

## MEMO

To: Sevierville City Attorney Ron Sharp  
From: Pat Hardy, MTAS  
Date: 2/24/04  
Subject: Sick leave banks

Ron,

You have asked about sick leave banks. First you want to be sure that the city can legally establish such a benefit. I have checked with our attorney in Knoxville, Melissa Ashburn, and she concurs that barring anything in the Sevierville charter preventing it (and I could not find anything doing so) the City can establish such a program.

You also want to know of other cities who provide such a program. Of the first six cities I called all have sick leave banks of one kind or another. I was able to find plenty of examples, so I stopped calling. If you need more just let me know.

Some of the programs involve employee to employee "transfer" of leave, either sick or annual, "catastrophic leave, and traditional sick leave banks (note: for our purposes here a sick leave bank is defined as a program where one or more employees can contribute some of their days of sick leave to a "pool", and from this pool participating employees can draw sick leave if their own accumulated leave is exhausted). Here's the questions I asked and the answers:

"Do you have a formal sick leave bank program for employees?" If so, could we get a copy of the program?

Alcoa	Employee to employee program with limitations (copy attached).
Athens	The State of Tennessee policy was used as a model with some modifications (copy attached).
Elizabethton	Employee to employee program with limitations (copy attached).
Farragut	Policy allows transfer of annual leave to employee for sick leave use (copy attached).
Gatlinburg	They have a "Catastrophic Leave" program (copy attached).
Goodlettsville	Sick leave "sharing" policy (copy faxed).

Attached you will find most of these examples. I am faxing one because they did not have it in electronic format. In addition you will find the University of Tennessee policies.

Please let me know if you need anything else.

## **City of Elizabethton Transfer of Sick Leave Policy**

### **TRANSFER OF SICK LEAVE**

The transfer policy is voluntary. Employees desiring to transfer sick leave to an eligible employee may do so, subject to the following provisions:

1. The recipient must be under the direct care of a licensed physician due to diagnosed long term injury or illness, the treatment requiring the employee to be absent from work more often than his accumulated sick leave time, vacation leave, and compensatory leave will allow;
2. The recipient's condition must be attested to by his/her physician in a statement submitted to the department head for approval by the City Manager, who shall have final authority over transfer requests;
3. No employee may transfer more than eighty (80) hours in any one calendar year, nor shall any transfer take place that would reduce an employee's accumulated sick leave below two hundred forty (240) hours.
4. An employee desiring to make such a transfer shall complete the designated forms available in the Personnel Office. This request must be approved by the Department Head and City Manager before the transfer of sick leave can be initiated.

## **Town of Farragut Transfer of Annual Leave Policy**

### Transfer of Annual Leave:

Accumulated leave may be transferred from one employee to another employee under the following specific conditions:

1. Following an approved transfer, the contributing employee shall have a remaining accumulated balance of twelve (12) days of annual leave.
2. The recipient of the annual leave shall have exhausted all of his/her annual leave, but is on authorized leave from employment due to personal illness or injury or to an illness with an immediate family member which prevents the employee from returning to work at this time.
3. The annual leave days will be traded as equal days regardless of any differential in compensation rates for the two positions. The annual leave which is given by another employee is compensated at recipient employee's current rate of pay.
4. A confidential request must be submitted to the Town Administrator in writing for approval. The contributing employee must sign a written acknowledgment prepared by the Town prior to the transfer being effective.
5. The recipient of annual leave must sign a written acknowledgment that payment for said annual leave was received.
6. An employee who has accumulated in excess of thirty (30) days of annual leave as of November 1 shall not be allowed to transfer any annual leave in accordance with this policy during November or December. As of January 1 of each year, such employee would again be eligible under this policy to transfer annual leave.

## University of Tennessee Sick Leave Bank Policy

### Objective:

To provide guidelines for establishing a sick leave bank for employee use only at any University of Tennessee campus or unit for regular employees who are eligible to accrue sick leave. The Sick Leave Bank shall provide emergency sick leave to member employees who have suffered disability due to an unplanned personal illness, injury, or quarantine and who have exhausted their compensatory time and personal, sick, and annual leave balances.

