



Virginia Department of Corrections

Human Resources

Operating Procedure 110.1

Hours of Work and Leaves of Absence

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REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

The content owner reviewed this operating procedure in March 2023 and determined that no changes are needed.

The content owner reviewed this operating procedure in March 2024 and necessary changes have been made.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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DEFINITIONS

Adoption - The act of legally and permanently assuming the responsibility of raising a child as one's own

Alternative Work Schedules - Work schedules that meet the 40-hour-per-week requirement for non-security employees but do not follow the traditional five day a week, eight hours a day scheduling pattern

Bonding time - Absence from work taken to form a close relationship between parent and newborn or newly placed child; for those employees recovering from delivery, bonding time begins after the employee is deemed physically able to return to work.

Child - A newborn biological child or a newly-placed adopted, foster, or custodial child under the age of eighteen

Custodial Care - A placement authorized by a judgment, decree, or other order of a court providing for the legal and physical custody of a child

DOCTime - DOC's web-based time, attendance, leave and scheduling system that automates the time capture, roster management and leave administration processes.

Employee - A person who is paid by the Department of Corrections on an hourly, salaried, or contractual basis, or who is paid by another state agency or outside vendor for working in a position within DOC or in a position that supervises inmates or CCAP probationers/parolees.

Exempt Employee - An employee who is not covered by the overtime provisions of the *Fair Labor Standards Act*, generally includes salaried executive, administrative, professional, and information technology employees

Fair Labor Standards Act (FLSA) - Regulations promulgated by the Federal Government that specify the minimum wage and overtime pay for non-exempt employees

Family Medical Leave Act (FMLA) - Regulations promulgated by the Federal Government that specify required periods of approved unpaid job protected absence for qualified serious health conditions involving the employee and or employee's eligible family members

Foster Care - The act of temporarily assuming the responsibility of daily care and supervision for a child removed from their birth family home due to issues endangering their health and/or safety. Parental leave may be used for temporary arrangements made through local departments of social services with the intent of reuniting the child with their birth family if possible.

Health Care Provider - An individual whose primary duty is to provide health services in keeping with their respective levels of licensure, health care training, or experience.

Leave of Absence - The absence of an employee at any time, for any reason, from their regularly scheduled hours of work whether paid or unpaid

Non-exempt Employee - An employee covered by the overtime provisions of the *Fair Labor Standards Act* including wage employees, unless specifically ruled as exempt (such as physicians or dentists) and employees covered by the Law Enforcement Exemption.

Organizational Unit - A DOC unit, such as a correctional facility, regional office, Probation & Parole Office, Virginia Correctional Enterprises, Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, and individual headquarters unit.

Organizational Unit Head - The person occupying the highest position in a DOC operating unit

Pay Docking - Any period of unpaid leave of absence that is less than 14 calendar days

Placement - The act of temporarily or permanently assuming the responsibility of daily care and supervision for a child due to adoption, foster care, or custodial care

Quasi-full-time Employee - An employee whose work schedule is either (1) 30-39.9 hours per week for 12 months per year or (2) 40-hours per week for 9, 10, or 11 consecutive months per year for at least 1560 hours per year

Rolling Period - A rolling 12-month period measured backward from the date an employee uses FMLA leave (each time an employee takes FMLA leave, the remaining leave is the balance of the 12 weeks not used during the immediately preceding 12 months)



Staggered Work Hours - Employees start and finish at various times during the workday ensuring the customer service hours are met; this may be as a result of an alternative work schedule or involve a regular workweek of 5 days a week, 8 hours a day.



PURPOSE

This operating procedure sets forth the terms of, and conditions for, working hours and leaves of absence for employees of the Department of Corrections (DOC).

PROCEDURE

I. Working Hours

- A. All units should establish “Customer Service Hours”, which must be approved by the Regional Operations Chief, Chief of Corrections Operations, or appropriate Deputy Director for Regional or Central Headquarters Units and, at minimum, cover: See DHRM Policy 1.25, *Hours of Work*.
 - 1. The hours from 8:15 a.m. to 5:00 p.m. (Monday through Friday, except holidays) for Regional or Central Headquarters offices
 - 2. The hours from 8:30 a.m. to 4:30 p.m. (Monday through Friday, except holidays) for facilities, including field units and Community Corrections facilities, and Probation and Parole offices.
- B. Organizational Unit Heads are not required to permit alternative work schedules. However, they may with the approval of the Regional Operations Chief, Chief of Corrections Operations or appropriate Deputy Director, establish staggered work hours and alternative work schedules for employees, provided the customer service hours are met and adequate operational coverage is maintained.
 - 1. To the extent possible, preferences of the employees should be weighed in the establishment of staggered work hours or alternative schedules; however, operational needs dictate all scheduling arrangements.
 - 2. Organizational Unit Heads may adjust schedules as necessary to provide appropriate operational coverage.
- C. The workweek for all non-security employees will be Monday 12:01 a.m. to Sunday midnight...
- D. Non-security schedules should provide for the minimum of 40 hours per week and should, if possible, include two rest days within every seven calendar day period. Holidays and approved leaves of absence are included in the computation of the minimum 40 hours per week.
- E. Non-security employees working at least six consecutive hours will take an unpaid lunch break (meal period) of at least 30 minutes, unless otherwise approved by the Director of Human Resources. Lunch breaks should not exceed 60 minutes a day.
 - 1. The lunch period must be taken away from the regular work area, and the employee is relieved of all work related responsibilities. Provision for up to two additional breaks, a maximum of 15 minutes each, may be granted at the discretion of the Unit Head; however, breaks may not be used to offset arrival and departure time or to extend meal periods.
 - 2. Alternate work schedules should be designed to include applicable lunch breaks and to avoid approval of schedules that seek to utilize lunch breaks or rest breaks to offset arrival and departure time.
- F. Security employees may have unpaid meal periods of no less than 20 minutes, 20 minutes or less will be considered a paid rest break, based on operational need.
 - 1. Security employees’ meal periods may be adjusted and managed as necessary to provide coverage for inmate or CCAP probationer/parolee services and care.
 - 2. When employees are required to work during their meal period, that period must be counted as time worked.
 - 3. The Unit Head in concurrence with the Director of Human Resources may designate the meal period as part of the work schedule in certain circumstances.
 - 4. Facilities may establish as part of their approved facility shift design, see Operating Procedure 401.2,



Security Staffing, a shift design that is both conducive to the efficient deployment of security staff and permits a meal break for security staff of up to one hour.

