



## Policy 3241 Flex Leave

**Version:** 6.00

**Effective Date:** 1/2/2024

**Board or Administrative:** Board

### Policy Statement

It is the goal of Dakota County to provide equity, consistency, and flexibility in the delivery of all benefits programs. Flex Leave, in addition, also incorporates employee tenure to recognize and reward years of service to the County.

This policy provides all eligible County employees paid time off from work while ensuring departmental coverage by requiring advance notice so that planning can occur. The provisions of this policy provide cash and savings incentives. Flex Leave can be used for any purpose, including, but not limited to, safe and sick time as required by law, subject only to non-intrusive request/approval procedures consistent with law, policy, and labor contracts.

### Definitions

- *~~Donated Flex Leave Bank: a bank of donated Flex Leave converted to available wages that is maintained by the County for use by eligible employees.~~*
- *~~Donated Flex Leave Wages: wages that are produced from donated Flex Leave which are available to be paid to eligible recipients.~~*
- *Earned sick and safe time ("ESST"):* Leave, including paid time off, that is paid at the same hourly rate earned from employment that may be used for the same purposes and under the same conditions as provided under Minnesota Statutes Section 181.9447, but in no case shall this hourly rate be less than that provided under Minnesota Statute Section 177.24 or an applicable local minimum wage.
- *Employee:* any person who is employed by Dakota County and not independent contractors.
- *Flex Leave:* Paid Time Off – a combination of vacation/sick leave/bereavement leave/earned safe and sick time.
- *Limited-Term Position:* This term is defined in Policy 3060.
- *Non-Limited Term Position:* This term is defined in Policy 3060.

- *Tenure*: the total length of continuous employment with Dakota County, including approved leaves of absence and aggregate time served in limited positions since the most recent date of hire.

## Source

Dakota County Benefits Program; Minn. Stat. § 181.9446 *et seq.*

## General

This policy encourages advance planning of absences from work. To ensure necessary departmental coverage, non-emergency (planned) use of Flex Leave should be requested in advance. For non-emergency (planned) use of Flex Leave, employees should give their supervisor advance notice equal to the amount of requested time off, up to five days. Emergency (unplanned) use of Flex Leave may require documentation. Established department rules and requirements concerning employees' absences from work will be applied.

## ELIGIBILITY REQUIREMENTS

All County employees are eligible to participate in the County's Flex Leave Plan.

## ACCRUAL RATES

In compliance with Minnesota Statutes § 181.9447, subdivision 10, the County considers the first 48 hours of Flex Leave earned and Flex Leave used annually by any employee as ESST, unless otherwise designated by management and approved by the Human Resources Department.

Employees are not eligible to utilize leave for the purposes listed under the Earned Sick and Safe Time Act, Minn. Stat. 181.9447, subd. 1, clause (4), if the employee's preassigned or foreseeable work duties during a public emergency or weather event would require the employee to respond to such an emergency or event.

The documentation provisions referenced in the Earned Sick and Safe Time Act, Minn. Stat. 181.9447, subd. 3, shall not apply to paid leave available to an employee for absences from work in excess of the minimum amount required by ESST, as such absences are governed by the County Flex Leave Plan.

## Non-Limited, Special Limited-Term and Grant Funded positions

County employees in non-limited term, special limited-term, and grant-funded positions are eligible to accrue Flex Leave as listed in the chart below.

- Flex Leave accrues on a per pay period basis based on hours worked. For purposes of this policy, the use of flex leave, paid County holidays, and in all other circumstances as required by law will be

considered hours worked.

- Eligible new employees start accruing Flex Leave immediately.
- Flex Leave may be used after the pay period in which it was earned.
- Part-time employees earn Flex Leave on a pro-rated basis based on actual hours paid.

#### **Non-Limited, Special Limited-Term and Grant Funded Flex Leave Accrual Rates (based on 1.0 FTE)**

<b>Years of Service</b>	<b>Annual Accrual Rate</b>	<b>Pay Period Accrual Rate</b>
0-5 Years	160 hours or 20 days per year	6.13 hours
6-10 Years	192 hours or 24 days per year	7.36 hours
11-15 Years	240 hours or 30 days per year	9.20 hours
16 or More Years	304 hours or 38 days per year	11.65 hours

#### **Temporary, Emergency Temporary and Trainee positions**

Employees in Temporary, Emergency Temporary, and Trainee positions are eligible to accrue Flex Leave at a rate of 1 hour for every 30 hours worked, regardless of tenure or experience.

