

ARTICLE 13

SHARED LEAVE

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**13.1 Shared Leave**

The purpose of the leave sharing program is to permit state employees, at no significantly increased cost to the State, of providing leave to come to the aid of another state employee who has been called to service in the uniformed services, who is responding to a state of emergency anywhere within the United States declared by the federal or state government, who is a victim of domestic violence, sexual assault, or stalking, or who is suffering from or has a relative or household member suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition, which has caused or is likely to cause the employee to take leave without pay or terminate their employment. For purposes of the leave sharing program, the following definitions apply:

- A. "Domestic violence" means physical harm, bodily injury, assault, sexual assault or the infliction of fear of imminent physical harm, bodily injury, or assault, or sexual assault, or stalking as defined in RCW 9A.46.110 of one intimate partner by another intimate partner; or of one between-family or household member by another family or household member 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.
  
- B. "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained. (Although part-time hourly appointments are entitled to sick leave, Article 13 does not apply to these appointments.)

- 1 C. "Employee's relative" normally will be limited to the employee's spouse,  
2 state registered domestic partner as defined by RCWs 26.60.020 and  
3 26.60.030, child, stepchild, grandchild, grandparent, or parent.
- 4 D. "Household members" are defined as persons who reside in the same home  
5 who have reciprocal duties to and do provide financial support for one  
6 another. This term will include, but is not limited to, foster children and  
7 legal wards. The term does not include persons sharing the same general  
8 house when the living style is primarily that of a dormitory or commune.
- 9 E. "Parental leave" means leave to bond and care for a newborn child after  
10 birth or to bond and care for a child after placement for adoption or foster  
11 care, for a period of up to sixteen (16) weeks after the birth or placement.  
12 If the birth parent suffers from a pregnancy disability, the period of 16  
13 weeks begins immediately after the pregnancy disability has ended  
14 provided that the parental leave is used within the first year of the child's  
15 life.
- 16 F. "Pregnancy disability" means a pregnancy-related medical condition or  
17 miscarriage.
- 18 G. "Service in the uniformed services" means the performance of duty on a  
19 voluntary or involuntary basis in a uniformed service under competent  
20 authority and includes active duty, active duty for training, initial active  
21 duty for training, inactive duty training, full-time national guard duty  
22 including state-ordered active duty, and a period for which a person is  
23 absent from a position of employment for the purpose of an examination to  
24 determine the fitness of the person to perform any such duty.
- 25 H. "Severe" or "extraordinary" condition is defined as serious or extreme  
26 and/or life threatening.
- 27 I. "Sexual assault" has the same meaning as in RCW 70.125.030.

- 1 J. "Stalking" has the same meaning as in RCW 9A.46.110.
- 2 K. "Uniformed services" means the armed forces, the army national guard, and  
3 the air national guard of any state, territory, commonwealth, possession, or  
4 district when engaged in active duty for training, inactive duty training, full-  
5 time national guard duty, or state active duty, the commissioned corps of  
6 the public health service, the coast guard, and any other category of persons  
7 designated by the President of the United States in time of war or national  
8 emergency.
- 9 L. "Victim" means a person that domestic violence, sexual assault, or stalking  
10 has been committed against as defined in this Article.

11 **13.2 Shared Leave Receipt**

- 12 A. An employee may be eligible to receive shared leave if the Employer has  
13 determined the employee meets any of the following criteria:
- 14 1. The employee suffers from, or has a relative or household member  
15 suffering from, an illness, injury, impairment, or physical or mental  
16 condition which is of an extraordinary or severe nature;
- 17 2. The employee has been called to service in the uniformed services;
- 18 3. A state of emergency has been declared anywhere within the United  
19 States by the federal or any state government and the employee has  
20 the needed skills to assist in responding to an emergency or its  
21 aftermath and volunteers their services to either a governmental  
22 agency or to a nonprofit organization engaged in humanitarian relief  
23 in the devastated area, and the governmental agency or nonprofit  
24 organization accepts the employee's offer of volunteer services;
- 25 4. The employee is a victim of domestic violence, sexual assault, or  
26 stalking;

