

Sick Leave Bank Guidelines

Memphis Fire Department Only

I. PURPOSE:

The Memphis Fire Department Sick Leave Bank (hereinafter the “MFD Bank”) grants paid sick leave to certain City of Memphis (hereinafter the “City”) employees who are assigned to the Memphis Fire Department (“MFD”) and who have exhausted all of their personal sick, vacation, and bonus leave balances and who are either (1) medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, quarantine, mental illness, or other medical condition, and it is reasonably anticipated that the employee will be able to return to full duty, or (2) the essential care giver for an immediate family member, as defined by the Family & Medical Leave Act (hereinafter “FMLA”), who is suffering from a personal illness, injury, accident, disability, quarantine, mental illness, or other medical condition.

In cases where an employee is granted sick leave from the MFD Bank for the illness of an immediate family member, the number of hours granted shall not exceed the number of hours approved under FMLA, when combined with the employee’s personal sick, vacation and bonus leave.

The MFD Bank is administered by the Committee of the City of Memphis Sick Bank (the “Committee”) as established in Section IV.

II. ELIGIBILITY FOR ENROLLMENT AND MEMBERSHIP:

1. Employees assigned to MFD meeting all of the following criteria are eligible to enroll in the MFD Bank:

- a. Employed full-time with the City and assigned to MFD for at least twelve (12) continuous full months as of the first day of the enrollment period; and
- b. Entitled to accrue sick leave; and
- c. Currently accruing sick leave; and
- d. Has a sick leave balance of at least 48 hours as of the date of their date of enrollment, which balance must be maintained until the assessment of required sick leave hours is made.

2. Employees enrolled in the MFD Bank, who have exhausted all of their personal sick, vacation, and bonus leave balances and are approved for qualifying leave under the FMLA or the Americans with Disabilities Act Amendments Act (“ADAAA”) are eligible to receive grants of sick leave from the MFD Bank. Employees assigned to the Fire Division must exhaust catastrophic leave in addition to the leaves listed above before becoming eligible to receive grants of sick leave from the Bank. An enrolled employee receiving payments under a grant at the time that new vacation leave hours are awarded will not be required to exhaust those newly acquired vacation leave hours to continue receiving the current grant. Subsequent grants will require the exhaustion of all leave hours to trigger eligibility.

- a. In instances where a part-time employee has experienced a catastrophic On the Job Injury or illness (defined below) necessitating access to the benefits of the sick leave bank (“Hardship Applicant”), he/she may make application for a Hardship Exception.
- b. To qualify for consideration for a Hardship Exception, a Hardship Applicant must be a part time employee who is ineligible to receive lost time benefits under the City’s On-the-Job Injury policy, or other employer-provided benefit(s) for job related injuries or illnesses.
- c. For purposes of a Hardship Exception, a catastrophic illness/injury is defined as an unexpected serious illness and/or injury, occurring on the job outside of the Hardship Applicant’s control, requiring prolonged hospitalization, extensive medical care and/or recovery time, and precluding the Hardship Applicant from performing his/her assigned job duties.

3. MFD employees electing to join the MFD Bank must do so during the enrollment period, as set by the City’s Human

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Resources Division. MFD Employees may obtain an application in the process prescribed by the Human Resources Division from year to year.

