

This regulation governs voluntary shared leave as authorized by board policy 7540. Policy 7540 allows employees, in certain circumstances, to donate a portion of their earned leave to a fellow employee or employee's family member who has exhausted all accumulated paid leave and is likely to suffer financial hardship from prolonged or frequent absence caused by a serious medical condition.

The provisions of this regulation are intended to be consistent with state law and the State Board of Education's rules for voluntary shared leave outlined in the most current edition of the *North Carolina Public Schools Benefits and Employment Policy Manual* ("Benefits and Employment Manual"). Any conflict between this regulation and current law or applicable provisions of the State Board *Manual* will be resolved by following the higher legal authority.

## **I. DEFINITIONS**

The following definitions apply to this regulation:

**Serious Medical Condition:** For purposes of this regulation, a serious medical condition is a medical condition of the employee or the employee's immediate family member that requires or is likely to require the employee's absence from duty frequently or for a prolonged period. It does not include incidental, sporadic, normal, and/or short-term medical conditions or illnesses

**Covered Entity:** A North Carolina school system or community college, or a state agency as defined in the *Benefits and Employment Policy Manual* § 1.1.10. It does not include a charter school or county agency.

**Immediate Family Member:** The employee's spouse, children, parents, brothers, sisters, grandparents, grandchildren, and dependents living in the employee's household. It includes the step, half, and in-law relationships.

**Coworker:** Employees are coworkers if the employee donating the leave is employed by the same covered entity as the employee whose immediate family member is receiving the leave.

## **II. REQUESTING AND USING DONATED LEAVE**

### **A. Eligibility**

To be eligible to receive donated leave, an employee must:

1. be a permanent full-time or permanent part-time employee;

2. have exhausted all accumulated sick leave, annual vacation leave, and bonus leave, if applicable;
  - a. the employee need not have exhausted personal leave or extended sick leave if eligible for such leave;
  - b. employees who are restricted from using annual/bonus leave on days that students are in attendance must have used all of their accumulated annual/bonus leave under the provisions for catastrophic illness in the *Benefits and Employment Policy Manual*, § 3.2, to be eligible to receive donated leave for their own serious medical condition;
3. be facing a prolonged absence or frequent absences from work because of a serious medical condition affecting the employee or a member of his or her immediate family; and
4. not be receiving and not be eligible to receive benefits from the Disability Income Plan.

**B. Application Process**

1. Eligible employees may apply for donated leave by completing the appropriate form available from the human resource department of the human resource website. The application must be reviewed and approved by the employee's immediate supervisor, then returned to the human resources department. An employee may apply as soon as there is medical evidence available to support the need for leave beyond the employee's available accumulated leave.
2. If the employee is unable to complete the application personally, another person may complete the application on the employee's behalf.
3. The application must include the following:
  - a. a doctor's statement supporting the need for leave beyond the employee's available accumulated leave; and
  - b. an authorization for release of medical information signed by the person who is suffering from the medical condition (or parent or guardian of a minor) or by any legally authorized party.

4. The application must be reviewed and approved by the immediate supervisor before submitting it to the human resource department.
5. The superintendent or designee will make the final decision to approve or deny a request for receipt of donated leave and shall determine the length of the leave, consistent with the limitations set forth in subsection C.
6. After applying for donated leave, an employee may send a written request to his or her immediate supervisor asking that other employees at the work site be notified of the employee's application for donated leave. In making this notification, the supervisor shall disclose only that the employee has applied for donated leave to manage a prolonged absence or frequent absences, and shall not disclose the nature of the employee's condition or other confidential employee information without the employee's express written consent.

**C. Length of Leave**

1. The superintendent will determine the number of hours of leave the employee will receive, taking into account the employee's projected recovery or treatment period and the employee's paid leave balance as of the beginning of the recovery or treatment period.
2. The leave granted may not exceed 130 work days, either continuously or for the same condition on a recurring basis, unless specifically extended by the superintendent or designee on a month-to-month basis until the maximum number of working days occurring between the first day of use of donated leave and twelve months have been used.
3. Donated leave may not be used beyond the period of treatment and recovery in any circumstance.
4. The period of leave will be counted toward the employee's Family and Medical Leave Act (FMLA) benefit, if the period of absence qualifies as FMLA leave.