### Policy:

#### I. Authorization to Establish a Sick Leave Bank

A. A petition to the chief administrator of a campus or unit, signed by at least 20 regular faculty or staff members who accrue sick leave, shall authorize the establishment of a sick leave bank for that campus or unit, or group of units represented by one personnel office. **The bank is for the serious illness or injury of the employee only and not for the illness or injury of immediate family members.**

B. Within 30 days of receipt of the petition, the chief administrator shall appoint a minimum of 5 campus or unit sick leave bank trustees. One of the trustees shall represent the personnel function; one trustee shall represent the campus/unit business function. The other appointments shall represent different job classifications of employees, departments, and employee categories, including 12-month faculty. The trustees are appointed for three year terms after initial appointments of staggered terms (1 for 3 years, 2 for 2 years and all others for 1 year). The trustees shall meet within 10 days of their appointment and elect a chair. Trustees may be reappointed; vacancies for any reason shall be filled immediately by the campus or unit chief administrator.

C. The trustees shall be responsible for administration and implementation of the sick leave bank guidelines, membership and enrollment procedures, and reasonable assessment rules to maintain an adequate reserve. The trustees shall recommend to the chief administrator for approval a sick leave bank implementation date which shall be no later than 180 days after receipt of the petition by the chief administrator.

D. The local personnel or business office shall provide staff support to maintain the bank, keep records of the sick leave days donated and taken, prepare reports, and keep minutes of the trustee meetings. The personnel office shall work with the academic affairs office to coordinate records as appropriate. An annual report indicating the status of the sick leave bank membership, usage, and sick days reserves will be provided by the trustees to the chief administrator of the campus or unit and to the Vice President for Business and Finance.

#### II. Enrollment/Cancellation of Membership

A. No later than 30 days prior to the effective date of the bank, the trustees shall notify all employees who accrue sick leave of their eligibility to join the sick leave bank, and the effective date of the bank. The trustees shall establish and inform all eligible employees of the initial 3-day enrollment assessment to be deducted from the employee's sick leave balance.

Employees will be given at least 45 days to enroll in the bank. Prior to the initial assessment, applicants must have a sick leave balance of at least 6 days in order to join the bank.

B. After the initial enrollment, the trustees shall hold an annual enrollment period during the months of April, May, and June, to be effective July 1. This annual enrollment period and the enrollment procedures will be publicized annually by the trustees to all employees eligible to join. Employees who enroll at this time will have an initial enrollment assessment as established when the bank was created.

C. Any employee may cancel membership from the bank by written request as of June 30 of each year.

D. The right to membership or to apply for membership ceases with termination of employment, retirement, cancellation of membership, or refusal to comply with assessments.

E. If membership falls below 20 members and the sick leave balance is less than 20 days, the sick leave bank trustees may decide to dissolve the bank rather than making an assessment. If the bank is dissolved, any days on deposit shall be returned to the participating members at the time of dissolution and credited to their personal sick leave accumulation in proportion to the days each has contributed.

F. Membership in the bank shall remain confidential and be divulged only as necessary to maintain and administer the bank.

G. If an employee, who is participating in the sick leave bank at one campus or unit is relocated or transfers, without a break in service, to another campus or unit that has a sick leave bank, membership will be transferred without transferring any hours.

H. If any employee, who is participating in the Sick Leave Bank terminates service from the University and is rehired by the University within that same enrollment year, that person will be reinstated back into the Sick Leave Bank at the time of rehire with no additional assessment. If that employee is rehired after one enrollment year, he/she may rejoin the Sick Leave Bank during the next open enrollment and incur a new enrollment assessment.

I. If a leave-accruing employee who is participating in the Sick Leave Bank accepts a non-leave accruing position (such as 9-month faculty), that employee cannot remain in the Sick Leave Bank. If the employee in the non-leave accruing position accepts a position that accrues leave, he/she may petition the Sick Leave Bank for readmission without incurring a new assessment.

### III. Contributions/Assessments of Sick Leave Days

A. All sick leave days contributed to the bank are non-refundable and non-transferable.

B. The trustees are authorized to make the necessary and reasonable assessments of the membership to maintain an adequate reserve of days based upon total membership and projected need. To maintain the bank, the balance of sick days in the bank should not fall below one day per member.