- a. MFD employees that have completed the required probationary period will be granted a special Sick Leave Bank Enrollment. Employees will have 30 days after the probationary status ends to self-enroll in the Sick Leave Bank.
4. Any MFD employee who is approved to join the MFD Bank (hereinafter “MFD Bank Member”) will initially have twenty-four (24) hours of sick leave deducted from his or her personal accumulation and donated to the MFD Bank. Additionally, upon initial enrollment, or at any time during membership in the MFD Bank, an MFD Bank Member may elect to donate up to a lifetime maximum amount of six hundred (600) hours to the MFD Bank.* For MFD Bank Members who do not elect to donate the lifetime maximum amount of six hundred (600) hours to the MFD Bank upon initial enrollment, eight (8) hours of sick leave will be assessed to each MFD Bank Member’s personal sick leave balance on January 1 of each year. The Committee reserves the right to waive the assessment in any year. In the event of a waiver, the Committee will provide written notice to all MFD Bank Members. If a waiver occurs, nothing in this section will prevent an MFD Bank Member from making a voluntary donation to the MFD Bank.
 - a. Retiring employees who are not MFD Bank Members may donate up to 600 hours of sick leave to the MFD Bank on the effective date of retirement. This donation is one-time-only, and will not create an entitlement to grants from the MFD Bank for said employees and/or said employees’ family members who may or may not be employed by the City.
 - i. A donation to the Bank under section II.4.a. will not affect the retiring employee’s entitlement to compensation for up to 75 days of unused accrued sick leave under PM 46-03; however, if a retiring employee donates sick leave under this section, that employee may not also receive compensation for the donated time. Compensation received pursuant to PM 46-03 is limited to time over and above hours donated to the MFD Bank under section 4.a.
5. If at any time the number of days in the MFD Bank is less than eight (8) hours per MFD Bank Member, or at any time deemed necessary, the Committee will issue a request to MFD Bank Members to donate additional hours to the bank to make up the deficiency; if hours voluntarily donated are insufficient to increase the balance of the MFD Bank to at least eight (8) hour per MFD Bank Member, the Committee may specially assess each MFD Bank Member, with the exception of MFD Bank Members who have donated the lifetime maximum amount of six hundred (600) hours to the MFD Bank*, one or more days of accumulated sick leave. MFD Bank Members will receive written notice prior to a special assessment.
6. An MFD Bank Member who accrues leave the month immediately preceding any assessment but fails to hold the required sick leave for the assessment will be removed from the MFD Bank, unless a qualifying illness or injury is the reason for the lack of available leave.
7. For an MFD Bank Member who does not accrue leave in the month prior to any annual or special assessment, the first earned sick day(s) will be assessed upon accrual by the MFD Bank Member. **The MFD Bank Member must notify the Human Resources Division upon accrual, and hold the sick leave in his or her sick leave balance for assessment.** Failure to meet any annual or special assessment within one (1) year constitutes refusal to honor an assessment and will subject the Bank Member to expulsion from the MFD Bank.
8. Initial, annual, and special donations/assessments to the MFD Bank are nonrefundable and nontransferable.
9. Employees seeking to take parental leave with less than 240 hours of sick leave can enter into the sick bank with the qualifying life event of pregnancy or adoption and request up to 240 hours of sick leave from the bank to nurse and care for infants and adopted children. A pregnancy or adoption will be recognized as a qualifying life event for

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admission into the sick leave bank and will not require the exhaustion of vacation time or the donation of 16 hours at the time of the request. However, 16 hours will be deducted from the employee's sick balance upon the employee's return to work from the pregnancy/adoption leave.

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III. ELIGIBILITY FOR APPLICATION AND GRANTS:

1. Application eligibility date ("eligibility date") is the date on which the MFD Bank Member exhausts all accumulated sick, compensatory and annual leave. Grant applications must be received within fourteen (14) days of the eligibility date for a MFD Bank Member to qualify for a grant retroactive to eligibility date. If application is not received within fourteen (14) days of the eligibility date, an MFD Bank Member will only qualify for a grant for leave taken from the application date forward. Additional time limits are outlined below in section III.7.c.

MFD Bank Members are eligible to apply for grants of sick leave at any time following enrollment. Application for sick leave grants must be made on a Withdrawal Request Application and Medical Certification form. These forms may be obtained from the City Human Resources website or from MFD's Human Resources liaison.

