| MAYOR'S EXECUTIVE ORDER | NUMBER: 88-20 |
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| SICK LEAVE BANK | DATE EFFECTIVE: JULY 1, 2020 |
| | *This policy establishes a Sick Leave Bank for City of Birmingham employees* |
| (X)ORIGINAL ISSUE | ( ) REVISION |

## PURPOSE

This Executive Order establishes a Sick Leave Bank for the use and benefit of full-time City of Birmingham ("City") employees.

## SCOPE

This policy applies to all full-time, permanent classified and unclassified employees who are compensated for services by the City of Birmingham, have been employed for at least one (1) year, and who accrue vacation and sick leave.

## POLICY

It is the intention of the City of Birmingham in adopting the Sick Leave Bank to assist participating employees who have exhausted all accrued leave balances as a result of a non-job related personal catastrophic medical event or sudden change in health, or a catastrophic medical event or a sudden change in health of an employee's immediate family member or an individual who resides in the employee's home.

The Executive Sick Leave Bank Committee ("The ESLB Committee") and the Sick Leave Bank Committee ("SLB Committee.") shall administer the Sick Leave Bank in accordance with the procedure set forth in this policy.

### I. DEFINITIONS

As used in this Sick Leave Bank policy, the following terms have the indicated meaning:

a) **Accrued leave balances**: accrued balances of vacation, sick, and comp time hours.

b) **Catastrophic medical event** or **"Sudden change in health"**: a medical condition of an employee as certified by a physician and which requires an employee's continuous absence from duty for at least 40 hours or requires an individual to undergo frequent medical procedures such as, but not limited to chemotherapy or dialysis for more than eight (8) weeks; or a medical condition of an employee's immediate family member, as certified by a physician, which requires the employee to provide assistance on the day to day living activities.

c) **Employee**: all full-time, permanent classified and unclassified employees who are compensated for services by the City of Birmingham, and who accrue vacation and sick leave.

d) **Executive Sick Leave Bank Committee:** committee consisting of the Mayor, the Chief of Staff and the Human Resources Director.

e) **Good Standing**: an employee who has not been suspended for three (3) or more days within the last 12 months.

f) **Immediate Family Member**: has the same meaning as an "immediate family member" as defined by the City's Family Medical Leave Policy or a family member who resides within the same household as the employee.

g) **Sick Leave Bank (SLB) Committee**: Committee established by this Executive Order to administer the Sick Leave Bank.

h) **Initial Enrollment Period:** from June 15, 2020 to June 30, 2020.

## II. SICK LEAVE BANK COMMITTEE

The SLB Committee shall consist of seven (7) voting members and one non-voting member to be formed in the following manner:

1. The Director of Human Resources or designee shall be the Chairperson of the SLB Committee.
2. One (1) member shall be appointed by the Fire Chief.
3. One (1) member shall be appointed by the Police Chief.
4. One (1) member shall be appointed by the Public Works Director.
5. One (1) member shall be a representative of the City Attorney's Office. This member will be non-voting.
6. Three (3) members will be selected at large from the remaining City of Birmingham Departments by the Mayor.
7. The term shall be three (3) years. Provided, in order to stagger the terms, the first term of three (3) members appointed by Police, Fire, and Public Works shall be for two (2) years. Thereafter, those terms shall be three (3) years.
8. Only individuals participating in the Sick Leave Bank may serve on the SLB Committee and each member must be an employee in good standing as defined by this policy.
9. SLB Committee members are eligible for re-appointment to the SLB Committee.
10. Any member of the SLB Committee may be removed upon the recommendation for removal by the Mayor or the Director of Human Resources.
11. Any vacancy shall be filled by the appropriate appointing authority.
12. Meetings of the SLB Committee shall be scheduled on a regular monthly basis as determined by the SLB Committee. Additionally, meetings may be called by the Chairperson or by a majority of the SLB Committee.
13. The identity of the members of the SLB Committee shall remain anonymous to the extent permitted by law.
14. Members of the SLB shall not engage in discussions with a leave applicant or concerning an employee's leave application outside of discussions held with the entire SLB committee.

