

## **Policy 1328 Leave Sharing**

**Date of Current Revision: May 2022**  
**Responsible Officer: Director of Human Resources**

### **1. PURPOSE**

In alignment with the Commonwealth, it is James Madison University's objective to permit eligible employees in Leave Without Pay (LWOP) status to receive income by using annual leave hours donated to them by other employees.

### **2. AUTHORITY**

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

#### **STATE OR FEDERAL STATUTE AND /OR REGULATION**

This policy complies with the Virginia Department of Human Resources Management pursuant to the authority provided in Virginia Code Title 2.2, Chapter 12, sections 2.2-1200 et seq. Additional Commonwealth policies that inform this university policy include: DHRM Policy [4.35](#)-Leave Sharing; DHRM Policy [4.55](#)-Traditional Sick Leave; and DHRM Policy [4.57](#)-Virginia Sickness and Disability Program.

### **3. DEFINITIONS**

#### **Conditional Leave Without Pay**

An employee's approved absence from work without pay that guarantees reinstatement only if the employee's position is available when they return from leave. If the position is not available, the employee will be separated.

#### **Leave Sharing**

The exchange of leave from one full-time or part-time salaried employee in a classified position to another for qualifying reasons and under qualifying circumstances.

#### **Traditional Sick Leave Program**

Provides employees who did not enroll in VSDP with paid leave from work for health-related reasons, or access to 33% of leave for family FMLA events as described in DHRM Policy [4.57](#).

#### **Unconditional Leave Without Pay**

Applies to military leave without pay only. An employee's approved absence from work without pay that guarantees reinstatement to the position held by the employee before the leave was taken.

#### **Virginia Sickness and Disability Program (VSDP)**

A program that provides various sickness and disability-related benefits to eligible Commonwealth employees as described in DHRM Policy [4.57](#).

#### **4. APPLICABILITY**

Full and part-time salaried classified employees who accrue leave and are not enrolled in VSDP are eligible to request donated annual leave under the terms of this policy. The policy also applies to employees enrolled in VSDP if the employee experiences an approved leave without pay due to a family member's illness or injury for which the employee is using Family and Medical Leave. See Policy [1308](#)-Family and Medical Leave.

An employee who has met all the criteria in order to receive leave sharing donations and is able to return to work on a part-time basis may continue to receive donated hours to cover the hours the employee is unable to work. The cause of the ongoing absence must be for the same medical condition and/or for the same family member for which the employee had originally qualified for leave sharing.

VSDP status does not affect one's eligibility to donate leave to the program.

#### **5. POLICY**

Under the circumstances described below, the university will allow classified employees to share leave from existing annual leave balances. Recipients shall have no balance of personal leave (annual, compensatory, family/personal, recognition, or sick leave or personal day) and shall have been placed on official leave without pay.

Eligible employees covered under the Virginia Sickness and Disability Program (VSDP) may request donated annual leave as described in this policy only if the employee experiences leave without pay due to a qualifying family member's illness or injury for which the employee is using Family and Medical Leave.

Eligible employees covered under the Traditional Sick Leave Program may request donated annual leave as described in this policy if the employee:

1. experiences leave without pay due to a personal illness or injury, or
2. experiences leave without pay due to a qualifying family member's illness or injury for which the employee is using Family and Medical Leave.

NOTE: Employees who participate in VSDP receive program benefits for personal injury or illness and, therefore, are not eligible for leave donations for personal reasons. Newly hired and re-hired employees who are required to serve a one-year waiting period before accessing VSDP program benefits for personal injury or illness are also not eligible for leave share donations for personal reasons. They are eligible for such donations during the one-year waiting period only when using FMLA for a qualifying family member's illness or injury.

#### **6. PROCEDURES**

- 6.1 Employees wishing to receive leave must initiate such requests by contacting Human Resources. Human Resources will then communicate the request to all potential donors, but will not reveal the identity of the requesting employee unless the employee gives their permission. In the event that an employee is physically or mentally unable to initiate a request through Human Resources, a family member or the supervisor may file the request.

- 6.2 For all purposes other than the receipt of salary, employees receiving donations through the Leave Sharing Policy shall be considered on leave without pay status (e.g., no accrual of annual or sick leave).
- 6.3 Donations to recipients shall be in the form of accrued annual leave only.
- 6.4 Annual leave may be shared intra-agency and donations may be accepted from employees of other Executive Branch agencies.
- 6.5 Donations to a recipient shall be made in eight-hour increments.
- 6.6 Donors are not required to retain minimum balances of personal sick or annual leave, nor is there a limit on how many hours of annual leave may be donated.
- 6.7 Eligible recipients shall not be required to reimburse leave hours donated to them unless compensation is received from another source for the same period of time the employee received leave-sharing hours, such as when monies are received from the leave-share program and subsequently Workers' Compensation benefits are received retroactively for the same period of time;
- If repayment is required, leave payment shall be made at the current salary rate of the recipient, not the donor.
  - Reimbursed leave hours will be returned to the original donor(s)
- 6.8 Donors shall complete a [Donor Form](#) when contributing leave and submit it to Human Resources.
- 6.9 Leave donations can be reclaimed by the donor only if the Donor Form has not yet been processed.
- 6.10 Leave share hours will be prorated for part-time salaried classified employees (e.g., if a part-time salaried classified employee who works 20 hours per week receives 60 hours of donated leave, the donated leave will be paid to that employee at a rate of 20 hours per week).
- 6.11 Use of donated leave under the program shall be for medical conditions defined as any illness or injury that is certified by an approved health care provider and that requires medical attention when all leave balances have been exhausted. (See Section 9 for those medical conditions for which leave may not be donated.)
- 6.12 The employee must provide the required certification from an approved health-care provider. The university has the option of selecting a health-care provider to render a second evaluation/opinion and certification. Such certification will be at the university's expense; however, if the two health-care providers disagree whether a medical condition exists, it is within the sole discretion of the university to determine which opinion prevails.

## **7. RESPONSIBILITIES**

An eligible employee is responsible for requesting donated leave by contacting Human Resources. In a case where the employee is unable to request leave, a family member or the employee's supervisor may submit a request.

Donor employees are responsible for initiating the offer to donate leave by completing a Donor Form and submitting it to Human Resources.

Human Resources is responsible for coordinating the exchange of leave through this program.

All departments, offices and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) – Records Management.

## **8. SANCTIONS**

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

## **9. EXCLUSIONS**

Medical conditions resulting from the following will be excluded from eligibility for leave sharing benefits:

- Any job-related injury or illness during the period for which Workers' Compensation benefits have been awarded;
- Intentional self-inflicted injuries;
- Injuries occurring in the course of violating a law or ordinance.

Employees are ineligible to use donated leave during the period of disciplinary suspension.

Student employees, wage employees, instructional faculty, and administrative & professional faculty are not covered by this policy.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the president and is generally delegated to the director of human resources.

**Previous Version:** December 2016

**Approved by the president:** April 2002