- a. Staff are allowed to leave the premises during bona fide meal periods.
- b. Security staff must comply with all key, weapons, equipment, and search requirements when exiting and returning to the facility.
- c. Security staff must recover all necessary equipment and be back on post ready to assume duty promptly at the end of the scheduled meal period.

G. Starting/Ending Time

1. Security Staff:

- a. For the purposes of determining work hours, work begins with muster, when equipment is picked up or when the post is manned, whichever condition is the earliest and authorized.
- b. Work hours end when count is cleared, equipment is turned in, or when relieved from post; whichever condition is the latest and authorized.
- c. Time utilized to enter or exit the facility or waiting to clock in/out at the time clock does not count as work time as long as the conditions outlined in this section have been met.

2. Non-Security Staff:

- a. For the purposes of determining work hours, work begins when the employee arrives at the actual workstation, place of performance of essential job functions.
- b. Unless pick up of keys or equipment is an integral part of the principal duties, that time is not compensable, picking up keys to enter a locked office is not integral.

H. Wage Employees

1. Wage Employee Hours Limited to 29 Hours

- a. Wage employees in the DOC are limited to 29 hours per week on a monthly average. There must be no exceptions.
- b. Immediate supervisors are responsible for tracking and ensuring that their wage employees do not exceed this monthly average.

2. Wage Employee Pay Period

- a. Each wage employee is responsible for clocking in/out in DOCTime and approving time on a daily basis.
- b. The immediate supervisor or designee must approve wage employee time segments by Monday morning for the previous week.

3. Wage Employee Compliance with the *Patient Protection and Affordable Care Act of 2019 (ACA)* Requirements

- a. Wage employees may work no more than 1,500 total hours during the annual period of May 1 to April 30 in order to comply with the provisions of the *Patient Protection and Affordable Care Act* and state policy.
- b. The date the wage employee began the position does not change this federal and state requirement.
- c. The DOC limits wage employees to no more than 1,450 hours during the annual period of May 1 to April 30 to avoid any difficulties created by potential errors in keying or scheduling.
- d. Units must receive permission from the Chief of Corrections Operations or their Deputy Director and the Director of Human Resources in order to authorize a wage employee to exceed a total of 1,450 hours during the annual period up to no more than 1,475 hours; a wage employee will not be permitted to exceed the 1,500-hour maximum.



II. Documentation

A. DOCTime is the official time, attendance, and leave system for the DOC.

1. As the official time, attendance, and leave system, all time, attendance, and leave is submitted in DOCTime.
2. DOCTime clock in methods will vary depending on employee position and location.
 - a. Security staff will generally use their state issued ID card and fingerprint to sign in on the wall mounted time clock.
 - b. Facility non-security staff, whose workstations are located inside the secure perimeter, will be issued a state issued ID card for clocking in/out at the wall mounted time clocks. Non-Security staff outside of the secure perimeter, or at non-facility locations will generally use a computer to log in, unless an alternate method has been approved.
 - c. Designated staff, who begin their day away from a time clock or computer, may be granted access to clock in using the DOCTime mobile phone application (app). Approval to use this option for clocking in and out must be approved by the Human Resources Director prior to staff using this option.
 - d. Employees are to clock in and clock out as authorized and only from approved devices. Staff misusing DOCTime or found clocking in and out without authorization, from a computer, phone, time clock, or other device, will be held accountable in accordance with Operating Procedure 135.1, *Standards of Conduct*.

B. Non-exempt Employees

1. The Department of Human Resource Management (DHRM) requires all non-exempt employees to record and report their time worked to the nearest one-tenth of an hour. See Attachment 1, *Tenths of an Hour Conversion Chart*.
2. All work and leave time must be approved within the DOCTime system by the non-exempt employee and should be completed daily, but later than Monday morning of the following week. The supervisor will then need to approve the time for the previous week no later than close of business on Mondays.

C. Exempt Employees

1. Exempt employees will not record time in/time out or an applicable break time.
 - a. Designated exempt security-staff (e.g. Captains and Lieutenants) will swipe their ID in at the time clock only to verify daily attendance, not to record time.
 - b. Designated exempt security-staff (e.g. Captains and Lieutenants) approved to work overtime in a Correctional Officer post will clock in using the exempt overtime job code and will clock out at the end of their shift.
2. Exempt employees will utilize DOCTime to record leave requests, leave taken, and in special circumstances awarded leave.

III. Proper Approval, Notice and Reporting of Absences

A. The smallest unit of leave recorded will be in one tenth of an hour increments.

1. At the discretion of the Organizational Unit Head, specific units may require leave be taken in half hour increments.
2. Workers' compensation leave will be recorded as specified in workers' compensation operating procedures.

B. DOCTime should be used to report any leaves of absence and is used as a leave request form based on specific requirements.

1. Other alternative approval/submission methods must be authorized by the Director of Human



Resources.