2. If an employee sustains a job-related injury or illness, he/she must first submit an on the job injury (hereinafter "OJI") claim and receive a determination prior to receiving grants from the MFD Bank. If the OJI is denied, or if the MFD Bank Member exhausts his/her paid leave prior to receiving a determination, the MFD Bank will consider a request for grants from the bank. If the OJI is approved subsequent to the MFD Bank Member's award of a grant from the MFD Bank, the hours paid under the grant will be credited back to the MFD Bank. The 14-day retroactive application limit outlined in paragraph III.1. will not apply to situations involving denied OJI claims.
3. Employees who received lost time and/or a settlement based on an OJI claim or any other employer-provided benefit(s) for job related injuries or illnesses are not eligible for MFD Bank grants for any claims involving the same injuries or illnesses.
4. MFD Bank Members will not be eligible for grants from the MFD Bank under the following circumstances:
 - a. elective surgery;
 - b. while the MFD Bank Member is earning income from other employment;
 - c. during any period, the MFD Bank Member is receiving short or long term disability benefits; or
 - d. if the MFD Bank Member is receiving OJI benefits, or any other employer-provided benefits for job or service-related injuries or illnesses that are also related to the request for grants from the MFD Bank.
5. Application for sick leave grants must be made on Withdrawal Request Application and Medical Certification forms. Employees may obtain these forms as outlined above in Paragraph III.1. All Withdrawal Request Applications must be completed by the MFD Bank Member and forwarded to the City Human Resources Office. If an MFD Bank Member is physically or mentally unable to apply, a family member or agent of the MFD Bank Member may file the request on the MFD Bank Member's behalf.
6. Application for sick leave grants must be submitted no earlier than two (2) weeks prior to, but no later than thirty (30) days after, the eligibility date to receive a bank grant absent extraordinary circumstances. Applications for grants from the MFD Bank received after the expiration of the thirty (30) day period will be denied absent a finding of extraordinary circumstances by the Chief Human Resources Officer. No further applications for sick leave during that period of absence from work for that specific illness/injury will be accepted.

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7. Medical Certification:

- a. A Medical Certification form must be submitted with each Withdrawal Request Application. This Medical Certification form must include information resulting from a treatment visit with a medical doctor/surgeon and/or a nurse practitioner/physician's assistant and should occur as close as possible to the MFD Bank Member's eligibility date. Treatment visits may include, but are not limited to, a hospital visit, the date of surgery, a doctor's office visit, etc.
- b. The initial Medical Certification form must be completed in its entirety by the MFD Bank Member's current attending medical doctor/surgeon and/or nurse practitioner/physician's assistant at the time of application.
- c. All Medical Certification forms and/or any other medical records or information requested by the MFD Bank or its staff may be forwarded directly to the MFD Bank Administrator by the medical office or the official custodian of the medical records or provided by the MFD Bank Member. If medical records are provided by the MFD Bank Member, he/she must sign a HIPAA Release Form so the Committee can confirm the medical records provided by the MFD Bank Member. A copy of the HIPAA form may be obtained from the Administrator.
- d. For any extension of MFD Bank grants, a subsequent Medical Certification form must be submitted, which must be based on a follow-up treatment visit relating to the same injury or illness for which the extension is being sought. The subsequent Medical Certification form must be completed by either the MFD Bank Member's current medical doctor/surgeon or by a nurse practitioner/physician's assistant working directly under the supervision of the current medical doctor/surgeon.

In the event a MFD Bank Member dies while receiving a grant from the MFD Bank, payments will cease as of the date of death and any leave remaining on the grant will be credited back to the MFD Bank.

IV. CITY OF MEMPHIS SICK BANK COMMITTEE:

1. The Committee shall consist of five (5) voting members and two (2) non-voting members. The Members shall include one (1) representative from the City Human Resources Division, selected by the Chief Human Resources Officer; one Committee Member from the City's Finance Division, selected by the Chief Finance Officer; one Committee Member selected by the City's Chief Operating Officer; one Committee Member in a management rank with MFD selected by the Director of Fire Services; and one Committee Member in a non-management rank with MFD selected by the Memphis Fire Association. The Committee will maintain a non-voting committee Chair, who shall be the Chief Human Resources Officer. The Committee will also maintain one (1) non-voting member from the City's Legal Division, selected by the Chief Legal Officer. All Committee Members must be employed by the City of Memphis. When necessary, a Committee Member may designate an alternate to act on the Committee Member's behalf.
2. Each appointed Committee Member will serve for a term of two (2) years.
3. The Committee may meet as deemed necessary by the Chairperson upon 48 hours' notice. Additional meetings of the Committee will be contingent upon the number of cases to be considered, and will be held as necessary to maintain the integrity of the MFD Bank.

V. GRANTS FROM THE MFD Bank:

1. Sick leave grants from the MFD Bank shall not consist of more than 1040 consecutive hours in a rolling twelve (12) month period for which the individual MFD Bank Member would have otherwise lost pay. The rolling 12-month period starts on the date the MFD Bank Member's sick leave grant payments begin and extends 12 months forward from that date.
2. In the event an MFD Bank Member exhausts 1040 hours of leave time from the MFD Bank in a rolling twelve (12) month period, that MFD Bank Member will be ineligible for additional grants for twelve (12) months from

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the date upon which the 1040th hour of MFD Bank leave is paid to the MFD Bank Member.