#### **USE OF FLEX LEAVE**

An employee may use accrued Flex Leave to receive paid time off of work for any reason as long as such use complies with the terms of this policy.

#### **CREDIT FOR PRIOR EXPERIENCE (Non-Union positions)**

New employees hired into Non-Limited, Special Limited-Term, and Grant Funded, non-union positions with a minimum of ten (10) years relevant recent work experience will be eligible to begin employment at the six (6) year Flex Leave accrual rate with approval of the Human Resources Director.

Employees hired into Division Director, Deputy Division Director, Department Director, Deputy Department Director, Elected Department Head's Chief Deputy, or similar positions will be eligible for Flex Leave credit and an advanced accrual rate upon hire with the approval of the Human Resources Director and County Manager.

#### **ADVANCEMENT OF FLEX LEAVE**

The Human Resources Director may approve an advancement of Flex Leave to an employee who does not have sufficient available accrued Flex Leave for the purpose of recovering away from work following a traumatic event experienced through the course of performing their duties on behalf of Dakota County. Requests for an advance of Flex Leave will be made to the Human Resources Director

by the responsible Department Director, Division Director, or similar. Advances will not generally exceed two working days (up to 16 hours). Flex Leave earned in subsequent pay periods will be credited against the advanced Flex Leave.

## **CARRY OVER OF ACCRUED FLEX LEAVE AND CONVERSION OPTIONS**

Employees in Non-Limited, Special Limited-Term, and Grant Funded positions may carry forward a balance of unused Flex Leave. The maximum carryover from one payroll year to the next is 1,000 hours. Employees who are eligible to participate in the County's Post Employment Health Care Savings Plan will have the cash equivalency of hours in excess of 1,000 deposited in the Minnesota State Health Care Savings Plan (HCSP) according to the applicable union contract and/or the Plan's plan provisions. Employees have the option to convert their accrued Flex Leave into deferred compensation or wages. Employees will make elections for conversion during the annual Open Enrollment period.

Employees in Temporary, Emergency Temporary, and Trainee positions may carry forward a balance of unused Flex Leave. The maximum carryover from one payroll year to the next is 80 hours.

## **CONVERSION OF FLEX LEAVE TO DEFERRED COMPENSATION AND WAGES**

To be eligible to participate in the annual conversion of Flex Leave to deferred compensation or wages, employees must meet the following criteria:

- Employees must have used 60 hours of Flex Leave during the first three payroll quarters
- Employees must have 60 hours of Flex Leave accrued at the last payroll preceding open enrollment
- Employees must have a balance of 40 hours of Flex Leave after conversion

### **Limitations**

The maximum amount of Flex Leave that can be converted to deferred compensation is 20 percent (subject to maximum deferral regulations as stated in IRC Section 457 and state salary statute limitations if applicable) of the total Flex Leave balance. Conversion of Flex Leave to deferred compensation will be effective the following year. Employees may convert to wages up to 100 Flex Leave hours in order to offset the cost of benefits enrollments, provided they meet the conversion requirements above.

An employee who has terminated Dakota County employment and qualifies as a Dakota County retiree may convert Flex Leave to deferred compensation, subject to maximum deferral regulations as stated in IRC Section 457, on their final paycheck prior to receiving their severance payment.

## **EMPLOYEE TENURE RESTORATION**

The accumulation of those benefits related to years of service (such as eligibility for service awards and

Flex Leave accrual rates) is based on tenure.

Employees who previously worked for the County in Non-Limited Term positions and were terminated in good standing may request to have their previous County tenure restored. All such requests will be approved at the discretion of the Human Resources Director. General considerations relating to tenure restoration are as follows:

1. The length of the employee's previous service;
2. The length of the employee's separation from employment;
3. Whether tenure restoration would be consistent with previous decisions regarding tenure restoration.

Upon written approval of tenure restoration by the Human Resources Director or designee, the benefit accrual date is adjusted to include the length of previous continuous service.

Employees in Limited-Term positions are not eligible for tenure restoration.

Employees who separate employment from the County and are rehired by the County within 180 days of the Employee's separation from employment with the County are not entitled to have their Flex Leave balance that was paid out by the County upon separation reinstated unless the County is required to do so by law.