## III. PROCEDURE

1) <u>Eligibility for Membership</u>
   a) Employees are eligible to apply for membership in the Sick Leave Bank in the 30-day period immediately following the completion of one year of employment with the City, or during any annual benefits enrollment period thereafter.
   b) If an employee opts out of the program, any donated hours will not be returned.

2) <u>Application for Membership and Membership</u>

a) Applications for membership shall be accepted during the Annual Benefit Open Enrollment, or the 30-day period immediately following completion of the employee's first year of employment (if decided).

b) To enroll in the Sick Leave Bank, an employee must complete the Memorandum of Understanding/Sick Leave Bank Plan (Attachment A) and deliver it to the City of Birmingham's Department of Human Resources. The HR Department will determine eligibility within 30 days and applicants will be notified in writing of their disqualification from participation within 45 days of application.

c) The Sick Leave Bank activates when members contribute sixteen (16) hours of accrued sick leave when entering the Plan and an additional eight (8) hours of accrued sick leave each year thereafter. Assessments shall be made on July 1 of each year.

d) If an active participant does not have eight (8) hours of accrued sick leave on the assessment date or if the employee is on an approved leave, the employee may remain a member of the Sick Leave Bank provided that upon the employee's return to work, eight (8) hours of accrued sick leave will be donated to the Bank.

e) On the 1st day of the month following approval of membership, the applicant officially becomes a member of the bank.

## IV. REQUEST FOR BENEFITS

1) Members shall be eligible for benefits thirty (30) days after membership is approved. To be eligible to receive Sick Leave Bank benefits, the member must be in good standing as defined herein, and must exhaust all accrued leave balances. Application may be made in advance of an anticipated medical event.

2) To apply for benefits, a member shall submit a Sick Leave Bank Use Request (Attachment B) to the City of Birmingham's Human Resources Department up to thirty (30) days prior to the anticipated date when all leave balances will be exhausted. The employee requesting Leave shall provide the department payroll coordinator notice that a Leave Request has been submitted. The City of Birmingham's Department of Human Resources will review for completeness and forward the request to the SLB Committee for consideration. If a member is unable to provide the necessary documentation, the member may appoint, in writing, a designee to provide the necessary documentation.

3) The Sick Leave Bank Use Request will include the following information:

   a) Applicant's name, employee identification number, department, and classification or job title.

   b) The number of hours requested from the Sick Leave Bank.

   c) A physician's statement stating the nature of the illness or injury that will be reviewed by only Human Resources, and probable date of return to duty.

   d) Any other information offered by the applicant in support of the request.

   e) Any other information requested by the Executive Sick Leave Bank Committee or SLB Committee that is relevant to the General Policy.

   f) A Release for Health Care Records may also be requested.

4) A Leave Request for less than forty (40) hours will not be granted.

5) The employee's recuperation location must be the City of Birmingham or its vicinity unless otherwise approved.

6) Employees who are receiving benefits from the Sick Leave Bank will not accrue vacation or sick hours nor will they receive Holiday pay.
7) An employee applying for benefits shall not submit their request to any individual member of the SLB Committee, nor contact a member of the committee directly regarding the status of their application for leave.

