

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE STATE OF WASHINGTON
AND
WASHINGTON FEDERATION OF STATE EMPLOYEES**

House Bill 1434 modified RCW 41.04 to include shared leave eligibility for Parental Leave and Pregnancy Disability Leave effective July 1, 2018. The parties agree to modify Article 14, Shared Leave, of the Collective Bargaining Agreement to incorporate changes in the law, effective July 1, 2018, as follows:

**ARTICLE 14
SHARED LEAVE**

- 14.1 A. State employees may donate vacation leave, sick leave, or personal holidays to a fellow state employee who is:
1. Called to service in the uniformed services;
 2. Responding to a state of emergency anywhere within the United States declared by the federal or any state government;
 3. A victim of domestic violence, sexual assault, or stalking; or
 4. Suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition;
 5. Sick or temporarily disabled because of pregnancy disability; or
 6. Taking parental leave to bond with their newborn, adoptive or foster child.
- B. An employee is eligible to request participation in the shared leave program when the employee is able to use accrued vacation leave, sick leave, or a personal holiday.
- C. For purposes of the state leave sharing program, the following definitions apply:
1. "Domestic violence" means physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, between family or household members as defined in RCW 26.50.010; sexual assault of one family or household member by another family or household member; or stalking as defined in

RCW 9A.46.110 of one family or household member by another family or household member.

2. "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.
3. Employee's "relative" is limited to the employee's spouse, state registered domestic partner as defined by RCW 26.60.020 and 26.60.030, child, stepchild, grandchild, sibling, grandparent, parent or stepparent.
4. "Household members" are defined as persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. This term will include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune.
5. "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.
6. "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.
7. "Sexual assault" has the same meaning as in RCW 70.125.030.
8. "Stalking" has the same meaning as in RCW 9A.46.110.
9. "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the President of the United States in time of war or national emergency.
10. "Victim" means a person ~~that~~ against whom domestic violence, sexual assault, or stalking has been committed against as defined in this Section.

11. “Parental leave” means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or childcare, for a period of up to sixteen (16) weeks after the birth or placement.

12. “Pregnancy disability” leave means a pregnancy-related medical condition or miscarriage.

14.2 An employee may be eligible to receive shared leave under the following conditions:

- A. The employee’s agency head or designee determines that the employee meets the criteria described in this Section.
- B. For work-related illness or injury, the employee has diligently pursued and been found to be ineligible for benefits under RCW 51.32 if the employee qualifies under Subsection 14.3 A1.
- C. The employee has abided by agency policies regarding the use of sick leave if the employee qualifies under Subsections 14.3 A1, or Subsection 14.3 A4, or A5.
- D. The employee has abided by agency policies regarding the use of vacation leave and paid military leave if the employee qualifies under Subsection 14.3 A2.
- E. A state of emergency has been declared anywhere within the United States by the federal or any state government if the employee qualifies under Subsection 14.3 A3.
- F. Donated leave may be transferred from employees within the same agency, or with the approval of the heads or designees of both state agencies, higher education institutions, or school districts/educational service districts, to an employee of another state agency, higher education institution, or school district/educational district.

14.3 An employee may donate vacation leave, sick leave, or personal holiday to another employee only under the following conditions:

- A. The receiving employee:
 - 1. Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature; or
 - 2. Has been called to service in the uniformed services; or

3. Has the needed skills to assist in responding to an emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
 4. Is a victim of domestic violence, sexual assault, or stalking; or
 5. Is taking parental leave and/or pregnancy disability leave.
- B. The illness, injury, impairment, condition, call to service, emergency volunteer service, consequence of domestic violence, sexual assault, or stalking, parental leave and/or pregnancy disability leave has caused, or is likely to cause, the receiving employee to:
1. Go on leave without pay status; or
 2. Terminate state employment.
- C. The receiving employee's absence and the use of shared leave are justified.
- D. The receiving employee has depleted or will shortly deplete: ~~his or her:~~
1. Vacation leave, sick leave, and personal holiday reserves if the employee qualifies under Subsection 14.3 A1; or
 2. Vacation leave and paid military leave allowed under RCW 38.40.060 if the employee qualifies under Subsection 14.3 A2; or
 3. Vacation leave and personal holiday if the employee qualifies under Subsection 14.3 A3 or 14.3 A4; or
 4. Personal holiday and compensatory time if the employee qualifies under Subsection 14.3 A5. The employee under this Subsection can retain in reserve up to forty (40) hours each of vacation leave and sick leave.
- E. The agency head or designee permits the leave to be shared with an eligible employee.
- F. The donating employee may donate any amount of vacation leave, provided the donation does not cause the employee's vacation leave balance to fall below eighty (80) hours. For part-time employees, requirements for vacation leave balances will be prorated.
- G. Employees may donate excess vacation leave that the donor would not be able to take due to an approaching anniversary date.