- 1           5.     The employee needs the time for parental leave as defined in  
2                 Subsection 13.1 E; or
- 3           6.     The employee is sick or temporarily disabled because of pregnancy  
4                 disability, as defined in Subsection 13.1 F.
- 5         B.     The illness, injury, impairment, condition, call to service, emergency  
6                 volunteer service, or consequence of domestic violence, sexual assault, or  
7                 stalking, parental leave or pregnancy disability has caused, or is likely to  
8                 cause, the employee to:
  - 9                 1.     Go on leave without pay status; or
  - 10                2.     Terminate state employment.
- 11        C.     The employee's absence and the use of shared leave are justified.
- 12        D.     The employee has depleted or will shortly deplete their:
  - 13                1.     Vacation leave, sick leave and personal holiday if the employee  
14                         qualifies under Subsection 13.2 A.1;
  - 15                2.     Vacation leave and paid military leave allowed under  
16                         RCW 38.40.060 if the employee qualifies under  
17                         Subsection 13.2 A.2;
  - 18                3.     Vacation leave or personal holiday if the employee qualifies under  
19                         Subsections 13.2 A.3 or A.4; or
  - 20                4.     Personal holiday and compensatory time, if the employee qualifies  
21                         under Subsections 13.2 A.5 or A.6. The employee under this  
22                         Subsection can retain in reserve up to forty (40) hours each of  
23                         vacation leave and sick leave;
  - 24                5.     The employee is not required to deplete all of their accrued vacation  
25                         and sick leave and can maintain up to forty (40) hours of vacation

1                   leave and up to forty (40) hours of sick leave to qualify for shared  
2                   leave.

3           E.     The employee has abided by the Employer's policy regarding:

4                   1.     Sick leave use if the employee qualifies under Subsections 13.2 A.1,  
5                   13.2 A.4, A.5 or A.6; or

6                   2.     Military leave if the employee qualifies under Subsection 13.2 A.2.

7           F.     The employee has diligently pursued and been found to be ineligible for  
8                   benefits under RCW 51.32 if the employee qualifies under Subsection 13.2  
9                   A.1.

10   **13.3 Shared Leave Use**

11           A.     The Employer will determine the amount of leave, if any, which an  
12                   employee may receive. However, an employee will not receive more than  
13                   five hundred twenty-two (522) days of shared leave, except that, the  
14                   Employer may authorize leave in excess of five hundred twenty-two (522)  
15                   days in extraordinary circumstances for an employee qualifying for the  
16                   program because they are suffering from an illness, injury, impairment or  
17                   physical or mental condition which is of an extraordinary or severe nature.

18           B.     The Employer will require the employee to submit, prior to approval or  
19                   disapproval:

20                   1.     A medical certificate from a licensed physician or health care  
21                   practitioner verifying the employee's required absence, the  
22                   description of the medical problem, and expected date of return to  
23                   work status for shared leave under Subsection 13.2 A.1;

24                   2.     A copy of the military orders verifying the employee's required  
25                   absence for shared leave under Subsection 13.2 A.2;

- 1           3.     Proof of acceptance of an employee’s offer to volunteer for either a  
2                     governmental agency or a nonprofit organization during a declared  
3                     state of emergency for shared leave under Subsection 13.2 A.3;
  - 4           4.     Verification of childbirth or placement of adoption or foster care,  
5                     when the employee is qualified under Subsection 13.2 A.5; or
  - 6           5.     Medical certification from a licensed physician or health care  
7                     provider verifying the pregnancy disability when the employee is  
8                     qualified under Subsection 13.2 A.6.
- 9           C.     The Employer may require the employee to submit, prior to approval or  
10                    disapproval, verification of the employee’s status as a victim of domestic  
11                    violence, sexual assault or stalking for shared leave under  
12                    Subsection 13.2 A.4. Such verification will be in accordance with the  
13                    Domestic Violence Leave Act, RCW 49.76 and may be one or more of the  
14                    following:
- 15                   1.     An employee’s own written statement;
  - 16                   2.     A statement from an attorney or advocate, member of the clergy, or  
17                    medical or other professional; and/or
  - 18                   3.     A court order or police report documenting the employee is a victim  
19                    of domestic violence, sexual assault or stalking.
- 20           D.     The Employer should consider other methods of accommodating the  
21                    employee’s needs, such as modified duty, modified hours, flex-time or  
22                    special assignments in lieu of shared leave usage.
- 23           E.     Leave transferred may be transferred from employees of one (1) community  
24                    college district to an employee of the same community college district or,  
25                    with the approval of the heads of both state agencies, higher education  
26                    institutions, school districts or educational service districts, to an employee

1 of another state agency, higher education institution, school district or  
2 educational service district.

3 F. Vacation leave, sick leave, or all or part of a personal holiday transferred  
4 from a donating employee will be used solely for the purpose stated in this  
5 Article.

6 G. The receiving employee will be paid their regular rate of pay; therefore, the  
7 value of one (1) hour of shared leave may cover more or less than one (1)  
8 hour of the recipient's salary.

9 H. Eight (8) hours a month of accrued and/or shared leave may be used to  
10 provide for the continuation of benefits as provided for by the Public  
11 Employee's Benefit Board.

12 I. The Employer will respond in writing to shared leave requests within  
13 fourteen (14) calendar days of receipt of a properly completed request.

