

VDSS HR Guidance Documents – Recommended Changes

Guidance Document Title: *Leave & Related Areas*



Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
Part I: Types of Leave (Policy Statement)	---	<p>The Virginia State Board of Social Services establishes policies to afford employees of Local Departments of Social Services (LDSS) paid time away from work for several purposes. Part I of this policy describes most of the types of leave available to LDSS employees and their appropriate use.</p> <p>Compensatory Leave and Special Duty Leave are not addressed in this chapter. These leave types may be substituted in lieu of compensation in specific situations and are discussed in detail in Chapter 2 of the LDSS Administrative/HR Manual.</p>	New Section
Part I: Types of Leave (Scope)	---	<p>The Virginia State Board of Social Services establishes policies to afford employees of Local Departments of Social Services (LDSS) paid time away from work for several purposes. Part I of this policy describes most of the types of leave available to LDSS employees and their appropriate use.</p> <p>Compensatory Leave and Special Duty Leave are not addressed in this chapter. These leave types may be substituted in lieu of compensation in specific situations and are discussed in detail in Chapter 2 of the LDSS Administrative/HR Manual.</p>	New Section
Annual Leave (Purpose)	The purpose of this policy is to provide the procedures for earning paid leave for time away from work for personal reasons including vacation time.	---	Section Removed
Annual Leave (Scope)	This policy applies to all employees who are not in temporary or emergency positions or in restricted positions for which the funding sources	---	Section Removed

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VIRGINIA DEPARTMENT OF
SOCIAL SERVICES



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	do not provide benefits. A part-time employee is one who works at least one half the normal work week hours or greater.										
Section I: Annual Leave (General Information)	---	<p>Qualification to Receive Annual Leave</p> <ol style="list-style-type: none"> 1. Annual leave is available to all LDSS employees except: <ol style="list-style-type: none"> a. Employees in temporary or emergency positions; or b. Employees in restricted positions where benefits are not provided by the funding source. <p>Part-time employees must work at least <i>one half</i> of the agency’s workweek hours or greater to qualify to earn annual leave. Please note the following:</p> <table border="1" data-bbox="1041 951 1577 1024"> <thead> <tr> <th>Agency Workweek Schedule</th> <th>Part-Time Minimum Weekly Hours</th> </tr> </thead> <tbody> <tr> <td>40 Hours Per Week</td> <td>20 Hours Per Week</td> </tr> <tr> <td>37.5 Hours Per Week</td> <td>18.75 Hours Per Week</td> </tr> <tr> <td>35 Hours Per Week</td> <td>17.5 Hours Per Week</td> </tr> </tbody> </table>	Agency Workweek Schedule	Part-Time Minimum Weekly Hours	40 Hours Per Week	20 Hours Per Week	37.5 Hours Per Week	18.75 Hours Per Week	35 Hours Per Week	17.5 Hours Per Week	New Section
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Annual Leave (Annual Leave Accrual)	<ol style="list-style-type: none"> 1. <u>Rate</u> Employees earn paid annual leave on a pay period basis as follows: <ol style="list-style-type: none"> a. A full-time employee earns annual leave based upon years of service. b. A part-time employee earns annual leave at a proportionate rate. c. If the LDSS does not have monthly pay periods, annual leave is accrued each pay period in an amount proportionate to that earned on a monthly basis. d. The following chart sets forth the amounts of annual leave that may be accrued during 	<p><u>Rate</u></p> <p>Employees earn paid annual leave on a pay period basis as follows. <u>For alternate agency workweek schedules (37.5 hours, 35 hours), annual leave accrual must be prorated based on the number of hours in the workweek.</u></p> <ol style="list-style-type: none"> 1. A full-time employee earns annual leave based upon years of service. <u>One (1) day equates to eight (8) hours if the agency workweek schedule is forty (40) hours per week.</u> 2. A part-time employee earns annual leave at a proportionate rate <u>based on the number of hours worked per week. See</u> 	<p>Referred to as “Accrual of Annual Leave” in the updated draft. Section begins on Page 10.</p> <p>Information Re: “Carrying Over” revised and moved to Section I: Annual Leave (Carryover), below.</p> <p>Information Re: “Effect of Leave Without Pay on Accrual” revised and moved to Section I: Annual Leave (Effect of Leave Without Pay on Accruals) <u>and</u> portions of</p>								

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	<p>each month based on years of service. A day equates to eight hours if the normal work schedule is forty hours. If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), annual leave accrual must be prorated based on the number of hours in the work week. For LDSS that have bi-monthly or bi-weekly pay periods, the accrual rate can be adjusted accordingly.</p> <table border="1" data-bbox="464 695 1010 967"> <thead> <tr> <th>Years of Service</th> <th>Monthly Accrual Rate (40-Hour Week)</th> <th>Monthly Accrual Rate (37.5-Hour Week)</th> <th>Monthly Accrual Rate (35-Hour Week)</th> </tr> </thead> <tbody> <tr> <td>Up to 5 years</td> <td>8 hours</td> <td>7.5 hours</td> <td>7 hours</td> </tr> <tr> <td>5 years</td> <td>10 hours</td> <td>9.375 hours</td> <td>8.75 hours</td> </tr> <tr> <td>10 years</td> <td>12 hours</td> <td>11.25 hours</td> <td>10.5 hours</td> </tr> <tr> <td>15 years</td> <td>14 hours</td> <td>13.125 hours</td> <td>12.25 hours</td> </tr> <tr> <td>20 years</td> <td>16 hours</td> <td>15 hours</td> <td>14 hours</td> </tr> <tr> <td>25 years</td> <td>18 hours</td> <td>16.875 hours</td> <td>15.75 hours</td> </tr> </tbody> </table> <p>e. When hiring an employee who left a position without a break in service with another LDSS or the Virginia Department of Social Services, the LDSS has the authority to provide the employee with the same accrual rate of the previous position.</p> <p>2. <u>Accrual of Leave</u> Annual leave does not accrue until the end of the pay period in which it is earned and may not be used until the first day of the following pay period or work week.</p> <p>3. <u>Effect of Leave without Pay on Accrual</u> An employee on leave without pay for any part of the pay period or work week does not earn annual leave for that pay period or work week and may have the accrual rate</p>	Years of Service	Monthly Accrual Rate (40-Hour Week)	Monthly Accrual Rate (37.5-Hour Week)	Monthly Accrual Rate (35-Hour Week)	Up to 5 years	8 hours	7.5 hours	7 hours	5 years	10 hours	9.375 hours	8.75 hours	10 years	12 hours	11.25 hours	10.5 hours	15 years	14 hours	13.125 hours	12.25 hours	20 years	16 hours	15 hours	14 hours	25 years	18 hours	16.875 hours	15.75 hours	<p><u>«Helpful Hints – Calculating Annual Leave for Part-Time Employees» for more information.</u></p> <p>3. <u>For LDSS that have bi-monthly or bi-weekly pay periods, if the LDSS does not have monthly pay periods,</u> annual leave is accrued each pay period in an amount proportionate to that earned on a <u>monthly basis.</u></p> <p>The following chart sets forth the amounts of annual leave that may be accrued during each month based on years of service. A day equates to eight hours if the normal work schedule is forty hours. If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), annual leave accrual must be prorated based on the number of hours in the work week. For LDSS that have bi-monthly or bi-weekly pay periods, the accrual rate can be adjusted accordingly.</p> <table border="1" data-bbox="1037 997 1583 1269"> <thead> <tr> <th>Years of Service</th> <th>Monthly Accrual Rate (40-Hour Week)</th> <th>Monthly Accrual Rate (37.5-Hour Week)</th> <th>Monthly Accrual Rate (35-Hour Week)</th> </tr> </thead> <tbody> <tr> <td>Up to 5 years</td> <td>8 hours</td> <td>7.5 hours</td> <td>7 hours</td> </tr> <tr> <td>5 years</td> <td>10 hours</td> <td>9.375 hours</td> <td>8.75 hours</td> </tr> <tr> <td>10 years</td> <td>12 hours</td> <td>11.25 hours</td> <td>10.5 hours</td> </tr> <tr> <td>15 years</td> <td>14 hours</td> <td>13.125 hours</td> <td>12.25 hours</td> </tr> <tr> <td>20 years</td> <td>16 hours</td> <td>15 hours</td> <td>14 hours</td> </tr> <tr> <td>25 years</td> <td>18 hours</td> <td>16.875 hours</td> <td>15.75 hours</td> </tr> </tbody> </table> <p>4. When hiring an employee <u>from who left a position without a break in service with another LDSS or the Virginia Department of Social Services (VDSS) without a break in service,</u> the LDSS has the authority to provide the employee with the same <i>accrual rate</i> of the</p>	Years of Service	Monthly Accrual Rate (40-Hour Week)	Monthly Accrual Rate (37.5-Hour Week)	Monthly Accrual Rate (35-Hour Week)	Up to 5 years	8 hours	7.5 hours	7 hours	5 years	10 hours	9.375 hours	8.75 hours	10 years	12 hours	11.25 hours	10.5 hours	15 years	14 hours	13.125 hours	12.25 hours	20 years	16 hours	15 hours	14 hours	25 years	18 hours	16.875 hours	15.75 hours	<p>Section IV: Leave Without Pay, below.</p>
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	<p>affected (see Leave without Pay policy).</p> <p>4. <u>Carrying Over</u></p> <p>a. The following limits apply to the amount of annual leave that is permitted to be carried over to the next year as well as the amount that will be paid at termination.</p> <p>b. For purposes of yearly carryover, a LDSS may designate a calendar year, fiscal year, or any other twelve (12) month period.</p> <table border="1" data-bbox="457 727 1018 1096"> <thead> <tr> <th data-bbox="457 727 739 808"><u>Years of Service</u></th> <th data-bbox="739 727 1018 808"><u>Maximum Yearly Carryover</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="457 808 739 873">Up to 5 years</td> <td data-bbox="739 808 1018 873">24 <u>day</u></td> </tr> <tr> <td data-bbox="457 873 739 922">5 years</td> <td data-bbox="739 873 1018 922">30 days</td> </tr> <tr> <td data-bbox="457 922 739 971">10 years</td> <td data-bbox="739 922 1018 971">36 days</td> </tr> <tr> <td data-bbox="457 971 739 1019">15 years</td> <td data-bbox="739 971 1018 1019">42 days</td> </tr> <tr> <td data-bbox="457 1019 739 1068">20 years</td> <td data-bbox="739 1019 1018 1068">48 days</td> </tr> <tr> <td data-bbox="457 1068 739 1096">25 years</td> <td data-bbox="739 1068 1018 1096">54 days</td> </tr> </tbody> </table> <p>c. A local board may grant exceptions to the limits of annual leave that may be carried over to be available only for use in the next year when employees have not been allowed to use their leave because of agency work demands over a substantial period of time. Such exceptions must be granted by the local board in writing. Exceptional annual leave carryover balances will expire in 12 months. Exceptions granted do not apply to the amount of annual leave that will be paid at termination of employment. The amount paid at termination will be up to the</p>	<u>Years of Service</u>	<u>Maximum Yearly Carryover</u>	Up to 5 years	24 <u>day</u>	5 years	30 days	10 years	36 days	15 years	42 days	20 years	48 days	25 years	54 days	<p>previous position.</p> <p><u>Receipt & Use of Accrued</u>Accrual of Leave</p> <ol style="list-style-type: none"> <u>Annual leave does not accrue until the end of the pay period in which it is earned.</u> <u>Annual leave must not be used before it is earned and borrowing against future leave accruals is not permitted.</u> <u>Newly accrued annual leave hours are available for use</u>and may not be used until the first day of the following pay period or work week. <u>Annual leave may be used for any reason provided the employee receives advance approval.</u> <p><u>Effect of Leave without Pay on Accrual</u></p> <p>An employee on leave without pay for any part of the pay period or work week does not earn annual leave for that pay period or work week and may have the accrual rate affected (see Leave without Pay policy).</p> <p><u>Carrying Over</u></p> <p>The following limits apply to the amount of annual leave that is permitted to be carried over to the next year as well as the amount that will be paid at termination.</p> <p>For purposes of yearly carryover, a LDSS may designate a calendar year, fiscal year, or any other twelve (12) month period.</p>	
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<p>Annual Leave (Use of Annual Leave)</p>	<ol style="list-style-type: none"> <li data-bbox="472 1256 1014 1360">1. <u>Use</u> Annual leave may be used for any reason provided advanced approval is given. <li data-bbox="472 1369 1014 1498">2. <u>Leave Must Be Accrued</u> Annual leave cannot be used until it is accrued. There is no borrowing against future accruals. 	<p>---</p>	<p>Section information revised & combined into “Receipt & Use of Accrued Leave” (above).</p>														

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<p>Annual Leave (Notice and Approval)</p>	<p>1. <u>Advanced Approval</u> Annual leave may be not used without prior approval. Although every effort will be made to accommodate a request for annual leave, not all requests can be granted during high peak times. Therefore, requests for annual leave should be submitted as soon as the need is known. For annual leave to be taken around a holiday, a request should be made as early as possible.</p> <p>2. <u>Approval Required at All Times</u> For absences that are not foreseeable, or for emergency situations, the employee must provide notice of the need to use the leave as soon as practicable. Until approval is provided, the absence will count as unauthorized leave without pay.</p>	<p>Advance approval of annual leave is always required. When unforeseeable absences or emergency situations occur, employees must provide notice of the need to use leave as soon as it is reasonably possible for them to contact their supervisor. Until approval is provided, the absence will count as unauthorized leave without pay.</p> <p>No matter how urgent the need for the leave may be, the LDSS has <u>no authority</u> to grant paid leave when the employee’s accrual amount is not sufficient to cover the request.</p> <p><u>Responsibility</u> Agency Responsibility The agency is responsible for:</p> <ol style="list-style-type: none"> 1. Ensuring annual leave accrual calculations are correct based on the weekly schedule of the LDSS (40 hours, 37.5 hours, or 35 hours per week). 2. Setting expectations for annual leave submission during holidays or peak times of operation (i.e., timeframes for submission, number of employees off simultaneously, etc.). 3. Ensuring that leave accrual calculations are updated if the weekly schedule of the LDSS should change. See Chapter 5 of the LDSS Administrative/HR Manual for more information on changing the weekly schedule of the LDSS. 	<p>Section Expanded & Rewritten</p>

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		<p>The LDSS is responsible for reimbursement due to errors resulting from miscalculation of accrual amounts by the LDSS. Contact the VDSS Division of Finance Local Reimbursement Unit (LRU) for more information on reimbursement.</p> <p>Supervisor Responsibility The supervisor is responsible for:</p> <ol style="list-style-type: none"> 1. Providing timely responses to employee leave requests. 2. Setting expectations with direct reports for submission of regular annual leave requests (not holidays, peak times). 3. Adhering to agency expectations for approving annual leave submission during holidays or peak times of operation (i.e., timeframes for submission, number of employees off simultaneously, etc.). <p>Employee Responsibility The employee is responsible for:</p> <ol style="list-style-type: none"> 1. Knowing the amount of annual leave balances that have accrued or will have accrued before requesting leave. 2. Requesting leave in a timely manner per supervisor or agency expectations. 3. Reporting to work, as required, if an annual leave request is denied. <p><u>Employee Requirement to Reimburse</u> Employees are required to reimburse the LDSS from their salary for leave taken when:</p>	

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		<p>1. There is not sufficient accrued leave to cover the time requested.</p> <p>2. The error occurs because of miscalculation by the employee.</p> <p>Reimbursement due to employee error may be in the form of monetary reimbursement, charging the time to other accrued paid leave, or at the LDSS's option, future leave accruals. LDSS employees are <i>not</i> responsible for reimbursement of errors resulting from miscalculation of accrual amounts by the LDSS (i.e., leave accrual amounts for agency employees are not appropriately prorated based on an alternate agency workweek schedule – 37.5 or 35 hours per week).</p>	
Section I: Annual Leave (Carryover)	---	<p>Carryovering Over</p> <p><u>An LDSS may designate a calendar year, fiscal year, or any other twelve (12) month period as the annual carryover period for the agency.</u> The following limits apply to the amount of annual leave that is permitted to be carried over to the next year, as well as the amount that will be paid at termination.</p> <p><u>For alternate agency workweek schedules (37.5 hours, 35 hours), the maximum “days” in the chart below must be prorated based on the number of hours in the workweek.</u></p> <p>For purposes of yearly carryover, a LDSS may designate a calendar year, fiscal year, or any other twelve (12) month period.</p>	New section incorporating revised information from other sections.

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Helpful Hints: Calculating Annual Leave for Part-Time Employees	---	<p data-bbox="1041 1263 1581 1360">Annual leave accruals for part-time employees are prorated based on the number of hours they work <i>on a weekly basis</i>. Look at this example:</p> <p data-bbox="1041 1369 1581 1516">Jane has been with her agency for one year and works a set schedule of 22.5 hours per week for an agency that has a 37.5-hour agency workweek schedule. Jane’s hours equate to 60% of the full-time schedule. The full-time accrual rate for a</p>	This “Helpful Hint” appears as an insert in Section I: Annual Leave (Carryover), above.																																			

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		<p>one-year employee is 7.5 hours per month (based on a 37.5- workweek). Jane’s accrual rate would be 4.5 hours per month, or 60% of the full-time accrual rate.</p> <p>Here are some recommendations to make leave calculation for part-time employees easier:</p> <ul style="list-style-type: none"> ◆ Adopt a standard agency workweek schedule of 40-hours per week. This is recommended to prevent miscalculation of leave accrual for <i>all</i> employees, and it can also aid in preventing miscalculation of pay and overtime hours. ◆ Do not adopt an alternate agency workweek schedule outside of the options provided in the LDSS Administrative/HR Manual (37.5 or 35 hours per week). <p>Need help with calculating leave accrual amounts? Contact the VDSS Local HR Support Team with questions.</p>	
<p>Section I: Annual Leave (Effect of Leave Without Pay on Accruals)</p>	<p>---</p>	<p>Effect of Leave without Pay on Accrual Employees <u>An employee</u> on leave without pay for any part of the pay period or work week do<u>does</u> not earn annual leave for that pay period or work week. <u>Please see Section IV, “Leave Without Pay (LWOP)” for more information</u> and may have the accrual rate affected (see Leave without Pay policy).</p>	<p>New section incorporating revised information from other sections.</p>
<p>Annual Leave (Treatment of Annual Leave Upon Change in Status)</p>	<p>1. <u>Payment at Termination</u> a. When employment is terminated, the employee will be paid for accrued annual leave in a lump sum up to the accrued maximum carryover amount. Educational leave, FMLA leave, military leave, and other</p>	<p><u>Payment Upon Separation</u>at Termination When <u>an employee separates from the LDSS employment</u> is terminated, the employee will be paid for accrued annual leave in a lump sum up to the accrued maximum carryover amount. Educational leave, FMLA leave,</p>	

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	<p>forms of extended leave are not considered terminations for the purposes of receiving payment for accrued annual leave.</p> <p>b. For the purpose of unemployment compensation benefits the lump sum payment will be allocated as wages for the equivalent daily/weekly periods.</p> <p>2. <u>Payment at Death</u> Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §64.2-601 and §64.2-602 which govern the process by which those payments are made. The guidelines and legal requirements governing deceased pay can be complicated. Individual circumstances can vary and may require additional guidance from the city/county payroll office and attorney.</p> <p>3. <u>Right to Repurchase</u> An employee who is rehired by the same LDSS within six (6) months from the date of a layoff or an employee who is reinstated by a grievance panel, may have the annual leave balances restored by paying the amount of any annual leave payment received at termination.</p>	<p>military leave, and other forms of extended leave are not considered separationterminations for the purposes of receiving payment for accrued annual leave. <u>Under certain circumstances, employees on military leave may qualify for receipt of payment.</u></p> <p>For the purpose of unemployment compensation benefits, the lump sum payment will be allocated as wages for the equivalent daily/weekly periods.</p> <p><u>Payment at Death</u> Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §64.2-601 and §64.2-602 which govern the process by which those payments are made. The guidelines and legal requirements governing <u>wages earned by an employee prior to death</u> deceased pay can be complicated. Individual circumstances can vary and may require additional guidance from the <u>locality</u>city/county payroll office and attorney.</p> <p><u>Right to Repurchase</u> An employee who is rehired by the same LDSS within six (6) months from the date of a layoff or an employee who is reinstated by a grievance panel, may have the annual leave balances restored by paying the amount of any annual leave payment received at termination.</p>	
<p>Annual Leave (Change in Employment Status)</p>	<p>If the status of an employee is changed from temporary to probationary, regular, or restricted, the provisions of Section IX. Disability Leave Program may apply. The temporary employment period may be considered part of the total service in determining the rate at which the allowance for annual leave shall accrue in the new status.</p>	<p><u>Provisions of Section III “Disability Leave Program” may apply if</u> if the status of an employee is changed from temporary to probationary, regular, or restricted, the provisions of Section IX. Disability Leave Program may apply. The temporary employment period may be considered part of the total service</p>	

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		in determining the rate at which the allowance for annual leave shall accrue in the new status.	
Annual Leave (Employee Accountability)	<ol style="list-style-type: none"> The employee is responsible for knowing the amount of annual leave balances that should have been accrued. An employee will be required to reimburse the LDSS from his/her salary for leave taken when there was a recordkeeping error and there was not sufficient accrued leave to cover the time taken. Reimbursement may be in the form of monetary reimbursement, charging the time to other accrued paid leave, or at the LDSS's option, future leave accruals. No matter how urgent the need for the leave may be, the LDSS has no authority to grant paid leave when there is not sufficient accrued leave. 	---	Section Removed Information Revised & Incorporated into "Notice & Approval" (see above)
Section VII: Civil Leave (General Information)	---	Civil leave is available to all regular LDSS employees and is provided so that employees may have time off for civic and administrative purposes.	New Section Additionally, please note that information related to civil leave has been relocated to Section VII: Civil Leave.
Civil Leave (Purpose)	The purpose of this policy is to provide employees with paid leave for time away from work for civic and administrative purposes.	---	Section Removed
Civil Leave (Scope)	This policy applies to all regular employees.	---	Section Removed
Civil Leave (Use)	<ol style="list-style-type: none"> <u>Purposes</u> Civil leave may be granted for the following purposes: 	<u>Purposes</u> Civil leave may be granted for the following purposes :	Information related to civil leave has been relocated to Section VII: Civil Leave.