C. In the event of an assessment, the membership must be notified in writing at least 30 days prior to the effective date of the assessment. At the end of the 30-day notification period, transfers will be made from the sick leave balances of members to the bank, except in

cases where members have notified the trustees of their unwillingness to honor the assessment.

D. Failure to comply with any assessments established by the sick leave bank trustees will result in cancellation of membership unless the member has made a current application for sick leave from the bank or is on leave with pay (sick leave) using an allocation from the bank. If a member has no accumulated sick leave at the time of the assessment, the first earned days shall be donated as they are accrued by the employee.

E. The number of days requested from each member may not exceed 3 days per assessment or 6 days in any fiscal year.

#### IV. Eligibility/Application for Sick Leave Days

A. Members who have been in the sick leave bank for at least 30 calendar days are eligible to apply for sick leave days from the bank. However, grants from the bank for conditions determined to be pre-existing shall not be eligible for Sick Leave Bank benefits until six (6) months following the effective date of membership. Pre-existing shall mean a condition which existed for which an employee received treatment or advice during the six (6) month period prior to the effective date of initial Sick Leave Bank membership (verified via medical certification).

B. Sick leave days may be requested from the bank only for the serious personal illness or injury of an employee. Bank sick leave days may not be granted for elective surgery, or illness of any member of the individual's family, or during any period an individual is receiving disability benefits from social security, a retirement plan, long term disability, or during any period of time an individual is drawing or is eligible to receive workers' compensation benefits.

C. All personal accrued leave (sick, annual, personal) must be used before receiving sick leave days from the bank. However, application may be made prior to that time and approval given contingent upon the employee's exhaustion of all accrued leave.

D. A written application for bank sick leave days is required on a form provided by the Personnel Office. At a minimum, the application shall include employee name, title, date of employment, reason for request, and number of sick leave days requested.

E. If an employee is eligible but unable to apply due to physical or mental condition, any family member or other agent may apply on behalf of that employee.

F. All initial applications for sick leave from the Sick Leave Bank shall require a medical certification form completed by a medical provider. Any subsequent applications relating to the same injury or illness shall require a Supplementary Documentation for Continuing Disability Form completed by a medical provider from a follow-up treatment visit. Refusal to comply will result in denial of the pending request for use of sick leave days from the bank. The area human resources office will provide forms on request.

#### V. Granting Sick Leave Days

A. Based on rules established herein, the campus or unit trustees shall act upon all applications for sick leave days from the bank within 10 calendar days from receipt of the request. All actions by the trustees require three affirmative votes.

B. The number of sick leave days granted may never exceed the number of days in the sick leave bank.

C. Each initial grant of sick leave days shall be limited to a maximum of 20 consecutively scheduled working days for each illness or injury. After the initial grant, an extension (or extensions) of up to 40 consecutively scheduled sick leave days may be granted per illness or injury. The total sick leave granted to any one member shall not exceed 90 days in a twelve-month period for any one illness, recurring illness, or accident.

D. If sick leave from the bank is granted to an employee, the employee is considered to be in active pay status during the use of that leave and all employment benefits apply including the accrual of annual and sick leave.

E. If any sick leave is granted but not used by the employee, the unused portion of the amount of sick leave transferred is returned to the sick leave bank. This would apply in the case of an employee's death or recovery from the illness or injury.

F. All leave granted will be at the discretion of the Sick Leave Bank trustees. An employee may reapply for the Sick Leave Bank by providing additional information. The trustees' decision is final.

G. The employee's department will assume the financial responsibility for Sick Leave Bank days granted and must maintain an accurate record of the Sick Leave Bank days taken by the employee.

## University of Tennessee Policy Guiding Sick Leave Transfer

### Objective:

To define guidelines by which sick leave may be voluntarily transferred to sick leave bank members who have suffered a continuing disability due to illness or injury.

### Policy:

The decision to donate sick leave to a sick leave bank member at any University of Tennessee campus or unit, should be a choice made freely by each employee. Any person attempting to unduly influence another employee to donate leave shall be subject to disciplinary action and any prior agreement made to donate leave under these conditions shall be voided.

