

## **Personnel Rule 7.7 – Sick Leave and Sick Leave Transfer**

### **7.7.0 Authority**

SMC 4.04.040 and subsequent revisions thereto, Administration

SMC 4.04.050 and subsequent revisions thereto, Rule-Making Authority

SMC 4.24 and subsequent revisions thereto, Sick Leave

SMC 4.26 and subsequent revisions thereto, Family and Medical Leave

SMC 4.30 and subsequent revisions thereto, Documentation of Eligibility for Certain Uses of Sick Leave and Funeral Leave

RCW 49.12.270 through 295, Sick leave to care for child

Family and Medical Leave Act of 1993 (Regulations at 29 CRF Chapter V, Section 825)

### **7.7.1 Definitions**

- A. "Appointing authority" shall mean the head of an employing unit, authorized by ordinance or City Charter to employ others on behalf of the City, or his or her designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, and chief.
- B. "City-sponsored blood drive" shall mean a blood drive for which times and locations are coordinated by the Seattle Human Resources Director and at which employees must register to verify their participation.
- C. "Child" shall mean a child who is the biological offspring of, an adopted child of, or under the legal guardianship, custody or foster care of an employee or an employee's spouse or domestic partner.
- D. "Domestic partner" shall mean an individual with whom an employee shares the same regular and permanent residence, has a close personal relationship, and has agreed to be jointly responsible for basic living expenses incurred during the domestic partnership. To qualify to use sick leave to care for a domestic partner, an employee must file an affidavit of domestic partnership with his or her employing unit attesting that:
  - 1. He or she is not married, and
  - 2. He or she and his or her domestic partner is 18 years of age or older, and
  - 3. They are not related by blood closer than would bar marriage in Washington, and
  - 4. They were mentally competent to consent to contract when their domestic partnership commenced, and
  - 5. They are each other's sole domestic partner, and

6. Any other domestic partnership in which the employee or his or her domestic partner participated with a third party was terminated not less than 90 days prior to the date he or she files an affidavit of domestic partnership or by the date of the death of the third party, whichever was earlier.
  - E. "Grandparent" shall mean the parent of an employee's parent, or the parent of the parent of the employee's spouse or domestic partner.
  - F. "Medical certification" shall mean verification by the employee's health care provider that an employee is incapacitated for the performance of his or her job by an illness or injury that qualifies for sick leave.
  - G. "Misconduct" shall mean the intentional violation of a standard of conduct established by statute, ordinance, rule, regulation, policy or directive, or common law, or the violation of such standard as a result of recklessness or gross negligence.
  - H. "Parent" shall mean the mother, father, stepmother, or stepfather of an employee or an employee's spouse or domestic partner, or an individual who stood in loco parentis to an employee or the employee's spouse or domestic partner when the employee or his or her spouse or domestic partner was a dependent child.
  - I. "Seattle Human Resources Director" shall mean the Director of the Seattle Department of Human Resources or his or her designated management representative.
  - J. "Regularly appointed employee" shall mean an employee who has a probationary, regular or exempt appointment to a position of City employment.
  - K. "Sabbatical leave" shall mean an unpaid leave of absence of up to 12 months requested by and granted to an employee in accordance with Seattle Municipal Code Chapter 4.33 and Personnel Rule 7.4, Sabbatical Leave.
  - L. "Service retirement" shall mean separation of a member of the City Employees Retirement System from City employment with the proper combination of age and service credit to qualify for a monthly pension.
  - M. "Sibling" shall mean the biological, step-, adopted or foster brother or sister of the employee or his or her spouse or domestic partner.
  - N. "Sick leave" shall mean paid time off from work for a reason that qualifies under Rule 7.7.3.
  - O. "Single qualifying incident" shall mean an illness, injury, impairment, or physical or mental condition that qualifies an employee's absence from work for sick leave transfer, as well as any subsequent absences for follow-up treatments, therapies, etc., that are a direct consequence of the original condition. For example, absence(s) for surgery for cancer, a recovery period, chemotherapy, and other treatments that are a direct result of the original condition comprise a single qualifying incident. A recurrence of the cancer would constitute a separate incident.
  - P. "Transplant donor" shall mean an employee who voluntarily donates his or her bone marrow, tissue or organ to a human recipient. The donation must be determined to be medically matched and uniquely suited or critical to the successful outcome of a medical procedure intended to save the recipient's life. A transplant donor receives no compensation and has no ability to direct

compensation to any other person or entity in exchange for the employee's participation as a donor.