- C. All leave should be requested as far in advance as possible. In the event of illness, injury, or other emergency, an employee will be required to provide adequate notice to the supervisor and request use of leave.
1. A non-security employee, who must be absent due to illness or other unanticipated reason, will notify their immediate supervisor, through the means identified by the supervisor or organizational unit, or designee, no later than ½ hour after the beginning of their normal work hours. Supervisors may establish more specific reporting instructions for unanticipated absences.
 2. Security employees and other shift workers are required to notify the officer in charge, or the Shift Commander, at least two hours prior to the beginning of their shift if they must be absent. Organizational units may develop their own protocol for acceptable notice.
 3. Employees who fail to notify their supervisor, or the supervisor's designee, should be considered "absent without leave". This will result in a loss of pay and be treated as a violation of Operating Procedure 135.1, *Standards of Conduct*.
- D. Notification of absence, or request for use of leave, does not mean that the leave request will be approved or that the notification of absence will be accepted.
1. The Organizational Unit Head or designee reserves the right to approve all leave as deemed appropriate.
 2. In instances where leave is not approved, subsequent failure by the employee to report as required will be considered an unauthorized absence or absence without leave and will result in a loss of pay and be treated as a violation of Operating Procedure 135.1, *Standards of Conduct*.
- E. Leaving the worksite during work hours without permission or notification will be considered an unauthorized absence or absence without leave and will result in a loss of pay and treated as a violation of Operating Procedure 135.1, *Standards of Conduct*.
- F. Any absence without prior approval or any unauthorized absence may be charged as Leave without Pay, even though leave balances exist.
- G. No leave of absence with pay will be granted in anticipation of future leave accruals.
- H. There will be no leave accrual following an absence with pay of 90 consecutive calendar days.
- I. In order to minimize potential operational difficulties, employees with an effective date of retirement within four months of separation from employment with the DOC will not be authorized to take more than 160 consecutive hours of Annual and/or personal leave prior to their effective retirement date.

IV. Annual Leave

- A. Requests for use of Annual Leave should be made as far in advance as possible.
- B. A minimum of 48 hours advance notice should be given when an employee wishes to use Annual Leave.
- C. In extreme or mitigating circumstances, the Organizational Unit Head may approve use of Annual Leave and waive the minimum notice requirement.
- D. The Organizational Unit Head, or designee, reserves the right to approve or disapprove all requests for use of leave. Additional procedures governing Annual Leave may be found in DHRM Policy 4.10, *Annual Leave*.
- E. Organizational units may implement necessary use of leave policies after review by the Director of Human Resources.



V. Workers' Compensation Leave

- A. Employees incapacitated by injury or illness as defined by COV §65.2-100 et seq., *Virginia Workers' Compensation Act* may be entitled to the benefits provided by the *Act*. See Operating Procedure 261.3, *Workers Compensation*.
- B. The Human Resource Officer or designee will be responsible for ensuring leave is accurately documented for reimbursement of an employee's workers compensation claim.

VI. Sick Leave

- A. Employees incapacitated, unable to perform job duties, by injury or illness are covered by either the *Traditional Sick Leave Program* or the *Virginia Sickness and Disability Program (VSDP)*.
- B. Use of Sick Leave, not covered as a qualifying condition under *Family Medical Leave Act (FMLA)*, is granted at the discretion of management/supervisor.
- C. Use of Sick Leave may require verification, to be submitted to the Human Resources Office, at the discretion of the Organizational Unit Head or designee, by a treating physician.
 - 1. This verification must include an assessment by the health care provider that the employee is unable to work during a specified period, period of absence, and indicate a projected return to work date.
 - 2. The verification must also include the nature of the illness or injury that prohibits the employee from working. The physician is not required to identify the injury or illness but only the indicator/limitations that prohibit work.
- D. Organizational units may implement a Sick Leave verification protocol after review by the Director of Human Resources.
- E. Additional procedures governing the use of Sick Leave may be found in the DHRM Policy 4.55, *Sick Leave*.

VII. Temporary Incapacity

- A. All employees are responsible for informing their work unit of a continued need for leave due to temporary incapacity in accordance with the leave notification section of this procedure.
- B. Employees under the VSDP leave program who are unable to perform their duties due to a temporary medical incapacity beyond seven calendar days must contact the Alight, 3rd party administrator for the program, to initiate a short-term disability claim and submit appropriate certification and other supporting documentation, as required to Alight, from their health care provider that indicates the following:
 - 1. The nature of the incapacity.
 - 2. The limitations, physical or mental, that preclude the employee from performing their job or essential functions of their job, including which aspects of their job they are unable to perform.
 - 3. The anticipated length of the incapacity.
- C. Employees under the Traditional Sick Leave Program who are unable to perform their duties due to temporary medical incapacity beyond five calendar days will be required to submit health care provider certification to Human Resources, as indicated under the *Family Medical Leave Act*, which includes appropriate certification and other supporting documentation, as required, from their health care provider that indicates the following:
 - 1. A serious health condition.
 - 2. The limitations, physical or mental, that preclude the employee from performing their job or essential functions of their job, including which aspects of their job they are unable to perform.
 - 3. The anticipated length of the incapacity.



- D. If an employee is able to work in a modified status during a temporary serious health condition, the health care provider must also submit information that outlines the duties that can still be performed, as well as pertinent information, including restrictions or limitations. See Operating Procedure 150.3, *Reasonable Accommodations*.
- E. Supervisors, with the assistance of Human Resources, should determine if it is reasonable to temporarily restructure the job or assignment, for no longer than 90 days, without undue interruption or burden to the operation of the unit.
- F. Supervisors should monitor instances where temporary restructure or reassignment has occurred to ensure the employee is able to maintain a satisfactory level of work and the feasibility for the unit of maintaining the restructure or reassignment.
- G. A temporary need for continued job modifications due to an employee's serious health condition that will exceed 90 days or appear to be permanent must be submitted to the Benefits Manager in the Office of Human Resources at DOC Headquarters for review and response in compliance with *American with Disabilities Act (ADA)*.

VIII. Compensatory Leave

- A. Nonexempt employees may earn Compensatory Leave, on an hour-for-hour basis only for:
 - 1. Work performed on a designated holiday by employees required to work by their supervisors.
 - 2. Holidays that fall on a scheduled rest day.
 - 3. Work performed by eligible designated staff working during an authorized closing as outlined in Operating Procedure 110.3, *Emergency Closings*.
 - 4. Those work conditions outlined in Operating Procedure 110.2, *Overtime and Schedule Adjustments*.
- B. Exempt employees may earn Compensatory Leave when required by the Organizational Unit Head to work:
 - 1. On an official office closing day.
 - 2. On a holiday.
- C. As far as practicable, Compensatory Leave will be granted at the times requested by the employee.
 - 1. Compensatory Leave should be scheduled a minimum of 48 hours in advance of when an employee wishes to use Compensatory Leave.
 - 2. Organizational Unit Heads should consider the needs of the unit prior to granting use of Compensatory Leave.
- D. Compensatory Leave credits expire 12 months following the date on which the leave was earned.
- E. Upon separation or transfer to an agency outside of DOC, employees will be paid for their Compensatory Leave balance. Additional information regarding Compensatory Leave may be found in DHRM Policy 3.10, *Compensatory Leave*.