#### I. Eligibility Criteria to Receive Sick Leave

In order to receive sick leave donated from another employee, all of the following criteria must be met. The receiving employee must (1) be a current member of a sick leave bank, (2) have a continuing disability resulting from personal illness or injury and be unable to perform job duties, (3) have received approval for sick leave bank hours from the sick leave bank trustees (4) have used all accumulated sick, annual and other paid leave and used all days approved through the sick leave bank for each separate illness or recurring diagnosed illness or accident, and (5) not be receiving any other form of compensation including social security disability benefits, any Workers' Compensation benefits, or disability compensation through any retirement plan.

The maximum amount which an employee may receive is limited to 90 days for which the employee would not otherwise be paid per separate illness or recurring diagnosed illness or accident. Before an employee is eligible to receive donated leave, his or her physician must certify that the employee has a disability resulting from personal illness or injury and is unable to perform job duties. Once medical certification is received, the employee is eligible to receive up to 20 consecutive days (160 hours) of leave for which he or she would otherwise be without pay. From this point forward, the employee will be authorized to use donated sick leave in up to 20-day increments, with additional medical certification documenting the employee's continued disability required after each 20-day period.

If any sick leave is granted but not used by the employee, the unused portion of the amount of sick leave transferred is subsequently returned to the donating employee(s). This would apply in the case of an employee's death or recovery from the illness or injury.

#### II. Criteria for Donating Leave to Another Employee

In order to donate sick leave to a sick leave bank member, a full-time employee must have a minimum balance of 160 hours of sick leave and agree to donate a minimum of 80 hours of leave. Part-time employees must have a minimum balance and agree to donate on a pro-rata basis. The maximum amount of sick leave an employee may donate during his or her employment is a total of 720 hours. A donating employee is not required to be a member of a sick leave bank.

An employee may donate more than one time to a single individual or to multiple individuals. At any time, the employee may not donate more than one-half of his or her leave balance in effect at the point leave is deducted.

III. Procedural Guidelines

Sick leave transfer between employees requires the following procedures:

A. An employee donating leave to another employee must complete and sign a Sick Leave Transfer Request Form providing the name of the employee to whom leave is being donated and the amount of leave the employee is agreeing to donate. The form must state the conditions under which the leave is being donated and that the leave is being donated by the employee of his or her own free will. Once completed, the employee should send this form to his/her personnel officer.

B. The personnel officer or designee must sign the form acknowledging receipt. After verifying that the employee has the leave balance to cover the amount of leave being donated and is not donating more than one-half of that balance, a copy of the agreement should be placed in the donating employee's personnel file.

C. Donor forms will be date and time stamped in the order received. This will determine the order in which sick leave will be deducted from donating employee's leave balances in situations where there are multiple employees agreeing to donate to a single individual.

D. The personnel officer will notify the department employing the person to whom leave is being donated. Before sick leave is officially transferred, the employee receiving the leave must submit a current medical form from his or her health care provider certifying that the employee continues to be unable to perform job duties. A new medical form will be required for every twenty days of donated sick leave.



**CITY OF ATHENS**  
**EMPLOYEE SICK LEAVE BANK**  
**January 1, 2003**

ENROLLMENT PERIOD will be conducted in November.

ENROLLMENT FORMS may be obtained from the Department of Human Resources. The enrollment form must be returned to the Human Resources Department, Sick Leave Bank, no later than November 30.

I. PURPOSE

The Sick Leave Bank shall provide emergency sick leave to member employees who have suffered disability due to an unplanned personal illness, injury, or quarantine and who have exhausted their personal sick and vacation leave balances.

II. ADMINISTRATION

A Board of Trustees shall administer the Sick Leave Bank. The Board is comprised of the Department Heads. The City Manager will hear all appeals.

III. GUIDELINES

1. Members are defined as full-time regular persons employed by the City of Athens who are entitled to accrue sick leave pursuant to City of Athens Personnel Rules and Regulations, who have been employed by the City of Athens for twelve (12) full months immediately preceding application for participation, who are in leave accruing status, and who have a sick leave balance of at least six (6) days at the time of application for participation, are eligible to participate in the Sick Leave Bank. The Board of Trustees shall reserve the right to review and consider any extenuating circumstances to these provisions.

2. City employees electing to participate shall do so during the month of November of any

year. Application shall be made on forms approved by the Board of Trustees.