### **7.7.2 Application of this Rule**

- A. The provisions of this Rule apply to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- C. This Rule does not apply to individuals who are employed under the terms of a grant that includes sick leave or sick leave transfer provisions that conflict with this Rule.
- D. This Rule does not apply to individuals hired by the City on a temporary or interim basis. These individuals are subject to related provisions at Personnel Rule 11.0 and all applicable federal, state and City laws.
- E. This Rule does not apply to individuals hired under contract to the City.
- F. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

### **7.7.3 Sick Leave Accumulation and Use**

- A. Employees accumulate sick leave credit from the date of regular appointment to City service and are eligible to use sick leave for a qualifying reason after 30 calendar days of employment.
- B. Employees may accumulate sick leave with no maximum balance.
- C. An employee may use accumulated sick leave if he or she must be absent from work because of:
  - 1. A personal illness, injury or medical disability incapacitating the employee for the performance of his or her job, or personal health care appointments; or
  - 2. An illness, injury, or health care appointment of an employee's spouse or domestic partner, or the parent, child, sibling or grandparent of such employee of his or her spouse or domestic partner, and the absence of the employee from work is required, or when such absence is recommended by a health care provider.
- D. An employee may use accumulated sick leave in order to provide non-medical care to the newborn child of the employee or his or her spouse or domestic partner. With the appointing authority's approval, an employee may take sick leave under this Rule to supplement a reduced work schedule, provided that the work schedule must be stable and predictable. Sick leave taken for the non-medical care of a newborn child must begin and end by the first anniversary of the child's birth.

- E. An employee may request use of accumulated sick leave for the non-medical care of a dependent child placed with the employee or his or her spouse or domestic partner for adoption. Sick leave approved for this reason may also be used to cover the employee's absence(s) to satisfy legal and regulatory requirements prior to and after the placement and reasonable travel time to claim and return home with the child. With the appointing authority's approval, an employee may take sick leave under this Rule to supplement a reduced work schedule, provided that the work schedule must be stable and predictable. Sick leave taken for the non-medical care of a dependent child must begin and end by the first anniversary of the child's adoption.
- F. An appointing authority may approve sick leave payment for an employee as long as the employee:
  - 1. Makes prompt notification;
  - 2. Claims use of sick leave time on the appropriate form(s);
  - 3. Reports sick leave in minimum increments of 15 minutes;
  - 4. Limits claims to the actual amount of time lost due to illness or disability or for the reasons described in Rule 7.7.3 D and E;
  - 5. Obtains such medical treatment as is necessary to hasten his or her return to work; and.
  - 6. Provides medical certification of the job-related need for sick leave for absences of more than four days. Medical certification should only include the information that the appointing authority needs to authenticate the employee's need for sick leave.
- G. An appointing authority may require that an employee provide medical certification to substantiate the job-related need for sick leave at any time regardless of the number of hours of sick leave used.
- H. Sick leave pay may be denied, with justification, for employees who are absent repeatedly or whose absences precede or follow regular days off or follow some other pattern without reason, or who abuse sick leave, or who obtain, attempt to obtain or use sick leave fraudulently, or whose absences are the result of misconduct during working hours.
- I. Employees are not eligible to receive paid sick leave when suspended or on leave without pay, when laid off, or otherwise not on regular pay status. If an employee is injured or becomes ill while on paid vacation or compensatory time off, the employee shall provide a statement from his or her health care provider or other acceptable proof of illness or disability for the time involved substantiating the request for sick leave use in lieu of vacation or compensatory time off.
- J. An employee returning to work after an absence requiring sick leave may be required to provide a certification from his or her health care provider that the employee is able to perform the essential functions of the job with or without accommodation.
- K. An employee who takes sick leave for a family and medical leave-qualifying condition shall comply with the notification, certification and release protocols of the Family and Medical Leave Program. His or her properly certified absence shall be accorded the protections of family and medical leave as provided by Rule

7.1 as long as it is for a condition that qualifies for both family and medical leave and sick leave.

- L. An employee who is re-employed following separation from City employment shall have any unused sick leave balance from his or her prior period of employment restored unless the separation was due to resignation, quit or discharge.
- M. An employee who was eligible for sick leave accumulation and use under this Rule prior to appointment to a regular (non-temporary) position not covered under the sick leave plan, shall have his or her former unused sick leave credits restored upon return to a position that is covered under the sick leave plan.

#### **7.7.4 Sick Leave Cash-Out**

- A. Upon service retirement from the City, an employee's unused sick leave will be cashed out to the employee at the rate of 1 hour's pay for every four hours of accumulated and unused sick leave. The employee forfeits all four hours exchanged for each 1 hour of pay.
- B. An employee who has been granted a sabbatical leave may elect to take a lump sum cash-out of any or all of his or her unused sick leave balance in excess of 240 hours at the rate of 1 hour's pay for every four hours of accumulated and unused sick leave. The employee forfeits all four hours exchanged for each 1 hour of pay. The employee must exercise this option at the beginning of his or her sabbatical leave.
- C. Sick leave that is cashed out is paid at the rate of pay in effect for the employee's primary job classification or title at the time of the cash-out.