IX. Family and Medical Leave

- A. The DOC follows the provisions and intent of the *Family and Medical Leave Act of 1993 (FMLA)* in that eligible employees must be granted up to a total of 12 workweeks (480 hours) of job-protected unpaid leave during a rolling 12-month period due to their own serious health condition or the serious health condition of a family member (child, spouse, parent). The rolling 12-month period is measured backward from the date an employee uses FMLA leave.
- B. All full-time and part-time classified, restricted, and wage employees who have been employed by the Commonwealth for a total of at least 12 months in the past seven years and have worked for at least 1,250



- hours in the previous 12-month period are eligible for *Family and Medical Leave* (FML). Eligibility determinations are made as of the date that the family and medical leave is to begin.
- C. Eligible employees may be granted up to 26 weeks of unpaid FML to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.
- D. FML also encompasses unpaid leave provided due to the birth of a child or the placement of a child with the employee for adoption or foster care and unpaid leave provided due to active-duty military deployment of a family member or line of duty injury care for a family member.
- E. Employees may take FML in blocks of time, or under certain circumstances, intermittently, not to exceed the 12-week maximum as outlined in the Act. Accrued leave may be applied to the period(s) of absence in accordance with DHRM leave policies.
- F. Upon return from FML, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.
- G. Under the requirements of DHRM Policy 4.20, *Family and Medical Leave*, employees absent under the FML must be notified in writing of their rights and responsibilities within five business days, including providing what is required of the employee and what might happen should the employee fail to return to work after the FML absence.
1. It is the responsibility of the Organizational Unit Head or designee, in collaboration with the Human Resources Office to provide such notification to eligible employees.
 2. The Human Resources Office will provide written notification to any employee who is absent in excess of three consecutive workdays for reasons that may qualify under the FMLA.
 3. The notification should state the absence might qualify under FMLA and require the employee to provide medical certification supporting the need for the absence due to a serious health condition affecting the employee or the following covered family members:
 - a. Spouse - husband or wife as recognized in accordance with Executive Order Number 30 (2014) *Marriage Equality in the Commonwealth of Virginia*
 - b. Son or Daughter - a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in place of the parent. The child must either be under age 18 or be age 18 or older and incapable of self-care because of mental or physical disability.
 - c. If an adult son or daughter is determined to be incapable of self-care because of a disability, he or she will be considered "son or daughter" under the FMLA
 1. Adult son or daughter must:
 - (a.) Have a serious health condition and
 - (b.) Needs care because of the serious health condition
 - d. Parent - a biological parent or individual who stands in place of the parent of the employee and is charged with the duties and responsibilities of the parent.
 4. Such medical certification must be provided within a reasonable period of time depending on the individual circumstances.
 - a. Medical certification is required except in the case of birth, adoption, or foster placement. Other confirmation may be required in these cases.
 5. Certification by a physician is not required for FML running concurrent with a period of short-term disability (VSDP).
 6. Failure to provide such certification may disqualify the employee from the provisions of the FMLA and use of leave.
- H. A request for leave prior to an absence for surgery, serious illness, injury, or treatment for a serious illness or injury of the employee or the employee's family will be designated as leave pursuant to the FMLA.

1. The designation will be provided in writing to the employee within five business days of receiving sufficient information to make a determination.
 2. The leave of absence may be paid, if the employee has sufficient leave accrued, it may be unpaid, or a combination of paid and unpaid leave in accordance with DHRM Policy 4.20, *Family and Medical Leave*.
- I. Additional information on family and medical leave may be found in DHRM Policy 4.20, *Family and Medical Leave*.

X. Parental Leave

A. Benefit

1. In accordance with Executive Order Number Twelve (2018), *Parental Leave for Commonwealth Employees* and DHRM Policy 4.21, *Parental Leave*, eligible employees may receive up to eight weeks (320 hours) of paid Parental Leave to be used within six months of the birth of an infant or adoptive, foster, or custodial placement of a child under the age of 18 years old for any of the following reasons:
 - a. To give birth to, care for, and bond with a newborn child.
 - b. To care for and bond with a child placed with the employee through adoption, foster care, or a legal custodial arrangement.
 - c. To supplement reduced income replacement disability benefits following the birth of an infant.
2. Eligible quasi-full-time or part-time employees may take up to eight weeks of Parental Leave for the reasons listed above. Hours taken will be counted on a pro-rated basis corresponding to the percentage of hours they normally are scheduled to work.

B. Eligibility

1. To be eligible for Parental Leave, an employee must meet all the following requirements:
 - a. Have become a parent via birth, adoption, foster care, or custodial care within the last six months
 - b. Be in a full-time, quasi-full-time, or part-time salaried, classified or “at will”, position upon the birth or placement of the child
 - c. Be eligible for *Family and Medical Leave* (FML) per the *Family and Medical Leave* section of this operating procedure.
2. Eligibility determinations are made as of the date that the child is born or placed via adoption or foster or custodial care.
3. An employee who is not eligible for Parental Leave on the date of birth or placement may become eligible during the following six months and access Parental Leave once the employee meets the eligibility requirements.
4. If both parents work for the Commonwealth and meet the eligibility criteria above, they may each use up to 320 hours of Parental Leave within the six-month period following the birth or placement.

C. Requesting Leave

1. Employees must comply with DOC leave request procedures in accordance with this operating procedure when requesting Parental Leave.
2. Employees must submit a written request for Parental Leave to their supervisor and Human Resource Office at least 30 days in advance of the anticipated leave, or as soon as possible, if the leave is unanticipated.
3. Documentation of Birth or Placement
 - a. Employees must provide official documentation of the birth or placement, which shows the date of birth or placement of the child. Examples of documentation that will be considered include, but are not limited to; a report of birth, a birth certificate, an order of parentage, an adoption order,



certified DNA test results, a custody order, and a foster care placement agreement.

