

Prepared by the Office of Human Resources.
This replaces Administrative Procedure No. A9.470
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August 2011

LEAVES

A9.470 LEAVE SHARING PROGRAM

1. Purpose

- a. To administer the Leave Sharing Program for University employees under the authority of Chapter 78-26, Hawai'i Revised Statutes (HRS).
- b. The Leave Sharing Program is intended to allow employees to help ease the financial burden of fellow employees who have exhausted all paid leave and who would otherwise need to take time off from work without pay to recover from a serious personal illness or injury or to care for a family member who has a serious personal illness or injury and is incapable of self-care. Such a program shall ensure:
 - 1) Fair treatment and freedom from coercion of employees,
 - 2) That there will be no undue hardship on the operations of the campus/school/program, and
 - 3) That an employee shall not directly or indirectly intimidate, threaten, or coerce any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving or using shared leave under this program.

2. Definitions

- a. Approving Authority: University administrators, such as Vice Presidents, Chancellors, Vice Chancellors, Associate/Assistant Vice Chancellors, and Deans and Directors, who are authorized to approve leave sharing requests.

- b. Central Leave Bank Option: A Leave Sharing Program option whereby an eligible employee donates shared leave credits to the University's Central Leave Bank without designating a specific eligible co-worker.
- c. Designee: An employee appointed by the approving authority who is authorized to approve leave sharing requests.
- d. Direct Share Option: A Leave Sharing Program option whereby an eligible employee specifies the eligible co-worker to whom he/she wishes to donate shared leave.
- e. Donation: Vacation leave or sick leave credits donated by eligible employees.
- f. Family Member: An employee's spouse, parent, civil union partner¹, unmarried child in a blood or legal relationship or a "hanai" relationship through the Hawaiian custom, provided the employee is the primary caregiver.
- g. Serious personal illness or injury: An illness, injury, or impairment which is certified by a doctor of medicine, a dentist, a chiropractor, an osteopath, a naturopath, a psychologist, an optometrist, and/or a podiatrist that meets the conditions below:
 - 1) Is life threatening, or
 - 2) Is a critical, severe, and debilitating illness, injury or impairment that is catastrophic in nature, such as cancer, heart attack or a disabling accident, which may be a physical or mental condition. It does not include minor surgeries, routine pregnancies, illness due to colds or flus, broken limbs, or other non-critical medical conditions, and
 - 3) Is totally incapacitating and the cause of the employee's inability to work for at least

¹Civil Union law effective January 1, 2012

thirty (30) consecutive calendar days.

3. Objectives

- a. To allow eligible employees the opportunity to apply for or donate to the Leave Sharing Program.
- b. To prescribe the procedures to be followed in applying for or donating to the Leave Sharing Program.

4. Applicability

- a. These procedures shall apply to all University employees who are entitled to earn vacation leave and/or sick leave credits.
- b. Employees who are federally funded may donate leave credits, but may not receive shared leave credits under this program due to federal work certification requirements.
- c. Employees of the University of Hawai'i shall not donate or receive shared leave credits from employees of other State departments.

5. References

Chapter 78-26, HRS, Leave Sharing Program

Title 14, Chapter 8.1, Section 1 - 11, Hawai'i
Administrative Rules

Unit 07 Collective Bargaining Agreement, Article III (I),
Leave Sharing.

6. Responsibilities

- a. The System Director of Human Resources or designee shall appoint a Leave Sharing Review Committee to administer the central leave bank. The committee shall be comprised of at least three (3) members, one (1) of which shall be a representative from the Office of Human Resources (OHR), who shall chair the committee.

- b. The Leave Sharing Review Committee shall be responsible for the oversight of the Leave Sharing Program, and shall:
 - 1) Enforce the rules of the Leave Sharing Program,
 - 2) Respond to questions related to the Leave Sharing Program as they affect employees and this program,
 - 3) Review all matters relating to appeals under section 8.e., of this procedure,
 - 4) Assist the campuses/schools/programs in conducting periodic campaigns informing employees of the Leave Sharing Program,
 - 5) Monitor all donations into the central leave bank and determine the distribution of shared leave credits from the central leave bank, and
 - 6) Audit the shared leave credits in the central leave bank.