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	<p>a. To serve on a jury, to appear as a witness in a court proceeding or deposition as compelled by a subpoena or summons in a court proceeding in which the employee is not the plaintiff or the defendant, or to accompany the employee’s child to court when the child is required to appear in court.</p> <p>b. To participate in the resolution of work-related conflicts, grievances, or investigations into complaints of discrimination arising within the LDSS.</p> <p>c. To participate in a workers’ compensation or unemployment compensation hearing or administrative proceeding involving the employee or another employee within the LDSS.</p> <p>d. With the prior permission of the LDSS, to serve on governmental councils, boards, commissions, or committees.</p> <p>2. <u>Reasonable Use of Civil Leave</u></p> <p>a. The amount of civil leave requested must be reasonable.</p> <p>b. Civil leave is to include all time required for judicial appearances or jury duty, as well as travel time to and from the destination. If a full day is not required, the employee is expected to report to the office to complete the hours required for that day.</p> <p>c. If because of distance and/or inconvenience, reporting to work before or after civil leave is not feasible, the employee with permission of the Director may use annual leave for the remaining hours of that</p>	<p>1. <u>Court Proceedings</u></p> <p>a. <u>To serve on a jury.</u></p> <p>b. <u>To</u> appear as a witness in a court proceeding or deposition as compelled by a subpoena or summons in a court proceeding in which the employee is not the plaintiff or the defendant, or to.</p> <p>a.c. <u>To</u> accompany the employee’s child to court when the child is required to appear in court.</p> <p>2. To participate in the resolution of work-related conflicts, grievances, or investigations into complaints of discrimination arising within the LDSS.</p> <p>3. To participate in a workers’ compensation, or unemployment compensation hearing, or administrative proceeding involving the employee or another employee within the LDSS.</p> <p>4. <u>With the prior permission of the LDSS, to serve on governmental councils, boards, commissions, or committees.</u></p> <p><u>Civil leave may not be granted for:</u></p> <p>1. <u>Court proceedings where the employee is a defendant in a criminal matter, where criminal matter means either an alleged misdemeanor or felony.</u></p> <p>2. <u>The receipt of a summons to appear in traffic court (except as a witness).</u></p> <p>3. <u>Instances where the employee is a party to a civil case, either as a plaintiff or defendant, or who has any personal or</u></p>	

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	<p>workday.</p> <p>3. <u>Advance Approval Required</u> As soon as the employee knows of the need for the civil leave, the supervisor must be notified. If there should be a problem with the leave, to the extent that the employee can, the employee should make a request to appear at an alternative time. Failure of the employee to provide advanced notice may result in disciplinary action.</p> <p>4. For service on a jury, the employee is to receive his full salary and not have the leave time charged to annual or compensatory leave.</p>	<p><u>familial interest in the proceedings.</u></p> <p><u>Reasonableness of Request</u>Use of Civil Leave</p> <p>The amount of civil leave requested must be reasonable. Civil leave is to include all time required for judicial appearances or jury duty, as well as travel time to and from the destination. If a full day is not required, the employee is expected to report to the office to complete the hours required for that day. <u>With director approval, an employee may use annual leave for the remaining hours of the workday if it is not feasible for the employee to return to work due to either distance or inconvenience.</u>If because of distance and/or inconvenience, reporting to work before or after civil leave is not feasible, the employee with permission of the Director may use annual leave for the remaining hours of that workday.</p> <p><u>Requirement of Advance Approval</u>Required</p> <p><u>The supervisor must be notified as</u>As soon as the employee knows of the need for the civil leave;the supervisor must be notified. <u>For instances where there is a sincere agency conflict</u>If there should be a problem with the leave, to the extent that the employee can, the employee should make a request to appear at an alternative time. Failure of the employee to provide advanced notice may result in disciplinary action.</p> <p><u>Jury Duty</u></p> <p><u>Employees who are summoned to jury duty must be free to perform this civic duty. No adverse employment action shall occur because of employee use of civil leave for this purpose. Employees serving on a jury must receive their</u></p>	

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		<p><u>full pay and must not have any leave time charged to either annual leave or compensatory leave.</u></p> <p><u>For those LDSS who have established rotational shifts, as required by the Code of Virginia § 18.2-465.1, employees who appear for jury duty for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of that service or that begins before 3:00 a.m. on the day following the jury duty.</u></p> <p>For service on a jury, the employee is to receive his full salary and not have the leave time charged to annual or compensatory leave.</p>	
<p>Section VII: Civil Leave (Provisions for Crime Victims)</p>	<p>---</p>	<p><u>An LDSS shall allow an employee who is a victim of a crime to be present at all criminal proceedings relating to a crime against the employee, as long as the employee provides the agency with a copy of the form presented to the employee by the law enforcement agency pursuant to the Code of Virginia § 19.2-11.01 and, if applicable, provides the agency a copy of the notice of each scheduled criminal proceeding that is presented to the employee as victim.</u></p> <ol style="list-style-type: none"> <u>1. Paid civil Leave shall apply when the employee’s presence at legal proceedings is compelled by subpoena or summons.</u> <u>2. Employees may use existing annual, compensatory, special duty, or family and personal leave balances for court proceedings that do not qualify for paid leave; however, the LDSS must provide LWOP, if requested.</u> 	<p>New Section</p>

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		<p>3. <u>Annual and “traditional” sick leave will not accrue in any pay period in which an employee takes unpaid civil which places them in a LWOP status.</u></p> <p>4. <u>The LDSS may limit the paid or unpaid leave if the employee's absence creates an undue hardship for the agency. The LDSS is encouraged to contact the VDSS HR Employee Relations Team (hr.employeerelations@dss.virginia.gov) prior to deciding what situations might qualify as an undue hardship.</u></p>	
<p>Civil Leave (Compensation Received)</p>	<p>1. <u>Reimbursements</u> An employee may keep any money received from the administrative or judicial tribunal while on civil leave if such money is provided as reimbursement for expenses. If the employee has used an LDSS vehicle or has received any advance money (cash, credit card, or check) for travel from the LDSS, the employee is obligated to return the travel money advanced by the LDSS (in the case of the use of the LDSS vehicle, the mileage reimbursement equivalent).</p> <p>2. <u>Compensation</u> If an employee receives compensation for the services provided while on civil leave (e.g., expert witness fees or for service as a juror), the employee must report such compensation to the LDSS and have the hours taken not recorded as civil leave. The employee may use accrued annual leave, or</p>	<p><u>Reimbursements</u> <u>Per Code of Virginia § 17.1-618, every person summoned as a juror in a civil or criminal case shall be entitled to \$50 for each day of attendance upon the court for expenses of travel incident to jury service and other necessary and reasonable costs as the court may direct. Jurors summoned from another political subdivision pursuant to § 8.01-363 may be allowed by the court, in addition to the above allowance, their actual expenses.</u></p> <p><u>Employees are permitted to</u> An employee may keep any money received from the courtadministrative or judicial tribunal while on civil leave if such money is provided as reimbursement for expenses. If the employee has used an LDSS vehicle or has received any advance money (cash, credit card, or check) for travel from the LDSS, the employee is obligated to return the travel money advanced by the LDSS (in the case of the use of the LDSS vehicle, the</p>	<p>Information related to civil leave has been relocated to Section VII: Civil Leave.</p>

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	take leave without pay, for the hours of compensated service.	mileage reimbursement equivalent). <u>Per the Code, there are instances where the amount may be higher than \$50 if the employee is required to go to another locality for the court appearance, and lodging is required.</u> <u>Compensation Received from the Court</u> <u>Employees who receive</u> If an employee receives compensation for the services rendered provided while on civil leave (e.g., expert witness fees, etc. <u>or for service as a juror</u>), the employee must report such compensation to the LDSS. <u>The hours taken may not be charged to and have the hours taken not recorded as</u> civil leave. <u>However, the</u> The employee may use accrued annual leave, or <u>LWOP</u> take leave without pay , for the hours of compensated service.	
Section IV: Leave Without Pay (General Information)	---	Leave without pay (LWOP), or unpaid leave, is available to all LDSS employees in specific situations. The procedures and information outlined in this section must be followed when requesting and approving LWOP. Extended periods of LWOP may impact accrued leave, benefits, and the employee’s ability to receive bonuses and performance raises.	New Section Additionally, please note that while some information related to leave without pay appears throughout the various subsections of the updated draft, most information on this topic has been relocated to Section IV: Leave Without Pay.
Leave Without Pay (Purpose)	The purpose of this policy is to provide procedures for LDSS to allow employees to be placed on leave without pay (LWOP).	---	Section Removed
Leave Without Pay (Scope)	This policy applies to all employees.	---	Section Removed
Leave Without Pay (Use of Unpaid Leave)	1. <u>Use</u> If the needs of the LDSS permit, and if the	---	Section Removed (but see information below)

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	<p>grant of such time away from work is not burdensome to the LDSS, an employee may request the use of unpaid leave for a specified period of time. LWOP must be granted to eligible employees for FMLA and military leave purposes.</p> <p>2. <u>LWOP Not Granted if Paid Leave Available</u> Except for FMLA and military leaves of absence, an employee cannot be on LWOP until all accrued paid leave available for such purposes has been exhausted. In extenuating circumstances, a LDSS may permit the <i>pro rata</i> use of paid leave and unpaid leave so that the employee would not lose benefits such as health plan and retirement participation.</p> <p>3. <u>Duration</u> LWOP will not be granted for more than three (3) months except for an employee on intermittent FMLA or military leave.</p> <p>4. <u>Job Restoration</u> a. Except as noted below, if the LDSS cannot hold the position open during the period of LWOP, the LDSS should notify the employee at the commencement of the leave or as soon as such a determination is made that the LDSS will fill the position. The employee should be informed of the need to fill the position and that employee must report back to work on full-time status within a specified period of time. Such notice should be provided in writing and delivered to or sent by certified mail to the employee.</p>		<p>While some information related to leave without pay appears throughout the various subsections of the updated draft, most information on this topic has been extensively rewritten, reorganized, and relocated to Section IV: Leave Without Pay.</p>

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	<p>b. Employees on FMLA or military leave status are entitled to job restoration under the conditions set forth in each respective policy.</p> <p>5. If an employee does not report back to work at the end of the LWOP period, the employee will be deemed to have resigned.</p>																
<p>Leave Without Pay (Effect of Unpaid Leave Status on Benefits)</p>	<p>1. <u>Accrued Leave</u> An employee who is on LWOP does not accrue annual or sick leave for that pay period.</p> <p>2. <u>Leave Anniversary Dates</u> After fourteen (14) consecutive calendar days of LWOP, the employee’s next leave anniversary date for the purposes of accruing annual leave will be adjusted according to the following chart:</p> <table border="1" data-bbox="499 987 982 1247"> <thead> <tr> <th><u>Calendar Days on Leave without Pay</u></th> <th><u>Extension of Anniversary Date (Pay Periods)</u></th> </tr> </thead> <tbody> <tr><td>1-14</td><td>0</td></tr> <tr><td>15-31</td><td>1</td></tr> <tr><td>32-46</td><td>2</td></tr> <tr><td>47-61</td><td>3</td></tr> <tr><td>62-76</td><td>4</td></tr> <tr><td>77-91</td><td>5</td></tr> </tbody> </table> <p>3. <u>Effect on Raises and Bonuses</u> An employee on LWOP may have performance raises and bonuses affected by the absence from work.</p> <p>4. <u>Retirement</u> LWOP is to be reported to the Virginia</p>	<u>Calendar Days on Leave without Pay</u>	<u>Extension of Anniversary Date (Pay Periods)</u>	1-14	0	15-31	1	32-46	2	47-61	3	62-76	4	77-91	5	<p>---</p>	<p>Section Removed (but see information below) While some information related to leave without pay appears throughout the various subsections of the updated draft, most information on this topic has been extensively rewritten, reorganized, and relocated to Section IV: Leave Without Pay.</p>
<u>Calendar Days on Leave without Pay</u>	<u>Extension of Anniversary Date (Pay Periods)</u>																
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	<p>Retirement System. An employee’s years of service may be affected by such absence.</p> <p>6. <u>Life Insurance</u></p> <p>The LDSS may elect to make its contribution for life insurance for all or part of the LWOP or permit an employee on LWOP to continue coverage at the employee’s expense. If such election is permitted, the LDSS must provide the employee with notice and an election form at commencement of the LWOP.</p> <p>7. <u>Health Care Coverage</u></p> <p>a. Except as provided below, upon the commencement of LWOP, the employee will be provided with a COBRA Notice and Health Care Continuation Election form. If continuation coverage is elected, the employee and other qualified beneficiaries may continue coverage for 18 months (longer if disabled or with the occurrence of a second qualifying event). The full cost of the continued coverage is borne fully by the employee.</p> <p>(1) If LWOP is taken under FMLA, the employee is entitled to remain under the health plan on the same terms as if employed for the entire period of the FMLA leave. The LDSS will continue to contribute its share of the costs.</p> <p>(2) For short and/or intermittent periods of LWOP, the LDSS has the option of providing continuing coverage on the same terms as if the employee was not on LWOP. If such is elected, the COBRA procedures</p>		

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	<p>do not apply.</p> <p>8. <u>Other Benefits</u> If other benefits are provided to the employee, the LDSS should establish a policy on whether they continue during LWOP.</p>		
<p>Section IV: Leave Without Pay (Reasons for Requesting Leave Without Pay)</p>	<p>---</p>	<p><u>Reasons Including Job Restoration</u> There are two (2) reasons that LWOP may be requested where employees are entitled to job restoration:</p> <ol style="list-style-type: none"> 1. Personal or family illness covered under the Family and Medical Leave Act (see Part II – The Family & Medical Leave Act). 2. Military Leave (see Section V; Military Leave). <p><u>Reasons where Job Restoration is not Guaranteed</u> Outside of FMLA or military leave, LWOP may be requested for educational purposes (see Section VIII; "Educational Leave") or for any reason deemed appropriate by the LDSS local board and local director. The director and local board should carefully consider the business needs of the LDSS and whether the request will be burdensome. Please review “Abuse of Leave without Pay” for examples of requests for LWOP that are not appropriate.</p> <p>Job restoration is not guaranteed for the duration of the period of LWOP. If possible, the LDSS will hold the position open until the employee returns from the approved period of LWOP. However, the LDSS is responsible for notifying</p>	<p>New section incorporating information rewritten and reorganized from other sections of current version of manual.</p>

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		<p>the employee immediately once there is awareness that the position needs to be filled and is unable to be restored.</p> <p>Written notification must be sent to employees by United States Postal Service (USPS) Certified Mail, alerting the employee of the need to fill the position, and set the expectation that the employee:</p> <ol style="list-style-type: none"> 1. Must return to work in full capacity; and 2. Must return by a specific date to avoid forfeiture of the position. <p>The return date should offer a reasonable amount of time for the employee to receive and respond to the notification (e.g., one calendar week). USPS tracking documentation should be retained for recordkeeping purposes.</p> <p>An employee will be deemed to have resigned his/her position if the employee does not return to work at the end of LWOP, or if the position cannot be held and the employee fails to respond to the notification to return to work.</p>	
Section IV: Leave Without Pay (Notice & Approval of Leave Without Pay)	---	<p><u>Advance Notice</u></p> <p>Employees are required to notify their supervisor of the need for LWOP as soon as the absence is foreseeable. If the LWOP request is for a medical condition, foreseeable absences include, but are not limited to, elective and non-emergency surgery, regular or routine medical appointments, pregnancy, and childbirth.</p> <p><u>Notice of Unforeseeable or Emergency Situations</u></p> <p>Notice and approval are required in all circumstances. However, the employee must</p>	New section incorporating information rewritten and reorganized from other sections of current version of manual.

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		<p>provide notice of the need for LWOP as soon as it is reasonably possible for absences that are unforeseeable or result from an emergency.</p> <p><u>Approval</u></p> <ol style="list-style-type: none"> LWOP must be approved and granted to eligible employees for FMLA and military leave, <u>regardless of whether or not the employees have other accrued or credited leave types available.</u> For all other requests, approval of LWOP is dependent upon the current needs/priorities of the LDSS and the amount of leave requested by the employee. Except for LWOP requests for FMLA and military leave, an employee cannot be on LWOP until all available accrued or credited leave types are exhausted. In extenuating circumstances, an LDSS may permit prorated or proportional use of paid leave and unpaid leave to prevent the employee from losing benefits (e.g., health insurance, retirement, etc.). LWOP shall not be granted for more than three (3) months, except in instances where employees are on intermittent FMLA or military leave. 	
Section IV: Leave Without Pay (Effect of Leave Without Pay on Benefits)	---	<p><u>Accrued Leave & Leave Anniversary Dates</u></p> <p>An employee who is on LWOP does not accrue annual or “traditional” sick leave for that pay period. “Hybrid” leaves do not accrue. However,</p>	New section incorporating information rewritten and reorganized from other sections of current version of manual.

