

1 **MEMORANDUM OF UNDERSTANDING**
2 **BETWEEN**
3 **THE STATE OF WASHINGTON COMMUNITY COLLEGE COALITION**
4 **AND**
5 **THE WASHINGTON FEDERATION OF STATE EMPLOYEES**
6 **COMMUNITY COLLEGE COALITION**

7
8 House Bill 1434 modified RCW 41.04 to include shared leave eligibility for Parental
9 Leave and Pregnancy Disability Leave effective July 1, 2018. The parties agree to
10 modify Article 13, Shared Leave, of the 2017-2019 Collective Bargaining Agreement to
11 incorporate changes in the law, effective July 1, 2018, as follows:

12 **ARTICLE 13**
13 **SHARED LEAVE**

14 **13.1 Shared Leave**

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

- 25 A. “Domestic violence” means physical harm, bodily injury, assault, or the
26 infliction of fear of imminent physical harm, bodily injury, or assault,
27 between family or household members as defined in RCW 26.50.010;
28 sexual assault of one family or household member by another family or
29 household member; or stalking as defined in RCW 9A.46.110 of one
30 family or household member by another family or household member.

- 1 B. "Employee" means any employee who is entitled to accrue sick leave or
2 vacation leave and for whom accurate leave records are maintained.
3 (Although part-time hourly appointments are entitled to sick leave, Article
4 13 does not apply to these appointments.)
- 5 C. "Employee's relative" normally will be limited to the employee's spouse,
6 state registered domestic partner as defined by RCWs 26.60.020 and
7 26.60.030, child, stepchild, grandchild, grandparent, or parent.
- 8 D. "Household members" is defined as persons who reside in the same home
9 who have reciprocal duties to and do provide financial support for one
10 another. This term will include, but is not limited to, foster children and
11 legal wards. The term does not include persons sharing the same general
12 house when the living style is primarily that of a dormitory or commune.
- 13 E. "Parental leave" means leave to bond and care for a newborn child after
14 birth or to bond and care for a child after placement for adoption or foster
15 care, for a period of up to sixteen (16) weeks after the birth or placement.
- 16 F. "Pregnancy disability" means a pregnancy-related medical condition or
17 miscarriage.
- 18 EG. "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
24 to determine the fitness of the person to perform any such duty.

1 agency or to a nonprofit organization engaged in humanitarian
2 relief in the devastated area, and the governmental agency or
3 nonprofit organization accepts the employee's offer of volunteer
4 services; or

5 4. The employee is a victim of domestic violence, sexual assault, or
6 stalking; or

7 5. The employee needs the time for parental leave as defined in
8 Subsection 13.1 E; or

9 6. The employee is sick or temporarily disabled because of
10 pregnancy disability, as defined in Subsection 13.1 F.

11 B. The illness, injury, impairment, condition, call to service, emergency
12 volunteer service, or consequence of domestic violence, sexual assault, or
13 stalking, parental leave or pregnancy disability has caused, or is likely to
14 cause, the employee to:

15 1. Go on leave without pay status; or

16 2. Terminate state employment.

17 C. The employee's absence and the use of shared leave are justified.

18 D. The employee has depleted or will shortly deplete their:

19 1. Vacation leave, sick leave and personal holiday if the employee
20 qualifies under Subsection 13.2 A.1;

21 2. Vacation leave and paid military leave allowed under
22 RCW 38.40.060 if the employee qualifies under Subsection
23 13.2 A.2; or

1 3. Vacation leave or personal holiday if the employee qualifies under
2 Subsections 13.2 A.3 or 13.2 A.4; or

3 4. Personal holiday and compensatory time, if the employee qualifies
4 under Subsections 13.2 A.5 or A.6. The employee under this
5 Subsection can retain in reserve up to forty (40) hours each of
6 vacation leave and sick leave.

7 E. The employee has abided by the Employer’s policy regarding:

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

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

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

14 **13.3 Shared Leave Use**

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

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

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

5 2. A copy of the military orders verifying the employee’s required
6 absence for shared leave under Subsection 13.2 A.2; or

7 3. Proof of acceptance of an employee’s offer to volunteer for either
8 a governmental agency or a nonprofit organization during a
9 declared state of emergency for shared leave under Subsection 13.2
10 A.3;

11 4. Verification of childbirth or placement of adoption or foster care,
12 when the employee is qualified under Subsection 13.2 A.5; or

13 5. Medical certification from a licensed physician or health care
14 provider verifying the pregnancy disability when the employee is
15 qualified under Subsection 13.2 A.6.

