



<b>Title: Leave Share Policy</b>	
<b>Effective Date: February 1, 2011</b>	<b>Responsible Office: Human Resources</b>
<b>Revision Date: December 1, 2014</b>	<b>Page: 1 of 5</b>

**I. SCOPE**

This policy applies to all professionals and professional faculty and all salaried operational employees of the College of William and Mary, including the Virginia Institute of Marine Science (the “College”).

**II. PURPOSE**

This policy establishes a process by which eligible employees unable to work due to certain medical situations or family care needs can extend their paid leave by using annual leave hours donated to them by other employees.

**III. POLICY STATEMENT**

It is the policy of the College to provide professionals and professional faculty and operational employees (“employees”) the opportunity to help other employees who need additional paid leave due to certain medical situations or family care needs. Employees may donate annual leave to other eligible employees who are experiencing situations that prevent them from working and who have exhausted their paid leave balances.

**IV. ELIGIBILITY FOR LEAVE SHARING DONATIONS**

A. There are multiple types of leave programs for the different categories of employees. Participation in the leave share program is affected by the type of leave program in which an employee participates. These variations are described below:

1. Professionals and professional faculty participating in the Professional Sick, Disability and Family Care Leave program may donate and receive leave for the purposes of paid medical/disability leave or paid family, infant or child care leave.
2. Operational employees and professionals and professional faculty participating in the Virginia Sickness and Disability Program receive program benefits for personal injury or illness and therefore are not eligible to receive leave donations for themselves. They are, however, eligible to donate or to receive leave to manage a family member’s illness or injury when the employee is using Family and Medical Leave (FMLA).
3. Operational employees covered by the Traditional Sick Leave Policy are eligible to use donated leave for reasons qualifying for personal or family sick leave.

B. To be eligible, an employee must have exhausted all personal leave balances including annual, traditional sick, family/personal, compensatory, overtime, and any sick leave afforded under the Virginia Sickness and Disability Policy for family reasons. Leave donations may be requested prior to exhaustion of leave balances; see V(A) below. ) In addition, any administrative approvals or notice required for unpaid leave must be made.



<b>Title: Leave Share Policy</b>	
<b>Effective Date: February 1, 2011</b>	<b>Responsible Office: Human Resources</b>
<b>Revision Date: December 1, 2014</b>	<b>Page: 2 of 5</b>

- C. An employee is ineligible to use donated leave during any period of disciplinary suspension or if they would otherwise be ineligible to use paid leave under the applicable leave policy.
- D. For the purposes of this policy, the definition of family includes an employee's:
  - Spouse as defined or recognized by the laws of the Commonwealth;
  - Parents, including parents-in-law, step-parents or persons who stood in place of the parent and performed parental duties and responsibilities;
  - Siblings, including step-siblings;
  - Aunts and Uncles;
  - Grandparents;
  - Children, including step-children, foster children and legal wards; and
  - Any other adults living in the employee's household.
- E. Bereavement: Death is not considered a qualifying reason for leave under the Family and Medical Leave Act of 1993. However, eligible employees will be able to receive leave share donations of up to 120 hours following the death of spouse, parent or child, including step-children, foster children and legal wards. Donated leave may not be used to extend leave beyond 120 hours following the death of the eligible family member.

**V. REQUESTING LEAVE DONATIONS**

- A. Eligible employees who have exhausted their paid leave or anticipate that they will exhaust such leave may request donated leave by completing the Leave Share Request Form (Attachment A) and submitting it to the Office of Human Resources. The form may be completed and submitted by an employee's family member or by the College if the employee is incapable of completing the form.
- B. Additional documentation, such as medical certifications, may be required if such documentation is required under the applicable leave policy. If the requested leave is for an event qualifying under the Family and Medical Leave Act (FMLA), FMLA documentation will be required. See Section VI(I), below.

**NOTE:** Medical documentation is kept confidential and is maintained by Human Resources separate from employees' official personnel files.

**VI. EMPLOYMENT STATUS WHILE RECEIVING DONATED LEAVE**

Eligible employees who receive income through the Leave Share Program are considered to be on leave without pay, although they receive compensation.<sup>1</sup> This has the following effects:

- A. Leave accrual: A leave share recipient will not accrue annual leave, paid sick, family or disability leave, traditional sick leave, or VSDP leave credits while receiving pay through leave donations.
- B. Holiday Pay: Recipients of leave share donations are eligible to receive leave share donations for holidays falling during the leave period.

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<sup>1</sup> Compensation received through the donation of annual leave is based on the salary of employee receiving the donated hours.



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<b>Title: Leave Share Policy</b>	
<b>Effective Date: February 1, 2011</b>	<b>Responsible Office: Human Resources</b>
<b>Revision Date: December 1, 2014</b>	<b>Page: 3 of 5</b>

C. Salary increases: Leave share recipients may not receive any salary increases until they return to active work status.

D. Leave Anniversary: Periods of leave without pay that exceed fourteen (14) consecutive days will alter an operational employee's anniversary leave date as those periods will not be counted toward that date.