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		<p>employees who are on approved LWOP when “hybrid” leave credit balances (sick, family and personal) are granted, will not receive their leave credit balances until they return to paid status.</p> <p>After fourteen (14) consecutive days of LWOP, the LDSS must adjust the employee’s <u>annual</u> leave anniversary date as follows:</p> <table border="1" data-bbox="1045 613 1577 797"> <thead> <tr> <th>Calendar Days on Leave without Pay</th> <th>Extension of Anniversary Date (Pay Periods)</th> </tr> </thead> <tbody> <tr> <td>1-14 Days</td> <td>No Extension of Anniversary Date</td> </tr> <tr> <td>15-31 Days</td> <td>1 Pay Period</td> </tr> <tr> <td>32-46 Days</td> <td>2 Pay Periods</td> </tr> <tr> <td>47-61 Days</td> <td>3 Pay Periods</td> </tr> <tr> <td>62-76 Days</td> <td>4 Pay Periods</td> </tr> <tr> <td>77-91 Days</td> <td>5 Pay Periods</td> </tr> </tbody> </table> <p><u>Effect on Raises & Bonuses</u></p> <p>An employee on LWOP may have performance raises and bonuses affected by the absence from work.</p> <p><u>Retirement</u></p> <p>LWOP must be reported to the Virginia Retirement System (VRS), which may result in impacts to an employee’s years of service. VRS is the resource for policies and procedures for maintaining retirement contributions.</p> <p><u>Life Insurance</u></p> <p>LDSS have the following options:</p> <ol style="list-style-type: none"> 1. The LDSS may elect to make its contribution for life insurance for all or part of the employee’s LWOP period; or 2. The LDSS may permit the employee to continue coverage at the employee’s expense for the duration of the LWOP period. The employee must receive notice and be 	Calendar Days on Leave without Pay	Extension of Anniversary Date (Pay Periods)	1-14 Days	No Extension of Anniversary Date	15-31 Days	1 Pay Period	32-46 Days	2 Pay Periods	47-61 Days	3 Pay Periods	62-76 Days	4 Pay Periods	77-91 Days	5 Pay Periods	
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		<p>provided with the election form at the beginning of the LWOP period.</p> <p>Employees should contact the locality with any questions concerning life insurance coverage.</p> <p><u>Health Insurance</u></p> <p>Except as provided below, upon the commencement of LWOP, the employee will be provided with a Consolidated Omnibus Budget Reconciliation Act (COBRA) Notice and Health Care Continuation Election form. If continuation coverage is elected, the employee and other qualified beneficiaries may continue coverage for eighteen (18) months or longer, if disabled or with the occurrence of a second qualifying event. The full cost of the continued coverage is the full responsibility of the employee.</p> <ol style="list-style-type: none"> Under FMLA: The employee is entitled to remain under the health plan on the same terms as if employed for the entire period of the FMLA leave. The LDSS will continue to contribute its share of the costs. Short/intermittent periods of LWOP unrelated to FMLA: The LDSS should follow the practices set by the locality, the plan administrator, for all employees under the healthcare plan. If the locality permits continued coverage during a short/intermittent period of LWOP, COBRA procedures do not apply. <p>Employees should contact the locality with any questions concerning health insurance coverage.</p>	

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		<p><u>Other Benefits</u></p> <p>Benefits may vary from locality to locality. It is recommended that the LDSS establish an internal policy indicating how other benefits specific to the locality will continue during periods of LWOP.</p>	
<p>Section IV: Leave Without Pay (Abuse of Leave Without Pay)</p>	<p>---</p>	<p>LWOP is not intended for casual use based on an employee's failure to manage available leave balances to cover future planned events or for unexpected, noncritical events (i.e., minor illness or injury, car trouble, etc.). Employees must adhere to the request and approval process outlined in this section.</p> <p>Abuse of LWOP occurs when an employee <i>continually</i> exhausts all available leave balances and makes <i>repeated</i> requests to use LWOP due to the failure to maintain a leave balance throughout the year. Abuse of LWOP may be met with disciplinary action, up to and including termination of employment.</p> <p>The LDSS local board and local director may establish a limit to the amount of LWOP an employee may request within a calendar year for purposes incidental to this policy.</p> <p>Contact the VDSS Local HR Support Team with general questions about LWOP and the VDSS Employee Relations Team (hr.employeerelations@dss.virginia.gov) with questions about the abuse of LWOP.</p>	<p>New section incorporating information rewritten and reorganized from other sections of current version of manual.</p>
<p>Military Leave (Purpose)</p>	<p>The purpose of this policy is to provide the procedures governing leaves of absence from work for the purposes of fulfilling military duty obligations and to set forth employees' job restoration rights under the federal Uniformed</p>	<p>No Changes</p>	<p>No changes, but please note that this information appears in the updated draft as part of Section V:</p>

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	Services Employment and Reemployment Rights Act of 1994 (USERRA) and § 44-93 and 44-93.1 of the <i>Code of Virginia</i> .		Military Leave (General Information)
Military Leave (Scope)	This policy applies to all employees who are in non-temporary positions and who are called to covered service in the U.S. Armed Forces, commissioned Corps of the Public Health Service, National Guard, Air National Guard, Naval Militia, Coast Guard, and reservists of these uniformed services. Covered service includes: voluntary and involuntary duty; active or inactive duty; training; and full-time duty with the National Guard, Naval Militia, or Public Health Service.	This policy applies to all employees who are in non-temporary positions and who are called to covered service in the <u>United States</u> U.S. Armed Forces, commissioned Corps of the Public Health Service, National Guard, Air National Guard, Naval Militia, Coast Guard, and reservists of these uniformed services. Covered service includes: <ol style="list-style-type: none"> 1. <u>V</u>voluntary and involuntary duty; 2. <u>A</u>active or inactive duty; 3. <u>T</u>trainin<u>g</u>; and 4. <u>F</u>full-time duty with the National Guard, Naval Militia, or Public Health Service. 	This information appears in the updated draft as part of Section V: Military Leave (General Information)
Military Leave (Military Leave)	An employee is eligible for military leave if the employee has not used five years of military leave during his employment with the LDSS. <ol style="list-style-type: none"> 1. <u>Advanced Notice of Need for Leave</u> <ol style="list-style-type: none"> a. To retain job restoration rights, and to be granted leave, an employee must provide the LDSS with advanced notice, either in writing or orally, of the call to military service which includes training duty. b. Advanced notice must be provided unless providing such notice is not possible or reasonable under the circumstances. c. The employee should provide the LDSS with a copy of the military orders at time of notice, but if not presented at that time, may be provided to the LDSS after the leave is 	---	Section removed, but the information presented here has been rewritten and incorporated into other parts of Section V: Military Leave (see below).

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	<p>granted.</p> <p>2. <u>Military Leave with Pay</u></p> <p>a. Per federal fiscal year, a public employee must be granted up to 15 workdays (120 hours) of military leave with pay per federally funded tour of duty.</p> <p>b. For employees who do not normally work approximately equal workdays of five or more days per calendar week, a “workday” shall mean 1/260 of the total working hours the employee would have been scheduled to work during the federal fiscal year not taking into account any holidays, paid or unpaid leaves of absence, or other absences.</p> <p>c. Benefits received while on military leave with pay are the same as if the employee were employed.</p> <p>3. <u>Military Leave without Pay</u></p> <p>a. Employees are granted unconditional military leave without pay for covered service provided that the cumulative length of all military leave does not exceed five years and they have not been dishonorably discharged.</p> <p>b. Benefits during military leave without pay:</p> <p>(1) Leave Benefits</p> <p>(a) Annual Leave</p> <p>(i) Employees will not accrue annual leave when they are on leave without pay status.</p> <p>(ii) Employees may retain all or a portion of their accrued annual leave, may use all or part of the accrued leave to supplement</p>		

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	<p>military pay, or be paid for the accrued annual leave at the commencement of military leave without pay.</p> <p>(iii) Military leave without pay counts in the calculation of years of service when determining the rates for accruing annual leave and determining their seniority for layoff purposes.</p> <p>(b) Compensatory and Special Duty Leave Employees may retain all or a portion of their compensatory and special duty leave, may use all or part of the leave to supplement military pay, or be paid for the leave at the commencement of military leave without pay.</p> <p>(c) Sick Leave</p> <p>(i) Employees will not accrue sick leave while on leave without pay status.</p> <p>(ii) Employees with less than five years of continuous service with the LDSS at the commencement of military leave without pay may retain their sick leave balances, which are reactivated upon reinstatement to local service.</p> <p>(iii) Employees with five or more years of continuous employment with the LDSS at the time military leave begins may retain their entire sick leave balances (which shall be reactivated upon reinstatement) or may receive payment for the accrued sick leave under the provisions of the sick leave policy. Once payment for sick leave is made, all remaining balances are lost and</p>		

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	<p>can not be reinstated upon reemployment.</p> <ul style="list-style-type: none"> ▪ Employees who received payment for their sick leave balances and then return to work must serve another five years of continuous local service before being eligible for sick leave payment upon termination. ▪ Employees may not repurchase any sick leave for which they have been paid. <p>(2) Health Plan Participation</p> <p>(a) Employees called for active duty have the right to continue participating in the LDSS’s health care plan for 24 months beginning one month after the date leave without pay commences provided that they elect to do so and pay the full premiums. The coverage also applies to spouses and dependents.</p> <p>(b) Upon commencement of leave without pay the employee is to receive a COBRA notice and Continuation of Coverage Election form. (Note: under USERRA, an employee who is on military leave for less than 31 days is entitled to participate in the health plan on the same terms as if employment was not interrupted.)</p> <p>(c) The election rights are for the employee as well as other qualified beneficiaries.</p> <p>(d) Upon returning from military leave an employee is entitled to participate in the LDSS’s health plan, whether or not COBRA continuation coverage was elected, on the same terms as if the employment was not interrupted—e.g., the plan cannot impose a waiting period or other exclusion</p>		

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	<p>provisions.</p> <p>(3) Retirement Plan</p> <p>Military leave is to be included in the calculation of years of service for the purpose of retirement benefits.</p>		
<p>Military Leave (Reinstatement from Military Service)</p>	<ol style="list-style-type: none"> 1. An employee who has been on military leave for a period of 31 days or longer should notify the LDSS of the employee’s intention to be reemployed and the expected date of return. 2. An employee will be reinstated to the previous position or to a position comparable to the previous position in terms of pay, status, and location provided the employee: <ol style="list-style-type: none"> a. Presents the LDSS with the certificate or release orders that confirm honorable separation from military service. b. Returns to work within the following time periods (in addition to the time periods set forth below, reasonable time for safe travel and rest must be allowed): <ol style="list-style-type: none"> (1) <u>Military leave of less than 30 days</u> – after 8 hours of rest the employee must report to work on the first regularly scheduled workday following return home from military service; (2) <u>Military leave of 31 to 180 days</u> – must either send an application to return to work or report to work within 14 days of completing military service; (3) <u>Military leave of 181 days or longer</u> – must either send an application to return to work 	<p><u>Employees who have</u> An employee who has been on military leave for a period of <u>thirty-one (31)</u> days or longer should notify the LDSS of <u>their</u> the <u>employee’s</u> employee’s intention to be reemployed and the expected date of return. An employee will be reinstated to the previous position or to a position comparable to the previous position in terms of pay, status, and location provided the employee:</p> <ol style="list-style-type: none"> 1. Presents the LDSS with the certificate or release orders that confirm honorable separation from military service. 2. Returns to work within the <u>period specified in the « Reinstatement Reporting Timeline » chart below</u>. following time periods (in addition to the time periods set forth below, reasonable time for safe travel and rest must be allowed): <p>Military leave of less than 30 days – after 8 hours of rest the employee must report to work on the first regularly scheduled workday following return home from military service;</p> <p>Military leave of 31 to 180 days – must either send an application to return to work or report to work within 14 days of completing military service;</p> <p>Military leave of 181 days or longer – must either send an application to return to work or report to</p>	

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	<p>or report to work within 90 days of completing military service.</p> <p>(4) <u>Service-related incapacities</u> – the reporting deadlines for employees who are hospitalized or convalescing because of a service-related injury or illness are extended to up to two years.</p> <p>c. Is qualified, or can reasonably be retrained, for the position that the employee:</p> <p>(5) Would have held if employment had not been interrupted due to the military leave;</p> <p>(6) Held at the time military leave commenced; or</p> <p>(7) Of like seniority, pay, and status.</p> <p>4. In determining the position to which the employee may be entitled, the “escalator principle” is to be used. Under the escalator principle, an employee is to be placed in the position with the highest priority in the re-employment options. The returning employee is to step back in the seniority escalator at the point the employee would have occupied had no military leave been taken. The position would not necessarily be the same job the person previously held.</p> <p>5. When an employee becomes disabled during military service and cannot perform duties of the previous position and reasonable accommodations are not possible without undue hardship to the LDSS, efforts must be made to place the employee in the nearest comparable position for which the employee qualifies.</p>	<p>work within 90 days of completing military service.</p> <p>Service-related incapacities – the reporting deadlines for employees who are hospitalized or convalescing because of a service-related injury or illness are extended to up to two years.</p> <p>3. Is qualified, or can reasonably be retrained, for the position that the employee would have held if employment had not been interrupted due to the military leave; held at the time military leave commenced; or is of like seniority, pay, and status.</p> <table border="1" data-bbox="1041 813 1581 1084"> <thead> <tr> <th>Military Leave Amount</th> <th>Reinstatement Reporting Timeline</th> </tr> </thead> <tbody> <tr> <td colspan="2">In addition to the time periods set forth below, reasonable time for <u>safe travel and rest</u> MUST be allowed.</td> </tr> <tr> <td>Military leave of less than 30 days</td> <td>After eight (8) hours of rest, the employee must report to work on the first regularly scheduled workday following return home from military service.</td> </tr> <tr> <td>Military leave of 31 to 180 days</td> <td>Must either send an application to return to work or report to work <u>within fourteen (14) days</u> of completing military service.</td> </tr> <tr> <td>Military leave of 181 days or longer</td> <td>Must either send an application to return to work or report to work <u>within ninety (90) days</u> of completing military service.</td> </tr> <tr> <td>Service-related incapacities</td> <td>the reporting deadlines for employees who are hospitalized/recovering because of a service-related injury/illness are <u>extended to up to two (2) years.</u></td> </tr> </tbody> </table> <p>Reinstatement Position Determination Process</p> <p>Escalator Principle</p> <p>In determining the position to which the employee may be entitled, the “escalator principle” is to be used, <u>meaning that the</u>. Under the escalator principle, an employee <u>must</u> is to be <u>reemployed in a position that reflects “with reasonable certainty” the pay, benefits, seniority, and any other position benefits that he/she would have attained if not for the period of absence due to military service.</u> Also, <u>the position may not necessarily be the same job the employee</u></p>	Military Leave Amount	Reinstatement Reporting Timeline	In addition to the time periods set forth below, reasonable time for <u>safe travel and rest</u> MUST be allowed.		Military leave of less than 30 days	After eight (8) hours of rest, the employee must report to work on the first regularly scheduled workday following return home from military service.	Military leave of 31 to 180 days	Must either send an application to return to work or report to work <u>within fourteen (14) days</u> of completing military service.	Military leave of 181 days or longer	Must either send an application to return to work or report to work <u>within ninety (90) days</u> of completing military service.	Service-related incapacities	the reporting deadlines for employees who are hospitalized/recovering because of a service-related injury/illness are <u>extended to up to two (2) years.</u>	
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	<p>6. If employee no longer meets the minimum qualifications of the former position because of changes in job duties, the employee must meet the changed requirements within a reasonable time after reemployment or be offered a position requiring skills comparable to those required in the former position with regard to seniority, status, pay and location.</p> <p>7. Reinstatement is not required if the LDSS’s circumstances have changed thereby making it impossible or unreasonable to reinstate the employee.</p> <p>(a) If the employee’s formerly held position has been abolished, the employee shall be placed in a position comparable in status and pay to those previously held.</p> <p>(b) If such comparable position is not available, the employee shall be considered affected by a lay-off and lay-off policies shall apply.</p>	<p>previously held, placed in the position with the highest priority in the re-employment options. The returning employee is to step back in the seniority escalator at the point the employee would have occupied had no military leave been taken. The position would not necessarily be the same job the person previously held.</p> <p><u>Position Determination Where Disability is a Factor</u></p> <p>When an employee becomes disabled during military service and cannot perform duties of the previous position, <u>the LDSS must attempt to provide reasonable accommodations.</u> If <u>and</u> reasonable accommodations are not possible without undue hardship to the LDSS, efforts must be made to place the employee in the nearest comparable position for which the employee qualifies.</p> <p><u>Position Determination when the Employee no Longer Meets Minimum Requirements</u></p> <p><u>Cases may occur where the</u> If <u>employee no longer meets the minimum qualifications of the former position because of changes in job duties.</u> <u>In the event the employee no longer meets the minimum qualifications of the position,</u> the employee must meet the changed requirements within a reasonable time after reemployment or</p> <ol style="list-style-type: none"> <u>1. The employee must be offered an opportunity to meet the new requirements within a reasonable time after reinstatement.</u> 2. <u>2. The employee must</u> be offered a position requiring skills comparable to those required in the former position with 	

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		<p>regard to seniority, status, pay and location.</p> <p><u>Circumstances where Reinstatement is not Required</u></p> <p>Reinstatement is not required if the LDSS’s circumstances have changed thereby making it impossible or unreasonable to reinstate the employee. <u>However, the LDSS remains responsible for:</u></p> <ol style="list-style-type: none"> <u>1. Placing the employee in a position comparable in status in pay to the position the employee previously held if the employee’s former has been abolished.</u> 2. <u>Considering the employee to be affected by lay-off and following lay-off policies if a comparable position is not available. See Chapter 7 of the LDSS Administrative/HR Manual for more information on layoffs.</u> <p>If the employee’s formerly held position has been abolished, the employee shall be placed in a position comparable in status and pay to those previously held.</p> <p>If such comparable position is not available, the employee shall be considered affected by a lay-off and lay-off policies shall apply.</p>	
Section V: Military Leave (Requirements for the Use of Military Leave with Job Restoration Coverage)	---	<ol style="list-style-type: none"> The employee’s absence request must be on account of service in the uniformed services. The employee must give advance notice (written or oral) to the LDSS that he/she is requesting leave for service (including 	New Section

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		<p>training) in the uniformed services, unless such notice was precluded by military necessity or otherwise impossible or unreasonable.</p> <ol style="list-style-type: none"> 3. The employee must provide a copy of his/her military orders either at the time of the advance notice, or if the orders are not yet available, after the leave is granted. 4. The cumulative period of military leave granted by the LDSS must not have exceeded five (5) years (see “Helpful Hints – Additional Information on Calculating the Five-Year Period” for more information). 5. The employee must not have been released from military service under dishonorable or other punitive conditions. 6. Unless impossible or unreasonable, the employee must have reported back to work at the LDSS in a timely manner or have submitted a timely application for reemployment. 	
Section V: Military Leave (Helpful Hints: Additional Information on Calculating the Five-Year Cumulative Period)	---	An employee is eligible for military leave if he/she has not used five (5) cumulative years of military leave during employment with the LDSS. Per the Department of Labor, most types of service will be covered within the five (5) year cumulative period limit. However, there are eight (8) exceptions to this rule where military leave must be granted regardless of the five-year cumulative cap.	This “Helpful Hint” appears as an insert in Section V: Military Leave (Requirements for the Use of Military Leave with Job Restoration Coverage), above.

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		<p>These exceptions are:</p> <ol style="list-style-type: none"> 1. Service required beyond five (5) years to complete an initial period of obligated service. 2. An obligation to service that, through no fault of his/her own, the employee is unable to obtain release. 3. The required two-week annual training for Reservists/National Guard members. 4. Involuntary calls to service for a domestic emergency. 5. Being ordered to service during a time of war or national emergency declared by the President or Congress. 6. Selected Reservists who are ordered active duty for “operational missions.” 7. Service members who are ordered to active duty by the Secretary involved to support a “critical mission requirement.” 8. A member(s) of the National Guard who are called by the President to execute the laws of the United States. <p>Contact the VDSS Local HR Support Team with questions about this calculation.</p>	
Section V: Military Leave (Military Leave with Pay)	<ol style="list-style-type: none"> 1. <u>Military Leave with Pay</u> <ol style="list-style-type: none"> a. Per federal fiscal year, a public employee must be granted up to 15 workdays (120 hours) of military leave with pay per federally funded tour of duty. b. For employees who do not normally work approximately equal workdays of five or 	<p><u>Military Leave with Pay</u></p> <ol style="list-style-type: none"> 1. Per federal fiscal year, a public employee must be granted up to <u>fifteen (15)</u> workdays (120 hours) of military leave with pay per federally funded tour of duty. <u>The total number of hours in the workday must be consistent with the</u> 	New section created using information incorporated from other sections of the current version.

