

1 **VOLUNTARY DONATED LEAVE REGULATIONS**

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3 The Alexandria City Public Schools (ACPS) Voluntary Donated Leave Program allows for the
4 transfer of unused accrued sick leave from one employee to another employee who has been
5 approved by the Department of Human Resources to receive such donations. The Voluntary
6 Donated Leave Program is provided as a benefit to eligible employees.
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8 Participation in the program either as a leave recipient or leave donor is strictly voluntary.
9 Acceptance of donated leave signifies agreement to the terms and conditions of this regulation
10 including, but not limited to, submission of requested medical documents and required monitoring
11 activities.

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13 **Eligibility**

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15 Active employees eligible to accrue sick leave may participate in the leave donation program.
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17 **Definitions**

18 **Available Sick Leave** - Accrued or accumulated sick leave under ACPS sick leave
19 policies.
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21 **Donated Leave** - The leave provided from a leave donor to a leave recipient.
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23 **Family Member** - Any of the following: (1) Spouse. (2) Child -a biological, adopted, foster
24 child, stepchild, legal ward, or a person to whom the employee stands in loco parentis. (3)
25 Parent - a biological parent, step parent, adopted parent or an individual who stands or
26 stood in loco parentis to an employee when the employee was a child. (4) Any individual
27 related by blood or affinity whose close association with the employee is the equivalent of
28 a family relationship for which the employee is the sole or financially interdependent
29 source of support.
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31 **Health Care Provider** - A health practitioner authorized to practice medicine or surgery
32 by the state where they practice or any person determined by the U.S. Secretary of Labor
33 to be capable of providing health care services, or duly accredited to practice medicine or
34 surgery by the relevant licensing board of the territory or country in which the person
35 practices.
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37 **In Loco Parentis** - Acting in the place of a parent, by assuming the responsibility for care
38 and supervision of a child which a parent would ordinarily exercise.
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40 **Leave Donor** - An employee approved by the Department of Human Resources to transfer
41 sick leave to the sick leave account of a leave recipient.
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43 **Leave Recipient** - A current employee for whom the Department of Human Resources has
44 approved an application to receive sick leave from the sick leave account of one or more
45 leave donors.
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47 **Qualifying Health Condition** - (1) any period of incapacity or treatment in connection
48 with or consequent to inpatient care in a hospital, hospice, or residential medical care
49 facility; (2) any period of incapacity requiring absence from work, school or other regular
50 daily activities, for more than five consecutive work days, that also involves continuing
51 treatment by, or under the supervision of, a health care provider; or (3) continuing treatment
52 by, or under the supervision of, a health care provider for a chronic or long-term qualifying
53 health condition that is incurable or so serious that, if not treated, would likely result in a
54 period of incapacity of more than five consecutive work days.

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56 **Shared Leave Status** - The time period when the leave recipient is utilizing donated leave.
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58 **Leave Recipient Application**

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60 Any eligible employee may apply to the Department of Human Resources to become a leave
61 recipient. If an employee is not capable of applying on their own behalf, a legally authorized
62 personal representative may apply for the employee.
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64 A complete Leave Recipient Application Packet includes:

- 65 ● a Leave Recipient Application,
- 66 ● the reasons donated leave is needed, including a brief description of the nature, severity,
67 and anticipated duration of the qualifying health condition, and if it is a recurring one, the
68 approximate frequency of occurrence; and,
- 69 ● medical certification, from a health care provider, of the qualifying health condition and
70 the need for leave with respect to the qualifying health condition.
71

72 The Department of Human Resources reviews Leave Recipient Applications for the purpose of
73 determining that a qualifying health condition exists under the definitions of this regulation and
74 that the documentation indicates that the subsequent absence from duty, without available paid
75 leave, will last at least five consecutive work days. Absences from duty without available paid
76 leave of four or fewer consecutive work days will not be eligible for this program.
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78 The Department of Human Resources notifies the leave recipient (or the legally authorized
79 personal representative) of the disposition of the application within ten (10) business days after the
80 date the Department of Human Resources receives the completed application packet, unless
81 additional information is requested.
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83 The burden is on the employee to provide a complete application packet and any other information
84 requested. The Department of Human Resources will not review an application packet until it is
85 complete.
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87 Upon approval, the Department of Human Resources will notify the applicant's supervisor and
88 work site that other ACPS employees may apply to transfer sick leave to the leave recipient's
89 account. If the application is denied, Human Resources will notify the applicant of the reasons for
90 denial.
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92 Within five days of notification of a denial, the applicant may appeal, in writing, to the
93 Superintendent or Superintendent's designee for an executive review of the disapproved
94 application. The decision of the Superintendent or Superintendent's designee is final.

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96 Leave recipients may receive a maximum of one hundred and twenty (120) days or six calendar
97 months, whichever is least, of donated sick leave per approved application.

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99 An employee who fraudulently obtains donated leave will be subject to appropriate disciplinary
100 action, including termination.

101 102 **Leave Donor Process**

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104 Any eligible employee may submit a Leave Donor request form to the Department of Human
105 Resources to donate unused accumulated sick leave to an approved recipient. The request form
106 will include the specific number of days of accrued sick leave the leave donor wants to transfer
107 from the leave donor's sick leave account to the sick leave account of the specified leave recipient.

