

RESOLUTION NUMBER 359RESOLUTION AMENDING THE DORCHESTER COUNTY PERSONNEL
RULES AND REGULATIONS

WHEREAS, the Dorchester County Personnel Rules and Regulations were adopted on June 18, 1996 pursuant to Article 25, Section 3 of the Annotated Code of Maryland; and

WHEREAS, Section IV. I. of said Personnel Rules and Regulations provide that these Rules and Regulations may be amended, by resolution of the County Council, following the introduction of an amendment and the posting of said amendment in each department for ten days before taking action so as to provide an opportunity for employee comment; said was posted and comments taken into consideration; and

NOW, THEREFORE, BE IT RESOLVED THAT Section IV. I. is hereby amended to read as follows:

An advanced sick leave bank is established to provide paid leave to participating employees after an employee's accumulated paid leave has been exhausted and to provide leave in certain cases of illness. All regular full-time employees that have satisfactorily completed six months service shall be eligible to participate in the advanced sick leave bank. Membership in the Bank is for one (1) year, the County's fiscal year, unless leave in the Bank is exhausted and an emergency enrollment period is held. This policy will replace the former Sick Leave Bank regulation and any prior uses of that regulation will no longer apply. Please see note regarding present members.

A. Definitions

The following terms have the meanings indicated:

1. "Bank" means Dorchester County Employees' Advanced Sick Leave Bank;
2. "Open enrollment period" means the County's health insurance open enrollment period;
3. "Serious and prolonged medical condition" means a physical or mental impairment of the employee that substantially limits the ability of the employee to perform the essential functions of their job, which cannot be accommodated through reasonable accommodations. This condition must not be the result of a work-related injury, accident, or occupational disease that is covered

through Workers' Compensation Insurance. Medical documentation will be required to determine eligibility.

4. "Employee" means regular full-time employees of Dorchester County government that have successfully completed six months service.
5. "Immediate family" means employee's spouse, dependent child, or parents.

B. Administration of the Bank

1. The County Manager shall administer the Bank. The County Manager, as deems necessary, may delegate this responsibility or any parts of this responsibility.
2. Leave donations to the Bank shall be made in accordance with the provisions of this regulation.
3. Leave withdrawals and paybacks shall be made in accordance with the provisions of this regulation.
4. At the beginning of each fiscal year the County Manager, or designee, will determine the amount of leave required for employees to donate in order to join or continue membership. Each employee will be required to donate the same amount. The donation amount required may change due to the amount of leave used in the prior fiscal year or anticipated need for the new fiscal year. For example one year it may be 16 hours and the next it may be 8 hours. Again, all employees will be required to donate the same amount.
5. If the sick leave bank balance has been depleted prior to the end of the fiscal year, the County Manager may provide an emergency enrollment period for additional donations. All members will be notified of such emergency enrollment.
6. Donations at the time of an emergency enrollment period will be mandatory. Employees will not be given the option of donating or deciding not to be a member. If an employee does not have enough leave to meet the obligation, it will be deposited in the Bank as it is earned, until their obligation is met. This decision is not appealable or grievable.
7. If the sick leave bank balance has been depleted prior to the end of the fiscal year, the County Council may, upon the recommendation of the County Manager, not hold an emergency enrollment and provide funding for any requests from employees for the remainder of that fiscal year. The decision to do this will solely be at the discretion of the Council and not appealable or grievable.

C. Leave Donations

1. An employee may donate the required amount of hours to the Bank from their personal, annual or sick leave upon successfully completing six months service.
2. All other donations must be made during open enrollment to be effective at the beginning of the next fiscal year.
3. Any employee who wishes to donate leave to the Bank will be required to complete the ASLB 100 form, which will be submitted to their Department Head, indicating the type of leave and the number of hours that the employee is donating to the Bank. For new members the Department Head will be required to indicate if the employee has successfully completed six months service.
4. If the County Manager deems that the employee is ineligible to donate that decision will be final and not grievable.