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	<p>more days per calendar week, a “workday” shall mean 1/260 of the total working hours the employee would have been scheduled to work during the federal fiscal year not taking into account any holidays, paid or unpaid leaves of absence, or other absences.</p> <p>c. Benefits received while on military leave with pay are the same as if the employee were employed.</p>	<p><u>weekly schedule of the LDSS (40-hour week = 8-hour day, 37.5 hour week = 7.5 hour day, or 35-hour week = 7 hour day).</u> The federal fiscal year runs from October 1 of one calendar year through September 30 of the next.</p> <p><u>2. The minimum charge to leave is one hour. An employee may be charged military leave only for the hours that the employee would otherwise have worked and received pay.</u></p> <p>1.<u>3. Inactive Duty Training is authorized training performed by members of a Reserve or National Guard component not on Active Duty. It is performed in connection with the prescribed activities of the Reserve or National Guard. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training. Employees who request military leave for Inactive Duty Training (generally two, four, or six hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel.</u></p> <p>2.<u>4. For employees who do not normally work approximately equal workdays of five (5) or more days per calendar week, a “workday” shall mean 1/260 of the total working hours the employee would have been scheduled to work during the federal fiscal year not considering <u>taking</u> into account any holidays, paid or unpaid leaves of absence, or other</u></p>	

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		<p>absences.</p> <p>3.5. Benefits received while on military leave with pay are the same as if the employee were employed.</p>	
<p>Section V: Military Leave (Military Leave Without Pay)</p>	<p>1. <u>Military Leave without Pay</u></p> <p>a. Employees are granted unconditional military leave without pay for covered service provided that the cumulative length of all military leave does not exceed five years and they have not been dishonorably discharged.</p> <p>b. Benefits during military leave without pay:</p> <p>(1) Leave Benefits</p> <p>(a) Annual Leave</p> <p>(i) Employees will not accrue annual leave when they are on leave without pay status.</p> <p>(ii) Employees may retain all or a portion of their accrued annual leave, may use all or part of the accrued leave to supplement military pay, or be paid for the accrued annual leave at the commencement of military leave without pay.</p> <p>(iii) Military leave without pay counts in the calculation of years of service when determining the rates for accruing annual leave and determining their seniority for layoff purposes.</p> <p>(b) Compensatory and Special Duty Leave</p> <p>Employees may retain all or a portion of their compensatory and special duty leave, may use all or part of the leave to supplement military pay, or be paid for the</p>	<p><u>Military Leave without Pay</u></p> <p>Employees are granted unconditional military leave without pay for covered service provided that the cumulative length of all military leave does not exceed five (5) years, and they have not been dishonorably discharged.</p> <p>Benefits during military leave without pay:</p> <p><u>Leave Benefits</u></p> <p>Annual Leave</p> <p>1. Employees will not accrue annual leave when they are on leave without pay status.</p> <p>2. Employees may:</p> <p>a. Rretain all or a portion of their accrued annual leave, may</p> <p>b. Uuse all or part of the accrued leave to supplement military pay, or</p> <p>a.c. Bbe paid for the accrued annual leave at the commencement of military leave without pay.</p> <p>2.3. Military leave without pay counts in the calculation of years of service when determining the rates for accruing annual leave and determining their seniority for layoff purposes.</p> <p><u>Compensatory and Special Duty Leave</u></p> <p>Employees may:</p>	<p>New section created using information incorporated from other sections of the current version.</p>

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	<p>leave at the commencement of military leave without pay.</p> <p>(c) Sick Leave</p> <p>(i) Employees will not accrue sick leave while on leave without pay status.</p> <p>(ii) Employees with less than five years of continuous service with the LDSS at the commencement of military leave without pay may retain their sick leave balances, which are reactivated upon reinstatement to local service.</p> <p>(iii) Employees with five or more years of continuous employment with the LDSS at the time military leave begins may retain their entire sick leave balances (which shall be reactivated upon reinstatement) or may receive payment for the accrued sick leave under the provisions of the sick leave policy. Once payment for sick leave is made, all remaining balances are lost and can not be reinstated upon reemployment.</p> <ul style="list-style-type: none"> ▪ Employees who received payment for their sick leave balances and then return to work must serve another five years of continuous local service before being eligible for sick leave payment upon termination. ▪ Employees may not repurchase any sick leave for which they have been paid. <p>(2) Health Plan Participation</p> <p>(a) Employees called for active duty have the right to continue participating in the LDSS’s health care plan for 24 months beginning one month after the date leave without pay</p>	<p>1. <u>R</u>etain all or a portion of their compensatory and special duty leave. 5 may</p> <p>2. <u>U</u>se all or part of the leave to supplement military pay. 5 or</p> <p>1-3. <u>B</u>e paid for the leave at the commencement of military leave without pay.</p> <p><u>“Traditional” Sick Leave</u></p> <ol style="list-style-type: none"> 1. Employees will not accrue sick leave while on leave without pay status. 2. Employees with less than five <u>(5)</u> years of continuous service with the LDSS at the commencement of military leave without pay may retain their sick leave balances. <u>Sick leave balances will be 5</u> which are reactivated upon reinstatement to local service. 3. Employees with five <u>(5)</u> or more years of continuous employment with the LDSS at the time military leave begins may: <ol style="list-style-type: none"> a. <u>R</u>etain their entire sick leave balances (which shall be reactivated upon reinstatement) or may 2 b. <u>R</u>eceive payment for the accrued sick leave under the provisions of <u>Section II, « Sick Leave (« Traditional ») »</u> the sick leave policy. <p>3-4. <u>If the balance is retained, it must be reactivated upon reinstatement to local service. If Once payment for sick leave</u></p>	

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	<p>commences provided that they elect to do so and pay the full premiums. The coverage also applies to spouses and dependents.</p> <p>(b) Upon commencement of leave without pay the employee is to receive a COBRA notice and Continuation of Coverage Election form. (Note: under USERRA, an employee who is on military leave for less than 31 days is entitled to participate in the health plan on the same terms as if employment was not interrupted.)</p> <p>(c) The election rights are for the employee as well as other qualified beneficiaries.</p> <p>(d) Upon returning from military leave an employee is entitled to participate in the LDSS’s health plan, whether or not COBRA continuation coverage was elected, on the same terms as if the employment was not interrupted—e.g., the plan cannot impose a waiting period or other exclusion provisions.</p> <p>(3) Retirement Plan Military leave is to be included in the calculation of years of service for the purpose of retirement benefits.</p>	<p>is <u>processed</u>made, all remaining balances are lost and <u>cannot</u>can not be reinstated upon reemployment.</p> <p>4.5. Employees who received payment for their sick leave balances and then return to work must serve another five <u>(5)</u> years of continuous local service before being eligible for sick leave payment upon termination.</p> <p>5.6. Employees may not repurchase any sick leave for which they have been paid.</p> <p><u>“Hybrid” Leave</u> <u>“Hybrid” leaves do not accrue. However, employees who are on approved leave without pay when “hybrid” leave credit balances (sick, family, and personal) are granted, will not receive their leave credit balances until they return to paid status.</u></p> <p><u>Health Plan Participation</u> <u>Health insurance plans and other benefit options are facilitated by the locality and may differ from locality to locality. Questions specific to benefit plans, coverage options, etc., should be addressed to the locality.</u></p> <ol style="list-style-type: none"> Employees called for active duty have the right to continue participating in the LDSS’s health care plan for <u>twenty-four (24)</u> months beginning one <u>(1)</u> month after the date leave without pay commences, if provided that they elect to do so and pay the full premiums. The coverage also applies to spouses and dependents. Upon commencement of leave without 	

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		<p>pay the employee is to receive a COBRA notice and Continuation of Coverage Election form. <u>NOTE</u> (Note: Under USERRA, an employee who is on military leave for less than <u>thirty-one (31)</u> days is entitled to participate in the health plan on the same terms as if employment was not interrupted.)</p> <p>3. The <u>E</u>lection rights are for the employee as well as other qualified beneficiaries.</p> <p>4. Upon returning from military leave an employee is entitled to participate in the LDSS's health plan, whether or not COBRA continuation coverage was elected, on the same terms as if the employment was not interrupted—e.g., the plan cannot impose a waiting period or other exclusion provisions.</p> <p><u>Retirement Plan</u> Military leave is to be included in the calculation of years of service for the purpose of retirement benefits.</p>	
<p>Military Leave (Family and Medical Leave Act)</p>	<p>Employees returning from military service who request Family and Medical Leave upon return to work are entitled to additional considerations in the determination of their eligibility for Family and Medical Leave under USERRA. Refer to Section X. Family and Medical Leave for further policy specifications.</p>	<p>USERRA requires that the reinstated employee be given credit for any months and hours of service he or she would have been employed but for the USERRA-covered service in determining eligibility for FMLA leave. Part II - Section III, "FMLA Military Leave Entitlements," provides more information on the qualification and certification process for specific military leave entitlements under the FMLA.</p>	<p>Section Rewritten</p>
<p>Military Leave</p>	<p>Annually the LDSS must provide every employee with a notice of the rights afforded under this</p>	<p>Annually <u>T</u>he LDSS <u>is required to</u> must provide every employee with a notice of the rights</p>	

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(Annual Notice of Military Leave Rights)	policy. The LDSS can meet this obligation by providing an employee a copy of this policy or by referring the employee to the policy and having it available for distribution.	afforded under this policy <u>on an annual basis</u> . The LDSS may meet this obligation by providing an employee a copy of this policy or by referring the employee to the policy and having it available for distribution.	
Section VIII: Educational Leave (General Information)	---	Educational leave is available to all LDSS employees and is provided to support employees' self-development through the pursuit of formal educational opportunities relating to their career with the LDSS.	New Section
Educational Leave (Purpose)	The purpose of this policy is to afford employees the opportunity to pursue educational pursuits that further their employment skills.	---	Section Removed
Educational Leave (Scope)	This policy applies to all employees.	---	Section Removed
Educational Leave (Use of Educational Leave)	<ol style="list-style-type: none"> 1. An employee interested in pursuing an educational course or program that requires an absence from work must submit a written proposal to the Director setting forth the course or program, the benefits to the LDSS from the employee's attendance in this course, dates for the leave and suggested means to execute the employee's duties during the absence. 2. An employee may be granted educational leave for specific course(s) of study related to the work of the LDSS provided reasonably adequate provisions can be made for the performance of the employee's assigned duties. 3. Educational leave can be with or without pay. If leave with pay is granted its duration 	<ol style="list-style-type: none"> 1. An employee interested in pursuing an educational course or program that requires an absence from work must submit a written proposal to the <u>LDSS Director</u> <u>providing the following information:</u>setting forth <ol style="list-style-type: none"> a. <u>The name, location, and dates of attendance of</u> the course or program, the benefits to the LDSS from the employee's attendance in this course, b. <u>How the employee's completion of this course or program will benefit the LDSS.</u> dates for the leave and a-c. <u>The</u> suggested means to execute the employee's duties during the absence. 2. An employee may be granted educational 	

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	<p>shall not be longer than three months.</p> <p>4. The LDSS may consider a schedule adjustment in lieu of granting leave.</p>	<p>leave for <u>a</u> specific course(s) of study related to the work of the LDSS, provided reasonably adequate provisions can be made for the performance of the employee's assigned duties.</p> <p>3. Educational leave may <u>can</u> be <u>granted</u> with or without pay. <u>Educational leave granted with pay</u> If leave with pay is granted its duration shall not be granted for longer than three (3) months.</p> <p>3.4. <u>LDSS granting educational leave without pay must follow the policies in Section IV, « Leave Without Pay (LWOP) ».</u></p> <p>4.5. The LDSS may consider a schedule adjustment in lieu of granting leave.</p>	
<p>Educational Leave (Return from Educational Leave)</p>	<p>1. An employee returning from educational leave shall have the advantage of any merit increase that may have been due if the employee had remained continuously in the position.</p> <p>2. The employee shall have all creditable years of service before the date of separation plus the period of educational leave considered in determining the rate of accrual.</p> <p>3. An employee returning from educational leave with pay will be placed in his or her former position. With educational leave without pay, there is no obligation to hold the position vacant during the period of leave.</p>	<p>1. <u>An employee returning from educational leave with pay will be placed in his/her former position.</u></p> <p>2. An employee returning from educational leave shall have the advantage of any merit increase that may have been due if the employee had remained continuously in the position.</p> <p>3. The employee shall <u>be given credit for the period of educational leave when determining an increase to the annual leave accrual rate</u> have all creditable years of service before the date of separation plus the period of educational leave considered in determining the rate of accrual.</p> <p>2.4. <u>The LDSS is under no obligation to hold a position vacant during the period of educational leave without pay. See</u></p>	

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		<p><u>Section IV, LWOP, « Reasons Where Job Restoration is not Guaranteed » for more information.</u></p> <p>An employee returning from educational leave with pay will be placed in his or her former position. With educational leave without pay, there is no obligation to hold the position vacant during the period of leave.</p>	
Educational Leave (Educational Pursuits Required by the LDSS)	If attendance in a course of study, a seminar, or conference is required by the LDSS, the hours in attendance count as hours worked and the employee is to receive his or her regular rate of pay. Educational leave shall not be used for this purpose.	<u>Educational leave shall not be used if</u> attendance in a course of study, a seminar, or conference is required by the LDSS; <u>the</u> hours in attendance count as hours worked and the employee is to receive his or her regular rate of pay. Educational leave shall not be used for this purpose.	
Section IX: Administrative Leave (General Information)	---	The administrative leave policy applies to all LDSS employees and relates to the procedures of granting leave for the performance of non-work activities away from the LDSS in specific circumstances.	New Section
Administrative Leave (Purpose)	The purpose of this policy is to provide procedures for the use of administrative leave.	---	Section Removed
Administrative Leave (Scope)	This policy applies to all employees.	---	Section Removed
Administrative Leave (Use of Administrative Leave)	<ol style="list-style-type: none"> Administrative leave is leave with or without pay granted by the LDSS for an employee to be away from the worksite performing non-work activities. Administrative leave is not an entitlement, and its use is purely discretionary on the part of the LDSS. A LDSS may place an employee on 	Administrative leave is leave with or without pay <u>may be</u> granted by the LDSS for an employees <u>who are</u> to be away from the worksite performing non-work activities. Administrative leave is not an entitlement, and its use is purely discretionary on the part of the LDSS. <u>LDSS granting administrative leave without pay must follow the</u>	

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	<p>administrative leave with pay when</p> <p>a. The LDSS is investigating the employee for misconduct and the LDSS has not determined whether discipline is warranted; or</p> <p>b. Other legitimate LDSS reasons.</p>	<p><u>policies in Section IV, “Leave Without Pay (LWOP)”</u>.</p> <p>A LDSS may place an employee on administrative leave with pay when:</p> <ol style="list-style-type: none"> The LDSS is investigating the employee for misconduct, and the LDSS has not determined whether discipline is warranted; or Other legitimate LDSS reasons. <p><u>The LDSS is strongly encouraged to contact the VDSS HR Employee Relations Team (hr.employeerelations@dss.virginia.gov) prior to placing an employee on administrative leave.</u></p>	
Administrative Leave (Benefits While on Administrative Leave with Pay)	An employee on administrative leave with pay receives all the benefits to which an employee on paid status would be entitled to including earned annual and sick leave. Administrative leave with pay, however, does not count as hours worked for the purposes of overtime.	An employee on administrative leave with pay receives all the benefits to which an employee on paid status would be entitled, to including earned annual and sick leave. Administrative leave with pay, however, does not count as hours worked for the purposes of overtime.	
Section VI: Bereavement Leave (General Information)	---	Bereavement leave is available to all LDSS employees and is provided so that employees may have time off following the death of a family member. Bereavement leave is permitted if taken within eight (8) weeks of the death of the family member.	New Section
Bereavement Leave (Purpose)	The purpose of this policy is to set forth the provisions for leave for the death of a family member.	---	Section Removed
Bereavement Leave (Scope)	This policy applies to all employees.	---	Section Removed

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<p>Bereavement Leave (Use of Bereavement Leave)</p>	<p>1. <u>Leave for Death of Family Member</u></p> <p>a. An employee may use annual leave for absences that are due to the death of a family member. When annual leave is used, there is no maximum amount of leave that may be used for such purposes provided that the leave time is requested in advance or as soon as practical under the circumstances and the time requested is reasonable under the circumstances.</p> <p>b. During a calendar year, an employee may use three (3) days of sick leave for the death of a family member and no more than a total of six (6) days when there are multiple family member deaths during the calendar year. Under the Sick Leave policy, a family member (whether the relationship is by birth, adoption, foster care, marriage) is defined as parents, stepparents, spouse, children, stepchildren, siblings, grandparents, grandchildren and any relative by blood or marriage who resides in the employee’s home.</p> <p>c. Leave without pay may also be granted for bereavement purposes subject to the rules set forth in that policy.</p> <p>d. Bereavement leave is permitted if taken within eight weeks of the death of the family member.</p> <p>2. <u>Death of Child or Spouse</u></p> <p>For the death of an employee’s child or spouse, the LDSS may grant the use of up to three weeks of accrued sick leave during the</p>	<p><u>Leave for Death of Family Member</u></p> <p><u>Annual Leave</u></p> <p>An employee may use annual leave for absences that are due to the death of a family member. When annual leave is used, there is no maximum amount of leave that may be used for such purposes providing:ed</p> <p>1. Thethatthe leave time is requested in advance, or as soon as <u>it is reasonable to do so under the circumstances.</u>practical under the circumstances and</p> <p>1-2. The time requested is reasonable under the circumstances.</p> <p><u>In the event of the death of an employee’s child or spouse, the LDSS may grant the use of up to three (3) weeks of accrued sick leave during the period immediately following the death.</u></p> <p><u>Sick Leave</u></p> <p>During a calendar year, an employee may use:</p> <p>1. Three (3) days of <u>either « traditional » or « hybrid »</u> sick leave for the death of a family member.and</p> <p>2. No more than a total of six (6) days when there are multiple family member deaths during the calendar year.</p> <p><u>For use of either “traditional” or “hybrid” sick leave, the definition of a “family member” includes</u>Under the Sick Leave policy, a family member (whether the relationship is by birth, adoption, foster care, marriage) is defined as:</p> <p>1. <u>P</u>arents;</p> <p>2. <u>S</u>tepparents;</p>	<p>Please note that the information in this section has been expanded upon and reorganized.</p>

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	<p>period immediately following the death.</p>	<p>3. <u>S</u>spouse; 4. <u>C</u>hildren; 5. <u>S</u>tepchildren; 6. <u>S</u>iblings; 7. <u>G</u>randparents; 8. <u>G</u>randchildren and 9. <u>A</u>ny relative by blood, or marriage, <u>or through legal custody/guardianship</u> who resides in the employee’s home.</p> <p><u>Leave Without Pay (LWOP)</u> Leave without pay may also be granted for bereavement purposes subject to the rules set forth in <u>Section IV, “Leave Without Pay (LWOP)”</u> that policy.</p> <p>Bereavement leave is permitted if taken within eight weeks of the death of the family member.</p> <p><u>Death of Child or Spouse</u> For the death of an employee’s child or spouse, the LDSS may grant the use of up to three weeks of accrued sick leave during the period immediately following the death.</p>	
<p>Section II: Sick Leave (General Information)</p>	<p>---</p>	<p>Sick leave, also referred to as “traditional” sick leave, exists to provide employees with paid leave for time away from work for:</p> <ol style="list-style-type: none"> 1. Personal illness or injury. 2. Medical appointments that cannot be scheduled outside of work hours. 3. For the illness or injury of a family member. 	<p>New Section</p>

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		<p><u>Qualification to Receive Sick Leave</u></p> <p>1. Sick leave is available to all LDSS employees except:</p> <ul style="list-style-type: none"> a. Employees in temporary or emergency positions. b. Employees in restricted positions where benefits are not provided by the funding source. c. Employees who were hired after January 1, 2014, AND whose locality has chosen to adopt the LDSS Disability Leave Program (“hybrid” leave) or a comparable locality leave policy. <p>2. Part-time employees must work at least <i>one half</i> of the agency’s workweek hours or greater to qualify to earn “traditional” sick leave. Please note the following:</p> <table border="1"> <thead> <tr> <th>Agency Workweek Schedule</th> <th>Part-Time Minimum Weekly Hours</th> </tr> </thead> <tbody> <tr> <td>40 Hours Per Week</td> <td>20 Hours Per Week</td> </tr> <tr> <td>37.5 Hours Per Week</td> <td>18.75 Hours Per Week</td> </tr> <tr> <td>35 Hours Per Week</td> <td>17.5 Hours Per Week</td> </tr> </tbody> </table>	Agency Workweek Schedule	Part-Time Minimum Weekly Hours	40 Hours Per Week	20 Hours Per Week	37.5 Hours Per Week	18.75 Hours Per Week	35 Hours Per Week	17.5 Hours Per Week	
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40 Hours Per Week	20 Hours Per Week										
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Sick Leave (Purpose)	The purpose of this policy is to provide employees with paid leave for time away from work for personal illness or injury, medical appointments that cannot be scheduled outside work hours, or for the illness or injury of a family member.	---	Section Removed								
Sick Leave (Scope)	This policy applies to full-time and part-time employees who are not in temporary or emergency positions. Part-time status is working half-time hours or greater.	---	Section Removed								
Section II: Sick Leave	---	Employee disclosure of a serious medical condition, personal injury, or disability may	New Section								

