

HAWAII ADMINISTRATIVE RULES

TITLE 14

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

SUBTITLE 1

STATE OF HAWAII HUMAN RESOURCES RULES

CHAPTER 8.1

LEAVE SHARING PROGRAM REQUIREMENTS

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§14-8.1-1 Purpose. (a) The purpose of this chapter is to establish a leave sharing program that allows employees within a department of the executive branch, including the Hawaii state public library system, the office of the governor, and the office of the lieutenant governor, to ease the burdens of fellow employees who would otherwise need to take time off from work without pay to recover from a serious personal illness or injury or to care for a family member who has a serious personal illness or injury and is incapable of self care.

(b) As used in this chapter:

(1) "Family member" means an employee's:

(A) Spouse;

- (B) Parent or unmarried child in a blood or legal relationship, or a "hanai" relationship through the Hawaiian custom, provided the employee is the primary caregiver.
- (2) "Serious personal illness or injury" means an illness, injury, or impairment that meets the conditions below:
 - (A) Is life threatening or critical, severe, and debilitating which does not include minor surgeries, routine pregnancies, illnesses due to colds or flus, broken limbs, and other non-critical conditions;
 - (B) Is certified by a physician, as defined under section 386-1, HRS, as being totally incapacitating, and
 - (i) Where the condition involves the employee, is also certified as being the cause of the employee's inability to work; or
 - (ii) Where the condition involves the employee's family member, is also certified as serious and requiring the employee's full-time assistance to provide primary care to the family member. [Eff 12/30/93; am and comp 10/26/98; comp
DEC 01 2003] (Auth: HRS
§§26-5, 76-17, 79-12, 79-33) (Imp:
HRS §79-33)

§14-8.1-2 Applicability. This chapter shall apply to:

- (1) Employees who are entitled to earn and use vacation leave credits;
- (2) Salaried certificated employees and ten-month employees employed by the department of education and the department of health who are not entitled to earn vacation leave, but who are entitled to earn and use sick leave credits; and

- (3) Nine-month and eleven-month board of regents employees of the university of Hawaii who are not entitled to earn vacation leave, but who are entitled to earn and use sick leave credits in accordance with board of regents policy. [Eff 12/30/93; comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-3 Administration of leave sharing program.

(a) Each department shall administer the leave sharing program for their respective employees in accordance with this chapter.

(b) A department may limit leave sharing to employees within smaller organizational segments if it is more feasible administratively for the maintenance of sick, vacation, and shared leave records.

(c) Sharing of leaves between departments is prohibited. Sharing of leaves between smaller organizational segments within a department shall be at the discretion of the appointing authority.

[Eff 12/30/93; comp 10/26/98; comp DEC 01 2003]
(Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-4 Leave sharing procedures; general administration. (a) The appointing authority shall establish uniform procedures to administer the leave sharing program for employees within its department. The procedures shall be in compliance with this chapter and shall minimally provide for the following:

- (1) A leave bank option and a direct share option to encourage maximum participation in the leave sharing program;
- (2) Specification of any smaller organizational segments within which leave sharing may be limited;
- (3) A method for ensuring that all employees are informed of the leave sharing program;
- (4) The manner in which solicitation of donations is to be made;

- (5) Standardized forms for use by employees to donate and apply for shared leaves;
 - (6) An approval process that ensures fair treatment and freedom from coercion and imposes no undue hardship on operations;
 - (7) Written notification to the applicant within thirty days of receipt of an application for shared leave on whether the leave is approved or denied, in whole or in part, and the reason for denying any of the requested leave;
 - (8) An internal process for the handling of employee complaints on the administration of the leave sharing program; and
 - (9) Recordkeeping requirements to ensure that official leave and attendance records are maintained for the leave sharing program. Approved shared leave credits shall be applied only to the absences following the thirty consecutive calendar day period referred to under section 14-8.1-8(a)(4).
- (b) The procedures shall also conform to any other policies, standards, and guidelines as may be issued by the director.
- (c) The leave sharing procedures for each department shall be submitted to the director for review.
- (d) Each department shall submit reports on the administration of its leave sharing program in the manner and form as may be prescribed by the director.
- [Eff 12/30/93; am and comp 10/26/98; comp
DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12,
79-33) (Imp: HRS §79-33)

§14-8.1-5 Direct share option. (a) This option shall allow eligible employees to donate shared leaves to designated employees who are eligible recipients.

(b) The appointing authority shall authorize a representative or representatives to administer the direct share option among employees within specific organizational segments deemed administratively feasible for this option.

(c) Authorized representative(s) shall ensure that donations to designated recipients are in compliance with this chapter and procedures established by the appointing authority. [Eff 12/30/93; comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-6 Leave bank option. (a) This option shall allow eligible employees to donate shared leaves anonymously and allow eligible recipients to utilize shared leave donations.