- c. The OHR shall:
 - 1) Define the general framework of the leave sharing program,
 - 2) Coordinate the activities of the Leave Sharing Review Committee,
 - 3) Process shared leave credits from the central leave bank to the recipient's account, and
 - 4) Maintain records and copies of the leave sharing documents.

- d. Human resources representatives within their respective units shall:

- 1) Inform employees who earn vacation leave that they may donate vacation leave credits or request shared leave credits under this program,
- 2) Inform employees who do not earn vacation leave but earn sick leave that they may donate sick leave credits or request shared leave credits under this program,
- 3) Assure that a leave bank option and a direct share option shall be made available to employees to encourage maximum participation in the program,
- 4) Ensure that employees are not directly or indirectly intimidated, threatened or coerced with respect to donating or receiving shared leave credits under this program,
- 5) Inform employees to submit their request for shared leave credits within thirty (30) calendar days prior to or after the beginning date of the leave without pay period to which it is intended to apply,
- 6) Review for eligibility and appropriateness of all donations and requests for shared leave credits,
- 7) Analyze and determine that the medical condition meets the eligibility criteria and the Certification of Physician form supports the condition,
- 8) Ensure that official leave and attendance records are properly maintained with respect to donated leave credits and shared leave credits received by recipients,
- 9) Monitor the leave sharing recipient's medical condition to ensure that the condition continues to be due to a serious illness or injury,
- 10) Inform employees that were denied shared leave credits that they may file an appeal, and

- 11) Prepare the UH Form 102, Annual Report Leave Sharing Program (Attachment 470.1), for submittal to the OHR.
- e. The Vice President/Chancellor/Dean/Director or designee shall:
- 1) Serve as the approving authority for direct share option requests,
 - 2) Provide the reason(s) for denial for disapproved requests, and
 - 3) Recommend approval/disapproval to the Leave Sharing Review Committee for leave sharing requests from the central leave bank.

7. Guidelines

- a. Donating Shared Leave Credits
- 1) Employees who earn both vacation leave and sick leave credits may only donate vacation leave credits. The employee's vacation leave balance shall not be less than ten (10) days after the donation is made.
 - 2) Employees who do not earn vacation leave may donate sick leave credits, provided that the employee's sick leave balance is not less than thirty (30) days after the donation is made, unless the employee is terminating from service.
 - 3) An employee must not have asked for, nor accepted, anything of value in exchange for the donation of shared leave credits.
 - 4) The UH Form 68, Leave Sharing Donation Form (Attachment 470.2) shall be used to donate shared leave credits. All donated vacation leave or sick leave credits are irrevocable.

- a) A vacation leave or sick leave credit donation shall not be refunded to the donor once it is transferred to the leave sharing recipient or to the central leave bank.
 - b) Any donated shared leave credits that are transferred to but not used by the eligible leave sharing recipient shall be deposited to the central leave bank to be available for use by other eligible leave sharing recipients.
- 5) Leave shall be donated in increments of one (1) hour, with a minimum donation of four (4) hours.
- b. Receiving Shared Leave Credits
- 1) An employee must meet all of the following conditions to be eligible to receive shared leave credits:
 - a) Has been employed at the University in a Board of Regents or civil service position for at least six (6) continuous months at a minimum of 0.5 (one-half) FTE,
 - b) Has been absent from work for at least thirty (30) consecutive calendar days within the past twelve (12) months to recover from a serious personal illness or injury or to care for a family member suffering from a serious personal illness or injury,
 - c) Has no disciplinary record of sick leave abuse within the past two years, and
 - d) Has no unresolved outstanding salary overpayment obligations owed to the State.
 - 2) In addition to meeting the criteria in 7.b.1), an employee recovering from a serious personal illness or injury must also:

- a) Have exhausted all vacation leave, sick leave and compensatory time credits,
 - b) Be certified as totally incapacitated,
 - c) Be ineligible for temporary disability benefits, or if eligible, have exhausted all benefits under Chapter 392, HRS, and
 - d) Be ineligible under Chapter 386, HRS, Hawai'i Workers' Compensation Law, or if covered, have exhausted all benefits.
- 3) In addition to meeting the criteria in 7.b.1), an employee requesting shared leave to care for a family member who has a serious personal illness or injury and is totally incapacitated must also:
- a) Be the primary, full-time caregiver of a family member that is not under the care of a hospital, hospice facility or a care facility (i.e., care home, nursing home, day care, etc), and
 - b) Have exhausted all vacation leave, compensatory time, and sick leave credits for family leave purposes only pursuant to Chapter 398, HRS and the collective bargaining agreement (CBA).
- 4) An eligible 12-month employee recovering from a serious personal illness or injury and/or caring for a family member with a serious personal illness or injury as the primary caregiver, shall receive no more than a combined cumulative total of 240 days of shared leave credits for the duration of employment at the University. Of the 240 days, an eligible 12-month employee may receive no more than a combined cumulative total of 120 days of shared leave credits to care for a family member with a serious personal illness or injury.

- 5) An eligible 9-month employee shall receive no more than a combined cumulative total of 180 days of shared leave credits for the duration of employment at the University. Of the 180 days, an eligible 9-month employee may receive no more than a combined cumulative total of 90 days of shared leave credits to care for a family member with a serious personal illness or injury.
- 6) The employee may request up to three (3) months of shared leave credits at a time and the physician shall be required to re-certify the recipient's condition at each application.
- 7) A request for shared leave credits shall be submitted within thirty (30) calendar days prior to or after the beginning date of the leave without pay period to which it is intended to apply.
- 8) An employee need not have donated shared leave credits to be eligible to receive shared leave credits.
- 9) If an employee is incapable of applying for shared leave credits, an authorized representative may apply on the recipient's behalf.
- 10) Shared leave credits awarded may be utilized by the recipient after meeting all of the eligibility criteria.
- 11) While using shared leave credits, an eligible recipient shall continue to earn sick and/or vacation leave credits, consistent with applicable leave provisions. Such earned sick and/or vacation leave credits shall be used prior to receiving shared leave credits in accordance with current leave accounting practices.
- 12) The employee shall continue to be eligible for salary adjustments while on leave through the Leave Sharing Program.

- 13) Leave sharing credits used to recover from a serious personal illness or injury or to care for a family member who has a serious personal illness or injury fulfills the provision in the applicable CBA allowing for leave of absence without pay to recuperate from physical or mental illnesses.
- 14) In the event that a leave recipient is found eligible or entitled to benefits under Chapter 386, HRS, Hawai'i Workers' Compensation Law, Chapter 392, HRS, Temporary Disability Benefits, or disability retirement after shared leave credits have been granted, all approved shared leave credits transferred to the leave sharing recipient shall be rescinded. The employee shall reimburse any salary amount previously paid under this Leave Sharing Program. The shared leave credits rescinded shall be deposited to the central leave bank.

8. Procedures

a. Donating Shared Leave Credits

- 1) The employee shall complete and submit a UH Form 68, Leave Sharing Donation Form (Attachment 470.2), authorizing the donation of leave credits to a specific employee or the central leave bank.
- 2) The supervisor shall forward the request to the human resources representative, who shall review the donation request in accordance with the eligibility guidelines set forth in Section 7.a. of this procedure.
- 3) If donating direct shared leave to an employee from another campus/school/program, the donor's human resources representative shall contact the recipient's human resources representative to verify whether the recipient has been deemed eligible to receive shared leave credits under the Leave Sharing Program.

