Virginia Department of Human Resource Management

POLICY 4.35, LEAVE SHARE

APPLICATION: Executive Branch classified employees and probationary employees.

PURPOSE:
It is the policy of the Commonwealth to permit eligible employees in Leave Without Pay (LWOP) status to receive income by using annual leave hours donated to them by other employees.

AUTHORITY & INTERPRETATION:
Title 2.2 of the Code of Virginia

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with §2.2-1201 of the Code of Virginia. The Department of Human Resource Management reserves the right to revise or eliminate this policy.

CODE OF VIRGINIA:
Not applicable.

POLICY HISTORY:

EFFECTIVE DATE	DESCRIPTION
9/16/1993	Policy created.
5/1/2002	Revised.
11/25/2013	Revised.
08/22/2025	Revised
10/15/2025	Revised

Eligibility

<table>
<tr><th>General Provisions</th><th>Application</th></tr>
<tr><td>Eligibility Criteria</td><td>Agencies may approve Classified or Probationary employees to participate in Leave Sharing provided the employee:

Has exhausted all available leave balances for

A prolonged personal injury or illness or
Parent, Son, Daughter or Spouse’s prolonged injury or illness

Employees must be in a Leave without Pay (LWOP) status as defined in Policy 4.45, Leave without Pay Conditional or Unconditional.
Agencies may require a waiting period of up to 80 hours of LWOP before permitting leave share donations and the respective payments.

NOTE: Leave without Pay is defined as a period extending 14-consecutive calendar days.
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<tr><td>Virginia Sickness and Disability Program (VSDP) Participants</td><td>
Leave share donations shall not be used to replace or substitute for short-term disability income. Employees eligible for the VSDP program must apply for disability benefits.
Leave share donations for personal injury/illness for VSDP participants may be used for the seven-day waiting period and/or as a leave supplement to the percentage of income replacement during the short-term disability claim.
Leave share donations cannot be used during periods of short-term disability working, long-term disability working or long-term disability.
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Requests/ Approvals

<table>
<tr><th>General Provisions</th><th>Application</th></tr>
<tr><td>Maximum Leave Share per Leave Year</td><td>The maximum leave share that may be approved and used is 480 hours. Once the maximum donations are achieved for an employee, the agency may not continue to accept leave share donations for the employee.</td></tr>
<tr><td>Request and Approval Process</td><td>A qualified employee may request donated leave by contacting the agency's Human Resource Office or following agency procedures.
Agencies may use the DHRM Recipient Application and Donor form or develop a form and create a process by which an employee should request leave share approval and donations. The Agency form and process must be approved by DHRM.
A family member or an agency HR representative may submit a leave share request if the employee is physically or mentally unable to initiate the request.
Employees may receive leave share donations only for the approved period of eligible unpaid absences in accordance with this policy.
Employees must provide the agency with a certification from their treating health care provider outlining their or their immediate family member's serious medical condition including the date it began, its probable duration and describe the care provided by the employee for an ill or injured family member.
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.
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</td></tr>
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General Provisions	Application
	• An agency may limit the amount of leave share payments (up to a maximum of 480 hours) that will be awarded to individual recipients per event, per leave year, or per individual. If agencies limit such leave share payments, they must notify employees of this requirement in advance and apply the limit consistently.

Leave without Pay Status – Compensation and Benefits

General Provisions	Application
Leave without Pay Status	• Leave share recipients will be placed in a Leave without Pay – Conditional status during all approved periods of leave share. • An employee's leave anniversary date is affected by periods of leave without pay. (See Policy 4.45 - Leave Without Pay – Conditional and Unconditional.)
Employee Schedule during Periods of Leave Share	• When a full-time employee is on approved leave share, their work schedule must revert to a standard 8-hour day, five-days a week schedule. This schedule includes those pay periods in which the employee starts Leave Share or returns to work following Leave Share.
Leave Accrual during Periods of Leave Share	• A leave share recipient will not accrue annual leave, traditional sick leave or VSDP leave annual allotments while receiving pay through leave share donations. • Upon the employee's return to work from Leave without Pay, the VSDP leave will be allotted.
Leave and Holidays	• Leave donations may be used to replace income on holidays that occur during an employee's absence for the approved leave share event.