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(Associated Federal Laws)		trigger applicable federal laws. Please refer to Part II – "The Family & Medical Leave Act," and Part II - Section V, "FMLA & Other Federal Laws," for more information on these laws, employer/employee responsibilities, and associated resources and training.	
Sick Leave (Americans With Disabilities Act)	The Americans with Disabilities Act (ADA) requires consideration of accommodations for qualified employees who have disabilities. Such accommodation may be in the form of intermittent sick leave. Further policy regarding ADA can be found in Section X.O. The Family Medical Leave Act (FMLA), the American with Disabilities Act (ADA) as amended and the Pregnancy Discrimination Act (PDA).		
Sick Leave (Sick Leave Accrual)	<p>1. <u>Rate</u> Employees earn paid sick leave on a pay period basis as follows:</p> <p>a. A full-time employee earns sick leave at the rate of 1.25 days a month.</p> <p>b. A part-time employee earns sick leave at a proportionate rate: e.g., and employee working half-time would earn ½ day of sick leave monthly and an employee working three quarters time would earn ¾ day a month.</p> <p>c. For LDSS that do not have monthly pay periods, sick leave is accrued each pay period in an amount proportionate to that earned on a monthly basis: e.g., for LDSS with a semi-monthly pay period, the rate would be ½ day for each pay period for full time employees (for half-time employees</p>	<p><u>Sick leave does not accrue until the end of the pay period in which it is earned and may not be used until the first day of the following pay period.</u></p> <p><u>Rate</u> Employees earn paid sick leave on a <u>per-pay-period</u>pay period basis as follows. <u>If the weekly work schedule of the LDSS is not forty (40) hours (e.g., 37.5 hours, 35 hours), sick leave accrual must be prorated based on the number of hours in the workweek.</u></p> <p><u>Based on a forty (40) hour-per-week schedule:</u></p> <ol style="list-style-type: none"> A full-time employee earns sick leave at the rate of 1.25 days <u>(10 hours)</u> per month. A part-time employee earns sick leave at a proportionate rate. <u>See « Helpful Hints – Calculating « Traditional » Sick Leave for Part-Time Employees » for additional information. ; e.g., and employee working</u> 	<p><u>Note that some information removed from this section has been relocated to subsequent sections in the updated draft.</u></p>

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	<p>the rate would be ¼ day).</p> <p>d. If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), sick leave accrual must be prorated based on the number of hours in the work week.</p> <p>2. <u>Monthly and Semi-monthly Sick Leave Accrual Charts:</u></p> <p>40 Hour Workweek (8 Hours per Day)</p> <table border="1" data-bbox="478 639 995 691"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>10.00</td> <td>5.00</td> </tr> </tbody> </table> <p>37.5 Hour Workweek (7.5 Hours per Day)</p> <table border="1" data-bbox="478 721 995 773"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>9.375</td> <td>4.6875</td> </tr> </tbody> </table> <p>35 Hour Workweek (7 Hours per Day)</p> <table border="1" data-bbox="478 802 995 854"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>8.75</td> <td>4.375</td> </tr> </tbody> </table> <p>3. <u>Accrual</u></p> <p>Sick leave does not accrue until the end of the pay period in which it is earned and may not be used until the first day of the following pay period.</p> <p>4. <u>Effect of Leave without Pay on Accrual</u></p> <p>If an employee is on leave without pay at any time during the pay period, no sick leave is earned for that pay period.</p> <p>5. <u>Carry Over</u></p> <p>There is no limit to the amount of sick leave that is permitted to be carried over to the next year.</p>	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	10.00	5.00	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	9.375	4.6875	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	8.75	4.375	<p>half time would earn ½ day of sick leave monthly and an employee working three quarters time would earn ¾ day a month.</p> <p>3. For LDSS that do not have monthly pay periods, sick leave is accrued each pay period in an amount proportionate to that earned <u>monthly on a monthly basis: e.g., For instance, for an LDSS with a semi-monthly pay period, the rate would be ½ day (5 hours) for each pay period for full time employees (for half time employees the rate would be ¼ day).</u></p> <table border="1" data-bbox="1041 773 1581 878"> <thead> <tr> <th>Workweek Hours</th> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>40 Hours (8 hours per Day)</td> <td>1.25</td> <td>10</td> <td>5</td> </tr> <tr> <td>37.5 Hours (7.5 Hours per Day)</td> <td>1.25</td> <td>9.375</td> <td>4.6875</td> </tr> <tr> <td>35 Hours (7 Hours per Day)</td> <td>1.25</td> <td>8.75</td> <td>4.375</td> </tr> </tbody> </table> <p>If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), sick leave accrual must be prorated based on the number of hours in the work week.</p> <p>Monthly and Semi-monthly Sick Leave Accrual Charts:</p> <p>40 Hour Workweek (8 Hours per Day)</p> <table border="1" data-bbox="1041 1117 1566 1169"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>10.00</td> <td>5.00</td> </tr> </tbody> </table> <p>37.5 Hour Workweek (7.5 Hours per Day)</p> <table border="1" data-bbox="1041 1198 1566 1250"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>9.375</td> <td>4.6875</td> </tr> </tbody> </table> <p>35 Hour Workweek (7 Hours per Day)</p> <table border="1" data-bbox="1041 1279 1566 1331"> <thead> <tr> <th>Monthly Accrual Rate in Days</th> <th>Monthly Accrual Rate in Hours</th> <th>Semi-Monthly Accrual Rate in Hours</th> </tr> </thead> <tbody> <tr> <td>1.25</td> <td>8.75</td> <td>4.375</td> </tr> </tbody> </table> <p><u>Accrual</u></p> <p>Sick leave does not accrue until the end of the pay period in which it is earned and may not be used until the first day of the following pay period.</p>	Workweek Hours	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	40 Hours (8 hours per Day)	1.25	10	5	37.5 Hours (7.5 Hours per Day)	1.25	9.375	4.6875	35 Hours (7 Hours per Day)	1.25	8.75	4.375	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	10.00	5.00	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	9.375	4.6875	Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours	1.25	8.75	4.375	
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Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours																																																					
1.25	9.375	4.6875																																																					
Monthly Accrual Rate in Days	Monthly Accrual Rate in Hours	Semi-Monthly Accrual Rate in Hours																																																					
1.25	8.75	4.375																																																					

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Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
		<p>Effect of Leave without Pay on Accrual If an employee is on leave without pay at any time during the pay period, no sick leave is earned for that pay period.</p> <p>Carry Over There is no limit to the amount of sick leave that is permitted to be carried over to the next year.</p>	
<p>Sick Leave (Use of Sick Leave)</p>	<ol style="list-style-type: none"> 1. <u>Use</u> Sick leave cannot be used until it is accrued. There is no borrowing against future accruals. 2. <u>Reasons for Use</u> Sick leave may be used for either personal or family reasons. <ol style="list-style-type: none"> a. Employee’s Own Use of Sick Leave Unless the LDSS has set a limitation, an employee may use the full amount of accrued sick leave for the employee’s own care as follows: <ol style="list-style-type: none"> (1) When medically necessary and the employee is unable to perform the essential functions of the position; (2) Pregnancy and child-birth related medical conditions; (3) Medically documented chronic conditions; (4) Medical appointments that cannot be scheduled outside of work hours (regularly scheduled, routine appointments should be scheduled outside of work hours, when possible); or (5) Family and Medical Leave Act leave. 	<p><u>Receipt</u>Use Sick leave does not accrue until the end of the pay period in which it is earned. Newly accrued sick leave hours are available for use the first day of the following pay period or workweek. Borrowing against future leave accruals is not permitted. Sick leave cannot be used until it is accrued. There is no borrowing against future accruals.</p> <p><u>Personal Use of Sick Leave</u>Reasons for Use Sick leave may be used for either personal or family reasons.</p> <p><u>Employee’s Own Use of Sick Leave</u> Unless the LDSS has set a limitation, an employee may use <u>Employees are permitted to use the full amount of their accrued sick leave for their own care, as follows: The LDSS local board and local director may choose to establish different limits on the amount of accrued sick leave available for use.</u></p> <p><u>Personal reasons for use include:</u></p> <ol style="list-style-type: none"> 1. When <u>leave from work is</u> medically necessary, and the employee is unable to perform the essential functions of the position. 	<p>Referred to as “Receipt & Use of Accrued Leave” in updated draft version.</p>

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Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
	<p>b. Use of Sick Leave for Family Purposes Unless the LDSS has established different limits, as approved by the local board and the LDSS, an employee may use accrued sick leave for the care of family members as follows:</p> <p>(1) Circumstances in which sick leave may be used for family.</p> <p>(a) When a family member has a medical condition that requires the employee to assist in the family member’s care or in transporting the family member;</p> <p>(b) The death of a family member;</p> <p>(c) Family and Medical Leave Act leave.</p> <p>(2) A family member for the purposes of circumstances (a) and (b) above (whether the relationship is by birth, adoption, foster care, or marriage) includes parents, stepparents, spouse, children, step- children, siblings, grandparents, grandchildren and any relative by blood or marriage who resides in the employee’s home (refer to Section X. Family and Medical Leave Act leave).</p> <p>(3) During a calendar year, an employee may use up to eight days of accrued Sick Leave for family sick leave.</p>	<p>2. Pregnancy and childbirth related medical conditions.;</p> <p>3. Medically documented chronic conditions.;</p> <p>4. <u>Use in conjunction with the Family and Medical Leave Act (see Part II – « The Family & Medical Leave Act »).</u></p> <p>4.5. Medical appointments that cannot be scheduled outside of work hours. When possible, employees are expected to schedule regular appointments outside of work hours. (regularly scheduled, routine — appointments — should — be scheduled outside of work hours, when possible); or</p> <p>Family and Medical Leave Act leave.</p> <p><u>Use of Sick Leave for Family Purposes</u></p> <p><u>Reasons for Use</u></p> <p>1. <u>Use in conjunction with the Family and Medical Leave Act (see Part II – "The Family & Medical Leave Act").</u></p> <p>2. <u>When an employee’s family member has a medical condition that requires the employee to directly assist in the family member’s care or provide transportation for care-related activities.</u></p> <p>3. <u>The death of a family member.</u></p> <p><u>Definition of a Family Member</u></p> <p>1. <u>For use of “traditional” sick leave in conjunction with the Family and Medical Leave Act (FMLA), the agency must follow</u></p>	

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		<p><u>the definition of a “family member” as specified by the FMLA, which is a child, parent, or spouse.</u></p> <p>2. <u>For use of “traditional” sick leave for reasons that do not qualify for FMLA, the definition of a “family member” includes:</u></p> <ul style="list-style-type: none"> a. <u>Parents</u> b. <u>Stepparents</u> c. <u>Spouse</u> d. <u>Children</u> e. <u>Stepchildren</u> f. <u>Siblings</u> g. <u>Grandparents</u> h. <u>Grandchildren</u> i. <u>Any relative by blood, marriage, or through legal custody or guardianship who resides in the employee’s home.</u> <p><u>This definition applies regardless of whether the relationship is by birth, adoption, foster care, marriage, or legal custody or guardianship.</u></p> <p><u>Amounts Available for Use for Family Purposes</u></p> <p><u>During a calendar year:</u></p> <ul style="list-style-type: none"> 1. <u>Employees may use up to 33% of their accrued sick leave balance in conjunction with FMLA.</u> 2. <u>Employees may use up to eight (8) days of their accrued sick leave balance for the care of family members for reasons that do not qualify for FMLA.</u> 	

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		<p><u>The LDSS local board and local director may choose to establish different limits on the amount of accrued sick leave available for use for family purposes.</u></p> <p>Unless the LDSS has established different limits, as approved by the local board and the LDSS, an employee may use accrued sick leave for the care of family members as follows:</p> <p>Circumstances in which sick leave may be used for family.</p> <p>When a family member has a medical condition that requires the employee to assist in the family member’s care or in transporting the family member;</p> <p>The death of a family member;</p> <p>Family and Medical Leave Act leave.</p> <p>A family member for the purposes of circumstances (a) and (b) above (whether the relationship is by birth, adoption, foster care, or marriage) includes parents, stepparents, spouse, children, step children, siblings, grandparents, grandchildren and any relative by blood or marriage who resides in the employee’s home (refer to Section X. Family and Medical Leave Act leave).</p> <p>During a calendar year, an employee may use up to eight days of accrued Sick Leave for family sick leave.</p>	
<p>Helpful Hints: Calculating “Traditional” Sick Leave for Part-Time Employees</p>	<p>---</p>	<p>Sick leave accruals for part-time employees are prorated based on the number of hours they work <i>on a weekly basis</i>. For instance, an employee working one-half of the agency’s workweek hours would earn ½ of a day (5 hours) of sick</p>	<p>This “Helpful Hint” appears as an insert in Section II: Sick Leave (Receipt & Use of Accrued Leave), above.</p>

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		<p>leave per month and an employee working three-quarters of the agency’s workweek hours would earn ¾ of a day (7.5 hours) per month. However, it can get tricky when an employee’s hours vary from those amounts.</p> <p>Look at this example:</p> <p>Jake has been with his agency for one year and works a set schedule of 19.5 hours per week for an agency that has a 37.5-hour agency workweek schedule. Jake’s hours equate to 52% of the full-time schedule. The full-time accrual rate for a one-year employee is 9.375 hours per month (based on a 37.5- workweek). Jake’s accrual rate would be 4.875 hours per month, or 52% of the full-time accrual rate.</p> <p>Here are some recommendations to make leave calculation for part-time employees easier:</p> <ul style="list-style-type: none"> ◆ Adopt a standard agency workweek schedule of 40-hours per week. This is recommended to prevent miscalculation of leave accrual for <i>all</i> employees, and it can also aid in preventing miscalculation of pay and overtime hours. ◆ Do not adopt an alternate agency workweek schedule outside of the options provided in the LDSS Administrative/HR Manual (37.5 or 35 hours per week). <p>Need help with calculating leave accrual amounts? Contact the VDSS Local HR Support Team with questions.</p>	
Sick Leave (Notice and Approval)	1. <u>Advanced Notice</u> If an employee has a medical condition that necessitates an absence from work, the	<u>Advanced Notice & Approval</u> <u>Employees are required to notify their</u> If an employee has a medical condition that	

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	<p>employee must notify the supervisor on the leave request form as soon as the absence is foreseeable. Medical conditions that have foreseeable absences include but are not limited to elective and non-emergency surgery, regular or routine medical appointments, pregnancy, and childbirth.</p> <p>2. <u>Notice and Approval Required at All Times</u> For absences that are not foreseeable, or for emergency situations, the employee must provide notice as soon as practicable. Until notice is provided, and the request is approved, the time will count as leave without pay.</p>	<p>necessitates an absence from work, the employee must notify the supervisor <u>ofon the sick</u> leave requests for approved reasons form as soon as the absence is foreseeable. Medical conditions that have foreseeable absences include, but are not limited to, elective and non-emergency surgery, regular or routine medical appointments, pregnancy, and childbirth.</p> <p><u>Notice & Approval for Unforeseeable or Emergency Situations</u> <u>Notice and approval are required in all circumstances.</u> However, the employee must provide notice as soon as it is reasonably possible for absences that are unforeseeable or result from an emergency. The time will count as leave without pay until notice is provided and the request is approved. See Section IV, "Leave without Pay (LWOP)," for more information on the appropriate use of LWOP and potential impacts of the use of LWOP on employee benefits.</p> <p>Notice and Approval Required at All Times For absences that are not foreseeable, or for emergency situations, the employee must provide notice as soon as practicable. Until notice is provided, and the request is approved, the time will count as leave without pay.</p>	
Sick Leave (Verification of Need for Sick Leave)	<p>1. <u>Verification of Need May Be Required</u> Upon the request of the LDSS, the employee must provide verification to establish the use of sick leave. The use of sick leave will not be approved until requested verification is provided.</p>	<p><u>Verification of Need May Be Required</u> Upon the request of the LDSS, the employee must provide verification to establish the use of sick leave. The use of sick leave will not be approved until requested verification is provided.</p> <p><u>Types of Verification</u></p>	

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VIRGINIA DEPARTMENT OF
SOCIAL SERVICES



Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
	<p>2. <u>Types of Verification</u> The following types of verification will be deemed sufficient:</p> <ul style="list-style-type: none"> a. FMLA health care provider certification; b. Statement from the medical provider that because of the medical condition the employee cannot perform the essential functions of the position, the medical facts that support this conclusion, and the estimated period of time that the employee will be absent from work; or c. Evidence that there was a medical appointment that could not have been scheduled during non-work hours. <p>3. <u>Re-Verification</u> If an employee is absent for an extended period of time or on a reoccurring basis, the LDSS may request, and the employee must submit, additional verification for the need for the absence. Continued use of sick leave can be conditioned on providing the requested verification.</p>	<p>The following types of verification will be deemed sufficient:</p> <ul style="list-style-type: none"> 1. FMLA health care provider certification; 2. Statement from the medical provider that because of the medical condition the employee cannot perform the essential functions of the position, the medical facts that support this conclusion, and the estimated period of time that the employee will be absent from work;or 3. Evidence that there was a medical appointment that could not have been scheduled during non-work hours. <p><u>Re-Verification</u> If an employee is absent for an extended period of time or on a reoccurring basis, the LDSS may request, and the employee must submit, additional verification for the need for the absence. Continued use of sick leave can be conditioned on providing the requested verification.</p>	
<p>Sick Leave (Treatment of Sick Leave Upon Change in Status)</p>	<p>1. <u>Payment at Termination</u></p> <ul style="list-style-type: none"> a. An employee must have worked continuously for the same LDSS for five years or longer to be entitled to a payment for accrued sick leave at termination or death. b. When employment is terminated, the employee may be paid for accrued sick leave in a lump sum up to the maximum allowable 	<p><u>Payment at Termination</u></p> <ul style="list-style-type: none"> 1. An employee must have worked continuously for the same LDSS for five <u>(5)</u> years or longer to be entitled to a payment for accrued sick leave at termination or death. 2. When employment is terminated, the employee may be paid for accrued sick leave in a lump sum up to the maximum 	

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	<p>amount. The amount of payment is the lesser of 25% of the accrued leave or the maximum payout amount as determined by the local Board and approved by VDSS.</p> <p>c. For the purpose of unemployment compensation such leave payment will be allocated as wages for the equivalent daily/weekly periods as the employee would have received had employment continued.</p> <p>2. <u>Payment at Death</u> Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §64.2-601 and §64.2-602 which govern the process by which those payments are made. The guidelines and legal requirements governing deceased pay can be complicated. Individual circumstances can vary and may require additional guidance from the city/county payroll office and attorney.</p> <p>3. <u>Right to Repurchase</u> An employee, who is rehired by the same LDSS within twelve (12) months from the date of a layoff or an employee who is reinstated by a grievance panel, may have the sick leave balances restored by paying the amount of any payout received at termination for accrued sick leave.</p> <p>4. <u>Leaves of Absence are Not Terminations</u> Educational leave, FMLA leave, military leave, and other forms of extended leave are not considered terminations for the purposes of receiving payment for accrued</p>	<p>allowable amount. The amount of payment is the lesser of 25% of the accrued leave or the maximum payout amount as determined by the local Board and approved by VDSS.</p> <p>3. For the purpose of unemployment compensation, such leave payment will be allocated as wages for the equivalent daily/weekly periods as the employee would have received had employment continued.</p> <p><u>Payment at Death</u> Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §64.2-601 and §64.2-602 which govern the process by which those payments are made. The guidelines and legal requirements governing <u>wages earned by an employee prior to death</u> deceased pay can be complicated. Individual circumstances can vary and may require additional guidance from the <u>locality</u> city/county payroll office and attorney.</p> <p><u>Right to Repurchase</u> An employee, who is rehired by the same LDSS within twelve (12) months from the date of a layoff, or an employee who is reinstated by a grievance panel, may have the sick leave balances restored by paying the amount of any payout received at termination for accrued sick leave.</p> <p><u>Leaves of Absence are Not Terminations</u> Educational leave, FMLA leave, military leave, and other forms of extended leave are not considered terminations for the purposes of receiving payment for accrued sick leave.</p>	