- b. The employee must provide the required documentation within 15 calendar days after their request to use Parental Leave, unless it is not possible under the particular circumstances to do so despite the employee's good faith efforts. If the documentation is not provided in a timely manner, the request for Parental Leave may be denied until the employee submits complete and sufficient documentation.
- c. Requests for Parental Leave may be approved in advance of receiving confirmation of the baby's birth or placement documents if the employee has other leave time that could be charged instead of Parental Leave. If sufficient documentation is not provided within 15 calendar days after the birth of placement of the child, personal leave will be charged.

D. Leave Usage

1. Parental Leave must be used within six months of the date of the birth or placement of the child; unused leave expires six months from the date of the birth or placement.
2. Employees who separate from employment with the Commonwealth or transfer to a non-covered position will not be paid for any unused Parental Leave.
3. Parental Leave must be taken over a continuous period and may not be taken intermittently or in blocks of time, unless an exception based on agency business needs is approved by the Organizational Unit Head and agreed to by the employee.
4. Paid Parental Leave is intended to be used for bonding during the period following a new birth or placement. Therefore, the first eight weeks of bonding time must be charged to Parental Leave. Bonding time does not have to be taken immediately following the recovery period associated with delivery. Examples:
 - a. A FML eligible employee is released to return to work six weeks after delivering a baby. If the employee chooses to take additional time away from work to bond with the newborn child, the employee must utilize Parental Leave. The employee may not take personal leave or unpaid leave for the remaining weeks of the FML period and then request to use 320 hours of Parental Leave after the 12-week FML period has been exhausted.
 - b. A FML eligible employee wants to take a leave of absence to bond with a newly placed child. The employee must utilize Parental Leave for this purpose. The employee may not take personal leave or unpaid leave until the FML period has been exhausted and then request to use 320 hours of Parental Leave.

E. Coordination with Other Benefits

1. Paid Parental Leave is designated as *Family and Medical Leave (FML)* and runs concurrently with the FML period.
2. Eligible employees may use up to 320 hours of Parental Leave, even if they have already used all of their FML period, 12 workweeks.
3. Parental Leave is available on the date of the birth or placement regardless of the start of the FML period.
4. Parental Leave may be used after the birth of the child, to cover the waiting period and supplement income replacement of disability benefits for employees under the *Virginia Sickness Disability Program*.
5. Additional information can be found in DHRM Policy 4.21, *Parental Leave*.

XI. Break Time and Space for Nursing Employees

- A. In compliance with the *Fair Labor Standards Act*, the DOC supports the health and well-being of employees and their infant children by providing a workplace that supports an employee's decision to breastfeed.



- B. This operating procedure as well as Operating Procedure 145.3, *Equal Employment Opportunity, Harassment, and Workplace Civility* specifically prohibit discrimination and harassment of breastfeeding employees who exercise their rights under this operating procedure.
- C. Upon return to work after the birth of a child and for one-year post-partum, breastfeeding employees are allowed reasonable break time as needed to express breastmilk during work hours.
- D. All employees who need to express breastmilk during the workday must contact their Human Resource Officer, preferably before their return to work following the birth of the child. The Human Resource Officer will work with the employee and their supervisor to determine:
1. A clean, safe, secure, and private environment for expressing breastmilk that is not a bathroom, and has access to electricity, a working sink, and is free from view and intrusion.
 2. Appropriate and reasonable break times.
 3. Appropriate storage for expressed breastmilk.
 4. Access to educational materials for the breastfeeding mother located on the Department of Corrections Intranet.
- E. The Human Resource Officer may request official documentation, such as proof of birth or birth certificate, to substantiate the date of the child's birth.
- F. Reasonable Break Times
1. The frequency and length of each break may vary by employee and is not limited to only the two designated break times previously identified in this operating procedure.
 2. Employees will be compensated for breaks that last 20 minutes or less. Reasonable time to travel to and from the designated space, set up and clean supplies, and store the breastmilk will be compensated and not count towards the total break time.
 3. The number of breaks permitted each day is dependent on the length of the employee's shift. As a general guideline, breaks should be permitted once every three to four hours.
 4. For breaks exceeding 20 minutes or that occur more frequently than once every three hours, the supervisor in consultation with Human Resources may permit employees to use leave, personal or unpaid, or adjust their schedule, based on the needs of the employee and the work unit while ensuring similarly situated employees are treated consistently.
 5. Should the frequency and duration of needed break times to express milk negatively affect the business operation of the work unit, the supervisor or employee must notify the Human Resource Officer (HRO) to request a reasonable accommodation under Operating Procedure 150.3, *Reasonable Accommodations*.
 6. The HRO will contact the Benefits Manager in the Office of Human Resources at DOC Headquarters to determine whether a reasonable modification can be made that will allow the breastfeeding employee to continue expressing milk during work hours.
 7. For non-exempt employees, breaks satisfy break requirements as outlined in Operating Procedure 110.2, *Overtime and Schedule Adjustments*.
- G. Private Space - Provided
1. Covered employees must be provided with a private environment to express breastmilk during the workday.
 2. The designated space must be clean, safe, and secure; shielded from view with no windows or opaque shades on the windows, and free from intrusion from coworkers and others within the building (i.e., locks from the inside). If possible, the space should be near the work area and have a sink with running water.

3. The designed space must be disinfected and cleaned daily. Breastfeeding employees must also clean the space, including high touch areas such as tables, doorknobs, light switches, countertops, handles and sink, after each use.
4. An employee may utilize their own private office for expressing milk if they choose, in consultation with their Human Resource Officer and supervisor.
5. The work unit must provide a refrigerator that the breastfeeding employee may use to store express milk during working hours. Breastfeeding employees are responsible for properly labeling and dating expressed milk before storage.
6. As appropriate, the organizational unit head may allow a breastfeeding employee to store expressed milk in their own personal cooler.
7. Employees are responsible for their own personal breast pumps and supplies approved for entry into the work facility.
8. Employees are responsible for cleaning their hands before touching any pump or bottle parts. They are also responsible for properly cleaning and sanitizing breast pumps.
9. A bathroom is not an acceptable, approved environment.