14 **13.4 Leave Donation**

15 An employee may donate vacation leave, sick leave, or personal holiday to another  
16 employee for purposes of the leave sharing program under the following conditions:

17 A. The Employer approves the employee's request to donate a specified  
18 amount of vacation leave to an employee authorized to receive shared leave;  
19 and

20 1. The full-time employee's request to donate leave will not cause their  
21 vacation leave balance to fall below eighty (80) hours. For part-time  
22 employees, requirements for vacation leave balances will be  
23 prorated; and

24 2. Employees may not donate excess vacation leave that they would  
25 not be able to take due to an approaching anniversary date; except

1 when the request for vacation leave was denied and the vacation  
2 leave was deferred.

3 B. The Employer approves the employee's request to donate a specified  
4 amount of sick leave to an employee authorized to receive shared leave. The  
5 employee's request to donate leave will not cause their sick leave balance  
6 to fall below one hundred seventy-six (176) hours after the transfer.

7 C. The Employer approves the employee's request to donate all or part of their  
8 personal holiday to an employee authorized to receive shared leave.

9 1. That portion of a personal holiday that is accrued, donated as shared  
10 leave, and then returned during the same calendar year to the  
11 donating employee, may be taken by the donating employee.

12 2. An employee will be allowed to split the personal holiday only when  
13 donating a portion of the personal holiday to the shared leave  
14 program.

15 D. No employee may be intimidated, threatened, or coerced into donating leave  
16 for purposes of this program.

17 **13.5 Shared Leave Administration**

18 A. The calculation of the recipient's leave value will be in accordance with  
19 applicable Office of Financial Management policies, regulations, and  
20 procedures. The leave received will be coded as shared leave and be  
21 maintained separately from all other leave balances.

22 1. ~~All paid leave accrued must be used prior to using shared leave when~~  
23 ~~the employee qualifies for shared leave under Subsection 13.2~~  
24 A.1. An employee receiving industrial insurance replacement  
25 benefits may not receive greater than twenty-five percent (25%) of  
26 their base salary from the receipt of shared leave.



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~~2. Accrued vacation leave and paid military leave allowed under RCW 38.40.060 must be used prior to using shared leave for employees qualified under Subsection 13.2 A.2.~~

~~3. All paid leave, except sick leave, must be used prior to using shared leave when the employee qualifies for shared leave under Subsection 13.2 A.3 and Subsection 13.2 A.4. Shared leave may be used intermittently or on nonconsecutive days so long as the leave has not been returned under Subsection 13.5(F) of this Article.~~

~~4. For shared leave qualified under Subsections 13.2 A.5 or A.6, 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.~~

B. An employee on leave transferred under these rules will continue to be classified as a state employee and will receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

C. All salary and wage payments made to employees while on leave transferred under these rules will be made by the state agency, higher education institution, school district or educational service district employing the person receiving the leave.

D. Where Employers have approved the transfer of leave by an employee of one (1) state agency, higher education institution, school district or educational service district to an employee of another state agency, higher education institution, school district or educational service district, the state agencies, higher education institutions, school districts or educational service districts involved will arrange for the transfer of funds and credit for

1 the appropriate value of leave in accordance with Office of Financial  
2 Management policies, regulations, and procedures.

3 E. Leave transferred under this Section will not be used in any calculation to  
4 determine a state agency's, higher education institution's, school district's  
5 or educational service district's allocation of full-time equivalent staff  
6 positions.

7 F. Shared leave no longer needed or will not be needed at a future time in  
8 connection with the original injury or illness or for any other qualifying  
9 condition by the recipient, as determined by the Employer, will be returned  
10 to the donor(s). Unused leave may not be returned until one of the following  
11 occurs:

12 1. The Employer receives a statement from the employee's doctor  
13 verifying whether the employee's injury or illness is resolved; or

14 2. The employee is released to full time employment, has not received  
15 additional medical treatment for their current conditions or any other  
16 qualifying condition for at least six (6) months, and the employee's  
17 doctor has declined, in writing, the employee's request for a  
18 statement indicating the employee's condition has been resolved.

19 G. The remaining shared leave is to be divided on a pro rata basis among the  
20 donors and reinstated to the respective donors' appropriate leave balances  
21 based upon each employee's current salary rate at the time of the reversion.  
22 The shared leave returned will be prorated back based on the donor's  
23 original donation.

24 H. Unused shared leave may not be cashed out but will be returned to the  
25 donors per Subsection 13.5 F, above.

26 I. An employee who uses leave that is transferred under this Section will not  
27 be required to repay the value of the leave that they used.

1 13.6 If an employee later has a need to use shared leave due to the same condition listed  
2 in their previously approved request, the Employer must approve a new shared  
3 leave request for the employee.

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**TENTATIVE AGREEMENT REACHED**

6 **FOR THE UNION:**

7 MA 9/3/2020

8 DATE

9 **MARK HAMILTON**

10

11

**FOR THE EMPLOYER:**

Janetta Sheehan

Sept 2, 2020 DATE  
**JANETTA SHEEHAN**