WEST VIRGINIA CODE: §18A-4-10F

§18A-4-10f. Leave donation program.

(a) Definitions.

For the purposes of this section and section ten of this article, the following words have the meanings specified unless the context clearly indicates a different meaning:

(1) "Catastrophic medical emergency" means a medical or physical condition that:

(A) Incapacitates an employee or an immediate family member for whom the employee will provide care;

(B) Is likely to require the prolonged absence of the employee from duty; and

(C) Will result in a substantial loss of income to the employee because the employee:

(i) Has exhausted all accrued personal leave; and

(ii) Is not eligible to receive personal leave or has exhausted personal leave available from a leave bank established pursuant to this article;

(2) "Employee" means a professional educator or school service person who is employed by a county board and entitled to accrue personal leave as a benefit of employment;

(3) "Donor employee" means a professional educator or school service person employed by a county board who voluntarily contributes personal leave to another designated employee; and

(4) "Receiving employee" means a professional educator or school service person employed by a county board who receives donated personal leave from another employee.

(b) Leave donation program.

(1) In addition to any personal leave bank established pursuant to this article, a county board shall establish a leave donation program pursuant to which a donor employee may transfer accrued personal leave to the personal leave account of another designated employee.

(2) A county board:

(A) May not limit the number of personal leave days a donor employee may transfer to a receiving employee who is his or her spouse;

(B) May not limit the total number of personal leave days a receiving employee receives; and

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(C) May limit the number of days a donor employee transfers to a receiving employee who is not his or her spouse.

(c) Rule.

(1) The county board shall adopt a rule to implement the program.

(2) The rule shall set forth at least the following conditions:

(A) The donor employee voluntarily agrees to the leave transfer;

(B) The donor employee selects the employee designated to receive the personal leave transferred; and

(C) The receiving employee requires additional personal leave because of a catastrophic medical emergency;

(D) The donated leave may not be used to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to section thirteen, article sixteen, chapter five of this code;

(E) Each personal leave day contributed:

(i) Shall be deducted from the number of personal leave days to which the donor employee is entitled by section ten of this article;

(ii) Shall not be deducted from the number of personal leave days without cause to which the donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Shall be credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the donor employee; and

(F) An employee may not be coerced or compelled to contribute to a leave donation program.

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