3. Any City employee who elects to participate in the bank shall initially have the equivalent of two (2) days of sick leave deducted from his or her personal accumulation and donated to the Sick Leave Bank. Thereafter, a contribution of one (1) day of sick leave per year will be made each January 1. This yearly contribution may be waived in any year by notice from the Board of Trustees.
4. Donations to the Sick Leave Bank are nonrefundable and nontransferable.
5. At any time the number of days in the Sick Leave Bank is less than one hundred (100), or one (1) per member, if there are more than one hundred (100) members, or at any time deemed advisable, the Trustees shall assess each member one or more days of accumulated sick leave. If a member is not in leave accruing status and has no accumulated sick leave at the time of the assessment, the first earned days shall be donated as they are accrued by the member. It is the responsibility of the member to hold the sick leave in his or her sick leave balance for assessment and to notify the Sick Leave Bank Administrator upon accrual. Failure to meet the assessment within one (1) year constitutes refusal to honor an assessment as outlined in Item 22.
6. The Sick Leave Bank Trustees shall establish the criteria for distributing sick leave from the bank and prescribe the form and manner of participation in the bank. The City Manager shall hear appeals regarding denials of requests for sick leave or loss of membership.
7. The Department of Human Resources shall determine whether to grant or deny all initial requests for sick leave to be distributed from the Sick Leave Bank. The initial determination shall be made within ten (10) calendar days from receipt of all necessary documentation.
8. All appeals to the Sick Leave Bank Trustees must be filed on the prescribed form with the Department of Human Resources within fifteen (15) days from receipt of a determination.
9. Members of the Sick Leave Bank shall be eligible to make application to the bank for sick leave only after having been a member of the bank for thirty (30) calendar days. Application shall be made on forms approved by the Board of Trustees.

10. A participant initially shall not receive any sick leave from the bank until after having exhausted all accumulated sick and vacation leave and after having been in a without pay status for five consecutive (5) days.
11. All initial applications for sick leave from the Sick Leave Bank shall require a Medical Certification Form completed by the current attending medical doctor/surgeon at the time of application. Any subsequent applications relating to the same injury or illness shall require a Supplementary Documentation for Continuing Disability Form completed by the current attending medical doctor/surgeon from a follow up treatment visit. Refusal to comply will result in denial of the pending request for use of sick leave days from the bank.
12. Application for Sick Leave Bank benefits should be submitted within two weeks prior to the expiration of all accumulated sick and vacation leave, but no later than thirty (30) days after the expiration of all accumulated leave absent any extraordinary circumstances.
13. In the event that a member is physically or mentally unable to make a request to the Sick Leave Bank for use of sick leave days, a family member or agent may file a request.
14. Grants of sick leave from the bank shall not be made to any member on account of elective surgery, illness of any member of the participant's family, while the member is receiving income from other employment, or during any period the member is receiving disability benefits from social security, the city retirement plan, worker's compensation benefits, or any other form of payment received.
15. The Board of Trustees or the Board's designee may require a second medical opinion concerning any members' application for benefits. The cost of this second opinion will be borne by the City of Athens.
16. If a member sustains an on-the-job injury or illness, the member first is required to submit and receive a determination upon a worker's compensation claim prior to requesting sick leave from the Sick Leave Bank.
  - a. If the worker's compensation claim is denied, a request for Sick Leave Bank benefits will be considered.
  - b. If the worker's compensation claim is approved, a request for Sick Leave Bank benefits will not be considered.

