



**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**POLICY 4.05 CIVIL AND WORK RELATED LEAVE**

**APPLICATION:** Full-time, Quasi Full-time, and Part-time classified employees.

**PURPOSE:**

It is the policy of the Commonwealth to provide time off from work for employees to attend to certain required civic duties or workplace issues.

**POLICY SUMMARY:**

This policy provides guidelines to agencies for granting paid and/or unpaid leave time to employees who are performing certain civic duties, and to employees who are participating in the formal resolution of workplace conflicts and certain other work-related activities.

**AUTHORITY & INTERPRETATION:**

Title 2.2 of the Code of Virginia

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with § 2.2-1201 of the Code of Virginia. The Department of Human Resource Management reserves the right to revise or eliminate this policy.

**RELATED POLICIES:**

Policy 1.60, Standards of Conduct

Policy 4.10, Annual Leave

**POLICY HISTORY:**

<b>EFFECTIVE DATE</b>	<b>DESCRIPTION</b>
09-16-93	Policy established.
06-10-07	Policy revised.
12-01-21	Policy reformatted, links updated, removal of information pertaining to the DHRM Career Center. Changes made due to General Assembly action to make Election Day an official holiday impacting application to Officers of Election. Revision to Code of Virginia § 24.2-119.1 modifying adverse employment action for Officers of Election attending meetings of the electoral board.



## DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

### POLICY 4.05 CIVIL AND WORK RELATED LEAVE

#### ADMINISTRATIVE PROCEDURES

## PROCEDURES

### OVERVIEW

General Provisions	Application
Civil and Work-Related Leave	<ul style="list-style-type: none"><li>• Civil and Work-Related Leave is a non-accruing leave type for use under the specific circumstances explained in this policy.</li><li>• There are two broad categories:<ol style="list-style-type: none"><li>1. paid and unpaid leave related to the employee's civic duty, and;</li><li>2. paid leave related to workplace issues.</li></ol></li><li>• Reasonable travel time with approved Civil and Work-Related Leave is permitted.</li><li>• Wage employees are not covered by this policy and are not eligible to receive paid leave time, however, agencies are reminded that such employees may be called to jury duty and other civic responsibilities and should be released from work to fulfill those obligations.</li></ul>
Charging Time to Civil and Work-Related Leave	<ul style="list-style-type: none"><li>• Employees should request use of Civil and Work-Related Leave as far ahead of time as possible.</li><li>• Employees may charge to Civil and Work-Related Leave only the time away from work that is necessary to perform the appropriate duties plus reasonable travel time.</li><li>• Agencies may require documentation of the event to verify that the event qualifies for the Civil and Work-Related Leave.</li><li>• Employees whose duties under Civil and Work-Related Leave conclude in time to complete a work shift should either return to work or request approval to charge the remainder of the shift to an appropriate leave type such as annual, compensatory, overtime, recognition, or family and personal leave.</li><li>• Whenever possible, agencies should reschedule employees who regularly work the evening or night shift to a day shift schedule during the periods when they are required to appear in court proceedings to facilitate compliance with legal and policy provisions.</li></ul>

