Eligible employees will be given an opportunity annually to enroll and participate in the Bank during the open enrollment period (typically in June of each year). Current non-member employees who are wishing to enroll in the Bank during the open enrollment period are required to have a minimum of forty (40) hours of accrued leave to be eligible to join the Bank as a new member (20 hours for Regular Part-Time Employees). Enrollment in the bank is allowed only during the open enrollment period each year with the exception of new employees who are covered under Section 1.4 below.
- 1.3. The Director of Human Resources will notify all employees of the open enrollment period for the Bank. To continue as a member of the Bank, an employee will be required to contribute a minimum of eight (8) hours of accrued leave to the Bank during open enrollment (4 hours for Regular Part-Time Employees) but may also elect to contribute up to eighty (80) hours of leave during open enrollment. Current member employees who are wishing to re-enroll in the Bank during the open enrollment period are required to have a minimum of forty (40) hours of accrued leave to be eligible to re-enroll in the Bank (20 hours for Regular Part-Time Employees). Current employees who are becoming new members of the Bank are covered in Section 1.2 above. Contributions to the Bank are strictly voluntary.
- 1.4. New employees may elect to join either at the end of the probationary period or during the next open enrollment period. If the new employee elects to join at the end of the probationary period, he or she need only have eight (8) hours accrued leave available in order to join (4 hours for Regular Part-Time Employees). If the new employee elects to join at the next open enrollment period, the employee must have a minimum of forty (40) hours of accrued leave prior to joining (20 hours for Regular Part-Time Employees).
- 1.5. Employees who are currently utilizing bank hours due to their catastrophic illness, or that of an immediate family member, will be allowed to maintain their membership during the annual enrollment period without having to donate the required eight (8) hours for bank membership. However, when the employee returns to work, they will be required to contribute their first eight (8) hours of accrued leave to cover their Bank membership (4 hours for Regular Part-Time Employees).
- 1.6. Employees who leave the Bank for any reason may re-apply to join the Bank during the open enrollment period under the terms of this policy.

2. Contributions to the Sick Leave Bank

- 2.1. Contributions to the Bank will be accepted during the open enrollment period each year.

- 2.2. Sick leave donations are irrevocable and cannot be returned if the employee cancels his/her participation in the Bank for any reason.
- 2.3. Benefit eligible employees must complete a Sick Leave Donation Bank form and submit it to the Division of Human Resources in accordance with the rules regarding enrollment periods as previously defined. Any type of accrued leave (compensatory, sick, annual, etc.) may be donated to the Bank, but will be converted to sick leave hours when added to the Bank. If the balance of the available Bank falls below an amount that the Director of Human Resources deems sufficient, the Director may authorize a special contribution period. Human Resources will announce the exact dates for the special contribution period for voluntary contribution(s).
- 2.4. The Division of Human Resources will be responsible for guarding the privacy of Bank recipients and donors. Communications will be kept confidential between all parties.
- 2.5. Sick leave contributions will be deducted from the contributing employee's accumulated leave balance after the open enrollment period closes.
- 2.6. If during the open enrollment period, an employee has recently returned from leave and use of the Sick Leave Bank, and enough time has not elapsed for the employee to accumulate the required eight (8) hours necessary for enrollment (4 hours for Regular Part-Time), the City will allow the employee to enroll and will then deduct the eight (8) hours leave (4 hours for Regular Part-Time employees) as the leave is accumulated.
- 2.7. At termination of employment, all employee sick leave is forfeited per the City's Personnel Policy. However all terminating employees are eligible to donate their unused sick hours to the Bank during their Exit Interview by completing a Sick Leave Donation Bank form. Once the Sick Leave Donation Bank form is received, the hours will be credited to the Bank.
- 2.8. At the end of any fiscal year, all Bank hours are carried forward to the next year.

3. Withdrawals from the Sick Leave Donation Bank

- 3.1. Any participating Bank member employee may request a withdrawal from the Bank.
- 3.2. Withdrawals from the Bank are permitted only for illness, injury or impairment of the employee, or that of an immediate family member, that meets the following criteria: The employee (a) must have exhausted all vacation, sick, compensatory time and personal leave and have no remaining paid leave available, and (b) medical condition requires written verification of continuing treatment or supervision by a licensed health care provider, and (c) medical condition requires absence from work of at least five consecutive days per illness or episode.
- 3.3. All requests for withdrawal from the Bank should be made as far in advance as possible of the anticipated use using the required Request for Donated Sick Leave form which is available from the Human Resources Division.
- 3.4. The Request for Donated Sick Leave form must also include a licensed physician's statement verifying the nature and expected duration of the illness or injury. If an employee is incapacitated, a family member or designee may request leave from the Bank on the employee's behalf with medical documentation.
- 3.5. Participation in the Bank does not guarantee approval of an employee's request to draw from the Bank.
- 3.6. Withdrawals from the Bank may only be taken in increments of full days (8 hours or normal shift) and may only occur to the extent of the Bank contributions that are available for withdrawal.
- 3.7. A participating member employee who is receiving workers' compensation, short term disability or long-term disability is not eligible to withdraw from the Bank.

