Loudoun County Government
Administrative Policies and Procedures

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<th>Title: Donated Leave Procedures</th>
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I. AUTHORITY

Chapter 6.0, Section 6.12 (C) of the HR Handbook as approved by the Board of Supervisors authorizes the County Administrator to establish and maintain administrative policies and procedures outlining eligibility requirements for donated leave and the administration of the donated leave benefit.

II. GENERAL PROCEDURES

A. Definitions:

1. **Donated Leave**: Leave transferred from one employee to another in accordance with the procedures detailed in this policy. All donated leave is considered sick leave once transferred to the employee who requested the leave, and shall be subject to all County policies and procedures governing sick leave unless otherwise noted herein.

2. **Immediate Family Member**: For the purposes of this policy, the term “immediate family” is defined as:

   - The employee's spouse.
   - The employee’s biological, step, or adopted son, daughter, parent, sibling, grandparent, or grandchild or any of these relations as an “in-law.”
   - A minor child to whom the employee is serving “in loco parentis” or a person who served “in loco parentis” to the employee when the employee was a minor.
   - An individual for whom the employee serves as the legal guardian, foster parent, next of kin, or medical power of attorney.
   - A current member of the employee’s household.

3. **Healthcare Provider**: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person who is determined to be capable of providing health care services as stated in IRC §825.125 and who is authorized to practice in the State and performing within the scope of his/her practice as defined under...
4. **Medical Emergency:** A medical condition of the employee or an Immediate Family member that will require the prolonged/extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available, apart from the donated leave plan.

5. **Mitigating Circumstances:** Circumstances beyond the employee’s control that prevent the employee from requesting the donated leave prior to exhausting all leave balances or that prevent the employee from timely providing any information required or requested under this policy. Whether a given set of circumstances are determined to be mitigating will depend upon the facts presented.

6. **Prolonged or Extended Absence:** A period of absence from the workplace, including intermittent absences that are related to the same illness or condition, due to incapacity requiring Family and Medical Leave (FMLA), a leave accommodation pursuant to the Americans with Disabilities Act (ADA), and/or a leave extension pursuant to Chapter 6.0, Section 6.12(H) of the HR Handbook.

B. **Eligibility:**

All employees who accrue leave benefits are eligible to request approval to solicit leave donations when the following criteria are met:

1. The employee is suffering from a medical emergency as certified by a healthcare provider;

   -OR-

2. The employee is caring for an immediate family member who is suffering from a medical emergency as certified by a healthcare provider.

   -AND-

3. The employee has exhausted all of his/her leave balances (*refer to C(1)(a)(i)*).

C. **Request to Solicit Leave Donations**

1. A signed and complete *Request to Solicit Leave Donations (form #100)* and a signed and complete *Leave Donation- Certification of Healthcare Provider (form #200)* must be submitted to Human Resources/Benefits in accordance with the following procedures in order to formally initiate a request to solicit leave donations:
a. The employee (or his/her authorized representative or healthcare provider) shall submit a request for donated leave to his/her Department HR Liaison utilizing the *Request to Solicit Leave Donations (form #100)* with a copy to Human Resources/Benefits. The Department Director or HR Liaison may also initiate the request on behalf of the employee by completing the form and submitting it to Human Resources/Benefits.

i. All Requests to Solicit Leave Donations must be submitted to the Department Director for approval (or by the Department Director to Human Resources/Benefits) prior to the employee exhausting all leave balances, unless mitigating circumstances are present as defined by this administrative policy. All Requests to Solicit Leave Donations shall be forwarded by the Department HR Liaison to Human Resources/Benefits within three (3) business days of receipt.

b. The employee shall have his/her healthcare provider complete the *Leave Donation- Certification of Healthcare Provider (form #200)*. Once completed by the healthcare provider, the employee shall submit the form directly to Human Resources/Benefits.

2. Human Resources/Benefits shall have thirty (30) calendar days from the date the request is formally initiated (i.e., from the date both required forms have been completed, signed, and submitted to Human Resources/Benefits in accordance with these procedures) to review the request and to provide the employee with a determination in writing. To approve the request, Human Resources/Benefits shall confirm the following:

a. The employee is eligible to accrue leave benefits under Chapter 6 of the HR Handbook.

b. The *Request to Solicit Leave Donations (form #100)* was submitted to or by the employee’s department prior to the employee exhausting all leave balances or mitigating circumstances, as defined by this policy, existed to prevent the employee from meeting this requirement.

c. The employee submitted a signed and complete *Leave Donation- Certification of Healthcare Provider (form #200)* and the certification confirms that the employee (or an immediate family member in the care of the employee) suffers from a medical emergency as defined by this policy.

i. Human Resources/Benefits will contact the employee for clarification if the information provided in the certification is insufficient, unclear or incomplete. If additional information is needed from the employee’s healthcare provider, the time for Human Resources/Benefits to issue a determination shall be extended until any such additional information is received by Human Resources/Benefits. If the additional information is not received within fifteen (15) days of the request, the employee’s request to solicit leave donations shall be denied by Human Resources/Benefits.
3. Based on its review, Human Resources/Benefits shall either:

   a. Approve the request and notify the employee in writing that he/she may proceed to solicit leave donations *(Response to Leave Donation Solicitation/HR Benefits – Memo #1).*
      
      i. Human Resources/Benefits shall provide the Department Director with a courtesy copy of the approval.
      
      ii. Human Resources/Benefits shall also provide a copy of all approved solicitations to the Public Affairs and Communications Office.