3. Once an MFD Bank Member's leave under the FMLA has been exhausted, nothing herein shall prevent the MFD Bank Member from seeking an Accommodation pursuant to the ADAAA to retain eligibility for grants from the MFD Bank.
 - a. If a MFD Bank Member is the essential care giver for an immediate family member, as defined by FMLA, suffering from a personal illness, injury, accident, disability, quarantine, mental illness, other medical condition or a condition related to, resulting from, or recurring from a previously diagnosed condition for which the MFD Bank granted sick leave, the MFD Bank Member may receive a grant of up to 480 total hours for any single illness or injury of the immediate family member. Any grant from the MFD Bank for illness of a family member combined with the MFD Bank Member's personal sick, vacation and bonus leave shall not exceed the number of hours approved under FMLA.
4. Notwithstanding any other provisions hereof, grants of sick leave from the MFD Bank shall not exceed 1040 hours for any single illness/injury to a member in a rolling 12-month period, beginning upon approval.
5. Grants from the MFD Bank terminate as of the date the MFD Bank Member is either 1) released to return to work with or without restrictions or 2) determined to be permanently unable to return to work.
6. MFD Bank Members in good standing may appeal a decision to deny his or her application for a grant from the MFD Bank to the Chief Human Resources Officer. All appeals to the Chief Human Resources Officer must be filed with the Sick MFD Bank Administrator within fifteen (15) calendar days from the date of the denial letter. Decisions by the Chief Human Resources Officer are final.
7. Nothing herein shall be subject to any grievance procedure outlined under the existing Memorandums of Understanding between the City and recognized Labor Associations. Additionally, any decisions related to MFD Bank are not subject to review by the Civil Service Commission.
8. The ability to award donated hours from the MFD Bank is dependent upon available hours donated by MFD Bank Members.

VI. WITHDRAWAL, REMOVAL OR LOSS OF MEMBERSHIP:

1. Membership and grants will terminate immediately upon:
 - a. any separation of full-time employment with the City;
 - b. an MFD Bank Member submitting a written request during the enrollment period to the Committee to cancel Membership. Regardless of the date of receipt, all cancellations of a MFD Bank Member's Membership are effective on January 1 of the following year.
 - c. a determination that the MFD Bank Member will not be able to return to work; or
 - d. an MFD Bank Member's submission of an application for retirement while receiving a grant from the MFD Bank.
2. In the event of said termination of Membership for any of the enumerated reasons above, any unused donated leave balance will be retained in the MFD Bank. MFD Bank Members shall not be entitled to payment of awarded, but unused, MFD Bank hours, nor shall MFD Bank Members be entitled to payment of donated MFD Bank hours. The estate of a deceased employee shall not be entitled to payment of donated, and/or awarded but unused MFD

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Bank hours.

3. Upon a finding by the MFD Bank Administrator of any intentional material misrepresentation of fact(s) by a MFD Bank Member in making application for use of sick leave from the MFD Bank, the Committee may vote to expel and/or deny grants of sick leave to the MFD Bank Member. Any MFD Bank Member expelled from the MFD Bank by the Committee shall lose all present and future rights to Membership, grants of sick leave, and re-enrollment in the MFD Bank. Additionally, the MFD Bank Member may be subject to discipline as deemed appropriate.
4. Any MFD Bank Member who receives grants from the MFD Bank using any intentional material misrepresentation of fact(s) will be liable for the reimbursement of all salary and benefits received from the MFD Bank. **ALL MFD BANK MEMBERS CONSENT TO PAYROLL DEDUCTION FOR THE REIMBURSEMENT OF GRANTS FROM THE MFD BANK PAID BECAUSE OF ANY MATERIAL MISREPRESENTATION OF FACTS.**

VII. REPORTING AND COMPLIANCE:

1. The Committee will provide general quarterly status reports to the Healthcare Oversight Committee.
2. The MFD Bank will operate in a manner to ensure compliance with all applicable laws.
3. Sick leave from the MFD Bank will count toward the grant recipient's creditable service for pension accrual.