**D. Receipt of Donated Leave**

1. An approved employee may receive donated leave from employees of a covered entity in accordance with applicable rules for donating leave.
2. Donations made to an approved employee must be received by the human

resources department no later than 60 calendar days after the date the recipient's application is approved by the superintendent or designee. If additional time is needed, an updated doctor's statement is required from the applicant.

3. The donating employee may not receive compensation in any form for the donation of leave. An employee who gives or receives compensation will be subject to disciplinary action as provided by board policy.
4. The amount of leave donated to an employee may not exceed the length of the leave approved by the superintendent or designee.

**E. Conditions on Use of Donated Leave**

1. An employee may begin using voluntary shared leave after all available sick, vacation, and bonus leave, if applicable, has been exhausted.
2. Donated leave cannot replace leave already used by the employee. It may be used to replace sick leave or annual vacation leave advanced to the employee.
3. The employee will continue to earn annual vacation leave and sick leave while using donated leave. This leave must be exhausted as it is earned.
4. All donated leave must be used in one-half or whole day units (or the equivalent number of hours).
5. Donated leave may be used during the required waiting period for short-term disability or workers' compensation benefits.
6. An employee receiving pay from worker's compensation may use donated leave to supplement the workers' compensation benefit, as provided in the *Benefits and Employment Policy Manual*, § 9.
7. All leave donated will be credited to the recipient's sick leave account.
8. Donated sick leave shall not be used for retirement purposes.
9. Holidays falling during the period of use of donated leave will be paid.
10. Unused donated leave will be returned to active donors on a pro rata basis and will be credited to the leave account from which it was donated:
  - a. at the expiration of the period approved by the superintendent or designee for voluntary shared leave; or

- b. if the recipient's participation in the program ends due to the employee's separation from employment during the period approved for voluntary leave.

### **III. DONATING LEAVE TO AN APPROVED EMPLOYEE**

#### **A. Who May Donate Leave**

1. The following individuals may donate annual or bonus leave to an approved recipient-employee of the Haywood County Schools
  - a. another employee of this school system;
  - b. an employee of another LEA;
  - c. an immediate family member employed by another covered entity; and
  - d. the co-worker of an immediate family member employed by another covered entity.
2. The following individuals may donate sick leave to an approved recipient-employee of the Haywood County Schools:
  - a. an immediate family member who is an employee of this school system, another LEA, or another covered entity; and
  - b. an employee of this school system or another LEA who is not a family member, subject to the following:
    - i. an employee may donate no more than five days of sick leave per year to any nonfamily member recipient; and
    - ii. an approved recipient may receive a combined total of no more than 20 days of sick leave per year from nonfamily member donors.
3. School system employees may donate leave to employees of other covered entities in accordance with rules for Voluntary Shared Leave established by the State Board of Education in the *Benefits and Employment Policy Manual*.
4. Employees who donate sick leave must be notified in writing that the action may impact the employee's retirement service credit. At retirement, a participant in the Teachers' and State Employees' Retirement System receives an additional month of service credit for each 20 days of

earned sick leave balance, plus an additional month if there is a remainder. The additional service credit increases the retirement benefit for life.

**B. Restrictions on Donating Leave**

1. Donating leave is voluntary. No employee shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of soliciting leave. Such action is cause for discipline, up to and including dismissal.
2. All donations must be in writing and signed by the donating employee. The appropriate form may be obtained from the Haywood County Schools human resource department website and must be returned to the human resource department.
3. Donations must be to a designated employee approved for receipt of donated leave. Donations may not be made to a pool or bank. The donor must specify the amount and type of leave to be donated.
4. The minimum amount of time that may be donated is one-half day (or the equivalent number of hours).
5. A donating employee may not donate more annual vacation leave than he or she could earn in one year.
6. Donors may not reduce their annual or sick leave balances below one-half of what the donor can earn in a year.
7. The donating employee may not receive compensation in any form for the donation of leave. Acceptance of remuneration for donated leave will result in dismissal.

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