## **FLEX LEAVE DONATION PROGRAM**

~~The County administers a Flex Leave donation program that enables qualifying employees to donate Flex Leave to or receive Donated Flex Leave Wages from the Donated Flex Leave Bank.~~

### **Recipient Eligibility**

~~To be eligible to receive wages from the Donated Flex Leave Bank, an employee must:~~

- ~~1. Experience a medical emergency of own or family member as defined under general program rules.~~
- ~~2. Need additional time off for bereavement in the event of the death of a parent, spouse, child, grandparent or employee defined family member for up to five days.~~
- ~~3. Have been continuously employed by the County in a position that is eligible to accrue and use Flex Leave for at least six (6) months immediately prior to receiving donated Leave wages;~~
- ~~4. Experience a qualifying event after six consecutive months of employment with the County;~~
- ~~5. Be eligible to accrue and use Flex Leave;~~
- ~~6. Have exhausted their own accrued Flex Leave, sick leave, floating holiday, and/or compensatory time off prior to receiving donated Leave wages;~~
- ~~7. Be approved for a leave of absence under the Family and Medical Leave Act, Americans with Disabilities Act, or a personal leave of absence for a Medical Emergency or bereavement;~~

8. ~~Expect to resume employment with the County after their leave of absence ends; and~~
9. ~~Request and be approved to receive Donated Flex Leave wages.~~
10. ~~This program is to run concurrently with FMLA or other unpaid leaves, which employees are entitled to under federal or state law or as otherwise required by the County.~~

### **Donor Eligibility**

~~To be eligible to donate Flex Leave to the Donated Flex Leave Bank, an employee must:~~

1. ~~Have been continuously employed with the County for at least six (6) months immediately prior to donating Flex Leave;~~
2. ~~Have a combined balance of at least 80 hours of Flex Leave, sick leave, and/or compensatory time off remaining post donation; and~~
3. ~~Request and be approved to donate Flex Leave.~~

### **General Program Rules**

1. ~~The program is intended to provide additional flex to deal with a medical emergency involving a medical condition of an employee or an employee's parent, spouse, child or someone the employee provides care for that will require the prolonged absence of the employee and will result in a substantial loss of income to the employee because the employee will have exhausted all sources of paid leave up to 30 days.~~
2. ~~Flex Leave cannot be donated to a particular employee(s), only to the Donated Flex Leave Bank.~~
3. ~~Eligible recipients who are part-time employees may receive a pro-rated amount of donated flex leave wages per calendar year based on their FTE status.~~
4. ~~Donated Flex Leave wages must be used by the recipient within a reasonable time after a Medical Emergency or death of a parent, spouse, or child, grandparent or other employee defined family member for up to five days.~~
5. ~~Employees applying for or receiving short or long term disability benefits, PERA disability benefits, or other income replacement benefits are eligible to receive Donated Flex Leave wages for elimination periods only, as set out in applicable plan documents.~~
6. ~~Employees applying for or receiving worker's compensation benefits are not eligible to receive Donated Flex Leave wages.~~
7. ~~Donated Flex Leave wages used by the recipient do not count toward hours worked for the purposes of overtime calculation.~~
8. ~~Eligible donors may donate up to 80 hours of Flex Leave per calendar year in one hour increments.~~
9. ~~Flex Leave donations are irrevocable; donated Flex Leave will not be returned to the employee who donated it.~~
10. ~~For employment tax and wage-based benefit purposes, donated Flex Leave is considered wages of the recipient and not the donor.~~
11. ~~Recipients do not accrue additional Flex Leave when receiving Donated Flex Leave wages.~~

~~12. The value of donated Flex Leave is calculated dollar for dollar based on the recipient's and donor's respective rates of pay at the time of use and is not eligible for retroactive or back pay.~~

## TERMINATION BENEFIT

An employee's Flex Leave balance becomes available upon termination. The County's post-employment healthcare savings plan provisions will apply if the terminating employee is eligible to participate.

## Procedures

Procedures and forms relating to this policy will be maintained by the Human Resources Department.

## History

Version	Revision Date
1.0	10/1/2013
2.0	4/21/2015
3.0	8/1/2017
4.0	11/30/2021
5.0	7/19/2022
6.0	1/2/2024
7.0	12/3/2024

## Related Policies

- [Policy 3060 Employee and Position Types](#)
- [Policy 3242 Leaves of Absence](#)

## Contact

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## **Approval**

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