XII. School Assistance and Volunteer Service Leave

- A. This operating procedure permits agencies to grant employees up to 16 hours of time off with pay per calendar year to provide volunteer services through eligible non-profit organizations within or outside their communities.
- B. Such service may be provided as a member of a service organization or through authorized school assistance.
- C. COV §2.2-2821.2, *Leave for volunteer fire and volunteer emergency medical services*, increases from 16 to 24 the number of hours of paid leave in any leave year, in addition to other paid leave, that may be allowed to state employees to serve with a volunteer fire department and rescue squad or auxiliary unit thereof. This time is not in addition to the 16 hours of paid volunteer service leave to provide other volunteer services or school assistance.
- D. The procedure supports the Governor's Commission on National and Community Service, which encourages Virginians to dedicate service to others.
- E. Additional information on volunteer service leave may be found in DHRM Policy 4.40, *School Assistance and Volunteer Service Leave*.
- F. Employees should request use of this type of leave a minimum of 48 hours in advance and are required to receive approval from their supervisors prior to using *School Assistance and Volunteer Service Leave*.
- G. Supervisors may require written verification from an official of the service organization for use of volunteer leave. If the leave is used for school assistance, written verification should be from a school administrator or teacher.
- H. As far as practicable, Supervisors should grant the leave requested, however, the needs of the unit may require the *School Assistance and Volunteer Service Leave* be taken at another time.

XIII. Leave without Pay - Conditional/Unconditional

- A. Pay Docking is any period of unpaid time off that is equal to or less than 14 consecutive calendar days.
- B. Leave without Pay is unpaid time off from work in excess of 14 consecutive calendar days and, except under specified circumstances, limited to 12 months.
- C. Unconditional Leave without Pay, when approved, guarantees reinstatement to the position held by the employee before leave was taken.



- D. Conditional Leave without Pay, when approved, guarantees reinstatement only if the employee's position is available upon their return.
- E. For the Commonwealth's policies regarding Leave without Pay, refer to DHRM Policy 4.45, *Leave without Pay - Conditional/Unconditional*.
- F. Absence without prior approval may be charged as Leave without Pay or Pay Docking even though a leave balance exists, and the employee taking such leave is subject to appropriate discipline.
 - 1. Absences that exceed current leave balances must be charged as Leave without Pay or Pay Docking and are subject to appropriate discipline.
 - 2. There will be no accrual of Annual Leave (or Traditional Sick Leave) in a pay period in which the employee is on Leave without Pay, or in a Pay Docking status (XX).
- G. The following must be reported to payroll as Leave without Pay or Pay Docking and will be subject to appropriate discipline:
 - 1. Any absence that has not been reported and justified to the supervisor.
 - 2. Any absence that is not approved.
 - 3. Any absence that exceeds the balance of the appropriate leave.
- H. All requests for Leave without Pay should be pre-approved; however, the Organizational Unit Head may determine that an unforeseen emergency warrants approval upon request.
- I. Leave without Pay requests can be denied at the discretion of the Organizational Unit Head and with consent of the Director of Human Resources. Failure to report following a denial of a Leave without Pay request should be addressed in accordance with the Standards of Conduct. See Operating Procedure 135.1, *Standards of Conduct*.
- J. All requests for Leave without Pay should be made by the employee in writing to the Unit Head.
- K. Approvals and all conditions for Leave without Pay should be communicated by the Human Resources Office to the employee in writing, this includes benefit information, approved dates, etc.

XIV. Civil and Work Related Leave

- A. Civil and Work Related Leave is paid and/or unpaid leave time for employees who are performing certain civic duties, appearing in court or related proceedings, as governed by policy, attending administrative hearings, interviewing for state positions, and participating in the formal resolution of workplace conflicts and certain other work-related activities.
- B. For the Commonwealth's policies regarding Civil and Work Related leave, reference DHRM Policy 4.05, *Civil and Work Related Leave*.
- C. Employees will be allowed time off from work to participate in interviews for state employment opportunities, includes reasonable travel time. Each such absence may require leave to be reported in DOCTime. Use of this time must be scheduled in advance with the approval of the supervisor and may require verification from interviewing agency, statement, signed by interviewer, indicating agency and time.
 - 1. For-interviews within the DOC, up to eight hours can be used annually with supervisor approval. Those seeking DOC interview opportunities exceeding eight hours annually may be approved at the discretion of the Organizational Unit Head.
 - 2. For employment interviews with other state agencies, a maximum of eight hours can be used annually.
 - 3. Civil and Work Related Leave cannot be used for interviews for employment outside of State service.



XV. Military Leave

- A. Military Leave is leave granted with or without pay to employees for active duty in the armed services of the United States or for employees who are former members of the armed services, or current members of the reserve forces of any of the United States armed services, or of the Commonwealth militia, National Guard, naval militia, and Virginia State Defense Force, or the National Defense Executive Reserve, in accordance with federal and state law.
- B. For the Commonwealth's policies regarding Military Leave, refer to DHRM Policy 4.50, *Military Leave*.

XVI. Overtime And Schedule Adjustments

- A. Overtime And Schedule Adjustments - Overtime and schedule adjustments will be managed in accordance with Operating Procedure 110.2, *Overtime and Schedule Adjustments*.

