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## LEAVE SHARING

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*APPLICATION: Full-time and part-time classified, and "at will" employees.*

**PURPOSE** Permits eligible employees in Leave Without Pay status to receive income by using annual leave hours donated to them by other employees.

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### ELIGIBILITY

**"Traditional" Sick Leave Program** Employees covered by Policy 4.55, Sick Leave, may request donated annual leave as described in this policy if the employee:

1. experiences leave without pay due to a personal illness or injury, or
2. experiences leave without pay due to a family member's illness or injury for which the employee is using Family and Medical Leave.

**Virginia Sickness and Disability Program** Employees covered by Policy 4.57, Virginia Sickness and Disability Program (VSDP), may request donated annual leave as described in this policy if the employee experiences leave without pay due to a family member's illness or injury for which the employee is using Family and Medical Leave.

NOTE: Employees who participate in the VSDP receive program benefits for personal injury or illness and, therefore, are not eligible for leave donations for these reasons.

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**REQUESTS/ APPROVALS** A qualified employee may request donated leave by contacting the agency's Human Resource Office or following agency procedures. The agency may develop a form for this purpose, such as Attachment A, or prescribe the process by which an employee should request leave sharing. (In the event that an employee is physically or mentally unable to initiate a request, a family member or the agency may do so.)

**Physician's Certification** To be eligible to receive donated annual leave, the employee must provide the agency with a physician's certification of his/her medical condition including the date it began and its probable duration.

For family illnesses or injuries, normal documentation under Family and Medical Leave is required.

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Employees may receive leave share donations only for periods of absence that are covered by personal or family FMLA medical certifications.

A certification by a second physician of the agency's choice may be required. However, the agency will bear the cost of a second opinion.

Any medical documentation must be maintained confidentially and in a location that is separate from the employee's official personnel file. This information must be destroyed in accordance with the Library of Virginia's General Records Retention and Disposition Schedules for State Agencies.

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**LWOP STATUS**

Before being eligible to receive continued pay through the Leave Sharing program, an employee must have exhausted all personal leave balances (annual, traditional sick, VSDP family/personal, compensatory, overtime, and any VSDP personal sick leave that may be used for FMLA family reasons) and be designated in a leave without pay (LWOP) status.

**Benefits while on LWOP**

A leave share recipient will not accrue annual leave, traditional sick leave, or VSDP leave credits while receiving pay through leave donations.

Leave and  
Holidays

Recipients of leave share donations are not eligible to receive pay for holidays. Additionally, they may not receive any salary increases until they return to a pay status.

An employee's leave anniversary date is affected by periods of leave without pay. (See Policy 4.45, Leave Without Pay – Conditional and Unconditional.)

Health Benefits

While an employee is receiving leave share donations for personal illness or injury, the agency will continue to pay its portion of the health care premium for up to 12 months.

While an employee is receiving leave share donations for absences due to FMLA family reasons, the agency will continue to pay its portion of the health care premium for the period covered by FMLA.

VRS Contributions

Periods of leave share are not considered creditable compensation for retirement calculations by the Virginia Retirement System (VRS). Therefore, contributions to VRS will be discontinued when an employee is receiving leave share

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donations.

**Payroll Deductions**

Certain payroll deductions may continue while an employee is receiving leave share donations if the employee receives income replacement sufficient to cover the deductions. Among these are health care premiums and other voluntary deductions.

If the income replacement received through leave share donations is insufficient to cover such deductions, the employee must make arrangements with his or her agency to continue or cancel the deductions.

However, employees who are under contract to purchase VRS service credit may not have this deducted from their leave share checks and must make arrangements with VRS to continue their payments.

**Group Life Insurance**

Employees receiving leave share donations continue to be covered under the Commonwealth's group life insurance policy for up to two years.

**Waiting Period**

An agency may require a waiting period of up to 80 hours of LWOP before permitting leave share payments. If agencies require waiting periods, they must notify employees of this requirement.

**Disciplinary Suspensions**

NOTE: Employees are ineligible to use donated leave during the period of any disciplinary suspensions.

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**PROCEDURES FOR DONATIONS**

A donor may authorize donations of accrued annual leave according to the guidelines of the donor's agency in minimum increments of 8 hours by completing a Donor Form and submitting it to the Human Resource Office. (See Model Donor Form, Attachment B. Agencies may use this form or develop a form for agency use.)

Donors do not have to retain any minimum leave balances, nor is there a limit on the number of annual leave hours they may donate.

**Interagency Donations**

An agency may accept annual leave donations from employees of other Executive Branch agencies.