- 3.8. A participating member employee may not withdraw more than 12 weeks (480 hours) per illness, injury, or condition (6 weeks/240 hours for Regular Part-Time Employees). If an employee anticipates being unable to work for a longer period, the employee should contact Human Resources regarding eligibility for the City's short-term or long-term disability policy.
- 3.9. The leave recipient may be periodically asked by Human Resources to provide information on the status of the qualifying medical condition to ensure that he or she continues to remain qualified for use of the Bank leave time.
- 3.10. The use of awarded sick days does not extend the twelve (12) weeks of protection as otherwise may be afforded under the Family Medical Leave Act (FMLA).
- 3.11. A participating member employee receiving sick leave days from the Bank will not accrue additional leave for those days.
- 3.12. The Human Resources Director, and/or designee, will review the Request for Donated Sick Leave and the certifying physician's statement as to the nature of the illness and anticipated duration and make a determination as to the number of days/hours to be withdrawn from the Bank. In making the decision, the Human Resources Director, and/or designee, shall be guided by this policy, the facts underlying the request, the available days in the Bank, and other factors that may be deemed relevant to the decision.
- 3.13. In the case of a denial for Sick Leave Bank hours, an appeal and all information should be submitted within 10 days to the City Administrator who will then make a final decision. The decisions of the Human Resource Director and/or the City Administrator shall be final and binding and are not subject to the City's grievance procedure or litigation.
- 3.14. If the member is released to return to work prior to the expected date, or the immediate family member's medical situation changes allowing the employee to return to work prior to the expected return date, the unused days will remain in the Bank.
- 3.15. If an employee leaves employment after receiving donated leave or returns to work on a full-time basis, any unused leave days shall be returned to the Bank.
- 3.16. If an employee's leave qualifies for Family and Medical Leave, the FMLA leave will run concurrently with paid leave under this policy.

4. Conversion of donated and withdrawn leave will be based upon the dollar value of the hourly leave:

4.1. Example:

Employee X, who makes \$11.00 per hour, wishes to donate 40 hours of leave to the Sick Leave Bank. The dollar value of Employee X's contribution to the Sick Leave Bank would be \$440.00 (\$11.00 x 40 = \$440.00). Employee Y, who makes \$15.00 per hour, makes a request to withdraw 40 hours from the Bank. If approved, Employee Y's withdrawal would amount to \$600.00.

V. EXCLUSIONS, LIMITATIONS, TERMINATION OF BENEFITS

1. Injuries or disabilities resulting from the following will be excluded from eligibility for Sick Leave Bank Donation benefits:

- 1.1. Any work related injury or illness for which worker's compensation benefits are payable.

- 1.2. Horseplay or being under the influence of alcohol and/or drugs while at work or home or failure to obey instructions or failure to use proper safety equipment at work.
- 1.3. Self-inflicted injuries.
- 1.4. Active duty service in the armed forces. This includes periods of temporary duty such as drill, summer camp, etc.
- 1.5. War, insurrection, rebellion, or participation in a riot.
- 1.6. Elective surgery not paid for by the City of Foley's group health care provider.
2. **No sick leave benefits will be paid during the time an employee is confined to a penal or corrective institution.**
3. **For a participating employee, the right to use the Sick Leave Bank will be immediately lost due to the following:**
 - 3.1. Termination of employment.
 - 3.2. Leave without pay for disciplinary reasons.
 - 3.3. Voluntary cancellation of participation in the Bank.
 - 3.4. Failure to make a required contribution to the Bank.
 - 3.5. Failure to provide a required physician's certification
 - 3.6. Abuse or misuse of sick leave.
 - 3.7. Misrepresentation in requesting Sick Leave Bank hours.

VI. INDEMNIFICATION

1. By signing the Sick Leave Donation Bank form, the undersigned employee acknowledges that he/she has received a copy of the Sick Leave Donation Bank Program policy. If an employee wishes to participate in the Bank, the employee must write "yes" on the enrollment form. The participating employee understands, agrees, and acknowledges that any entitlement to benefits will be limited by and determined in accordance with the provisions of the Sick Leave Donation Bank policy and procedures.
2. Each participant indemnifies and holds harmless the Director of Human Resources, the City of Foley, and all its employees for any claim or cause of action arising out of and related to any claim for income under the Sick Leave Donation Bank Program/Policy, including, but not limited to, decisions made in the administration of these procedures.
3. The Foley City Council reserves the right to unilaterally and without prior notice, terminate or make recommendations for modification to the Bank. However, all existing and pending withdrawals will be honored by the Bank to the extent sick leave hours are available. Should the Bank be terminated, all unused sick leave hours will be distributed to the current participating employees based on the number of years each has participated in the Bank.

For questions regarding the Sick Leave Bank program, or to request a withdrawal, please contact the Division of Human Resources at 251-943-1545.

The City of Foley is an equal employment opportunity employer.