(b) The appointing authority shall appoint a review committee consisting of at least three members, one of whom represents the personnel office, to administer each of the leave banks authorized within its department.

(c) The review committee shall accept donations and approve recipient requests in compliance with this chapter and procedures established by the appointing authority. [Eff 12/30/93; comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-7 Leave sharing donations; donors.

(a) Employees shall be allowed to donate accumulated vacation leave credits and shall not be allowed to donate accumulated sick leave credits, except as provided in section 14-8.1-2(2) and (3).

(b) To be eligible to donate shared leave credits, an employee must meet the following conditions:

- (1) Has not solicited nor accepted anything of value in exchange for the donation; and
- (2) Will have a vacation leave balance, after the donation is made, of not less than ten days when donating vacation leave credits or will have a sick leave balance, after the donation is made, of not less than thirty days when donation of sick leave credits is allowable.

(c) All shared leave donation applications shall be deemed complete upon the proper submittal of all

appropriate forms, and shall be irrevocable upon transfer of leave credits to the leave bank or to the designated recipient, as applicable.

(d) Leave shall only be donated in increments of one-day equivalents as defined by the appointing authority. [Eff 12/30/93; am and comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

S14-8.1-8 Leave sharing recipients. (a) To be eligible to receive shared leave credits, an employee must meet the following conditions:

- (1) Has at least six consecutive months of creditable service as defined under section 14-11-5(c)(1) and (4) prior to the submittal of the shared leave request in a position with at least fifty percent full-time equivalency;
- (2) Where the leave share request is for a personal illness or injury, such illness or injury shall not be covered under chapter 386, HRS, or if covered, the employee shall have exhausted all eligible benefits. In addition, the employee shall have exhausted or is about to exhaust all paid leave and wage loss replacement benefits, which include, but are not limited to:
 - (A) Vacation leave;
 - (B) Sick leave;
 - (C) Compensatory time credits; and
 - (D) Temporary disability insurance benefits under chapter 392, HRS;
- (3) Where the leave share request is to care for a family member suffering from a serious personal illness or injury, the employee shall have exhausted or is about to exhaust all other paid leave benefits, which include, but are not limited to:
 - (A) Vacation leave;
 - (B) Compensatory time credits; and
 - (C) Sick leave for family leave purposes only pursuant to chapter 398, HRS;

- (4) Is suffering from a serious personal illness or injury or caring for a family member suffering from a serious personal illness or injury which caused the recipient to be absent from work for at least thirty consecutive calendar days within the past twelve months;
 - (5) Has no disciplinary record of sick leave abuse within the past two years; and
 - (6) Has no unresolved outstanding salary overpayment obligations owed to the State.
- (b) An employee who is otherwise qualified need not have donated leave to be eligible to receive shared leave.
- (c) A request for shared leave credits shall be submitted within thirty calendar days prior to or after the beginning date of the leave without pay period to which it is intended to apply.
- (d) If an eligible recipient is incapable of applying for shared leave credits, an authorized representative shall be permitted to apply on the recipient's behalf.
- (e) While using shared leave credits, the recipient shall continue to earn sick and vacation leave credits consistent with applicable leave provisions. [Eff 12/30/93; am and comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-9 Termination of shared leave. (a) Approval of shared leave shall be discontinued or rescinded under the following situations:

- (1) The leave recipient separates or is separated from service;
- (2) The recipient is found to be entitled to workers' compensation benefits under chapter 386, HRS, or temporary disability insurance benefits under chapter 392, HRS;
- (3) The recipient did not meet all of the conditions for eligibility under section 14-8.1-8; or
- (4) The reason for which the shared leave was approved no longer exists.

(b) The recipient shall be notified and furnished the reason, in writing, whenever approval of shared leave has been terminated. Adjustments shall be made administratively to the recipient's compensation and leave records, as appropriate, for any period during which the shared leave has been terminated.

(c) All unused or rescinded shared leave credits shall be returned to the appropriate leave bank. [Eff 12/30/93; am and comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-10 Prohibited acts. An employee may not directly or indirectly intimidate, threaten, or coerce any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using shared leave under this program. [Eff 12/30/93; comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)

§14-8.1-11 Termination of leave sharing program. In the event the leave sharing program is terminated:

- (1) Any shared leave transferred to a recipient before the program termination date, shall remain available for use by the recipient, except as provided in section 14-8.1-9.
- (2) Any unused shared leave remaining in a leave bank and any shared leave credits returned to a leave bank after the program termination date shall be considered forfeited.
- (3) Any leave bank shall be dissolved upon completion or termination of all shared leaves. [Eff 12/30/93; am and comp 10/26/98; comp DEC 01 2003] (Auth: HRS §§26-5, 76-17, 79-12, 79-33) (Imp: HRS §79-33)