

## Office of Personnel Management

### Policy

<b>Policy Title:</b> Shared Leave	<b>Policy Number:</b> 50.20
<b>Citation:</b> Arkansas Code Annotated § 21-4-203; § 21-4-217	<b>Forms:</b> Application; Physician's Certificate; Dependent Child Certification; Donation of Shared Leave <a href="http://www.dfa.arkansas.gov/offices/personnelManagement/Pages/forms.aspx">http://www.dfa.arkansas.gov/offices/personnelManagement/Pages/forms.aspx</a>

### Purpose

Arkansas law establishes shared leave to be administered by the Office of Personnel Management (OPM) of the Department of Finance and Administration.

**Note:** Shared Leave is administered intra-agency and implementation is at the discretion of state agency directors/institution heads. If a state agency wishes to opt-out of shared leave, they must notify OPM in writing by February 1 of each year.

### Definitions

Shared Leave: The donation of an employee's earned sick or annual leave to another employee who is employed by the same state employer or same state-supported institution, who

1. Is suffering from a severe illness;
2. Has an immediate family member who is severely ill; or
3. Has approved paternity leave or maternity leave after
  - A. The birth of a biological child;
  - B. The placement of an adoptive child in the adoptive home of the employee; or
  - C. The placement of a foster child in the foster home of the employee for an appropriate transition period that is in the best interests of the foster child as determined by the Division of Children and Family Services of the Department of Human Services (DCFS-DHS).

Severe Illness: An acute onset medical condition of an employee or an employee's immediate family member:

1. Which is catastrophic in nature;
2. Which could not be anticipated;
3. That requires continuous in-patient or out-patient medical treatment; and
4. That requires the employee or employee's immediate family member to be absent from duty for a prolonged period of time.

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Catastrophic Nature: Any unforeseen medical condition. Examples include, but are not limited to, a terminal illness, cancer, or surgery as a result of an unforeseen medical condition.

Immediate Family: An employee’s father, mother, sister, brother, husband, wife, child, grandmother, grandfather, grandchild, in-laws, and an individual acting as a parent or guardian of an employee.

Employee: A person regularly appointed or employed in a position of state service by a state agency for which he or she is compensated on a full-time basis, excluding faculty.

State Agency: Agencies, boards, commissions, bureaus, councils, state-supported institutions of higher education, Arkansas State Highway and Transportation Department, Bureau of Legislative Research, Division of Legislative Audit, General Assembly.

Prolonged period of time: A continuous period of time (minimum of thirty (30) working days) whereby a medical condition prevents the employee from performing the employee’s duties.

### **Recipient Requirements**

An employee is eligible to receive shared leave if the employee has:

1. Been continuously employed for more than one (1) year by the same state agency from the date of application;
  2. Cumulative earned sick and annual leave in excess of eighty (80) hours at the onset of the severe illness;
  3. Applied in writing for shared leave;
  4. Received written approval for shared leave from his or her employer; and,
  5. Not been disciplined for leave abuse by a state agency within two (2) years from the date of application.
- The 80-hour requirement may be waived for an otherwise eligible employee at the discretion of the state agency director/institution head.
  - No employee shall be approved for shared leave unless the employee is, or is reasonably expected to be, on leave without pay status as a result of a severe illness.
  - An employee who applies for shared leave shall provide his or her employer an acceptable medical certificate from a healthcare provider documenting the severe illness or the birth of the employee’s biological child that made the employee eligible for shared leave; a final decree of adoption issued by a court of competent jurisdiction approving the adoption of a child by an employee; or documentation provided by the DCFS-DHS approving the placement of a foster child in the foster home of the employee.

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- Shared leave may be used on a full-time or intermittent basis; however, in no case shall the employee be granted shared leave beyond the date certified by a healthcare provider as the date when the employee is able to return to work.
- The combination of shared and catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year. Shared leave received by an employee may not exceed 2,080 hours per shared leave event.
- Shared leave may only be used in the calendar year the leave quotas and amounts were established in AASIS.
- Shared leave may be used in conjunction with Family Medical Leave.
- Any shared leave donated to an employee that is not used by the employee shall be converted to the employer's catastrophic leave bank program. If the state agency does not have a catastrophic leave bank program, any unused shared leave shall be converted to the statewide OPM catastrophic leave bank program.
- Leave that is accrued by an employee while on shared leave shall be donated to the employer's catastrophic leave bank. If the state agency does not participate in a catastrophic leave bank program, the accrued leave shall be donated to the statewide OPM catastrophic leave bank program.
- Donations of shared leave shall be granted hour-for-hour and not dollar-for-dollar.
- OPM will not approve crossgrades/downgrades or pool position requests to accommodate a shared leave request.

**Donor Requirements**

An employee is eligible to donate shared leave if the employee:

1. Is employed by the same employer as the employee receiving shared leave;
  2. Has cumulative earned sick and annual leave in excess of eighty (80) hours, prior to donation, and the donation will not cause the donating employee to have less than eighty (80) hours, except at termination or retirement; and,
  3. Has not been disciplined for leave abuse by a state agency within two (2) years from the date of application.
- The 80-hour requirement may be waived for an otherwise eligible employee at the discretion of the state agency director/institution head.
  - Once shared leave is approved, granted, and extracted from the donor's leave bank, it is irrevocable.

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**Approval**

Shared leave shall be approved in writing by the:

1. State agency director/institution head, and
2. Chief Fiscal Officer (CFO) of the State to determine the employer’s funding availability.

If an agency, institution of higher education, board, or commission develops a shared leave program and the state’s CFO does not have access to the entity’s fund availability, the entity may submit to the CFO a written request to waive authorization to the agency director/institution head to make the determination of sufficient funding availability.

If shared leave is granted to an employee, the employee shall use the shared leave after the employee has exhausted the following:

1. Earned sick leave;
2. Earned annual and holiday leave; and,
3. Earned compensatory leave.

When submitting shared leave requests to the CFO, the following forms are required:

1. Shared leave application;
2. 80-hour waiver letter (if applicable);
3. Dependent child certification;
4. Shared leave donation; and
5. Documentation substantiating severe illness—Physician’s Certification; Adoption Decree, or DCFS-DHS Approval.

**Prohibition of Coercion**

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another employee for the purpose of interfering with that employee with respect to donating, receiving or using annual or sick leave. Any report of such described instances shall be reported in writing to the director/head of the participating agency/institution. All written reports of such described instances shall be investigated thoroughly and appropriate disciplinary action may be taken for any substantiated violation.

Revised March 11, 2016