

## **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

SMC 14.16 and Seattle Office of Labor Standards SHRR, Chapter 70, and subsequent revisions thereto, Paid Sick Time and Paid Safe Time

RCW 49.12.270 through 295, Sick leave, time off—Care of family members

RCW 49.46.200 through 210, Paid Sick Leave

RCW 49.78, Washington Family Leave Act

WAC 296-128-600 through 760, Minimum Wages, Paid Sick Leave

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

### **7.7.1 Definitions**

The definitions below shall apply to this subchapter only.

- A. "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.

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

- A. The provisions of this subchapter shall be applied to employees of the Seattle Municipal Court except where they conflict with any policy promulgated by the Court and/or General Court Rule 29.

### **7.7.3 Sick Leave Policy**

- A. City employees have a right to accrue and use paid sick leave as provided under the City's Paid Sick and Safe Time Ordinance and the State of Washington's Paid

Sick Leave law, and where more generous, as provided by this Rule. Retaliation against an employee for authorized use of sick leave is prohibited.

- B. For the purposes of complying with the Paid Sick and Safe Time Ordinance, the City is considered a Tier 3 employer. The benefit year for sick leave use is for time processed from January 1 through December 31.

#### **7.7.4 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 accumulate sick leave at the rate of 0.046 hours for every straight-time hour paid. Should an employee's accrual rate fall below that required by the Paid Sick and Safe Time Ordinance, such employee shall be credited with sick leave hours so that the employee's total sick leave earned per calendar year meets the minimal accrual requirements.
- C. The City will provide employees notice of their available sick leave on their bi-weekly time sheet and the Employee Self Service Payroll Leave Balance page.
- D. Employees may accumulate sick leave with no maximum balance and no carry over limit from one year to another.
- E. Sick leave use shall be in minimum increments of 15 minutes. An employee may use accumulated sick leave for the following reasons:
  - 1. An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, treatment of a mental or physical illness, injury, or health condition, or an employee's need for preventive medical care; or
  - 2. To allow the employee to provide care for a family member with a mental or physical illness, injury, health condition; or care for a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventative medical care, or
  - 3. When the employee or officer's place of business has been closed by order of a public official for any health-related reason, to limit exposure to an infectious agent, biological toxin, or hazardous material, or when the employee's or officer's child's school or place of care has been closed for such reason, or
  - 4. For any of the following reasons related to domestic violence, sexual assault, or stalking, as set out in RCW 49.76.030:
    - a. To enable the employee to seek legal or law enforcement assistance or remedies to ensure the health and safety of employee or the employee's family or household members including, but not limited to preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

- b. To enable the employee to seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for who is the employee's family or household member;
  - c. To enable the employee to obtain, or assist a family member or household member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking, in which the employee or the employee's family or household member was a victim of domestic violence, sexual assault, or stalking;
  - d. To enable the employee to obtain, or assist a family or household member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking;
  - e. To enable the employee to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family or household members from future domestic violence, sexual assault, or stalking.
- 5. To provide non-medical care to the newborn child of the employee or the employee's spouse or domestic partner. With the appointing authority or designated management representative'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.
- 6. For the non-medical care of a dependent child placed with the employee or the employee's 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 or designated management representative'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. 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 their 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 if greater than three consecutive days.

- G. An employee who leaves City employment is not eligible to cash out sick leave, except as provided by Personnel Rule 7.7.8.

#### **7.7.5 Rate of Pay**

- A. Employees shall be compensated at their regular and normal rate of pay for sick leave use in accordance with the Paid Sick and Safe Time Ordinance.
  - 1. Such rate of pay shall be the hourly rate that the employee would have earned for the time during which the employee used sick time (see also Personnel Rule 3.5 – Out of Class Assignments, and Personnel Rule 3.8 – Standby Pay).
  - 2. An employee who uses sick leave for absences from overtime work shall have sick leave deducted and be compensated at the straight-time rate of pay.

#### **7.7.6 Employee Notice and Verification.**

- A. Sick leave shall be provided upon the request of the employee. When possible, an employee's request shall include the expected duration of the absence. The appointing authority or designated management representative may require an employee to provide reasonable notice of an absence from work and comply with the employing unit or division's usual and customary notice and procedural requirements for absences and/or requesting leave, provided that such requirements do not interfere with the purposes for which the sick leave is needed.
  - 1. If the sick leave is foreseeable, the employee must provide a written request at least ten days, or as early as possible, in advance of the paid leave, unless the employing unit or division's normal notice policy requires less advance notice. When possible, the employee shall make a reasonable effort to schedule the use of paid sick time in a manner that does not unduly interrupt the operations of the work unit.
  - 2. If the sick leave is unforeseeable, the employee must provide notice as soon as possible before the required start time of their shift and must generally comply with the employing unit's reasonable normal notification policies and/or call-in procedures, provided that the employee or a person on the employee's behalf is able to comply with the procedures.
- B. The City shall require reasonable verification that the employee's use of sick leave is for an authorized purpose for absences of more than four consecutive work days. The employee must provide verification to the City in a reasonable time period during or after the employee returns from leave. The City's requirement for such verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.
  - 1. Documentation signed by a health care provider verifying the employee's need for sick leave for an authorized purpose shall be considered reasonable verification for health-related absences. An explanation of the nature of the condition for which sick leave is needed is not required.