XVII. Emergency Disaster Leave

- A. DHRM Policy 4.17, *Emergency Disaster Leave*, governs employee absences related to emergency or disaster situations, the procedures outlined herein should be followed when reviewing requests for leave under this policy.
- B. Organizational Unit Heads may approve an employee's request to use up to 80 hours of paid leave annually to provide emergency services during a declared disaster or for personal use due to severe, extreme, or catastrophic damage to or loss of their primary personal residence, or if they have been ordered to evacuate that residence as a result of a natural or man-made emergency or disaster.
- C. Employees may be granted leave to provide emergency services if all of the following criteria are met:
 - 1. The area is covered by an official declaration of major disaster by the President of the United States, or a declaration of a State of Emergency by the Governor of Virginia or the governor of another state.
 - 2. Public officials at the site of the disaster have requested the assistance of individuals with specialized skills or training.
 - 3. The employee possesses the required specialized skills or training requested by the authorities.
 - 4. Employees present written requests to provide emergency services and obtain approval prior to using leave.
- D. In evaluating emergency service requests, Organizational Unit Heads should consider the need for the employee to provide the specified assistance and the expected impact of the employee's absence on the unit's ability to perform its mission. Necessary documentation must be obtained and includes confirmation of the disaster, verification of the request for assistance by authorized officials, and corroboration that the employee possesses the relevant specialized skills or training.
- E. Leave may be granted for personal use for victims of disasters when all of the following criteria are met:
 - 1. The event resulted in a formal declaration of a State of Emergency or in federal disaster status.
 - 2. The employee's home is located in the officially declared disaster area.
 - 3. Formal documentation from recognized disaster relief organizations or insurance companies verified severe, extreme, or catastrophic damage to or loss of personal property as a result of the declared emergency in which the damage or required evacuation rendered the employee's home temporarily or permanently uninhabitable.
- F. The agency is not authorized to pay for expenses incurred by the employee in recovering from the personal effects of a disaster.
- G. In evaluating requests for leave from victims of disasters, the necessary documentation includes confirmation of the declaration of a State of Emergency or federal disaster status, verification that the employee's primary residence is in the official disaster area, and verification of catastrophic damage to or



loss of the residence, or the requirement to evacuate the residence.

H. Employees are responsible for requesting leave and for providing the required documentation or verification in accordance with the above referenced criteria. Documentation should be maintained in the employee's personnel file and are subject to audit. Human Resource Officers are responsible for ensuring that proper documentation is provided by the employee and Organizational Unit Head approval is granted before leave is awarded.

XVIII. Approved Work Time to Attend Funerals

A. Funeral for a Current Employee of the DOC - Service Attendance during work hours:

1. In the event of the death of a current DOC employee, the Organizational Unit Head at the employing unit may approve attendance for employees as representatives of the unit. The Organizational Unit Head may include the honor guard, family, friends and team members, and additional staff who worked with the deceased employee. Prudence should be utilized to ensure continuity of operations and appropriate budget consideration.
2. Other Organizational Unit Heads may approve attendance for designated representatives from their unit to attend services for employees of other units. The specific number of staff permitted to attend should be carefully considered.
3. Executive or management level employees should attend as appropriate as representatives of the DOC.
4. Approval to attend the funeral of a current employee as outlined above is considered work time and leave will not be required. State vehicles may be utilized within the Commonwealth. Personal vehicle mileage reimbursement is not authorized.
5. The Director or designee may designate closure of some offices or restricted operations for attendance at services for management or executive staff members.

B. Funeral for a Retiree of the DOC - Service Attendance during work hours

1. Organizational Unit Heads should determine an appropriate number of representative attendees from units of prior employment for that retiree. An honor guard may be provided if requested by the family.
2. Organizational Unit Heads from non-employing units should carefully consider whether a representative's attendance is warranted.
3. Approval to attend the funeral of a retired employee as outlined above is considered work time and leave will not be required. State vehicles may be utilized within the Commonwealth. Personal vehicle mileage reimbursement is not authorized.

C. Funeral for other Public Safety/Law Enforcement Employees - Service Attendance during work hours

1. In the event of the death of a local or state law enforcement officer, the Organizational Unit Head in that locality may approve attendance for a representative number of employees. This number may include the honor guard and other attendees, preferably, to include the highest ranking uniformed officer as well as the Organizational Unit Head or designee.
2. Executive or management level employees may attend as appropriate as representatives of the DOC.
3. Approval to attend the funeral of other Public Safety/Law-Enforcement employee as outlined above is considered work time and leave will not be required. State vehicles may be utilized within the Commonwealth. Personal vehicle mileage reimbursement is not authorized.

D. Funeral for Others

1. At any time, employees may request to attend a funeral service during working hours for a former agency employee, retiree, or agency employee's family member, however, approval is at the discretion of the Organizational Unit Head and appropriate leave must be available and utilized. Neither state vehicles nor personal vehicle mileage reimbursement are authorized.



2. Schedule adjustments can also be made at the Organizational Unit Head's discretion to accommodate attendance at funerals.

E. The Bereavement Leave allowed under the traditional Sick Leave system or the family and personal leave under VSDP have not changed and may be used as outlined in those policies.

XIX. Retirement Events and Approved Work Time to Attend Retirement Events

A. Retirement Counseling

1. Human Resource Officers provide DOC employees counseling on retirement benefits and eligibility at their applicable Organizational Unit.
2. The Benefits section of the Office of Human Resources at DOC Headquarters provides retirement counseling upon request.
3. The *Virginia Retirement System* provides state employees counseling on retirement benefits and eligibility at regional locations. See *VRS-Education and Counseling*.
4. Employees may use work time to attend retirement counseling sessions with the supervisor's approval.

B. Retirement Celebrations during Work Hours

1. The retirement celebration of an active employee is a recognition event for the service and contributions of a staff member. Attendance at the celebration by staff who have worked with the retiree and, if approved by the employee's supervisor, is considered official work time and official business.
2. The DOC will only allow supervisory approved work time at retirement celebrations that occur during normal business hours.
3. No alcohol may be served at these DOC recognized retirement celebrations.
4. State vehicles may be driven to retirement celebrations by staff from other work units. Carpooling should occur as appropriate.
5. Vehicle reimbursement procedures are addressed in Operating Procedure 240.1, *Travel*.

C. Retirement Celebrations after Work Hours

1. Any retirement celebration held outside normal work hours is not a DOC function.
2. The time spent organizing or attending such a function is not considered work time.
3. State vehicles are not authorized to be used for such a function.

XX. Approved Work time for Special Olympics and Employee Assistance Fund Activities

A. Time during the employee's normal work hours spent in DOC meetings for the planning of the programs is considered work time.

1. Incidental time, less than 15 minutes, spent on telephone calls and other activities can be considered work time.
2. The time spent representing the DOC at Special Olympics or Employee Assistance Fund statewide meetings will be considered work time.