## CIVIC REASONS

General Provisions	Application
Civic Duties	<p>Civil and Work-Related Leave is granted to employees to fulfill the civic duties and functions listed below. Agencies must permit employees to be away from work for these purposes:</p> <ul style="list-style-type: none"> <li>• as required by a summons to jury duty;</li> <li>• to appear as a crime victim or as a witness in a court proceeding or deposition as compelled by a subpoena or summons;</li> <li>• to accompany the employee's minor child when the child is legally required to appear in court;</li> <li>• to serve as an officer of election;</li> <li>• to serve as a member of a state council or board; and</li> <li>• to attend their own naturalization ceremony.</li> </ul> <p>Civil and Work-Related Leave is not granted for use by an employee:</p> <ul style="list-style-type: none"> <li>• who is a defendant in a criminal matter, where criminal matter means either an alleged misdemeanor or felony;</li> <li>• who has received a summons to appear in traffic court (except as a witness); or</li> <li>• who is a party to a civil case, either as a plaintiff or defendant, or who has any personal or familial interest in the proceedings.</li> </ul>
Provision for Crime Victims	<ul style="list-style-type: none"> <li>• Agencies shall allow an employee who is a victim of a crime to be present at all criminal proceedings relating to a crime against the employee, as long as the employee has provided the agency with a copy of the form provided to the employee by the law-enforcement agency pursuant to the Code of Virginia <a href="#">§ 19.2-11.01</a> and, if applicable, provided the agency a copy of the notice of each scheduled criminal proceeding that is provided to the employee as victim.</li> <li>• Paid Civil Leave shall apply when the employee's presence at legal proceedings is compelled by subpoena or summons.</li> <li>• Employees may use existing annual, overtime, compensatory, recognition, and/or family and personal leave balances for court proceedings that do not qualify for paid leave, however agencies must provide unpaid leave if requested.</li> <li>• Agencies may limit the paid or unpaid leave provided under this section if the employee's absence creates an undue hardship for the agency.</li> <li>• Annual and Traditional Sick Leave will not accrue in any semi-monthly pay period in which an employee takes unpaid Civil Leave which places them in a Leave Without Pay or pay docking status.</li> </ul>
Jury Duty	<ul style="list-style-type: none"> <li>• As required by the Code of Virginia <a href="#">§18.2-465.1</a> employees who appear for jury duty for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of that service or that begins before 3:00 a.m. on the day following the jury duty.</li> <li>• No adverse employment action shall occur as a result of employee use of Civil and Work-Related Leave for this purpose,</li> </ul>

General Provisions	Application
	<p>and employees may not be compelled to charge the time off to personal leave.</p> <ul style="list-style-type: none"> <li>• Work shifts missed in compliance with this provision will be charged to Civil and Work-Related Leave.</li> </ul>
<p><b>Officers of Election For Agencies that don't observe the Election Day holiday</b></p>	<ul style="list-style-type: none"> <li>• As required by the Code of Virginia § 24.2-119.1.employees who serve as an officer of election for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of that service or that begins before 3:00 a.m. on the day following the officer of election service.</li> <li>• No adverse employment action shall occur as a result of an employee's use of Civil and Work-Related Leave for the purpose of serving as an officer of election or at a meeting of the electoral board following the election to ascertain the results of such election. Employees may not be compelled to charge the time off to personal leave.</li> <li>• Work shifts missed in compliance with this provision will be charged to Civil and Work-Related Leave.</li> <li>• Employees who serve as Officers of Election shall be allowed to use up to 8 hours of Civil and Work-Related Leave on Election Day. As with all leave, supervisory approval is required.</li> <li>• If an employee wishes to charge Civil and Work-Related leave, the agency may require documentation from the locality that the employee served as an Officer of Election.</li> <li>• Employees who serve as Officers of Election shall be allowed to use Civil and Work-Related Leave to attend the required Officer of Election certification training <b>only</b> when the employee's locality does not offer the training during non-work hours. Training schedules are available from local registrars and are typically posted on the localities' websites.</li> <li>• Neither Civil and Work-Related Leave nor <a href="#">School Assistance and Volunteer Service Leave</a> may be used by employees who wish to volunteer on Election Day in another capacity (e.g., poll workers not certified as Officers of Election, political workers, etc.) These activities are considered political activities, not community services as defined in policy</li> </ul>
<p><b>Officer of Election For Agencies that observe the Election Day holiday</b></p>	<ul style="list-style-type: none"> <li>• If otherwise eligible for the holiday, salaried employees who serve as Officers of Election will receive holiday pay and may retain any payments provided by the locality for their related services on Election Day.</li> <li>• As required by the Code of Virginia § 24.2-119.1.employees who serve as an officer of election for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of that service or that begins before 3:00 a.m. on the day following the officer of election service.</li> <li>• No adverse employment action shall occur as a result of an employee's use of Civil and Work-Related Leave for the purpose of serving as an office of election or at a meeting of the electoral</li> </ul>