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	sick leave.		
Sick Leave (Transfer of Leave)	As an inducement to accept an offer of employment, an LDSS may offer to credit an employee with some or all of the sick leave balances that would be uncompensated when the employee resigns from employment with another LDSS or the Virginia Department of Social Services. An employee may only be credited with sick leave if there is no break in service.	As an inducement to accept an offer of employment, an LDSS may offer to credit an employee with some or all of the sick leave balances that would be uncompensated when the employee resigns from employment with another LDSS or the Virginia Department of Social Services (<u>VDSS</u>). An employee may only be credited with sick leave if there is no break in service.	
Sick Leave (Change in Employment Status)	If the status of an employee is changed from temporary to probationary, regular, or restricted, the provisions of Section IX. Disability Leave Program may apply. The temporary employment period may be considered part of the total service in determining the rate at which the allowance for annual leave shall accrue in the new status.	<u>Provisions of Section III. “Disability Leave Program”, may apply if</u> the status of an employee is changed from temporary to probationary, regular, or restricted, the provisions of Section IX. Disability Leave Program may apply. The temporary employment period may be considered part of the total service in determining the rate at which the allowance for annual leave shall accrue in the new status.	
Sick Leave (Employee Accountability)	<ol style="list-style-type: none"> The employee is responsible for knowing the amount of sick leave balances that should have been accrued. An employee will be required to reimburse the LDSS for leave taken if there was not sufficient accrued leave to cover the time taken. Reimbursement may be in the form of monetary reimbursement or charging the time to other accrued paid leave. LDSS may work out a repayment plan with the employee. If an employee is on leave without pay at any time during the pay period, no sick leave is earned for that pay period. 	<ol style="list-style-type: none"> The employee is responsible for knowing the amount of sick leave balances that should have been accrued. An employee will be required to reimburse the LDSS for leave taken if there was not sufficient accrued leave to cover the time taken. Reimbursement may be in the form of monetary reimbursement or charging the time to other accrued paid leave. LDSS may work out a repayment plan with the employee. <u>LDSS employees are not responsible for reimbursement of errors resulting from miscalculation of accrual amounts by the LDSS (i.e., leave accrual</u> 	

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	<p>4. No matter how urgent the need for the leave may be, the LDSS has no authority to grant paid leave when there is not sufficient accrued leave.</p>	<p><u>amounts for agency employees are not appropriately prorated based on an alternate agency workweek schedule – 37.5 or 35 hours per week).</u></p> <p>3. If an employee is on leave without pay at any time during the pay period, no sick leave is earned for that pay period.</p> <p><u>4. No matter how urgent the need for the leave may be, the LDSS has no authority to grant paid leave when there is not sufficient accrued leave.</u></p> <p><u>4.5. Reimbursement due to employee error may be in the form of monetary reimbursement, charging the time to other accrued paid leave, or at the LDSS's option, future leave accruals.</u></p>	
<p>Section III: LDSS Disability Leave Program (General Information)</p>	<p>---</p>	<p><u>Background</u></p> <p>On January 1, 2014, the Virginia Retirement System (VRS) implemented the Hybrid Retirement Plan. With the implementation came the requirement that all Commonwealth of Virginia localities covered under the VRS Hybrid Retirement Plan automatically enroll in the VRS Virginia Local Disability Program (VLDP) or a comparable program provided by the local jurisdiction¹. As a result of this change, full-time employees enrolled in the VRS Hybrid Retirement Plan would have access to short- and long-term disability benefits that may not have been previously available. A leave system was not a part of the implementation of the Hybrid</p>	<p>New section which incorporates new or expanded information alongside information pulled from other sections which have been removed or rewritten.</p>

¹ [§ 51.1-1153](#)

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		<p>Retirement Plan or the VLDP, thus the creation of a leave system was necessary.</p> <p>The LDSS Disability Leave Program was created to fill the need for a leave system by allowing local boards to address the leave needs of employees covered under employer paid short- and long-term disability programs. High employee sick leave balances result from pairing the "traditional" sick leave accrual system (Section II of this chapter) with an employer paid short- and long-term disability program. The LDSS Disability Leave Program was created to prevent high "traditional" sick leave balances by offering a leave system where employees receive a finite amount of leave credits each year that do not accrue and are lost if unused within the agency's leave year.</p> <p>The leave associated with the LDSS Disability Leave Program is often referred to as "hybrid" leave because the VRS Hybrid Retirement Plan was introduced during the same timeframe; however, the two are indirectly related. Employees who have questions about the VRS Hybrid Retirement Plan or the VLDP should contact VRS.</p> <p><u>Options for Local Boards</u></p> <p>Local boards may choose one of the following leave systems for employees covered under short- and long-term disability programs:</p> <ol style="list-style-type: none"> 1. The LDSS Disability Leave Program. 2. The local jurisdiction's leave policy. 3. The State Board sick leave accrual policy (also referred to as "traditional" sick leave). 	

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Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
		<p>It is recommended that LDSSs work with their local boards and their locality to determine the best approach for local department employees under a disability plan. The LDSS must have an approved deviation to follow the local jurisdiction’s leave policy.</p> <p>Check the LDSS Profile Summary to verify deviation status or contact the <u>VDSS HR Policy Team</u> (hr.employeerelations@dss.virginia.gov) to inquire about the policy deviation process. If the local jurisdiction’s leave policy is chosen, it must apply to all local jurisdiction employees, including employees of the local department of social services.</p>	
Disability Leave Program (Purpose)	<p>To provide an alternative leave system for use by local boards to address the leave needs of employees covered under employer paid short- and long-term disability programs. Local boards may choose to allow employees covered under short- and long-term disability programs to follow: 1) State Board sick leave accrual policy; 2) local jurisdiction’s leave policy; or 3) State Board disability leave program policy. If the local jurisdiction’s leave policy is chosen, it must apply to all local jurisdiction employees, including employees of the local department of social services.</p> <p>It is recommended that local departments work with their local boards and their locality to determine the best approach for local department employees under a disability plan. If a local jurisdiction policy is chosen, local departments will submit an updated Local Policy Request</p>	---	Section removed, however relevant information has in some cases been incorporated into other sections of the updated draft version, to include (but not limited to), Section III: LDSS Disability Leave Program (above).

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<p>Disability Leave Program (Scope)</p>	<p>Form to VDSS HR for approval.</p> <p>This policy applies to full-time or part-time employees who are not in temporary or emergency positions and whose local boards have chosen to limit their sick leave as part of a short- and long-term disability plan. This group of employees includes full-time employees hired or rehired on or after January 1, 2014; full time employees who choose to opt-in to the hybrid retirement plan; or other employees as determined by the local board.</p>	<p>This policy applies to full-time or part-time employees who are not in temporary or emergency positions, and whose local boards have chosen to limit their sick leave as part of a short- and long-term disability plan. This group of employees includes:</p> <ol style="list-style-type: none"> 1. <u>F</u>ull-time employees hired or rehired on or after January 1st, 2014, <u>and who are enrolled in the Virginia Retirement System (VRS) Hybrid Retirement Plan.</u> 2. <u>F</u>ull time employees who choose to opt-in to the hybrid retirement plan;or 3. <u>O</u>ther employees as determined by the local board. <p><u>Employees eligible for sick leave accrual and who were hired before January 1, 2014, are covered under the State Board sick leave accrual policy (“traditional” sick leave). This policy is covered in Section II of this chapter. Employees who continue to participate in VRS Plan 1 or VRS Plan 2 will continue to accrue “traditional” sick leave. Employees should contact VRS with questions about their retirement plans.</u></p>	
<p>Helpful Hints: Key Differences Between the LDSS Disability Leave Plan & “Traditional” Sick Leave</p>	<p>---</p>	<p>There are some important differences between the sick leave credit offered under the LDSS Disability Leave Plan and what is commonly referred to as “traditional” sick leave.</p> <p>Let’s look:</p> <ul style="list-style-type: none"> ◆ Accompanies a short- and long-term disability program. 	<p>This “Helpful Hint” appears as an insert in Section III: Disability Leave Program.</p>

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		<ul style="list-style-type: none"> ◆ The Disability Leave Plan provides both a sick leave (‘hybrid’) and family and personal leave credit. ◆ Leave types do not accrue. Employees receive either partial* or full leave credit amounts at a specific time during the year. ◆ Neither sick leave nor family and personal leave credits roll over. Leave credits not used in the previous year will be lost when leave credit amounts renew for the following year. ◆ There is no payout upon separation. <p>“Traditional” Sick Leave</p> <ul style="list-style-type: none"> ◆ Stand-alone leave; no short- and long-term disability plan. ◆ Employees only receive sick leave (‘traditional’); family and personal leave are not included. ◆ Accrues on a pay period basis. ◆ Sick leave accrual amount rolls over from year to year. ◆ May be paid out upon separation from the LDSS. <p>Questions? Contact the VDSS Local HR Support Team for assistance.</p> <p>*New employees starting on or after July 1 only receive partial leave amounts until the beginning of the following year.</p>	

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Section	Current Wording in Guidance Document	Recommended Changes (highlighted/underlined)	Notes
Section III: LDSS Disability Leave Program (Applicable Federal Laws)	---	Employee disclosure of a serious medical condition, personal injury, or disability may trigger applicable federal laws. Please refer to Part II – "The Family & Medical Leave Act," for more information on the FMLA, employer/employee responsibilities, other federal laws that may intersect with the FMLA, and associated resources and training.	New Section
Disability Leave Program (Sick Leave Credit)	<p>Sick leave will be credited on the following basis:</p> <p>1) <u>Sick Leave Credit</u></p> <p>(a) Full-time employees employed between January 1 and June 30, or other current full-time employees as determined by their local boards are credited the entire sick leave credit on the first day of their first full payroll period.</p> <p>(b) Full-time employees participating in the hybrid retirement plan and hired July 1 or later or current employees who opt into the hybrid retirement plan are credited 50% of the sick leave credit on the first day of their first full pay period or on the effective date of their election as applicable.</p> <p>(c) Part-time employees hired on January 1, 2014, or later may be granted a proportionate sick leave credit as determined by their local boards.</p> <p>(d) In subsequent years, the sick leave credit will be credited to eligible employees on the first day of the first full payroll period in January.</p> <p>(e) If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours),</p>	<p>1. Full-time employees participating in the VRS Hybrid Retirement Plan and hired between January 1 and June 30 will receive the full sick leave credit amount on the first day of their first full payroll period.</p> <p>2. Full-time employees participating in the VRS Hybrid Retirement Plan and hired July 1 or later will receive 50% of the full sick leave credit amount. Receipt occurs on the first day of their first full pay period.</p> <p style="padding-left: 40px;">a. In subsequent years, employee hired after July 1 or later will receive the full sick leave credit amount on the first day of the first full payroll period in January.</p> <p>3. Part-time employees hired on or after January 1, 2014, may receive a proportionate sick leave credit amount, as determined by their local boards.</p> <p>If the weekly work schedule of the LDSS is not forty (40) hours (e.g., 37.5 hours, 35 hours), sick leave credit amounts <u>must</u> be prorated</p>	<p>Rewritten as Section II: LDSS Disability Leave Program (Receipt of Sick Leave Credit), with some information being removed or relocated to other sections, as appropriate.</p>

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	<p>sick leave accrual must be prorated based on the number of hours in the work week.</p> <p>2) <u>Sick Leave Credit Charts</u></p> <p>Eligible full-time employees hired from January 1 and June 30:</p> <p>40 Hour Workweek (8 Hours per Day)</p> <table border="1" data-bbox="472 576 1003 673"> <thead> <tr> <th>Years of Service with LDSS</th> <th>Sick Leave Credit in Days</th> <th>Sick Leave Credit in Hours</th> </tr> </thead> <tbody> <tr> <td>0 through 4</td> <td>8</td> <td>64</td> </tr> <tr> <td>5 through 9</td> <td>9</td> <td>72</td> </tr> <tr> <td>10 and beyond</td> <td>10</td> <td>80</td> </tr> </tbody> </table> <p>37.5 Hour Workweek (7.5 Hours per Day)</p> <table border="1" data-bbox="472 706 1003 812"> <thead> <tr> <th>Years of Service with LDSS</th> <th>Sick Leave Credit in Days</th> <th>Sick Leave Credit in Hours</th> </tr> </thead> <tbody> <tr> <td>0 to 4</td> <td>8</td> <td>60</td> </tr> <tr> <td>5 to 9</td> <td>9</td> <td>67.5</td> </tr> <tr> <td>10 and beyond</td> <td>10</td> 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	<p><u>Credit</u></p> <p>If an employee is on leave without pay on the day that the sick leave credit is granted, the sick leave credit is not granted until the employee is on paid status.</p> <p>4) <u>No Carry Over or Payment Upon Separation</u></p> <p>The sick leave credit does not accrue. No carryover of the sick leave credit from year to year is allowed. Sick leave credit balances are not paid out upon separation.</p> <p>5) <u>Use of Sick Leave Credit</u></p> <p>(a) <u>Use</u></p> <p>The sick leave credit cannot be used until it is granted. There is no borrowing against future credits.</p> <p>(b) <u>Reasons for Use</u></p> <p>The sick leave credit may be used for either personal or family reasons.</p> <ul style="list-style-type: none"> • <u>Employee’s Own Use of Sick Leave Credit</u> <p>Unless the LDSS has set a limitation, an employee may use the full amount of the sick leave credit for the employee’s own care as follows:</p> <ul style="list-style-type: none"> • When medically necessary and the employee is unable to perform the essential functions of the position; • Pregnancy and child-birth related medical conditions; • Medically documented chronic conditions; • Medical appointments that cannot be scheduled outside of work hours (regularly scheduled, routine appointments should be 		

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	<p>scheduled outside of work hours, when possible); or</p> <ul style="list-style-type: none"> • Family and Medical Leave Act leave (see Section X). • <u>Use of Sick Leave Credit for Family Purposes</u> <p>Unless the LDSS has established different limits, as approved by the local board and the LDSS, an employee may use the sick leave credit for the care of family members as follows:</p> <ul style="list-style-type: none"> • <u>Circumstances in which the sick leave credit may be used for family:</u> • When a family member has a medical condition that requires the employee to assist in the family member’s care or in transporting the family member; • The death of a family member; • Family and Medical Leave Act leave (see Section X). • A family member for the purposes of circumstances (i) and (ii) above (whether the relationship is by birth, adoption, foster care, marriage, or legal custody or guardianship) includes parents, stepparents, spouse, children, stepchildren, siblings, grandparents, grandchildren and any relative by blood or marriage or through legal custody or guardianship who resides in the employee’s home. For Family and Medical Leave Act leave see Section X. • During a calendar year, an employee may use up to 33% of their unused sick leave 		

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	<p>credit balance for family sick leave.</p> <p>6) <u>Sick Leave Balances of Employees Opting Into the Hybrid Retirement Plan</u></p> <p>(a) <u>Purpose</u> To address the sick leave balances of employees opting-in to the VRS hybrid retirement plan or other employees whose local boards have decided to limit sick leave in connection with participation in a short- and long-term disability plan.</p> <p>(b) <u>Use of Previous Sick Leave Balance</u> Upon participation in the local short- and long-term disability plan, the sick leave balances of eligible employees will be frozen. At the discretion of the local board, these frozen sick leave balances may be used as follows:</p> <ul style="list-style-type: none"> • To supplement income during periods when an employee is receiving short- or long-term disability benefits. Total income replacement from the disability benefit and leave cannot exceed 100% of an employee’s pre-disability income per pay period. • For any allowable use of accrued sick leave, as noted in Chapter 4. Section VIII. C., during the one year waiting period prior to disability benefits. The local board may also choose to: • Make a payout of the frozen sick leave balance. Payout options include: <p>1) Treatment of frozen sick leave upon Change in Status</p>		

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	<p>Upon a change in status, treatment of frozen sick leave balances should be consistent with the treatment of accrued sick leave balances as noted in Chapter 4, Section VIII.F.</p> <p>2) Prior to separation, payout of the remaining frozen sick leave balance may be made as follows:</p> <p>(a) A one-time lump sum payout up to the maximum allowable amount. The amount of payment is the lesser of 25% of the remaining frozen sick leave balance or the maximum payout amount as determined by the local board and approved by VDSS; or</p> <p>(b) A lump sum payout up to the maximum allowable payout, whereby payment is split over two or more pay periods. The total of all frozen sick leave payouts to an employee cannot exceed the lesser of 25% of the remaining frozen sick leave balance or the maximum payout amount as determined by the local board and approved by VDSS.</p> <ul style="list-style-type: none"> • Convert a portion of each employee’s frozen sick leave balance to annual leave (not to exceed the maximum carryover for annual leave). <p>(a) <u>Compensation Plan</u></p> <p>The option or options approved by the local board to address the sick leave balances of employees opting into the hybrid retirement plan will be documented on the Local Department of Social Services Compensation Plan.</p>		

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<p>Section III: LDSS Disability Leave Program (Use of Sick Leave Credit)</p>	<p>1) <u>Use of Sick Leave Credit</u></p> <p>(b) <u>Use</u> The sick leave credit cannot be used until it is granted. There is no borrowing against future credits.</p> <p>(c) <u>Reasons for Use</u> The sick leave credit may be used for either personal or family reasons.</p> <ul style="list-style-type: none"> • <u>Employee’s Own Use of Sick Leave Credit</u> Unless the LDSS has set a limitation, an employee may use the full amount of the sick leave credit for the employee’s own care as follows: <ul style="list-style-type: none"> • When medically necessary and the employee is unable to perform the essential functions of the position; • Pregnancy and child-birth related medical conditions; • Medically documented chronic conditions; <p>Medical appointments that cannot be scheduled outside of work hours (regularly</p> <ul style="list-style-type: none"> • scheduled, routine appointments should be scheduled outside of work hours, when possible); or • Family and Medical Leave Act leave (see Section X). • <u>Use of Sick Leave Credit for Family Purposes</u> Unless the LDSS has established different limits, as approved by the local board and the LDSS, an employee may use the sick leave credit for the care of family members 	<p><u>Use of Sick Leave Credit</u></p> <p><u>Use</u> The sick leave credit cannot be used until it is credited<u>granted</u>. <u>Employees are not permitted to</u>There is no borrowing against future credits. <u>Sick leave credit may be used for either personal or family illness, injury, or medically documented condition.</u></p> <p><u>Reasons for Use</u> The sick leave credit may be used for either personal or family reasons. <u>Personal</u> Employee’s Own <u>Use of Sick Leave Credit</u> <u>Employees are permitted to</u> Unless the LDSS has set a limitation, an employee may use the full amount of the sick leave credit <u>available for the calendar year for</u> their <u>the employee’s</u> own care. <u>The LDSS local board and local director may choose to establish different limits on the amount of sick leave credits available for use.</u></p> <p><u>Reasons for use include</u> as follows:</p> <ol style="list-style-type: none"> 3. When <u>leave from work is</u> medically necessary, and the employee is unable to perform the essential functions of the position.; 4. Pregnancy and childbirth related medical conditions.; 5. Medically documented chronic conditions.; 6. <u>Use in conjunction with the Family and Medical Leave Act (See Part II – «The Family & Medical Leave Act»).</u> 7. <u>Medical appointments that cannot be</u> 	<p>New section consisting primarily of rewritten and reorganized information pulled from “Disability Leave Program (Sick Leave Credit)” in the current version.</p>

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	<p>as follows:</p> <ul style="list-style-type: none"> • <u>Circumstances in which the sick leave credit may be used for family:</u> • When a family member has a medical condition that requires the employee to assist in the family member’s care or in transporting the family member; • The death of a family member; • Family and Medical Leave Act leave (see Section X). • A family member for the purposes of circumstances (i) and (ii) above (whether the relationship is by birth, adoption, foster care, marriage, or legal custody or guardianship) includes parents, stepparents, spouse, children, stepchildren, siblings, grandparents, grandchildren and any relative by blood or marriage or through legal custody or guardianship who resides in the employee’s home. For Family and Medical Leave Act leave see Section X. • During a calendar year, an employee may use up to 33% of their unused sick leave credit balance for family sick leave. 	<p><u>scheduled outside of work hours. When possible, employees are expected to schedule regular appointments outside of work hours.</u></p> <p>6. Medical appointments that cannot be scheduled outside of work hours (regularly scheduled, routine appointments should be scheduled outside of work hours, when possible); or</p> <p>Family and Medical Leave Act leave (see Section X).</p> <p><u>Use of Sick Leave Credit for Family Purposes</u></p> <p><u>During a calendar year, employees may use up to 33% of their unused sick leave credit balance for family sick leave. The LDSS local board and local director may choose to establish different limits on the amount of family sick leave credits available for use for family purposes.</u></p> <p><u>Sick leave credits may be used for family purposes in the following situations:</u></p> <ol style="list-style-type: none"> <u>1. Use in conjunction with the Family and Medical Leave Act (see Part II – "The Family & Medical Leave Act").</u> <u>2. When an employee’s family member has a medical condition that requires the employee to directly assist in the family member’s care or provide transportation for care-related activities.</u> <u>3. The death of a family member.</u> <p><u>Definition of a Family Member</u></p> <ol style="list-style-type: none"> <u>1. For use of sick leave credits in conjunction with the Family and Medical Leave Act</u> 	

