

# Sick Leave Bank vs. Pool: What's the Difference?

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Employers may choose to establish leave donation programs to assist employees who exhaust their paid leave because of an extended, catastrophic illness or injury.

A common question is whether it's permissible for employees to donate leave days to another employee in dire need. Donations to other employees are possible when an employer has a sick leave bank or pool. Although addressing a similar need, differences exist in participation requirements and administrative responsibilities.

Employers offering a pool or bank should authorize this benefit in their local leave and absence policy and address program administration through regulations or established procedures.

## **Who is eligible?**

Some banks and pools are only available for an employee's illness and others also allow access when an employee needs additional time off to care for an immediate family member. Eligibility should be based on medical certification of a catastrophic illness or injury. TASB HR Services recommends using the following definition:

*Catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the district. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions related to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.*

## **Sick leave pool**

A sick leave pool is created on an as-needed basis and ceases to exist when the employee no longer needs it (e.g., the employee returns to work) or the pool is exhausted.

A pool is initiated when the employee makes a request to the district and submits required medical certification. An administrator or leave specialist will verify eligibility and invite other employees to donate days of local or state personal leave. While the employee's name can be included in communications regarding the pool, both the employee's medical information and the donors' names should remain confidential.

The leave specialist will also keep track of pool days donated and used and protect the confidentiality of employee medical records.

Critical issues that should be addressed in administrative regulations include:

- Eligibility criteria for granting requests
- Procedures to initiate pool
- The maximum number of days individual employees may donate
- A minimum balance of leave donors must have
- The maximum number of days an eligible employee may receive
- Procedures for returning unused donated days when the pool ceases to exist

A sample framework for developing procedures to administer a sick leave pool is available in the HR Library.

## **Sick leave bank**

A sick leave bank serves the same purpose as a pool, except a bank is a non-specified leave fund that is continuously maintained. Employees elect to join the bank and are required to donate days to become members. This bank of days is only available to members who meet eligibility criteria specified in administrative regulations.

An administrator or committee considers requests for banked days and determines the number of days that will be granted. A committee can be composed of administrators and employees, although there is no requirement to involve employees in the process. Problems, such as inconsistent determination of catastrophic illness and failure to protect confidential medical information, can arise when employees are included on the sick leave bank committee. To maintain greater consistency and control of practices, administration of the bank can be assigned to HR or other administrators.

Issues that should be addressed in regulations for sick leave banks include:

- Who is eligible to join

- Number of days required to become a member
- Procedure to request days
- How many days an employee may receive
- Who will consider and approve requests
- Eligibility criteria for granting days
- Procedures and criteria for maintaining an adequate number of days in the bank
- Procedures for protecting confidentiality of medical information

A sample framework for developing procedures to administer a sick leave bank is also available in the HR Library.

## **Internal Revenue Service (IRS) rules and exclusions**

IRS rules dictate that such programs be limited to mental or physical conditions requiring a prolonged absence from work and resulting in substantial loss of income due to exhausting paid leave. Allowing donated leave for other purposes results in a tax liability for the employees who donated the leave. For this reason, sick leave pools and banks should not be used for routine illnesses or other purposes (e.g., to care for an infant or placement of a child for adoption or foster care).

Districts should also take care not to exclude “normal” pregnancy unless other non-catastrophic illnesses are excluded. Federal law prohibits sex discrimination based on pregnancy and specifically requires employers to treat women affected by pregnancy, childbirth, or related medical conditions the same as employees suffering from other health conditions.

## **Tread carefully**

Sick leave bank and pool programs require due diligence and careful consideration. Learn more about both via the HR Services publication *The Administrator's Guide to Managing Leaves and Absences* and the HR Library.

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