

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL POLICIES AND PROCEDURES

Subject: LEAVE BANK

Date: November 14, 2014

Ref: DHRM Rule Sections R477-7-4 and R477-7-19

Purpose:

To provide guidance for establishment of a leave bank as provided for in DHRM Rules. This policy authorizes and defines the limitations for use of a leave bank intended to provide additional leave hours for eligible employees who suffer a catastrophic event and do not have sufficient leave to remain in a paid status during their absence from work.

Policy:

1. Eligible employees who have suffered a catastrophic illness or condition and whose leave benefits have been or will be exhausted may apply for donation of annual, excess, compensatory leave earned by a FLSA non-exempt employee, or converted sick leave from other DAS employees. DAS employees may donate leave but it must be in compliance with this policy and approved by the Division Director and the Executive Director, or the Executive Director's designee. Catastrophic is defined as an illness, a physical condition, or an accident producing a life threatening or incapacitating condition for which extensive medical treatment or prolonged absence from work is necessary.
2. Only employees currently receiving leave benefits may apply to receive leave bank hours. Normally, leave banks are for accidents or conditions incurred by the employee but management will consider granting leave banks to employees who have dependents who suffer catastrophic illnesses or conditions on a case-by-case basis.
 - a. Access to a leave bank is not an employee right and will be authorized at management discretion after considering multiple factors regarding the employee and their medical status.
 - b. Employees requesting a leave bank must apply for leave under the Family and Medical Leave Act before Human Resources can determine if the employee is eligible to receive donated leave. Time used from a leave bank is charged against FMLA.

- c. If an employee is not eligible for FMLA, they must provide comparable medical certification before Human Resources can determine if an employee is eligible to receive donated leave.
- d. A general leave bank will be established and eligible employees will receive hours from this bank. If adequate hours are not available in the general leave bank, a leave bank may be established for the individual requiring leave. Annual, excess, compensatory leave earned by a FLSA non-exempt employee, and converted sick leave hours, in any amount, may be donated.
- e. An employee must agree to release a sufficient amount of medical information that can be provided to potential leave donors. Attachment 1.
- f. Before donated hours may be transferred to the individual needing leave, they must exhaust all their available leave (annual, sick, converted sick, excess, and compensatory leave).
- g. Donated leave time will be added to the employee's sick leave balance. The leave balances of donating employees will be reduced by the amount of hours they contribute. The employee receiving the hours continues to be paid by the employing division. There is no cost to the division of employees contributing to the leave bank.
- h. Only employees within the Department of Administrative Services may contribute to a leave bank for an employee within the Department of Administrative Services.
- i. Employee use of the leave bank is not intended to be a long-term solution. No more than 480 hours of donated leave in a given year, with a maximum of 40 leave bank hours per pay period, may be utilized by a full-time employee per illness or condition. Employees who work less than full time are eligible for pro-rated leave hours in accordance with their normal hours worked.
- j. Donated leave time cannot be utilized at the same time as Workers Compensation or long term disability.
- k. State law requires that employees forfeit all accrued annual leave that is in excess of 320 hours at the end of each calendar year. Therefore, all annual leave that would be forfeited by department employees will be, subject to voluntary transfer to the DAS general leave bank. All excess annual leave will be transferred to the general leave bank after the final payroll for pay period 26 has been processed. To ensure that all leave transfers are voluntary, the department's Human Resource Specialist shall annually send an e-mail to DAS employees explaining the policy and giving them the opportunity to decline the transfer of their excess annual leave to the DAS general leave bank.

- l. The Request for Leave Bank form (Attachment 2) is completed by the employee. If possible, application should be made prior to the employee exhausting their leave benefits. The Human Resource Specialist shall review the request and medical documentation and give their recommendation for approval or denial and then forward the form, to the Division Director for review. Factors to consider when reviewing an employee application to use the leave bank include:
 - a. Employee's leave usage. Determine if the employee has used their leave in a judicious manner.
 - b. Duration of employment.
 - c. Anticipated duration of illness or condition.
 - d. Condition meets the definition of catastrophic.
 - e. Use of leave banks in the past.
- m. The Human Resource Specialist will forward the application along with their recommendation to the Executive Director for final consideration.
- n. The Executive Director, or the Executive Director's designee, is the approving authority for this program and decides the level of donation, if any, that can be made to an employee.
- o. An employee who is on any form of paid leave granted through a leave bank may not engage in outside employment without approval from the Executive Director or the Executive Director's designee.
- p. For purposes of this policy, employees of agencies or entities for which DAS provides oversight by law such as the Utah Navajo Royalties Holding Fund, or are included in the scope of the DAS budget, such as the Judicial Conduct Commission, are considered DAS employees.

PROTECTED

**RELEASE OF INFORMATION REQUEST
AND CONFIDENTIALITY WAIVER**

Purpose: to seek annual, excess or converted sick leave hours from the DAS leave bank or other DAS employees in accordance with the Department of Administrative Services internal policies and procedures for the donation of annual, excess or converted sick leave.

With respect to my leave bank request, I waive any confidentiality rights that I have or may have under the Americans with Disabilities Act of 1990* or any other similar federal or state legislation. I authorize the release of the following personal and medical information:

Name (to be used in the request): _____

Reason for donation (what I authorize to be said to others): _____

Signature Date

Witness Date

*Specific statutory and regulatory language on confidentiality is most readily found in the Americans with Disabilities Act, Title I at 42 U.S.C. §§ 12112(d)(3) & (4); 29 C.F.R. §§ 1630.16, the EEOC's interpretive guidance and its Technical Assistance Manual.

Attachment 1

**DEPARTMENT OF ADMINISTRATIVE SERVICES
REQUEST FOR LEAVE BANK
APPROVAL PROCESS**

Instructions: The requesting employee should complete this form in consultation with the HR Specialist. The HR Specialist will submit this form to the Division Director and Executive Director, or designee, for approval.

Employee Name: _____ Division: _____

Leave balances at the end of the last pay period: Date: _____, Balance: _____

Annual: _____ Sick: _____ Converted Sick: _____ Comp: _____ Excess: _____

Scheduled Work Hours Per Week: _____

- Facts that support my application for sick leave assistance are included in an FMLA Certification form, or comparable medical certification if I am not eligible for FMLA, that has been submitted to the Human Resource Specialist.

Briefly describe why assistance is needed (Any information included here will be shared with the Division Director and Executive Director, or designee. You waive any confidentiality rights that you have or may have under the Americans with Disabilities Act of 1990 or any other similar federal or state legislation.):

Dates of anticipated leave of absence:

Beginning date: _____ Ending date: _____

APPROVAL:

Recommend Approval _____ Recommend Denial _____

HR Specialist: _____ **Date:** _____

Please attach a memorandum of justification for your recommendation

Recommend Approval _____ Recommend Denial _____

Division Director: _____ **Date:** _____

Approve _____ Deny _____

Executive Director _____ **Date:** _____

Attachment 2