- 4) If the recipient is eligible, the human resources representative shall forward the donation form to the approving authority for approval/disapproval.
- 5) If the request is approved, the human resources representative shall follow the appropriate instructions in the user guide section of the on-line leave system to process the donation request. The original Leave Sharing Donation Form (Attachment 470.2) shall be filed in a separate secured file and a copy shall be provided to the employee, recipient's human resources representative (direct share from another campus/school/program) and the Leave Sharing Review Committee, care of OHR.
- 6) If the request is disapproved, the human resources representative shall file the original Leave Sharing Donation Form (Attachment 470.2) in a separate secured file. A copy shall be forwarded to the employee with the reason for denial indicated.

b. Receiving Shared Leave Credits

- 1) An employee requesting shared leave may receive shared leave credits via the direct share option and/or the central leave bank option.
- 2) To request shared leave credits, the employee shall complete and submit to the supervisor
 - UH Form 69, Leave Sharing Request Form For Personal Illness/Injury (Attachment 470.3), or
 - UH Form 98, Leave Sharing Request Form To Care For A Family Member (Attachment 470.4) and
 - UH Form 49, Certificate of Physician For Personal Illness/Injury (Attachment 470.5), or
 - UH Form 99, Certificate of Physician To Care For A Family Member (Attachment 470.6), and
- 3) The supervisor shall forward the request to the human resources representative who shall analyze and determine if the employee meets the

eligibility criteria in accordance with guidelines set forth under Section 7.b. of this procedure.

- 4) The human resources representative shall complete and sign the UH Form 100, Certification of Eligibility Form (Attachment 470.7) and generate the DPS Form 7, Leave Record from the on-line leave system to track and verify when the employee will exhaust all eligible leave credits.
- 5) If the request and/or medical certification form(s) are incomplete, the human resources representative shall return the form(s) to the employee.
- 6) If additional information is required to determine whether the medical condition meets the eligibility criteria, the recipient shall be requested to sign an authorization to release medical information form. (Contact OHR for the authorization form). The authorization form shall be mailed to the physician along with the request for specific medical information.
- 7) Once all the required documents are completed, the human resources representative shall discuss the leave sharing request with the approving authority.
 - a) For requests for direct share, the approving authority shall approve or disapprove the request, in whole or in part, on the UH Form 69, Leave Sharing Request Form. The approving authority's decision shall be made within thirty (30) days of receipt of the application or receipt of additional medical information.
 - b) For requests from the Central Leave Bank, the approving authority shall make a recommendation to the Leave Sharing Review Committee. The approving authority's recommendation shall be made within

fifteen (15) days of receipt of the application or receipt of additional medical information.

- 8) Direct Share option
 - a) Within thirty (30) days of receipt of the application or receipt of additional medical information, the approving authority shall provide written notification of the decision to the employee. If any portion of the request is denied, a reason for the denial shall be provided to the employee. See Attachments 470.8 and 470.9 for sample notifications.
 - b) If the request is approved, the human resources representative shall e-mail fellow colleagues seeking leave sharing donations for the eligible employee. See Attachment 470.10 for a sample e-mail.
 - c) Employees interested in donating shared leave credits shall follow instructions set forth in Section 8.a. of this procedure.
 - d) The human resources representative shall monitor the number of shared leave credits used by the recipient along with the number of shared leave credits available.
 - e) The human resources representative shall follow the appropriate instructions in the user guide section of the on-line leave system to use donated shared leave credits.
 - f) The human resources representative shall retain the original leave share forms and supporting documents in a separate file.
 - g) A copy of the following documents shall be forwarded to the Leave Sharing Review Committee for monitoring purposes:

- Certification of Eligibility form
- Leave Sharing Request form
- Certification of Physician form
- Supporting documents (if applicable)
- DPS Form 7, Leave Record
- Temporary disability benefits/workers compensation documents