   -OR-

   b. Deny the request based on failure to submit the request prior to exhausting all leave balances (absent mitigating circumstances), falsification of any information provided on a required form or other supporting documentation, or failure to timely submit additional information requested by Human Resources/Benefits in accordance with this policy within the specified timeframe *(Response to Leave Donation Solicitation/HR Benefits - Memo #2- denial).*

      i. Human Resources/Benefits shall provide the Department Director with a courtesy copy of the denial.

      ii. In the event a request for leave donation is denied due to failure to timely submit additional information requested by Human Resources/Benefits, the employee shall not be barred from resubmitting a new request at a later date even if his/her leave balances have been exhausted.

   D. Solicitation of Leave

   1. Upon receipt of written approval from Human Resources/Benefits, the employee or the employee’s designee may personally contact County employees to solicit leave donations.

   2. Should the employee wish to solicit leave donations within their own department and need assistance, or Countywide, the employee shall complete a *Leave Donation Solicitation Assistance (form #300)* and submit the form to their own department Human Resources Liaison and/or the Public Affairs and Communications Office for Countywide solicitation, PublicAffairs@loudoun.gov. The Public Affairs and Communications Officer, or designee, shall work with the employee to develop a solicitation communication to be distributed Countywide.
E. Donation of Leave

1. Employees who wish to donate leave are only permitted to donate accrued annual, sick or personal leave and/or exchange time.

2. Employees who wish to donate annual or sick leave must maintain a leave balance for each leave type equivalent to the bi-weekly authorized hours for his/her position (after accounting for the donated hours). Employees may donate all personal leave and exchange time balances.

3. An employee may not donate hours if he/she has given notice of intent to leave County employment.

4. An employee who wishes to donate leave shall complete the electronic Leave Donation form indicating the type of leave and the number of hours the employee wishes to donate to each individual recipient.

5. Recipients of donated leave shall not receive donations that exceed the authorized scheduled hours equivalent to 6 months per each certification period.

F. Leave Administration

1. Human Resources/Benefits will provide Payroll with an accounting of all leave donations submitted to each recipient. Payroll is responsible for reviewing all leave donations from eligible donors to ensure compliance with Section E of this policy.

   a. Payroll will debit leave hours donated from each donor’s leave accrual and transfer to the recipient’s donated leave bank upon receipt.

2. The department is responsible for ensuring the employee’s leave donation usage is permitted and complies with Section G of this policy. A reconciliation must be completed by Payroll at the end of the leave donation period (i.e. 6 months or when donated leave will no longer be used). Unused leave donations will not be returned to the donors.

3. Payroll is responsible for paying leave donations in accordance with this administrative policy.

G. Use of Donated Leave

1. All donated leave is considered sick leave for the recipient. The use of donated leave is therefore subject to all County policies and procedures applicable to the use of sick leave, unless otherwise noted herein.

2. The use of donated leave by the recipient must fall within a permissible use of sick leave as outlined in Chapter 6 (Section 6.11) of the HR Handbook, unless otherwise noted herein.

3. Donated leave may be used at any time within 6 months from the date of the request (once
approved) to solicit leave donations and is limited to the reason stated on the **Request to Solicit Leave Donations** (form #100).

4. Donated leave may only be used for the purpose the leave recipient was approved.

5. In cases where donated leave has been approved and circumstances change, it is the employee’s responsibility to notify his/her Department HR Liaison and/or immediate Supervisor. Updated medical information from the healthcare provider will be required to determine continued eligibility. If the change in circumstances does not support the continued use, the donated leave will no longer be available to the employee.

6. Donated leave may be used to supplement disability benefits *(see H(1) below)*.

7. If the employee is initially approved for leave donations and receives leave donations due to a prolonged absence, any remaining leave donations during the certified period may be used on an intermittent basis, provided the leave is used for the original purpose. The employee’s schedule must be approved by the Department Director in accordance with County policy, Family and Medical Leave (if applicable), and departmental leave request protocol.

8. Employees are not required to pay back leave donations. Hours of donated leave used are considered taxable income to the recipient and subject to applicable payroll taxes.

9. Unused donated leave shall not be paid out upon termination from employment.

10. Employees who receive leave donations remain subject to all County policies, including but not limited to the County’s policies and procedures related to Workers’ Compensation, Short-Term/Long-Term Disability, and reasonable accommodations under the Americans with Disabilities Act (ADA).

**H. Limitations**

1. During any given pay period, the combination of other leave, disability benefits and donated leave shall not exceed the regular bi-weekly work hours authorized for the employee’s position.

2. Employees must apply for and use all leave resources available under County policy to be eligible to solicit leave donations, including limited term disability, Paid Family Leave, and Family and Medical Leave, if eligible. Employees must initiate a disability claim and FMLA claim pursuant to HR-18, and provide any information needed for a determination on each.

3. Leave donations are not intended for routine or elective procedures.

**Responsible Department/Division:** Department of Human Resources / Benefits Division

*This policy remains in effect until revised or rescinded.*
Applicable forms available on the intranet. Contact HR/Benefits (703)777-0517 for information:

1. Request to Solicit Leave Donations (form #100)
2. Leave Donation - Certification of Healthcare Provider (form #200)
3. Leave Donation - Solicitation Assistance (form #300)
4. Response to Leave Donation Solicitation / HR Benefits (memo #1)
5. Response to Leave Donation Solicitation / HR Benefits (memo #2 / denial)