General Provisions	Application
Health Benefits	• While an employee is receiving leave share donations, the agency will continue to pay its portion of the health care premium. • Employees must continue to pay their portion of their health care premium to continue their coverage.
VRS Contributions	• Periods of continuous leave share are not considered creditable compensation for retirement calculations by the Virginia Retirement System (VRS). Therefore, agency and employee contributions to the VRS will be discontinued when an employee is receiving leave share 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 deductions 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 arrange with their agency's Office of Human Resources to continue or cancel the deductions. • Employees who are under contract to purchase VRS service credit may not have this deducted from their leave share checks and must contact the 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.
Compensation Adjustments	Employees receiving leave share donations are not eligible for salary increases until they return to a paid status and are no longer receiving leave sharing donations.

Procedures for Leave Share Donations

General Provisions	Application
Leave Share Donations	• Donations to a Leave Share recipient are limited to accrued annual leave hours. • Donors to a leave share recipient may not donate from leave balances that exceed the donor's carryover limit established in DHRM Policy 4.10, Annual Leave. • Leave share donations must be submitted in 8-hour increments. • Donors must retain a minimum annual leave balance of 40 hours. Otherwise, there is no limit on the number of annual leave hours a donor may donate to an approved Leave Share recipient. • Donations are processed in the order in which they are received by Human Resources. • While excess donations will not be requested, there may be occasions when the employee may not need to use the accumulated donations. In those instances, the excess leave share donations are not returned to the donors. • Leave share donations may be applied intermittently.
Agency Responsibilities for Leave Share Donations	• Agencies must accept leave share donations of accrued annual leave from classified and probationary state employees within the same agency or from other Executive Branch agencies that follow the DHRM Annual Leave Policy. • Agencies must use a Leave Share Donor Form requiring an authorized signature from the employee donating the leave. DHRM's Leave Share Donor Form may be used, or agencies may develop their own form with DHRM's approval. • Agencies may not create or maintain a leave share bank. Leave share donations must be for a specific employee

General Provisions	Application
	approved to participate in leave share for the designated approval period. • Excess leave share donations must not be accepted or retained by the agency for future use. For example, a leave share recipient's designated approval period of six weeks establishes a maximum donation balance of 240 hours. Note: The agency may approve an additional period for leave share as needed and accept additional leave share donations for the extended period per required documentation.

Exclusions and Considerations

Exclusions for Employees	Medical conditions of the employee will be excluded from eligibility for leave sharing benefits if they result from: • 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. • injuries occurring in the course of violating a law.
Exclusions for Family Members	Medical conditions of the family member will be excluded from eligibility for leave sharing benefits if they result from: • injuries occurring in the course of violating a law.
Reimbursement Required	• Leave Share recipients shall be required to reimburse the agency for pay received for donated annual leave hours when either of the following situations occurs: ○ when an employee receives compensation through the leave sharing program and, subsequently, receives retroactive WC benefits for that same time. ○ when the employee's agency determines that abuse has occurred.

General Provisions	Application
	• If recipients reimburse the agency in situations described above, leave hours may be returned to the original donor(s) according to agency guidelines.
Penalties for Abuse	For purposes of this policy "abuse" is defined as: • Providing false information on the Recipient Application Form. • Failure to disclose receipt of a Workers' Compensation award. • Other actions knowingly taken by the employee to receive leave donations to which he/she otherwise would not be entitled. • If abuse is verified, the recipient will be required to repay the cost of all donated leave at their 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.

GLOSSARY

Americans With Disabilities Act Amendments Act (ADAAA)	Federal law that prohibits employment discrimination against qualified disabled individuals and requires covered employers to provide reasonable accommodation to those individuals unless that accommodation would impose an "undue hardship" on the employer.
Parent	Biological parent or individual who stands in place of the parent of the employee and is charged with the duties and responsibilities of the parent
Son or Daughter	A biological, adopted or foster child, a stepchild or legal ward or a child of a person standing in place of the parent. The child must be under the age of eighteen. If an adult son or daughter is determined to be incapable of self-care because of a mental or a physical disability.
Spouse	Husband or wife as recognized in accordance with Executive Order 30

	(2014) Marriage Equality in the Commonwealth of Virginia.
Virginia Sickness and Disability Program (VSDP)	Provides eligible employees supplemental replacement income during periods of partial or total disability for both non-occupational and occupational disabilities. Administered by the Virginia Retirement System. See Policy 4.57 – VSDP.
Workers' Compensation (WC) Benefit	Income replacement as awarded by the Virginia Workers' Compensation Commission (VWCC) when an employee suffers a compensable work-related injury or illness. Income replacement is awarded by the VWCC and is based upon 66 2/3 percent of the average of the last year's earnings prior to the accident within a minimum and maximum amount as established by the VWCC. See Policy 4.60 – Worker's Compensation.