



HUMAN RESOURCES

Division: **ADMINISTRATION**

Chapter: **HUMAN
RESOURCES**

Policy: **HR 1.2 - VOLUNTARY
SHARED LEAVE**

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Purpose

An employee may donate leave, as outlined below, to an employee who has been approved to receive voluntary shared leave because of a medical condition of the employee or of a member of the employee's immediate family that will require the employee's absence for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave.

Policy

It is the policy of the Department of Public Safety to administer a Voluntary Shared Leave (VSL) Program consistent with State and Department policies, procedures, and guidelines and to ensure fair and equitable participation.

General Provisions

- A. In cases of a prolonged medical condition, as defined in this policy, an employee may apply or be nominated to become a recipient of leave transferred from the applicable leave account of another employee from any state agency or from the applicable leave account of an applicable member in any state agency, so long as the other state agency is covered by the State Personnel Act, G.S. 126, the Public School System and Community Colleges. (This policy does not apply to most local governments).
- B. Participation in the program presumes justifiable past use of earned leave benefits. Documentation that an employee has abused his/her leave benefits and privileges or has unwisely used leave with the knowledge of an impending need for leave, may be disqualifying factors for participation in the VSL Program.
- C. Vacation, bonus or sick leave transferred and used on a shared basis for any purpose other than what is specified by this policy is strictly prohibited. All donated leave shall be received and used by the recipient as sick leave. Establishment of a leave "bank" for use by unnamed employees is prohibited. Leave must be donated on a one-to-one personal basis.

Definitions

A. Prolonged Medical Condition or prolonged period of time:

1. A medical condition of an employee or an employee's immediate family member which requires an absence from duty for a prolonged period of time, but for not less than twenty (20) consecutive scheduled workdays or 160 hours, as verified in writing by the health care provider. Specifically included are:
 - a) The normal disability period associated with delivery and recovery from childbearing,
 - 6 weeks for a normal/natural delivery
 - 8 weeks for a caesarian section delivery
 - b) Participation in a drug and/or alcohol treatment program for a minimum of twenty (20) or more consecutive scheduled workdays.
2. A medical condition of an employee or an employee's immediate family member which requires an absence from duty on an intermittent basis, where prior absences as a direct result of the condition equal twenty (20) workdays or 160 hours during the immediately preceding six (6) months.

Not included are short-term or sporadic conditions or illnesses, including but not limited to such things as sporadic short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term recurring medical or therapeutic treatments which have no specific time frame, i.e., beginning and ending dates.

Each medical condition shall be reviewed individually and a determination made based upon the facts provided by the health care provider (i.e., medical doctor, psychologist, psychiatrist, etc.), the circumstances surrounding the case and the case's conformity to program intent.



B. Immediate Family Member:

| Spouse | Parent (Mother/Father) | Child (Daughter/Son) | Brother/Sister | Grand/Great | Dependents |
|---------|---------------------------|-------------------------|----------------|-------------|------------------------------------|
| Husband | Biological | Biological | Biological | Parent | Living in the employee's household |
| Wife | Adoptive | Adoptive | Adoptive | Child | |
| | Step | Foster | Step | Step | |
| | <i>In Loco Parentis</i> | Step | Half | In-law | |
| | In-law | <i>In Loco Parentis</i> | In-Law | | |
| | | In-law | | | |

Eligibility

- A. An employee shall be a full-time or part-time (*half-time or more*) employee with a permanent, probationary, trainee, or time-limited appointment. The limitation and leave balance for permanent part-time employees is prorated. Temporary, intermittent, and part time (less than half-time) are not eligible for leave.
- B. The employee shall have been absent from work or anticipate an absence from work as a result of a prolonged medical condition for a minimum of twenty (20) consecutive scheduled workdays or 160 hours; or the employee shall have had intermittent absences during the immediately preceding six (6) months equaling 160 hours as a direct result of the medical condition which is the immediate cause for requesting leave.
- C. An employee who is receiving benefits from the Disability Income Plan of North Carolina is not eligible to participate in the program. Shared leave may be used by an employee who has been approved for benefits under the Disability Income Plan of North Carolina during the waiting period and following the waiting period provided disability benefits have not begun.
- D. Any employee on Worker's Compensation leave who is drawing temporary total disability compensation may be eligible for participation in this program. Use of donated leave under the Worker's Compensation program would be limited to use with the supplemental leave schedule issued by the Office of State Personnel.