B. On an annual basis, an employee may use up to four hours during work time to plan or assist with a Special Olympics or Employee Assistance fundraising event. This can be a single event or a combination of both events not to exceed a total of four hours. Supervisory permission is required for all activities during work time.

C. Activities, which are not considered work time, include, but may not be limited to, participation in the fundraising events themselves and preparation for the fundraising events, beyond the allowed four hours annually. These activities, if they occur during work hours, require an employee to use accrued, personal



leave balances.

- D. School Assistance/Volunteer Service Leave may be used to volunteer for Special Olympics activities, but not may be used for functions to raise funds.
- E. Employees representing the DOC in the Torch Run may be released from work for up to two hours to participate in the Torch Run at discretion of the Organizational Unit Head. With the Unit Head's approval, this time may also be combined with the employee's personal accrued leave, Annual, Compensatory, or Family Personal in VSDP, if participation requires additional time.

XXI. Leave Sharing

- A. DHRM Policy 4.35, *Leave Sharing*, permits eligible employees in Leave without Pay status to receive income by using Annual Leave hours donated to them by other employees.
- B. A donor may authorize donations of accrued Annual Leave in minimum increments of eight hours by completing a *Donor Form Leave Sharing Program*, DHRM Policy 4.35, *Leave Sharing*, Attachment B and submitting it to the Human Resources Office.
- C. The Human Resource Office is responsible for advising employees of their eligibility for Leave Share when employees are in a Leave without Pay status. A qualified employee may also request donated leave by contacting their Human Resources Office.
 - 1. Eligible employees should submit a *Recipient Application - Leave Sharing Program*, DHRM Policy 4.35, *Leave Sharing*, Attachment A, to the Human Resource Office while they are in Leave without Pay status or no later than 15 calendar days after Leave without Pay status ends.
 - 2. The respective Human Resource Office will process leave donations in accordance with DHRM 4.35, *Leave Sharing* policy.
- D. Additional information on the Leave Sharing Program may be found in DHRM Policy 4.35, *Leave Sharing*.

XXII. Inclement Weather and Office Closings

- A. For the Commonwealth's policies regarding authorized closing of state agencies' operations due to inclement weather conditions, or other emergencies such as utility failure, fire, or forced evacuation, see DHRM Policy 1.35, *Emergency Closings*.
- B. Absences resulting from inclement weather will be handled in accordance with Operating Procedure 110.3, *Emergency Closings*.

XXIII. Abuses of Leave or Time

- A. Absenteeism/Leave-Time Abuse
 - 1. The expectation is that all employees will report to work as scheduled.
 - 2. Supervisors are responsible for the operations of the unit and must take decisive, prompt steps to correct abuses in use of time or leave.
 - 3. Excessive absenteeism, patterned absences, tardiness, or other abuses of leave/time must be discussed with the employee.
- B. Failure to reach acceptable levels of attendance or ensure proper, prudent use of time are violations under Operating Procedure 135.1, *Standards of Conduct*, and will be dealt with through appropriate disciplinary action.
- C. False Reporting of Leave-Time
 - 1. Inaccurate reporting of time/leave, failure to properly record time/leave use, falsification of time sheets, leave balances, or leave records will be subject to disciplinary action under Operating



Procedure 135.1, *Standards of Conduct*.

2. This includes the employee's failure to request leave in DOCTime prior to an absence or promptly thereafter.
3. The Supervisor may treat these absences as leave without pay and may proceed with disciplinary action in accordance with Operating Procedure 135.1, *Standards of Conduct*.

D. Errors in Leave

1. Employees are accountable for knowing their correct leave balance and accrual rate. The failure of an agency's systems or errors by responsible employees does not remove that responsibility.
2. If it is discovered that an employee has accrued or used leave in excess of the amount to which they were entitled, balances will be corrected, and the employee will be required to repay the agency for leave taken in error.

REFERENCES

Patient Protection and Affordable Care Act of 2019 (ACA)

Family Medical Leave Act of 1993 (FMLA)

29 U.S.C. 207 - Fair Labor Standards Act of 1938 - Section 7(r), Break Time for Nursing Mothers Provision (2011)

COV §2.2-2821.2, *Leave for volunteer fire and volunteer emergency medical services*

COV §2.2-2900 et seq., *Virginia Personnel Act*

COV §65.2-100 et seq., *Virginia Workers' Compensation Act*

Executive Order Number Twelve (2018), *Parental Leave for Commonwealth Employees*

Department of Human Resources Management (DHRM) Policy 1.25, *Hours of Work*

DHRM Policy 1.35, *Emergency Closings*

DHRM Policy 3.10, *Compensatory Leave*

DHRM Policy 4.05, *Civil and Work Related Leave*

DHRM Policy 4.10, *Annual Leave*

DHRM Policy 4.17, *Emergency Disaster Leave*

DHRM Policy 4.20, *Family and Medical Leave*

DHRM Policy 4.21, *Parental Leave*

DHRM Policy 4.35, *Leave Sharing*

DHRM Policy 4.40, *School Assistance and Volunteer Leave*

DHRM Policy 4.45, *Leave Without Pay*

DHRM Policy 4.50, *Military Leave*

DHRM Policy 4.55, *Sick Leave*

Operating Procedure 110.2, *Overtime and Schedule Adjustments*

Operating Procedure 110.3, *Emergency Closings*

Operating Procedure 135.1, *Standards of Conduct*

Operating Procedure 145.3, *Equal Employment Opportunity, Harassment, and Workplace Civility*

Operating Procedure 150.3, *Reasonable Accommodations*

Operating Procedure 240.1, *Travel*

Operating Procedure 261.3, *Workers Compensation*



Operating Procedure 401.2, *Security Staffing*

ATTACHMENTS

Attachment 1, *Tenths of an Hour Conversion Chart*

Attachment 2, *Non-Exempt Employee 28-Day Cycle Sheet - Sample*

FORM CITATIONS

Recipient Application - Leave Sharing Program DHRM Policy 4.35, *Leave Sharing*, Attachment A

Donor Form Leave Sharing Program DHRM Policy 4.35, *Leave Sharing*, Attachment B