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		<p>(FMLA), the agency must follow the <u>definition of a “family member” as specified by the FMLA, which is a child, parent, or spouse.</u></p> <p>2. <u>For use of sick leave credits for reasons that do not qualify for FMLA, the definition of a “family member” includes:</u></p> <ul style="list-style-type: none"> a. <u>Parents</u> b. <u>Stepparents</u> c. <u>Spouse</u> d. <u>Children</u> e. <u>Stepchildren</u> f. <u>Siblings</u> g. <u>Grandparents</u> h. <u>Grandchildren</u> i. <u>Any relative by blood, marriage, or through legal custody/guardianship who resides in the employee’s home.</u> <p><u>This definition applies regardless of whether the relationship is by birth, adoption, foster care, marriage, or legal custody / guardianship.</u></p> <p>Unless the LDSS has established different limits, as approved by the local board and the LDSS, an employee may use the sick leave credit for the care of family members as follows:</p> <p><u>Circumstances in which the sick leave credit may be used for family:</u></p> <p>When a family member has a medical condition</p>	

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		<p>that requires the employee to assist in the family member's care or in transporting the family member;</p> <p>The death of a family member;</p> <p>Family and Medical Leave Act leave (see Section X).</p> <p>A family member for the purposes of circumstances (i) and (ii) above (whether the relationship is by birth, adoption, foster care, marriage, or legal custody or guardianship) includes parents, stepparents, spouse, children, stepchildren, siblings, grandparents, grandchildren and any relative by blood or marriage or through legal custody or guardianship who resides in the employee's home. For Family and Medical Leave Act leave see Section X.</p> <p>During a calendar year, an employee may use up to 33% of their unused sick leave credit balance for family sick leave.</p>	
Section III: LDSS Disability Leave Program (Verification of Need for Sick Leave)	---	<p><u>Verification of Need May be Required</u></p> <p>Upon the request of the LDSS, the employee must provide verification to establish the use of sick leave credits. The use of sick leave credits will not be approved until requested verification is provided.</p> <p><u>Types of Verification</u></p> <p>The following types of verification will be deemed sufficient:</p> <ol style="list-style-type: none"> 1. FMLA health care provider certification. 2. Statement from the medical provider that because of the medical condition the 	New Section

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		<p>employee cannot perform the essential functions of the position, the medical facts that support this conclusion, and the estimated period that the employee will be absent from work.</p> <p>3. Evidence that there was a medical appointment that could not have been scheduled during non-work hours.</p> <p><u>Re-Verification</u> If an employee is absent for an extended period or on a reoccurring basis, the LDSS may request, and the employee must submit, additional verification for the need for the absence. Continued use of sick leave credits can be conditioned on providing the requested verification.</p>	
<p>Section III: LDSS Disability Leave Program (Effect of Leave Without Pay on Sick Leave Credit)</p>	<p>1) <u>Effect of Leave without Pay on Sick Leave Credit</u> If an employee is on leave without pay on the day that the sick leave credit is granted, the sick leave credit is not granted until the employee is on paid status.</p>	<p>Effect of Leave without Pay on Sick Leave Credit <u>Employees who are</u> If an employee is on <u>approved</u> leave without pay when on the day that the sick leave credit <u>balances are</u> is granted <u>will not receive their sick leave credit balance until they return to</u> , the sick leave credit is not granted until the employee is on paid status.</p>	<p>New section created using information pulled from “Disability Leave Program (Sick Leave Credit)” in current version.</p>
<p>Section III: Disability Leave Program (No Sick Leave Carryover or Payment Upon Separation)</p>	<p>1) <u>No Carry Over or Payment Upon Separation</u> The sick leave credit does not accrue. No carryover of the sick leave credit from year to year is allowed. Sick leave credit balances are not paid out upon separation.</p>	<p>No Carry Over or Payment Upon Separation Sick The sick leave credit does not accrue. <u>Remaining sick leave balances do not carry over from year to year, nor are they paid out upon separation.</u> No carryover of the sick leave credit from year to year is allowed. Sick leave credit balances are not paid out upon separation.</p>	<p>New section created using information pulled from “Disability Leave Program (Sick Leave Credit)” in current version.</p>

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<p>Section III: LDSS Disability Leave Program (Electing to Move from the State Board-Approved Leave System [“Traditional” Sick Leave] At a Later Date)</p>	<p>1) <u>Sick Leave Balances of Employees Opting Into the Hybrid Retirement Plan</u></p> <p>(d) <u>Purpose</u> To address the sick leave balances of employees opting-in to the VRS hybrid retirement plan or other employees whose local boards have decided to limit sick leave in connection with participation in a short- and long-term disability plan.</p> <p>(e) <u>Use of Previous Sick Leave Balance</u> Upon participation in the local short- and long-term disability plan, the sick leave balances of eligible employees will be frozen. At the discretion of the local board, these frozen sick leave balances may be used as follows:</p> <ul style="list-style-type: none"> To supplement income during periods when an employee is receiving short- or long-term disability benefits. Total income replacement from the disability benefit and leave cannot exceed 100% of an employee’s pre-disability income per pay period. For any allowable use of accrued sick leave, as noted in Chapter 4. Section VIII. C., during the one year waiting period prior to disability benefits. The local board may also choose to: Make a payout of the frozen sick leave balance. Payout options include: 	<p>The requirements of § 51.1-1153 dictate that all localities must participate in a short- and long-term disability program. LDSS local boards were initially given three options to choose from for a leave system to accompany the short- and long-term disability plan for employees enrolled in the VRS Hybrid Retirement Plan. One option was to continue to follow the State Board-Approved Leave System (“traditional” sick leave).</p> <p>Any LDSS that initially elected to keep the “traditional” sick leave policy may elect to move to either the LDSS Disability Leave Program, or a comparable locality leave policy² at a future date. However, when making this choice, the LDSS must determine how to address employees’ remaining “traditional” sick leave balances.</p> <p><u>Addressing Remaining “Traditional” Sick Leave Balances</u></p> <p>Once the decision is made to move to another leave program option, the eligible employees’ “traditional” sick leave balances must be frozen. The local board may choose from the following options to address the frozen balances. The option(s) chosen and approved by the local board must be documented on the Local Department of Social Services Compensation Plan.</p> <p>Available options are:</p> <ol style="list-style-type: none"> To allow employees to use the frozen balance, which may also include conversion 	<p>New section created incorporating information relocated from other sections and rewritten, notably “Disability Leave Program (Sick Leave Credit)”</p>

² Per [§22VAC40-675-50](#), LDSS seeking to follow a comparable locality leave policy are required to complete the policy deviation process and receive approval from the Virginia State Board of Social Services.

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	<p>1) Treatment of frozen sick leave upon Change in Status</p> <p>Upon a change in status, treatment of frozen sick leave balances should be consistent with the treatment of accrued sick leave balances as noted in Chapter 4, Section VIII.F.</p> <p>2) Prior to separation, payout of the remaining frozen sick leave balance may be made as follows:</p> <p>(a) A one-time lump sum payout up to the maximum allowable amount. The amount of payment is the lesser of 25% of the remaining frozen sick leave balance or the maximum payout amount as determined by the local board and approved by VDSS; or</p> <p>(b) A lump sum payout up to the maximum allowable payout, whereby payment is split over two or more pay periods. The total of all frozen sick leave payouts to an employee cannot exceed the lesser of 25% of the remaining frozen sick leave balance or the maximum payout amount as determined by the local board and approved by VDSS.</p> <ul style="list-style-type: none"> Convert a portion of each employee’s frozen sick leave balance to annual leave (not to exceed the maximum carryover for annual leave). 	<p>of a portion of the frozen leave balance to annual leave; or</p> <p>2. Make a payout of the frozen balance.</p> <p><u>Allowing Use or Conversion of a Frozen Balance</u></p> <p>An employee may use the remaining leave balance:</p> <ol style="list-style-type: none"> For any allowable use of “traditional” sick leave as noted in Section II of this chapter; or To supplement income during periods when the employee is receiving short- or long-term disability benefits. Total income replacement from the disability benefit and leave cannot exceed 100% of an employee’s pre-disability income per pay period. <p>The local board may also choose to allow the conversion of a portion of the frozen balance to annual leave. However, conversion amounts must not exceed the maximum carryover amount for annual leave.</p> <p><u>Payout of a Frozen Balance</u></p> <p>Payout may occur with a change in status or prior to separation.</p> <ol style="list-style-type: none"> Change in Status: Treatment of accrued “traditional” sick leave balances should be consistent with <u>Section II</u> of this chapter. Separation: Prior to separation, payout of the remaining frozen sick leave balance may be made as follows: 	

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		<ul style="list-style-type: none"> a. A one-time lump sum payout, up to the maximum allowable amount. The amount of the payment is lesser of 25% of the remaining frozen sick leave balance, or the maximum payout amount as determined by the local board and approved by VDSS; or b. A lump sum payout up to the maximum allowable payout, whereby payment is split over two (2) or more pay periods. The total of all frozen sick leave payouts to an employee cannot exceed the lesser of 25% of the remaining frozen sick leave balance, or the maximum payout amount as determined by the local board and approved by VDSS. 	
<p>Disability Leave Program (Family and Personal Leave Credit)</p>	<p>A. Family and personal leave will be credited on the following basis:</p> <ul style="list-style-type: none"> 1. <u>Family and Personal Leave Credit</u> a. Eligible full-time employees employed from January 1 to June 30 will be credited with the entire annual family and personnel leave credit on the first day of their first full pay period. b. Eligible full-time employees hired on or after July 1 and those current employees who opt-in to the hybrid retirement plan will have family and personal leave credited at 50% of the annual credit on the first day of 	<p>---</p>	<p>Section removed, with relevant information being relocated and rewritten in other sections (see below).</p>

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	<p>the first full pay period after the effective date of their election or hire date as applicable.</p> <p>c. Part-time employees hired on January 1, 2014 or later may be granted a proportionate annual family and personal leave credit as determined by their local boards.</p> <p>d. In subsequent years, eligible employees will have the entire annual family and personal leave credit credited on the first day of the first full payroll period in January.</p> <p>e. Family and personal leave may not be used before it is credited.</p> <p>f. If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), family and personal leave accrual must be prorated based on the number of hours in the work week.</p> <p>2. <u>Family and Personal Leave Credit Charts</u></p> <p>Employees with less than 120 months of employment:</p> <table border="1" data-bbox="472 1047 1003 1166"> <thead> <tr> <th>Employment (or election) Date</th> <th>Amount for 40-hour work week/ 8-hour workday</th> <th>Amount for 37.5-hour work week/ 7.5-hour workday</th> <th>Amount for 35-hour work week/ 7-hour workday</th> </tr> </thead> <tbody> <tr> <td>January 1- June 30</td> <td>32 hours (4 days)</td> <td>30 hours (4 days)</td> <td>28 hours (4 days)</td> </tr> <tr> <td>July 1- December 31</td> <td>16 hours (2 days)</td> <td>15 hours (2 days)</td> <td>14 hours (2 days)</td> </tr> </tbody> </table> <p>Employees with 120 or greater months of employment:</p> <table border="1" data-bbox="472 1203 1003 1333"> <thead> <tr> <th>Employment (or election) Date</th> <th>Amount for 40-hour work week/ 8-hour workday</th> <th>Amount for 37.5-hour work week/ 7.5-hour workday</th> <th>Amount for 35-hour work week/ 7-hour workday</th> </tr> </thead> <tbody> <tr> <td>January 1- June 30</td> <td>40 hours (5 days)</td> <td>37.5 hours (5 days)</td> <td>35 hours (5 days)</td> </tr> <tr> <td>July 1- December 31</td> <td>20 hours (2.5 days)</td> <td>18.75 hours (2.5 days)</td> <td>17.5 hours (2.5 days)</td> </tr> </tbody> </table> <p>3. <u>Effect of Leave without Pay on Family and Personal Leave Credit</u></p> <p>If an employee is on leave without pay on the day that the family and personal leave is granted, the family and personal leave credit</p>	Employment (or election) Date	Amount for 40-hour work week/ 8-hour workday	Amount for 37.5-hour work week/ 7.5-hour workday	Amount for 35-hour work week/ 7-hour workday	January 1- June 30	32 hours (4 days)	30 hours (4 days)	28 hours (4 days)	July 1- December 31	16 hours (2 days)	15 hours (2 days)	14 hours (2 days)	Employment (or election) Date	Amount for 40-hour work week/ 8-hour workday	Amount for 37.5-hour work week/ 7.5-hour workday	Amount for 35-hour work week/ 7-hour workday	January 1- June 30	40 hours (5 days)	37.5 hours (5 days)	35 hours (5 days)	July 1- December 31	20 hours (2.5 days)	18.75 hours (2.5 days)	17.5 hours (2.5 days)		
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	<p>is not granted until the employee is on paid status.</p> <p>4. <u>No Carryover or Payment Upon Separation</u> The family and personal leave credit does not accrue. No carryover of the family and personal leave credit from year to year is allowed. Family and personal leave credit balances are not paid out upon separation.</p>		
<p>Section III: LDSS Disability Leave Program (Receipt of Family & Personal Leave)</p>	<p>B. Family and personal leave will be credited on the following basis:</p> <p>1. <u>Family and Personal Leave Credit</u></p> <p>a. Eligible full-time employees employed from January 1 to June 30 will be credited with the entire annual family and personnel leave credit on the first day of their first full pay period.</p> <p>b. Eligible full-time employees hired on or after July 1 and those current employees who opt-in to the hybrid retirement plan will have family and personal leave credited at 50% of the annual credit on the first day of the first full pay period after the effective date of their election or hire date as applicable.</p> <p>c. Part-time employees hired on January 1, 2014 or later may be granted a proportionate annual family and personal leave credit as determined by their local boards.</p> <p>d. In subsequent years, eligible employees will have the entire annual family and personal leave credit credited on the first day of the first full payroll period in January.</p> <p>e. Family and personal leave may not be used</p>	<p>Family and personal leave will be credited on the following basis:</p> <p><u>Family and Personal Leave Credit</u></p> <p>1. Eligible Ffull-time employees <u>participating in the VRS Hybrid Retirement Plan and hired between January 1 and June 30 will receive</u> employed from January 1 to June 30 will be credited with the full entire annual family and personal personnel leave credit <u>amount</u> on the first day of their first full payroll <u>pay</u> period.</p> <p>2. Eligible Ffull-time employees <u>participating in the VRS Hybrid Retirement Plan and hired</u> hired on or after July 1 or later will receive and those current employees who opt in to the hybrid retirement plan will have family and personal leave credited at 50% of the full family and personal leave credit amount. Receipt occurs annual credit on the first day of their <u>the</u> first full pay period after the effective date of their election or hire date as applicable.</p> <p>a. <u>In subsequent years, employees hired July 1 or later will receive the full family and personal leave credit amount on the first day of the first full payroll</u></p>	<p>New section created incorporating information relocated from other sections and rewritten, notably “Disability Leave Program (Family and Personal Leave Credit)”</p>

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	<p>before it is credited.</p> <p>f. If the weekly work schedule of the LDSS is not forty hours (e.g., 37.5 hours, 35 hours), family and personal leave accrual must be prorated based on the number of hours in the work week.</p>	<p><u>period in January.</u></p> <p>2.3. Part-time employees hired on January 1, 2014 or later may be granted a proportionate annual family and personal leave credit as determined by their local boards.</p> <p>In subsequent years, eligible employees will have the entire annual family and personal leave credit credited on the first day of the first full payroll period in January.</p> <p>Family and personal leave may not be used before it is credited.</p> <p>If the weekly work schedule of the LDSS is not forty <u>(40)</u> hours (e.g., 37.5 hours, 35 hours), family and personal leave <u>credit amounts</u>accrual <u>must</u> be prorated based on the number of hours in the work week.</p>																																																													
<p>Section III: LDSS Disability Leave Program (Family & Personal Leave Credit Charts)</p>	<p>2. Family and Personal Leave Credit Charts</p> <p>Employees with less than 120 months of employment:</p> <table border="1" data-bbox="472 987 1003 1105"> <thead> <tr> <th>Employment (or election) Date</th> <th>Amount for 40-hour work week/ 8-hour workday</th> <th>Amount for 37.5-hour work week/ 7.5-hour workday</th> <th>Amount for 35-hour work week/ 7-hour workday</th> </tr> </thead> <tbody> <tr> <td>January 1- June 30</td> <td>32 hours (4 days)</td> <td>30 hours (4 days)</td> <td>28 hours (4 days)</td> </tr> <tr> <td>July 1- December 31</td> <td>16 hours (2 days)</td> <td>15 hours (2 days)</td> <td>14 hours (2 days)</td> </tr> </tbody> </table> <p>Employees with 120 or greater months of employment:</p> <table border="1" data-bbox="472 1138 1003 1271"> <thead> <tr> <th>Employment (or election) Date</th> <th>Amount for 40-hour work week/ 8-hour workday</th> <th>Amount for 37.5-hour work week/ 7.5-hour workday</th> <th>Amount for 35-hour work week/ 7-hour workday</th> </tr> </thead> <tbody> <tr> <td>January 1- June 30</td> <td>40 hours (5 days)</td> <td>37.5 hours (5 days)</td> <td>35 hours (5 days)</td> </tr> <tr> <td>July 1- December 31</td> <td>20 hours (2.5 days)</td> <td>18.75 hours (2.5 days)</td> <td>17.5 hours (2.5 days)</td> </tr> </tbody> </table>	Employment (or election) Date	Amount for 40-hour work week/ 8-hour workday	Amount for 37.5-hour work week/ 7.5-hour workday	Amount for 35-hour work week/ 7-hour workday	January 1- June 30	32 hours (4 days)	30 hours (4 days)	28 hours (4 days)	July 1- December 31	16 hours (2 days)	15 hours (2 days)	14 hours (2 days)	Employment (or election) Date	Amount for 40-hour work week/ 8-hour workday	Amount for 37.5-hour work week/ 7.5-hour workday	Amount for 35-hour work week/ 7-hour workday	January 1- June 30	40 hours (5 days)	37.5 hours (5 days)	35 hours (5 days)	July 1- December 31	20 hours (2.5 days)	18.75 hours (2.5 days)	17.5 hours (2.5 days)	<p><u>Eligible full-time with LESS than 120 Months of Employment:</u></p> <table border="1" data-bbox="1039 1003 1577 1073"> <thead> <tr> <th colspan="3">40-Hour Workweek – 8 Hours Per Day</th> </tr> <tr> <th>Employment Date</th> <th>F&P Leave Credit in Hours</th> <th>F&P Leave Credit in Days</th> </tr> </thead> <tbody> <tr> <td>January 1 – June 30</td> <td>32</td> <td>4</td> </tr> <tr> <td>July 1 – December 31</td> <td>16</td> <td>2</td> </tr> </tbody> </table> <table border="1" data-bbox="1039 1101 1577 1166"> <thead> <tr> <th colspan="3">37.5 Hour Workweek – 7.5 Hours Per Day</th> </tr> <tr> <th>Employment Date</th> <th>F&P Leave Credit in Hours</th> <th>F&P Leave Credit in Days</th> </tr> </thead> <tbody> <tr> <td>January 1 – June 30</td> <td>30</td> <td>4</td> </tr> <tr> <td>July 1 – December 31</td> <td>15</td> <td>2</td> </tr> </tbody> </table> <table border="1" data-bbox="1039 1187 1577 1252"> <thead> <tr> <th colspan="3">35 Hour Workweek – 7 Hours Per Day</th> </tr> <tr> <th>Employment Date</th> <th>F&P Leave Credit in Hours</th> <th>F&P Leave Credit in Days</th> </tr> </thead> <tbody> <tr> <td>January 1 – June 30</td> <td>28</td> <td>4</td> </tr> <tr> <td>July 1 – December 31</td> <td>14</td> <td>2</td> </tr> </tbody> </table> <p><u>Eligible full-time employees with MORE than 120 Months of Employment:</u></p>	40-Hour Workweek – 8 Hours Per Day			Employment Date	F&P Leave Credit in Hours	F&P Leave Credit in Days	January 1 – June 30	32	4	July 1 – December 31	16	2	37.5 Hour Workweek – 7.5 Hours Per Day			Employment Date	F&P Leave Credit in Hours	F&P Leave Credit in Days	January 1 – June 30	30	4	July 1 – December 31	15	2	35 Hour Workweek – 7 Hours Per Day			Employment Date	F&P Leave Credit in Hours	F&P Leave Credit in Days	January 1 – June 30	28	4	July 1 – December 31	14	2	<p>New section created incorporating information relocated from other sections and rewritten, notably “Disability Leave Program (Family and Personal Leave Credit)”</p>
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Helpful Hints: Understanding the Benefits of a Short- or Long-Term Disability Plan	---	A short- and long-term disability (STD/LTD) plan is designed to provide income protection in the event a serious non-work or work-related illness or injury prevents an employee from working. All Virginia localities are required to adopt STD/LTD plans (§51.1-1153), giving the LDSS local boards the option to move away from the use of “traditional” sick leave, where	This “Helpful Hint” appears as an insert in Section III: LDSS Disability Leave Program (No Family & Personal Leave Carryover or Payment Upon Separation), above.																											