- E. Any employee in receipt of Workers' Compensation benefit (i.e., Temporary Total Disability (TTD) or Salary Continuation Program) may be eligible to donate leave under this program. Employees receiving TTD benefits may donate leave earned as of the date of injury. The employee must have been in active leave earning status prior to worker's comp TTD benefits and otherwise qualify to donate leave. Leave earned during the first twelve (12) months under TTD is not available for donation until the employee is reinstated. Employees receiving Salary Continuation may donate leave as if they are working.

Application Procedures

A prospective recipient shall apply or be nominated by a fellow employee to participate in the program. Employees may apply for participation in the VSL Program at such time as medical evidence is available to confirm a prolonged medical condition and support the need for leave beyond the employee's available accumulated leave.

- A. Employees shall apply by completing the VSL Program Application/ Release Form and submitting it through the chain of command to the Central HR VSL Coordinator. Employees nominated for participation are still required to submit a completed VSL Program Application/ Release Form with all supporting documentation for approval.
- B. Employees must have their treating physician to complete Section 3 (Medical Certification) of the Application/ Release Form to include the following:
1. A statement from the health care provider with the beginning and ending date of disability, nature of the medical condition and signature/date of the health care provider. A beginning and ending date of "To Be Determined (TBD)", "Unknown", "lifelong" or "lifetime" in lieu of an end date cannot be accepted. An ending date is required.
 2. When the recipient is applying for shared leave due to the illness or disability of an immediate family member, the recipient shall have the health care provider for the immediate family member complete Section 3 of the VSL Application explaining why the employee/recipient is needed to help care for the immediate family member and what type of medical care he/she will be providing.

NOTE: While providing emotional or psychological support for the immediate family member may be sufficient to approve Family Medical/Illness Leave, greater detail of the medical care being provided by the immediate family member is needed to warrant approval for shared leave

- C. For intermittent VSL absence approvals, the manager/employee supervisor must confirm all absence dates within the immediately preceding six (6) months that the employee was away from work due to the medical condition. This is required to be submitted with the Application/Release Form only if the employee has not been absent

for twenty (20) consecutive scheduled workdays. Medical documentation is required to be in the employee's medical file to support each prior intermittent absence.

- D. The completed Application and Release Form shall be submitted through the employee's work location chain of command for review and approval.

NOTE: Failure to fully complete the Application/ Release Form, including all required signatures, dates, and requested information, or failure to include medical documentation verifying the medical condition and the duration of the medical condition shall result in significant processing delays and may result in a denial of the employee's request to participate in the VSL program. Failure to comply with all timelines as stated in this policy shall result in a denial of the employee's request to participate in the VSL program. Documentation that an employee has abused his/her leave benefits and privileges may also be a reason for disapproving a request to participate in the VSL Program even if the employee has complied with all other requirements/criteria for participation. Such disqualifying factors shall be applied in a consistent, fair, and reasonable manner to all employees and shall be appropriately documented.

- E. Following receipt of the completed VSL application package, the Central HR VSL Coordinator shall review the request and render a decision consistent with the recipient guidelines described in this policy.
- F. Upon reaching a decision, the Central HR VSL Coordinator shall notify the work unit, in writing, of the decision and, if approved, the beginning and ending dates of the donation period.
- G. A donation period of twenty-five (25) calendar days shall be established. Donations will only be accepted during this period. The donation period shall begin on the date of application approval and end on the twenty-fifth (25th) calendar day. ***ABSOLUTELY NO EXTENSIONS WILL BE PERMITTED.*** Any donation of leave received after the twenty-fifth (25th) calendar day shall be disapproved.
- H. Upon receipt of the written approval from the Central HR VSL Coordinator, the work unit shall be responsible for notifying the recipient, in writing.
- I. The Central HR VSL Coordinator shall publicize the recipient's application approval for participation in the VSL Program, via e-mail to all work units within the Department, for purpose of advising prospective donors.
- J. Once the work units receive the broadcast memorandum, it must be posted and/or distributed to employees within three (3) calendar days, for all employees to read, unless the recipient chooses not to publicize their participation.

- K. The recipient shall be responsible for notifying immediate family members in other state agencies, public schools, and community colleges of the application approval. The recipient is also responsible for notifying non-family members in other state agencies.