An inter-agency donation of leave will involve a transfer of leave credits only. Inter-agency donations of leave may occur among agencies only if the receiving agency accepts the financial responsibility of continuing the absent employee's

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salary.

Agencies should communicate to employees their practice regarding accepting Leave Sharing donations from other agencies.

Donations for Family Members

An agency must accept annual leave donations from employees in other Executive Branch agencies for family members who are eligible to receive leave share donations under this policy.

Family members eligible for such donations include the employee's spouse, parents/step-parents, siblings/step-siblings and children/step-children.

NOTE: The definition of family members who may donate leave to employees differs from the definition of family members for whom an employee may use FMLA leave.

**Returning Leave Donations**

If an employee receives donated leave in excess of the amount needed to cover his or her absence, the excess leave will be returned to the donors in reverse order of the receipt of donations.

Leave given by a donor may be reclaimed by the donor only if the donation has not yet been processed.

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**EXCLUSIONS**

**For Employees Covered by Traditional Sick Leave**

Medical conditions of the employee will be excluded from eligibility for leave sharing benefits if they result from:

1. any occupational-related accident or illness for the period for which Workers' Compensation (WC) benefits have been awarded or could have been awarded, if the employee had cooperated with WC Program requirements;
2. intentionally self-inflicted injuries, except as a result of conditions that qualify under ADA; or
3. injuries occurring in the course of violating a law.

**For Family Members**

Medical conditions of the family member will be excluded from eligibility for leave sharing benefits if they result from:

1. intentionally self-inflicted injuries, except as a result of conditions that qualify under ADA; or
2. injuries occurring in the course of violating a law.

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**REIMBURSEMENT**

Recipients shall be required to reimburse the agency for pay

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**REQUIRED** received for donated annual leave hours when either of the following situations occurs:

1. when an employee receives compensation through the leave sharing program and, subsequently, receives retroactive workers' compensation benefits for that same period of time; or
2. when the employee's agency determines that abuse has occurred.

If recipients reimburse the agency in situations described above, leave hours will be returned to the original donor(s) according to agency guidelines.

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**PENALTIES FOR ABUSE** If abuse is verified, the recipient will be required to repay the cost of all donated leave at the salary rate in effect at the time the employee was placed on leave without pay. Additionally, the employee may be disciplined in accordance with provisions of Policy 1.60, Standards of Conduct.

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**AUTHORITY** The Department of Human Resource Management issues this policy pursuant to the authority provided in Chapter 12, Title 2.2 of the Code of Virginia.

This policy supersedes Policy 4.35, Leave Sharing, effective September 16, 1993.

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**INTERPRETATION** The Director of the Department of Human Resource Management is responsible for the official interpretation of this policy, in accordance with §2.2-1201 of the Code of Virginia.

Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Office of Agency Human Resource Services.

The Department of Human Resource Management reserves the right to revise or eliminate this policy.

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**RELATED POLICIES**

- 4.20, Family and Medical Leave
- 4.45, Leave Without Pay – Conditional/Unconditional
- 4.55, Sick Leave (“Traditional” Sick Leave)
- 4.57, Virginia Sickness and Disability Program

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6.10, Personnel Records Management

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*COMMONWEALTH of VIRGINIA*

**Recipient Application Leave Sharing Program**

I wish to apply for leave share donated hours as indicated below.

Applicant Name: \_\_\_\_\_

SSN OR ID #: \_\_\_\_\_

AGENCY NAME/NO.: \_\_\_\_\_

PURPOSE OF LEAVE: \_\_\_\_\_

ESTIMATED LENGTH OF ABSENCE: \_\_\_\_\_

I understand:

- my rights as outlined in the Policy 4.35, Leave Sharing Program and agree to the procedures and
- that I must submit this completed form with medical documentation to Human Resources.

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

AGENCY LEAVE ADMINISTRATOR: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

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*COMMONWEALTH of VIRGINIA*

**Donor Form - Leave Sharing Program**

I wish to donate annual leave hours as indicated below. I understand that I cannot reclaim these donated annual leave hours after they have been processed to the recipient, except as permitted by Policy 4.35.

DONOR NAME: \_\_\_\_\_

SSN OR ID #: \_\_\_\_\_

AGENCY NAME/NO.: \_\_\_\_\_

ANNUAL LEAVE HOURS DONATED: \_\_\_\_\_

RECIPIENT'S NAME OR CASE #: \_\_\_\_\_

RECIPIENT'S SSN OR ID # (if known): \_\_\_\_\_

RECIPIENT'S AGENCY/NO.: \_\_\_\_\_

DONOR'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

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AGENCY LEAVE ADMINISTRATOR: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

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