D. Eligibility for Withdrawals of Leave

1. Employee must have exhausted all forms of paid leave which includes annual, sick, personal, and compensatory leave because of a serious and prolonged medical condition of the employee or employee's immediate family member;
2. Employee must have been a member of the Bank for at least 30 days or has been exempted from the membership requirements by the County Manager for good cause; and
3. Employee must have had a minimum sick leave balance of 28 hours at the time the "serious and prolonged medical condition" commenced.
4. If the County Manager deems the employee is ineligible for applying for a withdrawal this decision is final and not grievable.

E. Pay Back Requirements for Advanced Sick Leave Bank

1. Employees will be required to pay back 50% of leave received from the Bank.
2. Employees will be required to use all leave earned while on Advanced Sick Leave Bank leave. As an employee earns leave it will be automatically used. This will enable minimum usage of Advanced Sick Leave Bank leave. This will not be used towards pay back of 50% of leave used.
3. Employees will be required to pay back, at a minimum, 50% of their earned sick leave when they return to an active work status.

Each pay period 50% of earned sick leave will be returned to the Bank automatically until 50% of entire leave used is paid back.

4. Employees may also choose to use personal and/or annual leave to pay back the 50%. They must notify Human Resources, in writing, how much and what type of leave they want to use, in addition to sick leave, towards the 50% pay back.
5. Employees may also choose to pay in cash any part of the 50% pay back. This will be paid back at the rate of pay the employee was receiving at the time of the advancement from the Bank. They must notify Human Resources of their intent to pay back in cash so arrangements can be made with Finance and the correct rate determined.

F. Restrictions

1. An employee may not receive more than a combined total of 2,080 hours of leave for their own prolonged serious illness from the Bank, after pay backs, during the entire employee's County service. Once an employee has reached the 2,080 maximum, membership or withdrawals will no longer be allowed.
2. An employee may not receive more than a total of 480 hours (60 days) in a 12 month rolling period for an immediate family member. This time will not be included in the 2,080 maximum described in F. 1. (see above).
3. An employee may not use leave from the Bank for any continuous period that, when combined with all other forms of paid leave, exceeds 16 consecutive months.
4. Leave from the bank is only available for the employee and employee's immediate family members' serious and prolonged medical condition. It cannot be used for the serious or prolonged medical condition of any other family members.
5. Leave will only be granted at the time of need.
6. Sick, annual, or personal leave that is earned during the time an employee is on Advanced Sick Leave Bank leave will be used to limit the amount of Advanced Sick Leave Bank leave used.

G. Applications

1. If an employee wants to request leave from the Bank, the employee or the employee's authorized representative shall submit to their Department Head, an ASLB 101 form. This shall be reviewed, recommendation section completed, and forwarded to Human

- Resources. If the Department Head recommends denial they must place in writing why and attach supporting documentation.
2. Human Resources will be responsible for obtaining approval or denial from the County Manager. An employee shall make every effort to submit the request before the first day of leave requested. It is recommended for scheduled absences that the employee submit the form 20 working days prior to exhausting all leave. In extenuating circumstances, the County Manager shall accept late requests. If the County Manager decides not to accept a request due to timeliness that decision will be final and not grievable. Employees can request reconsideration, see K.1.
 3. Requests are required to be accompanied by the medical documentation required on the ASLB 101 form. If the County Manager determines the medical documentation is insufficient to determine if the employee meets the conditions of a serious and prolonged medical condition, the employee will be required to obtain the needed documentation before a determination will be made. If the employee does not provide the needed documentation within 15 working days of the request for additional information the request for Advanced Sick Leave Bank leave will be denied. In extreme cases the County Manager may require another medical opinion, cost to be paid by the employee or employee's health insurance. This decision will be final and not grievable.

H. Treatment of Medical Documentation

1. Medical documentation submitted with the request for leave form shall be treated as confidential medical information and shall be disclosed only to those individuals who need to know its contents as part of the review, evaluation and approval process. This documentation will then be filed in the employee's confidential medical file.
2. This medical documentation will not be released to any unauthorized parties, without the approval of the employee.
3. An employee who fails to maintain the confidentiality of the medical documentation shall be subject to discipline.
4. Confidentiality will also be maintained in accordance with the State of Maryland's Public Information Act, Annotated Code of Maryland, Title 10, Governmental Procedures, Subtitle 6 Records, Part III, Access to Public Records.