Recipient Guidelines

- A. An employee approved for participation in the VSL Program must exhaust all available leave (i.e., sick leave, compensatory leave, vacation leave and bonus leave) prior to using any donated leave. This includes vacation and sick leave accumulated while in pay status (i.e., exhausting paid leave benefits).
- B. Participation in the VSL Program is limited to a total of 1,040 hours (*prorated for part-time employees*) per medical condition. An employee may apply more than once for the same medical condition provided the employee returns to work for more than five (5) consecutively scheduled work days and meets the definition of a prolonged medical condition. The HR Director or designee may grant a continuation to a maximum of 2,080 hours on a case-by-case basis.
- C. Recipients may use donated leave on an intermittent basis provided there is a defined period of time with a beginning and ending date to the condition or for the treatment and so long as all other requirements for approval for participation in the VSL Program have been satisfied. In such cases, an employee is required to exhaust all available approved and sick leave credits, including leave accumulated while in pay status, prior to using any donated leave.
- D. Donated leave shall be available for use on a current basis or may be retroactive for up to sixty (60) calendar days from the date the donated leave is approved by the DPS HR VSL Coordinator to substitute for advanced vacation/sick leave already granted or leave without pay. Donated leave should be applied to advanced leave before applying it to leave without pay.
- E. At the expiration of the employee's participation in the VSL Program, any unused sick leave in the recipient's leave account, in excess of forty (40) hours, shall be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of an hour shall not be returned to the donor(s).
- F. A recipient may return to work for a trial period not to exceed five (5) consecutive scheduled workdays without affecting his/her eligibility for continued participation in the VSL Program.
- G. If a recipient separates for any reason from State government, participation in the program ends. All unused donated leave shall be returned to the donor(s) on a pro rata basis.

- H. If an employee is on an existing VSL event and another medical event and/or diagnosis occurs, the employee must return to work to be eligible for a new VSL designation.

Donor Guidelines

- A. In order to donate leave, an employee must at the time of donation be an active employee (not separated); be in a position that earns leave; and have sufficient leave balances.
- B. Family Member Donations: An employee of any agency, public school system, or community college may contribute vacation/bonus or sick leave to another immediate family member in any agency, public school system or community college. This includes family members on leave of absence without pay.
- C. Non-Family Member Donations: An employee may donate the following to a non-family member:
1. An employee may donate vacation or bonus leave to another employee in any State agency.
 2. An employee may donate vacation/bonus leave to a co-worker's immediate family member who is an employee in a public school or community college. The employee and co-worker must be in the same agency. This includes non-family members on leave of absence without pay.
 3. An employee of a State agency may donate sick leave to a non-family member of a State agency under the following provisions:
 - a) The donor shall not donate more than five days (40 hours) of sick leave per year to any one non-family member;
 - b) The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 20 days (160 hours) per year;
 - c) Donated sick leave shall not be used for retirement purposes, and
 - d) Employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave.

NOTE: At retirement a member of the TSERS with an earned sick leave balance receives an additional month of service credit for each 20 days or portion thereof. The additional service credit increases the retirement benefit for the remainder of the life of the retiree.

- D. Employees on workers' compensation leave of absence (LOA) can donate leave earned prior to going on LOA. The employee must have been in active leave earning status prior to workers' comp LOA and otherwise qualify to donate leave. Leave earned while

on workers' comp LOA is not available for donation until the employee is reinstated from LOA.

- E. State employees who are exempt from the personnel act (EPA) can only participate if they are in comparable leave earning and reporting positions. Paid Time Off (PTO) leave programs are not considered comparable.
- F. The maximum amount of vacation leave that may be donated may not be more than the amount of the donor's annual accrual rate, and may not reduce the donor's vacation leave balance below one-half of the annual vacation leave accrual rate.
- G. The maximum amount of sick leave that may be donated is 1040 hours, but may not reduce the sick leave account below 40 hours.
- H. The minimum amount of vacation or sick leave that may be donated is four (4) hours.
- I. Bonus leave may be donated without regard to the above limitations on sick or vacation.

Procedures for Donating Leave

- A. Department of Public Safety (DPS) employees who wish to donate leave to a DPS employee shall complete the DPS Donor Form and submit to their HR Representative/VSL Designee at their respective work location. The HR Representative/VSL Designee will forward the donations to the DPS HR VSL Coordinator.

NOTE: The donor forms must be received in the Central HR Benefits Section on or before the twenty-fifth (25th) calendar day, of the donation period. Failure to do so may result in the donation being disapproved.