E. Health Benefits: The College will continue to pay its portion of the employee's health care premium based on the health plan in which the employee is enrolled.

1. *Traditional Sick Leave*: While an employee who is enrolled in the Traditional Sick Leave program is receiving leave share donations for personal illness or injury or other FMLA-qualifying leave, the College will continue to pay its portion of the health care premium for up to twelve (12) months.
2. *VSDP*: While an employee who is enrolled in the VSDP is receiving leave share donations under FMLA Leave for a family illness, the College will continue to pay its portion of the health care premium for the duration of the leave share donations received or up to twelve (12) weeks of FMLA leave.
3. *Disability/Family Care Leave*. While a professional or professional faculty member is receiving leave share donations for personal illness/injury, family illness/injury or infant care, the College will continue to pay its portion of the health care premium for the duration of the leave share donations received.

F. Retirement Credit: Periods of leave share are not considered creditable compensation for retirement calculations by the Virginia Retirement System (VRS). Therefore, contributions to VRS will be discontinued when an employee is receiving leave share donations. Similarly, the College will not make contributions to a professional or professional faculty member's ORP.

G. Payroll Deductions: Certain payroll deductions, such as health care premiums, 403(b) contributions, or other voluntary deductions, may continue while an employee is receiving leave share donations if the employee receives income replacement sufficient to cover the deductions. If the income replacement received through leave share donations is insufficient to cover these payroll deductions, the employee must make arrangements with the College to continue or cancel the deductions.

NOTE: Employees who are under contract to purchase VRS service credit must make arrangements with VRS to continue their payments as they cannot be deducted from leave share donations.

H. Group Life Insurance: Employees receiving leave share donations continue to be covered under the Commonwealth's group life insurance policy for up to two years.

I. Family Medical Leave Act: Employees using leave share donations for FMLA-eligible leave conditions will have such leave counted towards their FMLA allotment.



# WILLIAM & MARY

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<b>Effective Date: February 1, 2011</b>	<b>Responsible Office: Human Resources</b>
<b>Revision Date: December 1, 2014</b>	<b>Page: 4 of 5</b>

## VII. DONATING ANNUAL LEAVE

A. The Office of Human Resources will notify employees when leave donations are needed for a specific individual. The College will not share the name of the individual requesting leave share donations nor medical or other personal information about that employee without the employee's written consent. Employees wishing to donate accrued annual leave must submit a Donor Form (Attachment B) to Office of Human Resources. Annual leave donations will be accepted for specific cases.

1. Annual leave donations must be made in increments of eight (8) hours.
2. Employees cannot donate more annual leave than they have accrued at the time the donation is made.

B. Leave donations can be received from other State agencies or institutions.

1. Employees of other agencies or institutions interested in donating annual leave should contact the College's Office of Human Resources and complete a College Donor Form.
2. A leave share recipient's family members who work in other State institutions or agencies may donate accrued annual leave to the recipient employee. For these purposes, the term "family members" includes the employee's spouse, parents/step-parents, siblings/step-siblings and children/step-children.

**NOTE:** The definition of family members who may donate accrued annual leave to employees differs from the definition of family as defined by the College and as defined under FMLA leave.

C. Returning or Reclaiming Donated Leave.

1. Donated annual leave that is not needed to cover a leave share recipient's request – excess donated leave – will be returned to the donor(s) in reverse order of the receipt of donations.
2. Annual leave given by a donor may be reclaimed by the donor *only* if the donation has not yet been processed.

## IX. REPAYMENT AND PROGRAM ABUSE

- A. Leave share recipients must reimburse the College for pay received for donated leave hours if the employee:
- receives compensation through the leave sharing program and, subsequently, receives retroactive workers' compensation benefits for that same period of time; or
  - is determined to have received the leave donations as a result of submitting inaccurate or untruthful information.



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<b>Title: Leave Share Policy</b>	
<b>Effective Date: February 1, 2011</b>	<b>Responsible Office: Human Resources</b>
<b>Revision Date: December 1, 2014</b>	<b>Page: 5 of 5</b>

B. Leave reimbursed for the reasons described above will be returned to the original donor(s) according to guidelines used for unused leave donations.

C. Employees found to have abused the leave sharing program will be subject to discipline.

## X. AUTHORITY, IMPLEMENTATION AND AMENDMENT

This policy is approved by the President in accordance with the Restructured Higher Education Financial and Administrative Operations Act, Chapter 4.10, Title 23 of the *Code of Virginia* and the Management Agreement effective July 1, 2006.

The Office of Human Resources is responsible for the administration and implementation of this policy. The College reserves the right to revise or eliminate this policy at any time, and shall not be bound by any future change, addition, deletion or amendment in whole or in part of DHRM Policy 4.57 by any agency of the state unless such change, addition, deletion or amendment is expressly adopted by the College or required by law. The President has delegated to the Vice President for Administration authority to revise or amend this policy.