2. Notice of closure of an employee's child's school or place of care shall be considered reasonable verification for sick leave used pursuant to Personnel Rule 7.7.4. E 3.
  3. Documentation identified in Personnel Rule 7.11 D 3 shall be considered reasonable verification for sick leave used to cover absences related to stalking, sexual assault and domestic violence.
- C. If the employee anticipates that the requirement will result in an unreasonable burden or expense, the employee must be allowed to provide an oral or written explanation to their employer which asserts:
1. That the employee's use of paid sick and safe time was for an authorized purpose under SMC 14.16.030(A)(1) or (2); and
  2. How the verification requirement creates an unreasonable burden or expense on the employee.
- D. An employee returning to work after an absence requiring sick leave may be required to provide a certification from such employee's health care provider that such employee is able to perform the essential functions of the job with or without accommodation.
- E. 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. The employee's 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.

#### **7.7.7 Sick Leave After Reemployment**

- A. An employee who is re-employed following separation from City employment shall be eligible for reinstatement of unused sick leave as follows:
1. An employee who was eligible to use sick leave at separation who was rehired by the City within 12 months of such separation is eligible to use sick leave upon rehire and need not complete an additional 30 day waiting period.
  2. An employee who returns to City employment after layoff shall have all unused accrued sick leave reinstated regardless of when the employee returns to City employment.
  3. An employee who is re-employed within 12 months after service retirement from the City shall only have the portion of accrued sick leave balances restored that were not cashed out at retirement. For example, an employee who cashed out 100 hours of sick leave at the rate of 25 percent at retirement shall have 75 hours restored. Employees are not eligible for reinstatement of any sick leave if rehired after 12 months of service retirement.
  4. An employee who is reemployed by the City within 12 months for any other type of separation shall have all unused accrued sick leave balances

restored. Employees are not eligible for reinstatement of sick leave if rehired after 12 months of separation, except as provided above.

- B. A temporary worker who moves from a temporary assignment to regularly appointed employment shall retain sick leave earned as a temporary worker, provided any break in service was less than 12 months. Such employee need not serve a 30 day waiting period to be eligible to use sick leave.

#### **7.7.8 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 25 percent of the employee's sick leave value. An employee may also opt to deposit the value of such leave to their deferred compensation account at the rate of 35 percent, pursuant to Seattle Municipal Code 4.24.210.
- B. An employee who has been granted a sabbatical leave may elect to take a lump sum cash-out of any or all of their unused sick leave balance in excess of 240 hours at the rate of one hour's pay for every four hours of accumulated and unused sick leave. The employee forfeits all four hours exchanged for each one hour of pay. The employee must exercise this option at the beginning of their 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.

#### **7.7.9 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 7.7.9 B or 7.7.9C, respectively.
  - 2. An employee may request to receive donated sick leave. If the appointing authority or designated management representative finds that the requesting employee meets the qualifying conditions established in Rule 7.7.9 B, such appointing authority or designated management representative 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 7.7.9 C, the appointing authority, authorities, or designated management representative(s) 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 or designated management representative 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 the donating employee files a sick leave donation application. The receiving employee shall be paid at the receiving employee's 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 them for such donations.
  7. The receiving employee cannot use donated sick leave for any purpose once the condition that qualified them for such donations ceases to meet the qualifying criteria described in Rule 7.7.9 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 or designated management representative. 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 such employee meets all of the following conditions:

1. The receiving employee has exhausted, or will exhaust in the current pay period, paid leave balances due to 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 receiving employee's appointing authority or designated management representative a medical certification from the receiving employee's health care provider verifying the nature and expected duration of the condition and the employee's need to be off work; and
  3. The receiving employee is not eligible for benefits under SMC Chapter 4.44 nor under the State Industrial Insurance and Medical Aid Acts; and
  4. 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 eight hours of sick leave converted at the donating employee's 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.

#### **7.7.10 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 three 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 their name and department to the blood bank representative for verification of their participation by the appointing authority or designated management representative.
- B. An employee may be absent for up to five 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 their appointing authority or designated management representative reasonable advance written notice of the 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 such employee has taken time off for such purpose and under the conditions described by Rule 7.7.10 B within the previous 12 months.