17. Members who have been approved and have received worker's compensation benefits for work-related injuries or illnesses are not eligible for Sick Leave Bank benefits for any claims involving the work-related injuries or illnesses.
18. Leave grants from the bank shall not be more than twenty (20) consecutive days for which the individual applicant would have otherwise lost pay. Applicants may submit requests for extensions of sick leave grants before or after their prior grants expire. The maximum number of days any participant may receive as a result of any one illness, or recurring diagnosed illness, or accident is sixty (60).
19. Grants of sick leave from the bank shall not exceed sixty (60) days within a twelve (12) month period. Time computation for these purposes shall be calculated in the same manner as eligibility for leave under the Family Medical Leave Act (FMLA).
20. Sick Leave Bank benefits terminate as of the date the member is no longer temporarily totally disabled and has been released to return to work even with limitations.
21. Sick leave used from the Sick Leave Bank shall not constitute creditable service for sick and vacation leave accrual or for longevity purposes. Employees shall not accrue sick leave or vacation leave during the period of emergency sick leave.
22. A member shall lose the right to membership and to obtain the benefits of the Sick Leave Bank by:
  - a. Resignation or termination of employment with the City of Athens, Tennessee.
  - b. Changing to part-time employment status.
  - c. Cancellation of participation which is effective only on December 31 next;
  - d. Refusal to honor such assessment as may be required from time to time by the Board of Trustees to maintain an adequate number of reserve days in the bank;
  - e. Retirement; and
  - f. Any documented proof of fraud or misrepresentation of facts in making application for use of sick leave from the Sick Leave Bank.
23. By written notice to the Trustees, a member may withdraw from the bank participation, which will be effective on December 31. Membership withdrawal results in forfeiture of all days contributed.

24. The Board of Trustees may vote to expel any member if the member is found to have violated any of the provisions set forth herein.
  
25. Any member who receives Sick Leave Bank benefits through the use of fraud or any misrepresentation of facts shall be liable for the reimbursement of all salary and benefits expended by the bank. **ALL MEMBERS CONSENT TO PAYROLL DEDUCTION FOR THE REIMBURSEMENT OF SICK LEAVE BANK BENEFITS EXPENDED THROUGH THE USE OF FRAUD OR ANY MISREPRESENTATION OF FACTS.** Employees found guilty of fraud shall be subject to the disciplinary procedures as outlined in the Personnel Rules and Regulations, up to and including termination of employment.
  
26. In the event the Sick Leave Bank is dissolved, the total number of days on deposit shall be returned to the then participating members and credited to their personal sick leave accumulation in proportion to the number of days each has contributed individually.





The purpose of the catastrophic leave bank is to assist employees who, due to a disabling illness or injury, do not have sufficient vacation and sick leave to cover the ninety (90) day waiting period for long term disability insurance benefits.

Employees who wish to participate in this program may do so by donating a minimum of eight hours of vacation or sick leave. Only those employees who make a donation to the leave bank may make a request to use the leave bank.

Employee Requests to use the leave bank will be made to the Employee Recognition Board in writing stating the specific amount of time needed, a copy of the long term disability form and a doctor's statement. The ERB will make a recommendation to the City Manager stating the ERB's position on the request. The City Manager will make all decisions regarding the use of the leave bank and the decision of the City Manager is final and not subject to appeals or grievances.

Employees who donate to the leave bank will be required to sign an acknowledgment that they agree to the program guidelines and understand that any vacation or sick leave donated to the leave bank can not be returned to the employee.

The Human Resources Director shall maintain records of the leave bank and shall make a request to employees for additional donations of vacation or sick leave when the leave bank balance is less than five hundred hours. Employees who fail to make donations to maintain the minimum of five hundred hours shall be dropped from the program. Employees who are dropped may rejoin during the following December enrollment period. Employees may donate additional vacation or sick leave as they wish including vacation time that may be "lost" due to being over their accrual limit. No employee will be required to donate more than eight hours of vacation or sick leave annually.

During December of each year, regular full-time employees may elect to join the program by donating eight hours.

**Check one box:** I will donate eight hours (8) VACATION  **OR** SICK

I, \_\_\_\_\_, (PRINT NAME) have read and agree to the conditions of the **CATASTROPHIC LEAVE BANK PROGRAM GUIDELINES** and wish to participate.

I, \_\_\_\_\_, (PRINT NAME) have read the conditions of the **CATASTROPHIC LEAVE BANK PROGRAM GUIDELINES** and **DO NOT** wish to participate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### City of Alcoa Sick Leave Donation Policy

## VOLUNTARY SICK LEAVE DONATION:

One or more employees may make sick leave contributions to fellow employees who have exhausted all of their available comp, earned sick and vacation leave. A minimum of eight (8) hours sick leave must be contributed by each contributing employee. A recipient employee may receive up to a maximum of 240 (308 for 24/48 fire employees) hours-donated sick leave within a five (5) year period. The intent of sick leave contribution to fellow employees is to provide an opportunity for employees to provide humanitarian aid and assistance to fellow employees who have a valid problem requiring additional sick leave.