#### **7.7.5 Sick Leave Transfer**

- A. General Provisions.
  - 1. All employees who are included in the City's sick leave plan are eligible to participate as a recipient or donor in the Sick Leave Transfer Program, if the affected employee meets the eligibility conditions specified in Rule 7.7.5 B or 7.7.5C, respectively.
  - 2. An employee may request to receive donated sick leave. If the appointing authority finds that the requesting employee meets the qualifying conditions established in Rule 7.7.5 B, he or she may approve the request.
  - 3. An employee may volunteer to donate sick leave to an employee who has been authorized to receive sick leave donations. If the donating employee meets the eligibility conditions established in Rule 7.7.5 C, the appointing authority or authorities of the donating and the receiving employee may approve the donation.
  - 4. The donating employee and the receiving employee each shall file with the appointing authority for their respective employing units their personal affidavit or declaration acknowledging that such sick leave donation is intended to be a gift and is not conditioned upon the exchange of any

compensation, obligation or consideration and that none has been or will be received.

5. All sick leave donations transferred to the receiving employee shall be converted to a dollar value based upon the donating employee's straight-time primary rate of pay in effect on the day that he or she files a sick leave donation application. The receiving employee shall be paid at his or her regular straight-time rate of pay for all donated sick leave used.
6. The receiving employee may use donated sick leave only for the condition that qualified him or her for such donations.
7. The receiving employee cannot use donated sick leave for any purpose once the condition that qualified him or her for such donations ceases to meet the qualifying criteria described in Rule 7.7.5 B. Donated sick leave may be used for all of the pay period that includes the date of approval by the receiving employee's appointing authority. Donated sick leave may be used to cover any and all subsequent absence(s) attributed to the qualifying condition until the qualifying condition ceases to be a cause for further absence, even if the receiving employee returns to work in the interim.

B. Qualifying conditions for the receiving employee.

An employee may receive sick leave donated by another employee or other employees if he or she meets all of the following conditions:

1. The receiving employee has exhausted, or will exhaust in the current pay period, his or her paid leave balances due to his or her personal illness, injury, impairment, or physical or mental condition which is likely to cause the employee to go on leave without pay, or to leave City employment; and
2. The receiving employee has filed with the appointing authority of his or her employing unit a medical certification from his or her health care provider verifying the nature and expected duration of his or her condition and the employee's need to be off work; and
3. The receiving employee has used his or her sick leave balance judiciously; and
4. The receiving employee is not eligible for benefits under SMC Chapter 4.44 nor under the State Industrial Insurance and Medical Aid Acts; and
5. The receiving employee shall not receive more than 560 hours of donated sick leave for any single qualifying incident based upon the dollar value of such leave which shall be converted from the donor to the recipient.

C. Conditions for donating sick leave to an eligible recipient.

1. An employee may request to donate sick leave hours to an approved recipient employee provided the donation will not cause the donating employee's sick leave balance to fall below 240 hours.
2. A donating employee may not donate fewer than 8 hours of sick leave converted at his or her straight-time primary rate of pay.
3. Employees who are separating from City service may not donate more sick leave than they would be able to use themselves between the date of

the donation and their last day of work and must retain a post-donation minimum balance of 240 hours.

- D. Restoration of transferred sick leave.
1. Any transferred sick leave remaining to the credit of a recipient employee when that individual's personal emergency terminates shall be restored, to the extent administratively feasible, by transfer to the sick leave accounts of the donors who are still active City employees on the date the personal emergency terminates. The recipient employee shall be permitted to retain up to 40 hours of sick leave which may include donated hours.
  2. If the total number of donating employees eligible to receive restored sick leave exceeds the total number of hours of sick leave to be restored, no restoration of donated sick leave shall occur. All remaining sick leave hours shall be retained by the recipient employee instead. In no case shall the amount of sick leave restored to a donating employee exceed the amount such employee donated.

#### **7.7.6 Time Off Without Deduction of Leave**

- A. An employee may, with supervisory approval, participate as a non-compensated donor in a City-sponsored blood drive without deduction of pay or paid leave. Such participation may not exceed 3 hours per occurrence for travel, actual donation and reasonable recuperation time. In order to qualify for time off under this Rule, the employee must provide his or her name and department to the blood bank representative for verification of his or her participation by the appointing authority.
- B. An employee may be absent for up to 5 workdays or 40 regular work hours, whichever is less, without deduction of pay or paid leave to participate as a non-compensated transplant donor in a medically necessary procedure.
1. The employee must provide to his or her appointing authority reasonable advance written notice of his or her need to be absent. The notice shall include the reason for and expected duration of the absence, as well as documentation from an accredited medical institution, organization or individual of the need for the employee's participation as a transplant donor.
  2. The employee may charge additional time off against the appropriate paid leave balance(s) or be unpaid.
  3. An employee is not eligible for time off without deduction of pay or paid leave to be a transplant donor if he or she has taken time off for such purpose and under the conditions described by Rule 7.7.6 B within the previous 12 months.