

21.000 PAID LEAVE BANK

A. Purpose:

A Paid Leave Bank ("Bank") is established to assist eligible employees who are unable to perform the duties of their position because they suffer from a long term injury or illness, and who would otherwise have to take an unpaid leave of absence or terminate their employment. Employees who donate at least ½ day (3.75 hours) of accrued sick, vacation or personal leave or compensatory time to the Bank may receive up to an initial 60 working days (450 hours) of paid leave ("Bank leave"), and may receive an additional 30 working days (225 hours) of Bank leave consistent with the policies contained in paragraph D below.

B. Paid Leave Bank Committee:

1. A Committee, consisting of one member from each of the collective bargaining units designated by the unions and associations representing those units and two members designated by the Court Administrator, will administer the Bank.
2. The Committee's responsibilities include the following:
 - a. Selecting an individual licensed to practice medicine in the Commonwealth of Massachusetts to act as the Bank Physician. The Bank physician will determine the medical eligibility of leave requests that are referred to him/her by the Committee and may consult with other licensed health care practitioners in making this determination.
 - b. Receiving and reviewing all documentation submitted by an employee requesting Bank leave and determining whether the employee meets the conditions for Bank leave as specified in paragraph D (2) below or referring the request and all other relevant information the Committee considered to the Bank Physician for medical determination. Referral of a leave request to the Bank Physician will occur whenever a member of the Committee calls for such review.
 - c. Notifying employees of the Committee's or the Bank Physician's decision regarding their leave request.

- d. Keeping records on the amount of leave donated to and allocated from the Bank, and determining when additional donations are needed.
 - e. Preparing all forms used by the Bank.
 - f. Recommending to the Court Administrator changes in the Bank's procedures.
3. The Committee will meet within 10 days of receiving a leave request to determine whether the employee meets the conditions for Bank leave as specified in paragraph D (2) below or to refer the request to the Bank Physician.
4. If a request for Bank leave is forwarded to the Bank Physician, the decision of the Bank Physician is final and binding and not subject to appeal or the grievance and arbitration procedures contained in the various collective bargaining agreements. Otherwise, all decisions of the Committee concerning the administration of this Bank are final and binding and not subject to appeal or the grievance and arbitration procedures contained in the various collective bargaining agreements, provided that issues concerning the accrual and exhaustion of leave shall be determined by the respective collective bargaining agreement or this Manual.
5. All costs associated with the Bank Physician's review will be paid as follows:
 - a. For union employees whose request is forwarded to the Bank Physician by the Committee, the costs will be shared equally by the employee's union or association and the Trial Court. If the request is forwarded to the Bank Physician by request of a union employee pursuant to paragraph D (4) (c) below, the costs will be paid by the employee.
 - b. For union exempt employees whose request is forwarded to the Bank Physician by the Committee, the costs will be paid by the Trial Court. If the request is forwarded to the Bank Physician by request of a union exempt employee pursuant to paragraph D (4) (c) below, the costs will be paid by the employee.
6. The Committee shall treat all medical information concerning a request for Bank leave as confidential. Committee members

are prohibited from disclosing medical information concerning an employee's injury or illness to any individual who is not responsible for reviewing the employee's request for Bank leave unless the employee permits such disclosure in writing. A Committee member who fails to treat such medical information as confidential is subject to immediate removal from the Committee.

C. Bank Membership:

1. All permanent employees of the Supreme Judicial Court, the Appeals Court and the Trial Court, except Justices, elected Clerks of Court in the Superior Court Department and elected Registers of Probate in the Probate and Family Court Department, who have completed their probationary period, are eligible to join the Bank.
2. An employee who has had a bank established by the General Court prior to the effective date of this Bank may join the Bank under the following conditions:
 - a. the number of days that were donated to the legislatively created bank are less than the 60 working days (450 hours) of paid leave that members may receive from the Bank;
 - b. the employee complies with the membership requirements of this paragraph; and
 - c. the provisions of subsection D below will govern the use of Bank leave, except that the maximum number of days the employee may receive from the Bank will be the difference between the total number of days that were donated to his/her legislatively created bank and 60 working days (450 hours).
3. Employees may join the Bank by donating $\frac{1}{2}$ day (3.75 hours) of accrued sick, vacation or personal leave or compensatory time. The Committee will determine when additional donations are needed consistent with paragraph 7 below.
4. Employees who choose to join the Bank must make their donation within the 30 calendar day period following the effective date of the Bank's implementation.
5. Employees who are not members of the Bank may elect to join

during the open enrollment period. The Bank's open enrollment period shall coincide with the Group Insurance Commission's annual enrollment period for health plan coverage. Employees electing to join are required to donate a ½ day (3.75 hours) of accrued sick, vacation or personal leave or compensatory time. Newly hired employees may choose to join the Bank within 15 days of completing their probationary period. Existing members may also be required to elect to renew their membership (without additional donations unless the Committee determines additional donations are needed) during the open enrollment period.