I. Criteria for Reviewing Requests for Leave

1. Leave from the Bank will be granted only to an employee with a serious and prolonged medical condition that has satisfactory medical documentation and meets all the requirements of this policy. Medical documentation must clearly indicate that the employee cannot perform the essential functions of their job, even with reasonable accommodation.
2. Approval for an eligible employee is discretionary, and denial may be based on any reason that is consistently applied and that is not illegal or unconstitutional. In denying a request, the County Manager may consider the following factors:
 - a. A record of sick leave abuse by the employee;
 - b. Insufficient medical documentation of a serious and prolonged medical condition of the employee;
 - c. Unsatisfactory employee performance ratings;
 - d. Amount of leave previously received from the Bank;
 - e. If an employee has not been able to pay back 50% of previous withdrawal;
 - f. Whether the employee qualifies under conditions of this regulation;
 - g. Whether the serious and prolonged medical condition is the result of a work-related accident, injury, or occupational disease that would be covered under Workers' Compensation Insurance;
 - h. Whether the employee will return to work; and/or
 - i. Whether the employee is qualified to apply for disability retirement.

J. Determinations by the County Manager

1. Within 30 working days of receiving the ASLB 101 form, the County Manager will issue a written determination approving or denying the request. The approval or denial will be denoted on the form.
2. Whenever the County Manager finds it necessary to refer the employee for another medical opinion, the 30 working day determination period may be extended for an additional 30 working days.
3. If the Department Head recommends denial to the County Manager, this denial must be accompanied by a statement of the reasons for the recommended denial and accompanied by supporting documentation.

4. An employee's request that is approved by the County Manager will have their leave balances adjusted within 15 working days of the determination.

K. Reconsideration

1. An employee whose request for leave from the Bank is denied by the County Manager may appeal the denial within 15 working days of the denial by submitting a written appeal requesting reconsideration to the County Council.
2. The written request for reconsideration must state the reasons the employee believes the County Manager's denial should be reconsidered and must be accompanied by supporting medical documentation.
3. Within 30 working days of receipt of the request for reconsideration, the County Council will issue a written decision granting or denying leave from the Bank.
4. This decision will be final and is not grievable.

NOTE:

Current members of the Sick Leave Bank will automatically be considered "grandfathered" for purposes of retaining their membership in the Advanced Sick Leave Bank. These "grandfathered" employees will adhere to all other aspects of the adopted resolution pertaining to withdrawals, emergency enrollments, pay backs for withdrawals after adoption of resolution, restrictions on leave granted after adoption of resolution, applications, criteria for reviewing requests, determinations, and reconsiderations. The 2080 hours of leave allowed will not apply to past withdrawals only withdrawals after adoption of the resolution. The pay back provision will not apply to past withdrawals only withdrawals after the resolution. Any newly hired employees after the date of adoption will be required to follow the above.

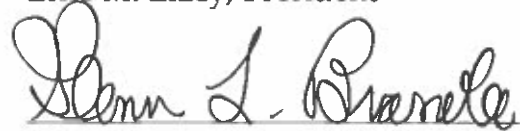
HAVING BEEN DULY POSTED IN ALL COUNTY DEPARTMENTS, THIS
RESOLUTION TO AMEND SECTION IV. I OF THE DORCHESTER
COUNTY PERSONNEL RULES AND REGULATIONS IS HEREBY PASSED
AND ADOPTED THIS 18th DAY OF MARCH, 2003 TO BE
EFFECTIVE THE 18th DAY March 2003.

ATTEST:


Jane Baynard, County Manager

THE COUNTY COUNCIL OF
DORCHESTER COUNTY:


Effie M. Elzey, President


Glenn L. Bramble, Vice-President


Dr. Thomas A. Flowers


William V. Nichols


David Yockey

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