



## Loudoun County Government Administrative Policies and Procedures

<b>Title: Donated Leave Procedures</b>	<b>Effective Date: 7/1/15</b>
<b>Number: HR-40</b>	<b>Date Last Reviewed/Revised: **NEW**</b>
	<b>Date of Next Review: 7/1/17</b>

**PURPOSE:** The purpose of this administrative policy is to establish formal procedures for administering HR Handbook Chapter 6, Section 6.4.04 Leave Donations.

### I. AUTHORITY

Chapter 6.0 of the HR Handbook authorizes the County Administrator to administer the benefits plan as established by the Board of Supervisors.

### II. COVERED EMPLOYEES

In accordance with Chapter 6.0 of the HR Handbook, Section 6.4.04, all employees who accrue leave benefits are eligible to receive leave donations and are therefore covered by this administrative policy and its associated procedures.

### III. GENERAL PROCEDURES

#### A. Definitions:

- 1. *Disabling or Incapacitating Illness or Injury:*** The inability of an employee to perform with reasonable continuity the material duties of his/her job as a result of physical disease, injury, pregnancy or mental disorder. For extended family, disabling or incapacitating means the inability to perform basic actions that independently functioning individuals perform on a daily basis (Activities of Daily Living), to include bathing, dressing, eating and transferring (moving to and from a bed or a chair).
- 2. *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 solicited the leave, and shall be subject to all County policies and procedures governing sick leave unless otherwise noted herein.
- 3. *Extended Family Member:*** For the purposes of this policy only, extended family is defined as the employee's spouse, and either the employee's or employee's spouse's child, grandchild, sibling, parent, grandparent and those relations as a step, in-law, or guardian.

4. **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 State law.*
5. **Life-threatening Illness or Injury:** *A serious illness or injury with a strong potential to cause death.*
6. **Mitigating Circumstances:** *Extenuating 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 extenuating will depend upon the facts presented.*
7. **Prolonged Illness or Injury:** *A period of incapacity which is permanent or long-term due to a condition for which treatment may or may not be effective. The individual suffering from a prolonged illness or injury must be under the continuing supervision of, but need not be receiving active treatment from, a healthcare provider.*

## **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 an illness or injury that is prolonged, disabling, incapacitating or life-threatening as certified by a healthcare provider;

**-OR-**

2. The employee is caring for an extended family member who is suffering from an illness or injury that is prolonged, disabling, incapacitating or life-threatening as certified by a healthcare provider.

**-AND-**

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

## **C. Request to Solicit Leave Donations**

1. A duly executed ***Request to Solicit Leave Donations (form #100)*** and a duly executed ***Leave Donation- Certification of Healthcare Provider (form #200)*** must be submitted to the Human Resources/Benefits in accordance with the following procedures in order to formally initiate a request to solicit leave donations:

- i. The employee (or his/her personal representative or healthcare provider) shall submit a written request for donated leave to his/her Department Head utilizing the ***Request to Solicit Leave Donations (form #100)*** with a copy to Human Resources/Benefits. The Department Head may also initiate the request on behalf of the employee by completing the form and submitting it to Human Resources/Benefits.
    1. All Requests to Solicit Leave Donations must be submitted to the Department Head (or by the Department Head 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 Head to Human Resources/Benefits within one (1) business day of receipt.
  - ii. 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 duly executed 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:
- i. The employee is eligible to accrue leave benefits under Chapter 6 of the HR Policy.
  - ii. The ***Request to Solicit Leave Donations (form #100)*** was submitted to or by the employee's Department Head **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.
  - iii. The employee submitted a duly executed ***Leave Donation- Certification of Healthcare Provider (form #200)*** and the certification confirms that the employee (or an extended family member in the care of the employee) suffers from an illness or injury that is prolonged, disabling, incapacitating or life threatening as defined by this policy.
    1. 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 tolled 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:
  - i. 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; Memo #2- submitted on behalf of*).
    1. Human Resources/Benefits shall provide the Department Head with a courtesy copy of the approval.
    2. Human Resources/Benefits shall also provide a copy of all approved solicitations to the Public Affairs and Communications Office.

**-OR-**

- ii. 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 #3- denial*).
  1. Human Resources/Benefits shall provide the Department Head with a courtesy copy of the denial.
  2. 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](mailto: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.
3. The *Leave Donation Solicitation For - MEMO (form #400)* may be used for distribution to potential donors.

#### **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 their bi-weekly authorized hours (after accounting for the donated hours). Employees may donate all personal leave and exchange time balances.

3. An employee who wishes to donate leave shall complete a *Leave Donation (form #400-A)* indicating the type of leave and the number of hours the employee wishes to donate. The *Leave Donation* form should be submitted to the recipient's department Human Resources Liaison.

#### **F. Leave Administration**

1. The department of the employee who is receiving the leave donation is responsible for coordinating the donations in accordance with this administrative policy and providing a completed *Leave Donation Accounting & Reconciliation spreadsheet (form #500)* to Payroll.
  - i. 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 tracking and maintaining an up to date record of leave donations and the hours used for each pay period.
  - i. A reconciliation must be completed at the end of the leave donation period (i.e. 12 months or when donated leave will no longer be used).
  - ii. Unused leave donations will be returned to the donors.
  - iii. The amount returned will be calculated proportionately based on the total number of donors, amount originally donated and the unused donated leave balance.
3. The department must record the number of donated leave hours used by the recipient and any leave accruals to be paid each pay period on the corresponding payroll document.
4. 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 (6.4.03) of the HR Handbook, unless otherwise noted herein.
3. Donated leave may be used at any time within 12 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 Head. Updated medical information from the healthcare provider may 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 uses donated leave on an intermittent basis, his/her schedule must be approved by the Department Head in accordance with County policy, Family 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 Approval and Reporting Leave (Chapter 6.2.01 of the HR Handbook), Abuse of Leave (Chapter 6.2.02 of the HR Handbook), Family and Medical Leave (Chapter 6.4.02 of the HR Handbook), Sick Leave (Chapter 6.4.03 of the HR Handbook), Leave With/Without Pay (Chapter 6.4.13 of the HR Handbook), Injury Leave (Chapter 6.4.07 of the HR Handbook), and Medical Separations (Chapter 9.2 of the HR Handbook). Moreover, employees who receive leave donations remain subject 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 employee's regular authorized bi-weekly work schedule.
2. Employees must use all leave resources available under County policy to be eligible to solicit leave donations including disability and Family Medical Leave if eligible. Employees must initiate a disability claim and/or ***Family or Medical Leave Request form (FMLA-100)*** and provide any information needed for a determination on each.
3. Leave donations are not intended for routine or elective procedures.

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

*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. ***Leave Donation Solicitation For - MEMO (form #400)***
5. ***Leave Donation Form (form #400-A)***
6. ***Leave Donation Accounting & Reconciliation spreadsheet (form #500)***
7. ***Response to Leave Donation Solicitation / HR Benefits (memo #1)***
8. ***Response to Leave Donation Solicitation / HR Benefits (memo #2 / on behalf of)***
9. ***Response to Leave Donation Solicitation / HR Benefits (memo #3 / denial)***