- B. Upon receipt of the completed Donor Form, the DPS HR VSL Coordinator will verify leave account information for authorization for final approval.
- C. Employees of other state agencies, public schools and community colleges who wish to donate leave to a Department of Public Safety employee shall complete the Department of Public Safety's Donor Form, or their agency donor form. They must contact their Agency personnel office to advise their desire to donate leave, obtain approval, and forward the completed form to the DPS Human Resources (HR) Benefits office. The DPS HR VSL Coordinator shall provide written notice to the donor's employer that the transfer of leave has been accepted.
- D. After approval of the employee's request for participation in the Voluntary Shared Leave Program, the HR VSL Coordinator shall review all Donor Forms, approve/disapprove the donation and notify the work location's HR designee.

- E. Employees of the Department of Public Safety who wish to donate leave to other state agencies, public schools or community colleges shall:
1. Complete the Donor Form, or similar form provided by the recipient's employer, Obtain a copy of recipient's approval notification for participation; and
 2. Submit the above to their HR Representative/VSL Designee. The HR Representative/VSL Designee will review, sign and submit the donor form to the DPS HR VSL Coordinator's office for approval. If approved, the HR VSL Coordinator will forward to BEST Shared Services for processing.

Leave Accounting Procedures

- A. The work unit Time/Leave Administrator or Designee shall be responsible for maintaining records of leave accountability that accurately reflects leave donations and recipient's use of donated leave for financial and management audit purposes.
- B. Leave donated shall be approved and deducted from the donor's appropriate leave account by the Central HR VSL Coordinator.
- C. All donated leave shall be credited to the recipient's sick leave hierarchy account under the VSL quota type 80 by the Central HR VSL Coordinator.
- D. VSL exhausted under participation in the VSL program shall not be processed until after the twenty-five (25) calendar day donation period and after the employee's work unit receives the donation approval notification from the Central HR VSL Coordinator. The Beacon LOA process no longer allows the employing unit to keep the employee in pay status on the assumption that donations will be received or approved.
- E. All donated leave shall be charged according to the Sick Leave hierarchy using A/A type 9200 by the work unit Time/Leave Administrator or Designee.
- F. While exhausting donated leave, a recipient is in pay status and therefore, continues to accumulate leave benefits.
- G. Accumulated leave shall be exhausted prior to using donated leave.
- H. At the exhaustion of all VSL donations or the employee's return to work/separation/transfer while exhausting VSL, the recipient's work unit Time/Leave Administrator or designee shall complete the VSL Worksheet and forwarding a completed copy to the HR VSL Coordinator.
- I. At the expiration of the recipient's participation in the VSL Program, any unused sick leave in the recipient's VSL bucket, in excess of forty (40) hours, shall be returned to active (working or on leave of absence) donor(s) on a pro rata basis and credited to the leave account from which it was donated. The recipient may retain 40 hours of VSL at

the expiration of participation (prorated for part-time employees). All leave up to 40 hours will be moved to the recipient's sick leave bucket by the HR VSL Coordinator. Employees who donate vacation leave in excess of the 240 hour maximum allowable carryover at the end of the year may have it returned and converted to sick leave if it is not used by the recipient. Fractions of one (1) hour shall not be returned to an individual donor.

Expiration of VSL Benefit

Each approved medical condition shall stand alone. Donated leave not used in accordance with the provisions of this policy shall be considered as having served its purpose, shall lose its identity, and shall be deleted and the account closed. An employee's participation in the VSL Program shall expire when one of the following events occur:

- A. The employee/recipient returns to work
- B. The recipient's Donation Period ends and the employee exhaust all donated leave;
- C. The employee receives and exhausts the maximum amount of leave that may be received per condition;
- D. The employee begins receiving benefits under the Disability Income Plan of North Carolina;
- E. The recipient transfers to another State agency (the employee must make a new request in the receiving agency);
- F. The employee separates from State Government; or,
- G. The death of the employee or the death of the immediate family member for whom the employee has been using leave.

Confidentiality of Records

The Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient has a prolonged medical condition (or the family member) needs to be made. If the employee wishes to make the medical status public, the employee must sign a release to allow the status to be known. Therefore, all records associated with the VSL Program are confidential and shall be maintained in that manner. As required by the Americans with Disabilities Act of 1990, those records that are also medical records shall be maintained in the recipient's employee medical record separate from the primary personnel record. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave.

Intimidation or Coercion Prohibited

An employee shall not directly or indirectly attempt to intimidate, threaten, coerce or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Employees shall not sell their leave for money or exchange their



leave for favors. Such actions by an employee shall be viewed as unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.

Reports

The State Personnel Commission shall report annually to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 each year. The report shall include the total number of days or hours of vacation leave and sick leave donated and used by VSL recipients and the total cost of the vacation leave and sick leave donated and used.