## V. PROCESSING OF LEAVE REQUESTS

1) All applications for Leave Requests shall be submitted to the Human Resources Department.
2) Upon receipt, the Leave Request will be submitted to the ESLB Committee. Any Leave Request may be approved by any individual member of the Executive Sick Leave Bank Committee. No individual Executive Sick Leave Bank Committee member may deny any Leave Request.
3) If the ESLB Committee does not approve the Leave Request, it shall be submitted to the SLB Committee.
4) Meetings of the SLB Committee shall be scheduled on a regular monthly basis as needed. Additionally, meetings may be called by the Chairperson or by a majority of the SLB Committee.
5) The SLB Committee will review Sick Leave Bank Use Requests and grant or deny benefits by majority vote with a quorum of those present and eligible to vote. The employee will be notified of the SLB Committee's decision in writing.
6) Benefits may be awarded on a case-by-case basis provided the injury or illness is not the result of unlawful, illegal or immoral activity as determined by the SLB Committee.
7) The SLB Committee may deny a request if it is found an employee has made no effort to accumulate sick leave in case of a catastrophic medical event or sudden change in health, or in the event an employee has a habit or practice of abusing leave.
8) Benefits may be awarded in hourly increments not less than 40 hours and up to a maximum of 240 hours within a rolling twelve (12) month period (for example: January to January or May to May).
9) If the request is approved, benefits will begin when the applicant's entire accrued leave balances have been exhausted or upon SLB Committee approval date.
10) If the applicant has not previously exhausted FMLA time, Sick Leave Bank time will run concurrent to FMLA, keeping the employee in paid FMLA status. Accrued leave time will be used prior to Sick Leave Bank time.
11) Under no circumstances will benefits be based on a retroactive application.
12) Benefits will not be awarded for leave related to an on-the-job injury.
13) Denial of Leave by the SLB Committee are appealable to the Director of Human Resources. <u>Applicants to the bank will be required to complete any necessary FMLA or ADA paperwork as deemed appropriate by the Human Resources Director.</u>

## VI. HUMAN RESOURCES DEPARTMENT RESPONSIBILITY

1) The City of Birmingham Human Resources Department will maintain all records relating to the Sick Leave Bank. The Human Resources Department shall submit a quarterly report of the Sick Leave Bank's status to each member of the SLB Committee which will include the following:
    a) Beginning Sick Leave Bank balance.
    b) Contributions made to the Sick Leave Bank.
    c) Total benefits granted from the Sick Leave Bank during the prior reporting period.
    d) Ending Sick Leave Bank balance.

e) Number of Sick Leave Bank members.

2) The Sick Leave Bank's balance will equal the number of sick hours donated minus the number sick hours used. The Human Resources Department will report annually on the number of hours available in the Sick Leave Bank.

## VII. UNUSED SICK BANK TIME

If an employee does not use all time awarded from the Sick Leave Bank, within the time frame approved for use of the Sick Leave Bank hours, the hours will be returned to the Sick Leave Bank.

## VIII. SPECIAL ASSESSMENTS AND DONATIONS

1) In the quarterly report, the Human Resources Department will provide notice to the SLB Committee when the Sick Leave Bank's balance is below a 30% margin as computed by using the following formula: 8 x total number of members x 30%. In the event the Sick Leave Bank's balance falls below 30%, all Sick Leave Bank members must contribute their next accrued eight (8) hours of sick leave. Failure to contribute sick leave as required by the SLB Committee's assessment of the Sick Leave Bank balance will result in the member's involuntary termination from the Sick Leave Bank and the forfeiture of all benefits and rights with respect to sick leave previously contributed.
2) Upon retirement an employee who is an active participant in the Sick Leave Bank and has not used sick leave to increase the employee's pension benefits may contribute up to 480 hours of accrued sick leave.
3) At any time, a member of the Sick Leave Bank may donate additional hours with a request that those hours be used for a particular member's Leave Request. However, the ESLB Committee and/or SLB Committee will make the final determination if such request will be honored. If the hours donated are not used as requested, the hours will not be returned to the donating Member.

## IX. SICK LEAVE BANK TERMINATION

The Sick Leave Bank may be terminated by a repeal of this Executive Order by the Mayor of the City of Birmingham.

The adoption of this executive order supersedes any and all prior personnel policies, resolutions or executive orders that conflict with the provisions therein.

APPROVED ON THIS THE 9TH DAY OF JUNE, 2020.

RANDALL L. WOODFIN, MAYOR