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		<p>employees accumulate sick leave over time. STD/LTD plans offer more consistency for coverage of illness/injury for the LDSS’s entire employee group, while also providing financial relief for the LDSS.</p> <p>Let’s take a closer look at STD/LTD benefits:</p> <ul style="list-style-type: none"> Employees with less tenure in the organization will have had less time to earn sick leave, creating gaps in coverage should serious illness, injury, or another covered condition (i.e., pregnancy, etc.) occur. The STD/LTD plan allows more protection by reducing gaps in coverage for employees in these types of situations. Sick leave balances are eligible for payout in certain circumstances (see Section II – Sick Leave; <i>Treatment of Sick Leave Upon Change in Status</i>). Depending upon how many employees are eligible in any given year, sick leave payouts can be financially burdensome for an agency. <ol style="list-style-type: none"> a. While LDSS local board have three (3) leave program options to select from to accompany the locality STD/LTD plan, selecting the LDSS Disability Leave Plan can eliminate the financial burden of payouts. b. The locality STD/LTD plan provides eligible employees with 	

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		<p>income protection and the LDSS Disability Leave Plan provides employees a set amount of sick leave and family and personal leave credits each year. The credits are lost if not used within the year and are not eligible for payout.</p> <p>Questions? Contact the locality HR or human resources department for specific questions about the STD/LTD program available to the LDSS. Contact the VDSS Local HR Support Team with questions about the LDSS Disability Leave Program.</p>	
<p>PLEASE NOTE: Due to the length of Part II: Family & Medical Leave Act as well as the amount of reorganization which has occurred in the related section(s), the FMLA portion of the updated draft in question will be presented as a separate document for consideration by the State Board of Social Services.</p>			
<p>Section X: Leave Sharing Program (General Information)</p>	<p>---</p>	<p>An LDSS may establish a leave sharing program that fits the needs of both the LDSS and its employees. The following are suggested procedures for the implementation of such a program. If created, the leave sharing program applies to all LDSS employees in either regular or restricted positions. Contact the VDSS Local HR Support Team for additional guidance.</p> <p><u>Purpose</u></p> <p>The purpose of establishing a leave sharing program for the LDSS is to assist employees with leave in relation to their own “serious health condition,” the “serious health condition” of an employee’s immediate family member, or parental care, as defined in the Family and Medical Leave Act Policy. Employee leave requests must only be for these reasons. However, employees do not have to be eligible</p>	<p>New section created by incorporating new or revised information alongside information from removed sections (See “Leave Sharing (Purpose)” and “Leave Sharing (Scope)”, below)</p>

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		for FMLA to receive leave donations under the leave sharing program. For instance, employees may still request leave for the conditions described above even if they have exhausted the allotted twelve (12) week/480 hours of FMLA leave or if they have not yet met the FMLA eligibility timeframe.	
Leave Sharing (Purpose)	The following are suggested procedures for the implementation of a leave sharing program for those LDSSs that elect to have such a program. An LDSS has the discretion to design a program that fits its needs.	---	Section Removed (but see “Section X: Leave Sharing Program (General Information), above)
Leave Sharing (Scope)	This policy applies to employees in regular or restricted positions.	---	Section Removed (but see “Section X: Leave Sharing Program (General Information), above)
Leave Sharing (Eligibility)	<ol style="list-style-type: none"> <u>Exhaustion of Paid Leave Balances</u> An employee who desires to receive donated leave must have used all paid leave that is available for such absences (e.g., annual, sick, compensatory, special duty). <u>Family and Medical Leave Act Purposes</u> An employee who requests donated leave may only use such for a “serious health condition” of the employee, the employee’s immediate family member, or parental care, as defined in the Family and Medical Leave Act Policy. The fact that the employee may not otherwise qualify for FMLA leave (e.g., has exhausted the allowed 12-weeks or has not worked the 1250 hours in the past 12 months) is not disqualifying under this policy. 	<u>Exhaustion of Paid Leave Balances</u> An employee who desires to receive donated leave must have used <i>all</i> paid leave that is available for such absences (e.g., annual, sick, compensatory, special duty). <u>Family and Medical Leave Act Purposes</u> An employee who requests donated leave may only use such for a “serious health condition” of the employee, the employee’s immediate family member, or parental care, as defined in the Family and Medical Leave Act Policy. The fact that the employee may not otherwise qualify for FMLA leave (e.g., has exhausted the allowed 12-weeks or has not worked the 1250 hours in the past 12 months) is not disqualifying under this policy. <u>Certification of Health Care Provider</u>	Information regarding “Waiting Period” has been moved to Section X: Leave Sharing Program (Waiting Period)”, below.

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	<p>3. <u>Certification of Health Care Provider</u> An employee is not eligible for donated leave until such time as the FMLA <i>Certification of Health Care Provider</i> form (Form WH-380*E or WH-380-F) establishes qualification for such leave. The employee will remain ineligible until the LDSS determines that the information on the form is sufficient to substantiate the need for the leave.</p> <p>4. <u>Disqualifying Absences</u> Employees in the following categories are ineligible for leave sharing donations:</p> <ul style="list-style-type: none"> • An employee who is on a disciplinary suspension; • An employee who is absent because of an occupationally related illness or injury that falls within that definition under the Virginia Worker’s Compensation Act (whether or not benefits have been received under the Act), • an employee who is absent because of an injury or illness that is deliberately self inflicted • or an employee who is absent because of an injury or illness which has occurred while the employee was engaging in an unlawful act. <p>5. <u>Waiting Period</u> An LDSS may require a waiting period to establish eligibility for leave share donations.</p>	<p><u>FMLA-Eligible Employees</u> An employee is not eligible for donated leave until such time as the <u>employee has provided the required documentation to establish FMLA</u> Certification of Health Care Provider form (Form WH-380*E or WH-380-F) <u>establishes the</u> qualification for <u>FMLA</u> such leave. The employee will remain ineligible until the LDSS determines that the information on the form is sufficient to substantiate the need for <u>FMLA</u> the leave.</p> <p><u>FMLA-Ineligible Employees</u> <u>In situations where the employee is requesting a leave donation and is ineligible to receive FMLA, the employee is still required to provide adequate documentation from a health care provider to substantiate the need for the request. It is not recommended that the LDSS provide FMLA forms for employees who are not eligible to receive FMLA. The LDSS may develop an agency health care provider certification form for FMLA-ineligible employees. Contact either the locality HR representative or attorney or the VDSS Local HR Team for additional guidance with creating the form.</u></p> <p><u>Disqualifying Absences</u> Employees in the following categories are ineligible for leave sharing donations:</p> <ol style="list-style-type: none"> 1. An eEmployees who <u>are</u> is on a disciplinary suspension.; 2. An eEmployee who <u>are</u> is absent <u>for leave for reasons that fall because of an occupationally related illness or injury that falls within that definition</u> under the 	

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		<p>Virginia Worker’s Compensation Act (<u>regardless of</u> whether or not benefits have been received under the Act);</p> <p>3. <u>an e</u>Employees who <u>are is</u> absent because of an injury or illness that is deliberately self inflicted.</p> <p>4. or an eEmployees who <u>are is</u> absent because of an injury or illness which has occurred while the employee was engaging in an unlawful act.</p> <p><u>Waiting Period</u> An LDSS may require a waiting period to establish eligibility for leave share donations.</p>	
Section X: Leave Sharing Program (Waiting Period)	<p><u>Waiting Period</u> An LDSS may require a waiting period to establish eligibility for leave share donations.</p>	<p><u>Waiting Period</u> <u>While employees are not required to be FMLA-eligible to participate in the leave sharing program, A</u>an LDSS may <u>establish its own</u>require a waiting period <u>for employees to be eligible to participate in the program</u>to establish eligibility for leave share donations.</p>	
Leave Sharing (Requests / Approvals)	Each LDSS participating in this program must develop a form by which an employee may request donated leave. The form should be designed so that when the employee is physically or mentally unable to make the leave request, an agent may make the request on behalf of the employee.	Each LDSS participating in this program must develop a form <u>on</u> by which an employee may request donated leave <u>the request for leave and the approved status may be documented.</u> The form should be designed so that when the employee is physically or mentally unable to make the leave request, <u>the request may be made on the employee’s behalf</u> an agent may make the request on behalf of the employee.	
Leave Sharing (Status While on Donated Leave)	An employee must be on leave without pay (LWOP) status in order to receive donated leave. Donated leave is intended to provide supplemental compensation only and does not	An employee must be on leave without pay (LWOP) status in order to receive donated leave. Donated leave is intended to provide supplemental compensation only, and does not	

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	place the employee on the equivalent of paid leave status. Accordingly, the LWOP policy benefit provisions apply to this leave period.	place the employee on the equivalent of paid leave status. Accordingly, the LWOP policy benefit provisions apply to this leave period.	
<p>Leave Sharing (Discretionary Benefits)</p>	<p>In developing a policy on leave sharing, an LDSS may provide greater benefits than those allowed under the LWOP policy. These augmented benefits may include</p> <ol style="list-style-type: none"> <u>Health Benefits</u> The LDSS may pay out of local funds its portion of the health care premium for up to 12 months inclusive of the health care premium payments required under FMLA. <u>Payroll Deductions</u> Federal and state withholding payments will be deducted from the compensation that the employee receives due to leave sharing. Voluntary payroll deductions may continue while an employee is receiving leave share donations provided that the compensation that the employee receives is sufficient to cover the deductions. If the compensation received through leave share donations is insufficient to cover such voluntary deductions, participation in the programs will be terminated unless the employee makes arrangements for timely payments. <u>Group Life Insurance</u> If local funds are available the LDSS may permit employees receiving leave share donations to continue to be covered under the LDSS’s group life insurance policy for up to two years. 	<p>In developing a policy on leave sharing, an LDSS may provide greater benefits than those allowed under the LWOP policy.</p> <p>These augmented benefits may include:</p> <ol style="list-style-type: none"> Health Benefits: The LDSS may pay out of local funds its portion of the health care premium for up to <u>twelve (12) months</u>, inclusive of the health care premium payments required under FMLA. Payroll Deductions: Federal and state withholding payments will be deducted from the compensation that the employee receives due to leave sharing. Voluntary payroll deductions may continue while an employee is receiving leave share donations provided that the compensation that the employee receives is sufficient to cover the <u>cost of the payments</u>. deductions. If the compensation received through leave share donations is insufficient to cover such voluntary deductions, participation in the programs will be terminated unless the employee makes arrangements for timely payments. Group Life Insurance If local funds are available the LDSS may permit employees receiving leave share donations to continue to be covered under the LDSS’s group life insurance policy for up to two years. 	

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<p>Leave Sharing (Leave Bank Requirements)</p>	<p>Each LDSS that provides a leave sharing program has discretion to structure the program based on its needs. However, annual leave is the only leave that may be donated to the leave bank.</p> <p>1. <u>Annual Leave Donations</u> Annual leave may be donated in the following ways:</p> <p>a. Annual leave that will be lost if not used by the end of the year;</p> <p>b. Annual leave that is within the maximum accrual amount;</p> <p>c. A fixed amount per donation or per year per employee; and/or</p> <p>d. No limitations on amount or timing of donated leave.</p> <p>2. <u>Establishing a Leave Bank</u> There are three types of leave banks that may be established:</p> <p>a. A non-designated leave bank which permits donating to a pool to be used by any eligible employee;</p> <p>b. Donation to a designated employee of the LDSS; or</p> <p>c. A combination of the above.</p> <p>3. <u>Returning Leave Donation</u> If the leave bank established is one in which leave is designated for an employee and the amount of donated leave is in excess of the amount needed to cover the employee’s absence, the excess leave will be returned to the donor(s) in: (1) reverse order of the receipt of donations; or (2) a pro-rata</p>	<p>Each LDSS that <u>providing</u> a leave sharing program has discretion to structure the program based on its needs. However, <u>annual leave</u> is the only leave that may be donated to the leave bank.</p> <p><u>Annual Leave Donations</u> Annual leave may be donated in the following ways:</p> <p>1. Annual leave that will be lost if not used by the end of the year.;</p> <p>2. Annual leave that is within the maximum accrual amount.;</p> <p>3. A fixed amount per donation or per year, per employee. and/or</p> <p>4. No limitations on amount or timing of donated leave.</p> <p><u>Establishing a Leave Bank</u> There are three (3) types of leave banks that may be established:</p> <p>1. A non-designated leave bank which permits donating to a pool to be used by any eligible employee.;</p> <p>2. Donation to a designated employee of the LDSS. or</p> <p>3. A combination of the above.</p> <p><u>Returning a Leave Donation</u> If the leave bank established is one in which leave is designated for an employee and the amount of donated leave is <u>more than</u> in excess of the amount needed to cover the employee’s absence, the excess leave will be returned to the donor(s) in <u>either</u>: (+)</p> <p>1. Reverse <u>Reverse</u> order of the receipt of</p>	

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	<p>amount per donor.</p> <p>4. <u>Reclaiming Leave</u> Leave given by a donor may be reclaimed by the donor only if the donation has not yet been processed.</p>	<p>donations, or (2) a 1.2. A prorated pro-rata amount per donor.</p> <p><u>Reclaiming Leave</u> Leave given by a donor may be reclaimed by the donor only if the donation has not yet been processed.</p>	
<p>Leave Sharing (Penalties for Abuse)</p>	<p>If abuse of this policy is found, the employee will be required to repay the cost of all donated leave at the salary rate in effect at the time the employee was placed on leave without pay. Additionally, the employee may be disciplined in accordance with provisions of the VDSS Standards of Conduct.</p>	<p><u>Founded complaints of policy abuse require the employee</u> If abuse of this policy is found, the employee will be required to repay the cost of all donated leave at the salary rate in effect at the time the employee was placed on leave without pay. Additionally, the employee may be <u>subject to disciplinary action up to and including termination of employment</u> disciplined in accordance with provisions of the VDSS Standards of Conduct.</p>	
<p>Part III: Workers' Compensation (Policy Statement)</p>	<p>---</p>	<p>The Virginia State Board of Social Services establishes a worker's compensation policy to ensure LDSS employees are aware of the benefits that may be available to them under the Virginia Workers' Compensation Act (VWCA), and to establish the responsibilities of an LDSS employee who is injured or becomes ill because of carrying out the duties of his/her job. Employees may be eligible for benefits under the VWCA if they sustain a compensable injury by accident, suffer from occupational disease³, or a compensable ordinary disease of life⁴.</p>	<p>New section created incorporating revised information from "Virginia Workers' Compensation (Purpose)", below.</p>

³ § 65.2-400. "Occupational disease" defined

⁴ § 65.2-401. "Ordinary disease of life" coverage

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Virginia Workers' Compensation (Purpose)	The purpose of this policy is to advise employees of benefits that may be available to them under the Virginia Workers' Compensation Act (WCA). Employees may be eligible for benefits under the Act if they sustain a compensable injury by accident, suffer from an occupational disease or a compensable ordinary disease of life.	---	See "Part III: Workers' Compensation (Policy Statement)", above
Virginia Workers' Compensation (Scope)	This policy applies to all employees.	This policy applies to all employees <u>of Non-Deviating (ND) LDSS or Partially Deviating (PD) LDSS.</u> <u>Additional Information:</u> <u>The workers' compensation process (reporting of injury/illness, administrative requirements, etc.) is facilitated and administered by the locality, the employer of the LDSS. For additional information, employees should contact the locality benefits administrator and may also refer to Title 65.2. Workers' Compensation of the Code of Virginia.</u>	
Virginia Workers' Compensation (Definitions)	<ol style="list-style-type: none"> <u>Injury</u> A physical injury by accident both arising out of and in the course of employment. <u>Occupational Disease</u> A disease arising out of and in the course of employment, but, unless otherwise provided by the WCA. It is not an ordinary disease of life to which the general public is exposed outside of employment. <u>Permanent Partial Disability</u> A permanent loss to the body that was caused by an injury or occupational disease 	The Virginia Workers' Compensation Commission (VWCC) offers a robust glossary of all terms related to the Commission and to the Virginia Workers' Compensation Act (VWCA). The "VWC Glossary of Terms" is in the "VWC Resources" box on the VWCC home page. VDSS does not administer the workers' compensation process for the LDSS. Contact the locality benefits administrator or the VWCC directly for assistance.	Section Rewritten & moved to the end of the updated draft (Glossary).

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	<p>that does not result in the employee's total incapacity. An example of a permanent partial disability is the loss of, or partial loss of, a finger.</p> <p>4. <u>Pre-Injury Average Weekly Wage</u> The injured employee’s actual wages during the 52 week period preceding the date of injury, divided by 52.</p> <p>5. <u>Workers' Compensation Leave</u> A type of leave from employment which results from an employee's incapacity to work and which has been determined to have resulted from an injury or occupational disease such that the employee is entitled to benefits required by the WCA.</p>		
<p>Part III: Workers' Compensation Section I: Workers' Compensation (General Information)</p>	<p>---</p>	<p>The Virginia Workers' Compensation Commission (VWCC) offers a robust glossary of all terms related to the Commission and to the Virginia Workers' Compensation Act (VWCA). The "VWC Glossary of Terms" is in the "VWC Resources" box on the VWCC home page.</p>	<p>New section. This information also appears in the "Glossary" section.</p>
<p>Virginia Workers' Compensation (Benefits to Which an Employee May be Entitled)</p>	<p>Once an employee has a compensable injury or illness, the following benefits may be available:</p> <p>1. <u>Wage Replacement</u> An employee who suffers an injury or occupational disease may be entitled to wage loss benefits, as set forth under the WCA, if the employee is temporarily unable to return to regular employment and suffers a wage loss as a result of that disability.</p> <p>2. <u>Medical Benefits</u> Under the WCA, an employee may be</p>	<p>Once an employee has a compensable injury or illness, the following benefits may be available:</p> <p><u>Wage Replacement</u> An employee who suffers an injury or occupational disease may be entitled to wage loss benefits, as set forth under the <u>VWCA</u>, if the employee is temporarily unable to return to regular employment and suffers a wage loss <u>because as-a-result</u> of that disability.</p> <p><u>Medical Benefits</u> Under the <u>VWCA</u>, an employee may be entitled</p>	

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	<p>entitled to lifetime medical benefits for treatment that is reasonable, necessary and causally related to the work related injury or disease as set forth and authorized under the WCA.</p> <p>3. <u>Permanent Partial Disability Benefits</u> An employee may be entitled to compensation for permanent loss of use of a “scheduled” body part as set forth under the WCA.</p>	<p>to lifetime medical benefits for treatment that is reasonable, necessary and causally related to the work-related injury or disease as set forth and authorized under the <u>VWCA</u>.</p> <p><u>Permanent Partial Disability Benefits</u> An employee may be entitled to compensation for permanent loss of use of a “scheduled” body part as set forth under the <u>VWCA</u>.</p> <p><u>Accessing Benefits Under the VWCA</u> <u>The workers’ compensation process (reporting of injury/illness, administrative requirements, etc.) is facilitated and administered by the locality, the employer of the LDSS. For additional information, employees should contact the locality benefits administrator and may also refer to Title 65.2. Workers’ Compensation of the Code of Virginia.</u></p>	
<p>Virginia Workers’ Compensation (Responsibilities of an Injured Employee)</p>	<ol style="list-style-type: none"> Once an injury has occurred, the employee must notify the employer immediately. The LDSS, not the employee, is to complete the accident report. The employee must choose a treating physician from a panel of at least three physicians which will be provided by the LDSS. If the employee is released to “light duty work,” he or she must accept “light duty work” if offered by the LDSS. If “light duty” employment is not offered by the LDSS, the employee must seek his own employment within his light duty 	<ol style="list-style-type: none"> Once an injury has occurred, the employee must notify the employer <u>(the locality) immediately</u>⁵. The LDSS, not the employee, is <u>required</u> to complete the accident report, <u>not the employee</u>. The employee must choose a treating physician from a panel of at least three <u>(3)</u> physicians which will be provided by the LDSS. If the employee is released to “light duty work,” he or she must accept “light duty work”<u>;</u> if offered_; by the LDSS. If “light duty” employment is not offered by the LDSS, the employee must seek his own 	

⁵ § 65.2-600. Notice of an accident.

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	restrictions.	employment within his light duty restrictions.	