6. All donations to the Bank shall be submitted in accordance with the following procedure:
 - a. The employee shall complete the employee's portion of the Election and Open Enrollment Form (Appendix C, Form F24) and submit it to his/her department head.
 - b. The department head shall ensure that the employee making the donation has accrued enough sick, vacation or personal leave or compensatory time to cover the donation, make the necessary adjustment to the employee's attendance calendar to reflect the donation, and complete the manager's portion of the Election and Open Enrollment Form.
 - c. The department head shall forward the completed Election and Open Enrollment Form to the Committee within three working days of receipt from the employee.
7. The Committee will determine the level at which the Bank needs additional donations. When additional donations are needed, the Committee will first notify all non-members that they may become members by donating ½ day (3.75 hours) of accrued sick, vacation or personal leave or compensatory time. If more donations are needed, the Committee will then notify all members that in order to remain members they must donate an additional ½ day (3.75 hours) of sick, vacation or personal leave or compensatory time. Failure to make this additional donation will constitute resignation from the Bank and loss of its benefits. Such an individual may re-join the Bank during the next enrollment period.
8. Employees who voluntarily resign may donate any portion of the sick leave they have accrued prior to their termination.

9. Dissolution of the Bank will occur if the level of donations in the Bank drops below 90 days (675 hours) and the Committee is unable to increase the level with additional donations pursuant to paragraph 7 above. Starting with the employees who have been members of the Bank for the longest period, any unused days will be returned in the form they were donated until all days on deposit are distributed and the Bank is dissolved. In case of a tie, seniority of employment in the Judiciary will be used to determine to whom unused days will be returned.

D. Withdrawal of Leave:

1. Only employees who have maintained membership in the Bank by making the donation(s) required under paragraph C above are eligible for Bank leave.
2. A member may receive Bank leave if the following conditions are met:
 - a. The member is suffering from a long term injury or illness as determined by the Committee or the Bank Physician. For purposes of this section, a long term injury or illness is defined as an injury, illness, impairment, physical or mental condition which prevents the employee from performing the duties of his/her position for a period of 60 work days or more in a 2-year period. The 60 work days may be consecutive or occur within the 2-year period from the filling of the leave request.
 - b. The long term injury or illness will cause the member to take an unpaid leave of absence or terminate his/her employment.
3. All requests for Bank leave shall be submitted in accordance with the following procedure:
 - a. The member shall complete the employee's portion of the Withdrawal Form (Appendix C, Form F25).
 - b. The member shall submit the Withdrawal Form along with documentation from a licensed physician describing the condition and the anticipated length of disability to the employee's department head as soon as practicable following the employee's absence from work.

- c. The department head shall complete the manager's portion of the Withdrawal Form and submit the completed form and supporting documentation to the Committee within three working days of receipt from the employee. The completed form should be submitted as soon as possible following the employee's absence from work.
4. The Committee will review each request for Bank leave to ensure that the employee has maintained his/her membership in the Bank and that the necessary information has been submitted.
 - a. If the employee has not maintained membership in the Bank, the Committee will notify the employee in writing that the request is denied.
 - b. If the employee has maintained membership in the Bank, the Committee will review the request to determine whether the employee meets the conditions for Bank leave as specified in paragraph D (2) above or may refer the request to the Bank Physician for medical determination. The Bank Physician shall provide the Committee with a written report which determines the employee's eligibility for Bank leave as specified in paragraph D (2) above. The Committee or Bank Physician may request additional information from the employee's physician in order to complete the review.
 - c. If the Committee determines that an employee does not meet the conditions for Bank leave as specified in paragraph D (2) above, the employee may ask that his/her request be forwarded to the Bank Physician for medical determination within 30 calendar days of receipt of the Committee's determination.
 - d. The Committee will notify the employee of the decision on his/her request for Bank leave and the amount of such leave that the employee may receive. A member may receive up to 60 working days (450 hours) of Bank leave in a 2-year period. The Committee will send a copy of its notification to the employee's department head, the union or association that represents the employee, the Human Resources Department of the Office of Court Management, the Commissioner of

Probation (if applicable) and the Jury Commissioner (if applicable).

An employee who has received approval for an initial 60 work days (450 hours) of Bank leave and who is unable to return to work may request in writing up to an additional 30 work days (225 hours) of Bank leave. All requests for additional Bank leave must be accompanied with supporting medical documentation justifying the need for the additional time. All such requests shall be automatically referred to the Bank Physician. The decision of the Bank Physician shall be final and binding. A total of 90 work days (675 hours) within a 2-year period is the maximum amount of Bank leave an eligible employee may receive.

5. A member whose request for Bank leave is approved must exhaust all accrued sick leave or vacation leave, personal days, compensatory time, and all other forms of paid leave before he/she may use Bank leave.
6. A member who is receiving Bank leave will receive his/her regular rate of pay, and will also continue to accrue vacation and sick leave and credit for step increases. The member must use such accrued leave before Bank leave is used.
7. A member who is receiving income from workers' compensation pursuant to G.L. c. 152 or from a state sponsored Long Term Disability Insurance Plan is not eligible to receive Bank leave. Any Bank leave received by a member prior to receipt of workers' compensation benefits will be deducted from the workers' compensation by the Trial Court and will be credited back to the Bank.
8. A member who returns to work on a full-time or part-time basis after receiving Bank leave may be required to return any unused leave to the Bank. Upon return to work, the member is required to contact the Paid Leave Bank Committee to determine whether he/she needs to return unused Bank leave. If such a member is absent from work within the 2- year period from the filing of the leave request, he/she may re-apply for the amount of the unused leave he/she returned to the Bank.
9. The provisions of this bank may be modified by written mutual agreement of the Court Administrator and the various collective bargaining representatives.

10. A member is not eligible to buy-back unused Bank leave upon termination of employment. Such unused Bank leave must be returned to the Bank