9) Central Leave Bank option

a) The human resources representative shall forward the following documents to the Leave Sharing Review Committee within fifteen (15) working days after receipt of application or receipt of additional information:

- Certification of Eligibility form
- Leave Sharing Request form
- Certification of Physician form
- Supporting documents (if applicable)
- DPS Form 7, Leave Record
- Temporary disability benefits/workers compensation documents

b) Within thirty (30) days of receipt of the application or receipt of additional information, the Leave Sharing Review Committee shall review the request and make a determination to approve/disapprove the request. A notification letter of the decision shall be sent to the human resources representative.

c) If approved, the OHR representative shall credit the recipient's account in the on-line leave system.

d) The human resources representative shall follow the appropriate instructions in the user guide section of the on-line leave system to use donated shared leave credits.

- e) The human resources representative shall maintain copies of the leave share forms and supporting documents and monitor the number of shared leave credits received and used by the recipient.
- 10) If the employee was on leave without pay status at the time the shared leave request was filed and has since been found eligible to receive shared leave credits, the human resources representative shall generate a Payroll Notification Form (PNF) to return the employee to paid leave status. For civil service employees, the human resources representative shall notify OHR, Civil Service Section, in writing to generate the PNF. The period that the employee remains on paid status shall be dependent on the number of shared leave credits that were donated to the employee.

c. Termination of Shared Leave Credits

- 1) Approved shared leave shall be discontinued under the following situations:
 - a) The leave sharing recipient separates or is separated from service, or is terminated at the end of the appointment.
 - b) The leave sharing recipient or recipient's family member no longer suffers from the illness or injury for which the shared leave credits were approved.
 - c) The leave sharing recipient is found to be entitled to workers' compensation benefits under Chapter 386, HRS, or temporary disability benefits under Chapter 392, HRS.
 - d) The Employees' Retirement System (ERS) approves the leave sharing recipient's request for ordinary disability retirement. The eligibility for shared leave credits

shall terminate at the end of the month of the date of the ERS notification letter.

- e) The recipient's family member no longer meets the definition for family member.
 - f) The recipient's family member is admitted to a hospital, hospice or care facility (i.e., care home, nursing home, day care, etc.).
 - g) The leave sharing recipient no longer meets all of the conditions for eligibility under section 7.b. of this procedure.
 - h) The leave sharing recipient receives the maximum-shared leave credits allowed.
- 2) The termination of leave sharing is determined by the date/time of the disqualifying event.
 - 3) The human resources representative shall notify the recipient in writing when the approved shared leave credits have been or will be terminated or rescinded.
 - 4) Adjustments shall be made to the recipient's compensation and leave records, as appropriate, for any period during which the shared leave credits have been terminated or rescinded.
 - 5) All shared leave credits (direct share or central leave bank donation) unused by the recipient shall be returned to the central leave bank. The human resources representative shall follow the appropriate instructions in the user guide section of the on-line leave system in crediting the central leave bank account.

d. Appeal Procedures

- 1) Any employee or the duly authorized representative of such employee whose application for shared leave is denied, in whole or in part, may appeal for a review of the decision by

submitting a UH Form 76, Appeal Form (Attachment 470.11) within fifteen (15) calendar days of notification of the denial or notice of termination of shared leave benefits.

- 2) The written request shall be addressed to the Chair of the Leave Sharing Review Committee, in care of the Office of Human Resources, and shall include the following information:
 - a) A specific reason(s) to reconsider the application,
 - b) An explanation of the facts in support of the reconsideration and any supporting documents, including doctor's clinical notes, in support of the reconsideration, and
 - c) The remedy that the employee is seeking and concluding rationale.
- 3) After considering the additional information, the Leave Sharing Review Committee shall render a decision. The decision of the Leave Sharing Review Committee shall be final and conclusive. Written notice of the decision to the employee shall be given within thirty (30) calendar days from the date of the appeal or receipt of additional documentation, whichever is later.