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109 Leave recipients will not be provided the names of leave donors.

110
111 Leave donors may donate a minimum of one day per leave recipient with the opportunity to
112 increase the donation should the recipient require additional days. A leave donor may donate a
113 maximum of one-half of their annually allotted sick leave accrual per school year, regardless of
114 the number of leave recipients.

115
116 Upon approval of the leave donor application, all donated leave will be transferred from the sick
117 leave account of the donor to the sick leave account of the leave recipient.

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119 Leave donations are final. Once donated, unused leave will not be returned.

120 121 **Use of Donated Leave**

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123 Leave recipients may only use donated sick leave for unpaid absences due to the Human Resources
124 approved qualifying health condition as described in the Leave Recipient Application.

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126 Sick leave transferred under this section may be substituted retroactively for periods of leave
127 without pay for the approved condition. Donated leave may also be used to liquidate an
128 indebtedness for advanced sick leave granted, for the approved condition, on or after the date the
129 completed Leave Recipient Application Packet is received in the Department of Human Resources.

130
131 To the extent that an employee is entitled to Family and Medical Leave (FMLA) for the same
132 qualifying health condition, such leave is used concurrently with donated leave entitlement. To the
133 extent that the employee is on FMLA leave, nothing in this regulation is intended to alter, amend
134 or interfere with existing state or federal regulations.

135 136 **Duration and Scheduling of Leave**

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138 In order to avoid unnecessary disruption to the school system, ACPS may require adjustments in
139 the scheduling of leave taken by employees under this regulation. Such adjustments may include,
140 but are not limited to, the transfer or return to an alternative position with equivalent pay and
141 benefits if the employee is qualified for the position.

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143 **Termination of Qualifying Health Condition**

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145 The Department of Human Resources monitors the status of leave recipients to determine whether
146 the qualifying health condition continues and may require additional documentation as deemed
147 appropriate.

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149 At the request of the Department of Human Resources, the leave recipient must obtain a second
150 opinion by a healthcare provider, selected by and at the expense of the school division.

151

152 The qualifying health condition terminates:

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- 154 ● When the leave recipient leaves ACPS employment;
- 155 ● When the Department of Human Resources determines that the leave recipient is no longer
156 affected by the qualifying health condition;
- 157 ● When the Department of Human Resources receives written notice from the leave recipient
158 or legally authorized representative that the recipient is no longer affected by the qualifying
159 health condition, in accordance with the definitions in this regulation; or,
- 160 ● When the medical provider treating the qualifying health condition indicates the health
161 condition is resolved.

161

162 The Department of Human Resources will discontinue use of donated leave when the qualifying
163 health condition terminates according to this section.

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165 A leave recipient may not receive a lump-sum payment for donated sick leave when the recipient
166 leaves employment with ACPS.

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168 Leave recipients will not retain unused donated leave after the qualifying health condition
169 terminates.

170

171 **Return to Work**

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173 An employee on shared leave must provide the division with notification of the intent to return to
174 work at least two (2) work days prior to return. The employee will be returned to the position they
175 held prior to shared leave or to an alternative position for which they are qualified with equivalent
176 benefits, and other terms and conditions of employment.

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178 Prior to reporting for work, the employee on shared leave status due to their own serious health
179 condition must supply certification by the treating health care provider that the employee is able
180 to return to work.

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182 If an employee advises the school division that they do not intend to return to work, the
183 employment relationship shall be deemed terminated and the employee's entitlement to
184 reinstatement, continued leave and health benefits ceases.

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186 If the employee continues to be unable to return to work after the conclusion of the FMLA period
187 and all shared leave has been exhausted, the employee may apply for leave without pay status in
188 accordance with appropriate regulations or may be terminated.

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190 An employee on shared leave has no greater right to reinstatement or to other benefits and
191 conditions of employment than if the employee had been continuously employed during the period
192 of shared leave status.

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194 **Prohibition of Coercion**

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196 An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate,
197 threaten, or coerce, any other employee for the purpose of interfering with any employee's decision
198 to either donate, use or receive sick leave under this regulation or other ACPS policies or
199 regulations.

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201 An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate,
202 threaten, or coerce, any other employee for the purpose of influencing any employees' decision
203 not to donate, use or receive sick leave under this regulation or other ACPS policies or regulations.

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205 The term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit
206 (such as an appointment or promotion or compensation) or effecting or threatening to effect any
207 reprisal (such as deprivation of appointment, promotion, or compensation).

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209 **Administrative Procedures**

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211 The Department of Human Resources establishes and administers procedures to permit the
212 voluntary donation of sick leave consistent with this regulation and maintain records concerning
213 the administration of the voluntary sick leave donation program.

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216 Adopted:

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219 Legal Ref.: Code of Virginia, 1950, as amended, § 22.1-78

220
221 Cross Refs.: GCBE Family and Medical Leave
222 GCBEA Leave Without Pay
223 GCBEB Military Leave and Benefits
224 GCQA Non-school Employment by Staff Members