- H. The donating employee may donate any specified amount of sick leave, provided the donation does not cause the employee's sick leave balance to fall below one hundred seventy-six (176) hours after the transfer. For purposes of sick leave donation, a day equals the donor's monthly sick leave accrual.
- I. The donating employee may donate all or part of a personal holiday. Any portion of a personal holiday that is not used will be returned to the donating employee.

14.4 The agency head or designee will determine the amount of donated leave an employee may receive and may only authorize an employee to use up to a maximum of five hundred twenty-two (522) days of shared leave during total state employment. The Employer may authorize leave in excess of five hundred twenty-two (522) days in extraordinary circumstances for an employee qualifying for the program because he or she is suffering from an illness, injury, impairment or physical or mental condition which is of an extraordinary or severe nature. A non-permanent or on-call employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the termination date specified in the non-permanent or on-call employee's appointment letter.

14.5 A. The agency head or designee will require the employee to submit, prior to approval or disapproval:

1. A medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition when the employee is qualified under Subsection 14.3 A1;
2. A copy of the military orders verifying the employee's required absence when the employee is qualified for shared leave under Subsection 14.3 A2;
3. Proof of acceptance of an employee's offer to volunteer for either a governmental agency or nonprofit organization during a declared state of emergency when the employee is qualified for shared leave under Subsection 14.3 A3; or
4. Verification of the employee's status as a victim of domestic violence, sexual assault or stalking when the employee is qualified for shared leave under Subsection 14.3 A4; or
5. Verification of child birth or placement of adoption or foster care, or a medication certificate from a licensed physician or health care provider verifying the pregnancy disability when the employee is qualified under Subsection 14.3 A5.

- B. To the extent allowed by law, the agency will maintain the confidentiality of the verifying information unless disclosure is authorized in writing by the employee.
 - C. The agency head or designee will respond in writing to shared leave requests within ten (10) working days of receipt of a properly submitted request.
 - D. Once approved, and with authorization from the requesting employee, agencies will post and/or distribute shared leave requests. If an employee's shared leave needs are unmet, and upon request from the requesting employee, shared leave requests will be distributed at least monthly.
- 14.6 Any donated leave may only be used by the recipient for the purposes specified in this Article.
- 14.7 The receiving employee will be paid his or her regular rate of pay; therefore, one (1) hour of shared leave may cover more or less than one (1) hour of the recipient's salary. The calculation of the recipient's leave value will be in accordance with Office of Financial Management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received will be coded as shared leave and be maintained separately from all other leave balances.
- 14.8
- A. All forms of paid leave available for use by the recipient must be used prior to using shared leave when qualified under Subsection 14.3 A1.
 - B. All forms of paid leave, except sick leave, available for use by the recipient must be used prior to using shared leave when qualified under Subsection 14.3 A2, 14.3 A3, or 14.3 A4.
 - C. For shared leave qualified under Subsection 14.3 A5, the employee is required to deplete their personal holiday and all compensatory time. The employee is also required to deplete vacation leave and sick leave that is over forty (40) hours in each category.
- 14.9
- A. Any shared leave no longer needed or will not be needed at a future time in connection with the original injury or illness or for any other qualifying condition by the recipient, as determined by the agency head or designee will be returned to the donor(s).
 - B. Unused leave may not be returned until one of the following occurs:
 - 1. The agency heads or designees receives a statement from the employee's doctor verifying the injury or illness is resolved, or
 - 2. The employee is released to full time employment, has not received additional medical treatment for his or her current condition or any

other qualifying condition for at least six (6) months, and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

- C. The shared leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to each donor's appropriate leave balance. The return will be prorated back based on the donor's original donation.
- 14.10 If an employee later has a need to use shared leave due to the same condition listed in their previously approved request, the agency head or designee must approve a new shared leave request for the employee.
- 14.11 All donated leave must be given voluntarily. No employee will be coerced, threatened, intimidated, or financially induced into donating leave for purposes of this program.
- 14.12 The agency will maintain records that contain sufficient information to provide for legislative review.
- 14.13 An employee who uses leave that is transferred under this Article will not be required to repay the value of the leave that he or she used.

This MOU will become effective July 1, 2018.

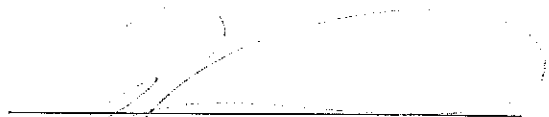
Dated May 24, 2018

For the Employer



John Vencill, Labor Negotiator

For the Union



Amy Spiegel, Director of Negotiations