16 C. The Employer may require the employee to submit, prior to approval or
17 disapproval, verification of the employee’s status as a victim of domestic
18 violence, sexual assault or stalking for shared leave under
19 Subsection 13.2 A.4. Such verification will be in accordance with the
20 Domestic Violence Leave Act, RCW 49.76 and may be one or more of the
21 following:

22 1. An employee’s own written statement;

23 2. A statement from an attorney or advocate, member of the clergy, or
24 medical or other professional; and/or

- 1 3. A court order or police report documenting the employee is a victim
2 of domestic violence, sexual assault or stalking.
- 3 D. The Employer should consider other methods of accommodating the
4 employee's needs, such as modified duty, modified hours, flex-time or
5 special assignments in lieu of shared leave usage.
- 6 E. Leave transferred may be transferred from employees of one (1)
7 community college district to an employee of the same community college
8 district or, with the approval of the heads of both state agencies, higher
9 education institutions, school district or educational service districts, to an
10 employee of another state agency, higher education institution, school
11 district or educational service district.
- 12 F. Vacation leave, sick leave, or all or part of a personal holiday transferred
13 from a donating employee will be used solely for the purpose stated in this
14 Article.
- 15 G. The receiving employee will be paid their regular rate of pay; therefore,
16 the value of one (1) hour of shared leave may cover more or less than one
17 (1) hour of the recipient's salary.
- 18 H. Eight (8) hours a month of accrued and/or shared leave may be used to
19 provide for the continuation of benefits as provided for by the Public
20 Employee's Benefit Board.
- 21 I. The Employer will respond in writing to shared leave requests within
22 fourteen (14) calendar days of receipt of a properly completed request.

1 **13.4 Leave Donation**

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

5 A. The Employer approves the employee’s request to donate a specified
6 amount of vacation leave to an employee authorized to receive shared
7 leave; and

8 1. The full-time employee’s request to donate leave will not cause
9 their vacation leave balance to fall below eighty (80) hours. For
10 part-time employees, requirements for vacation leave balances will
11 be prorated; and

12 2. Employees may not donate excess vacation leave that they would
13 not be able to take due to an approaching anniversary date; except
14 when the request for vacation leave was denied and the vacation
15 leave was deferred.

16 B. The Employer approves the employee’s request to donate a specified
17 amount of sick leave to an employee authorized to receive shared leave.
18 The employee’s request to donate leave will not cause their sick leave
19 balance to fall below one hundred seventy-six (176) hours after the
20 transfer.

21 C. The Employer approves the employee’s request to donate all or part of their
22 personal holiday to an employee authorized to receive shared leave.

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

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

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

6 **13.5 Shared Leave Administration**

7 A. The calculation of the recipient’s leave value will be in accordance with
8 applicable Office of Financial Management policies, regulations, and
9 procedures. The leave received will be coded as shared leave and be
10 maintained separately from all other leave balances.

11 • All paid leave accrued must be used prior to using shared leave when the
12 employee qualifies for shared leave under Subsection 13.2 A.1.

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

16 • All paid leave, except sick leave, must be used prior to using shared leave
17 when the employee qualifies for shared leave under Subsection 13.2 A.3
18 and Subsection 13.2 A.4.

19 • For shared leave qualified under Subsections 13.2 A.5 or A.6, the
20 employee is required to deplete their personal holiday and all
21 compensatory time. The employee is also required to deplete vacation
22 leave and sick leave that is over forty (40) hours in each category.

23 B. An employee on leave transferred under these rules will continue to be
24 classified as a state employee and will receive the same treatment in respect

1 to salary, wages, and employee benefits as the employee would normally
2 receive if using accrued vacation leave or sick leave.

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

7 D. Where Employers have approved the transfer of leave by an employee of
8 one (1) state agency, higher education institution, school district or
9 educational service district to an employee of another state agency, higher
10 education institution, school district or educational service district, the state
11 agencies, higher education institutions, school districts or educational
12 service districts involved will arrange for the transfer of funds and credit
13 for the appropriate value of leave in accordance with Office of Financial
14 Management policies, regulations, and procedures.

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

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

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

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

7 G. The remaining shared leave is to be divided on a pro rata basis among the
8 donors and reinstated to the respective donors’ appropriate leave balances
9 based upon each employee’s current salary rate at the time of the reversion.
10 The shared leave returned will be prorated back based on the donor’s
11 original donation.

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

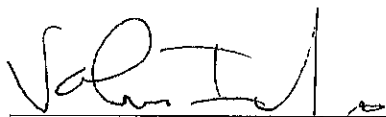
14 I. An employee who uses leave that is transferred under this Section will not
15 be required to repay the value of the leave that they used.

16 **13.6** If an employee later has a need to use shared leave due to the same condition listed
17 in their previously approved request, the Employer must approve a new shared
18 leave request for the employee.

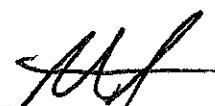
19 **Dated:** 8/9/2018

For the State CCC

For the Union CCC



Valerie Inforzato, Labor Negotiator



Mark Hamilton, Labor Advocate

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