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	<p>board following the election to ascertain the results of such election. Employees may not be compelled to charge the time off to personal leave.</p> <ul style="list-style-type: none"> <li>• Work shifts missed in compliance with this provision will be charged to Civil and Work-Related Leave.</li> <li>•</li> <li>• Employees who serve as Officers of Election shall be allowed to use Civil and Work-Related Leave to attend the required Officer of Election certification training <b>only</b> when the employee's locality does not offer the training during non-work hours. Training schedules are available from local registrars and are typically posted on the localities' websites.</li> <li>• Neither Civil and Work-Related Leave nor <a href="#">School Assistance and Volunteer Service Leave</a> may be used by employees who wish to volunteer on Election Day in another capacity (e.g., poll workers not certified as Officers of Election, political workers, etc.) These activities are considered political activities, not community services as defined in policy</li> </ul>
<p>Compensation/ Reimbursement for Civil Service</p>	<ul style="list-style-type: none"> <li>• Employees using Civil and Work-Related Leave may not retain payment (except for expenses noted below) for services rendered as a juror, witness, or officer of election. Those who choose to retain such payments must charge the absence to annual, compensatory, overtime, recognition, or personal/family leave.</li> <li>• To charge absences from work to Civil and Work-Related Leave, employees must submit to their agencies any payments for services rendered. Failure to submit such payments within a reasonable period of time as determined by the agency will result in the absence being charged to annual, compensatory, overtime, recognition, or family/personal leave or, if no leave balances are available, to leave without pay.</li> <li>• Compensation to an individual under subpoena or summons or serving as an officer of election may consist of (1) reimbursement for such expenses as meals, mileage, parking, and similar costs and/or (2) payment for services as a juror, witness, or officer of election.</li> <li>• Employees using Civil and Work-Related Leave may retain amounts received as reimbursement for expenses. Note that fees given to Virginia circuit court jurors are considered reimbursement for expenses.</li> <li>• Employees assigned to an evening or night shift who cannot be rescheduled to the day shift during the period of these civic obligations may retain payment for services rendered without loss of pay for their scheduled shift if: <ul style="list-style-type: none"> <li>○ they work the entire shift, or</li> <li>○ they work a portion of the work shift and charge the remainder to annual, family and personal, compensatory, overtime, or recognition leave, or to leave without pay.</li> </ul> </li> </ul>

General Provisions	Application
Other Court Duties	<p>Time spent in court by employees acting in the following categories is considered work time and is not charged to Civil and Work-Related Leave or to accrued leave.</p> <ul style="list-style-type: none"> <li>• Employees attending court as part of their job duties. Examples include law enforcement officers, health care compliance officers, or child support enforcement personnel.</li> <li>• Employees under subpoena to appear as expert witnesses because of their state positions.</li> <li>• Employees called by the Commonwealth as expert witnesses.</li> <li>• Employees may not retain any payment beyond their normal salary for these services but may keep funds received in reimbursement for expenses.</li> <li>• On a case-by-case basis, if an agency determines that an employee's appearance in court, though not part of the job duties, is required by a matter that arose out of and in the course of performing his/her job, the agency may grant Civil and Work-Related Leave for that court appearance.</li> </ul>
State Councils and Boards	<ul style="list-style-type: none"> <li>• Employees who are members of councils, commissions, boards, and committees appointed at the state level may request Civil and Work-Related Leave to fulfill their responsibilities for serving on these collegial bodies.</li> <li>• Employees may not accept fees for serving on state councils, commission, boards, etc., unless specifically provided otherwise by law. Employees may retain reimbursements for expenses incurred in serving on such bodies provided they do not receive reimbursement for the same expenses by their agencies as stipulated in the Code of Virginia <a href="#">§ 2.2-2813</a>.</li> <li>• Employees serving on boards or committees as a required or approved part of their employment with the Commonwealth do not charge the work time to either Civil and Work-Related Leave or accrued leave but treat it as work time. Such work hours count toward the 40-hour threshold for overtime payment for FLSA non-exempt employees.</li> <li>• Civil and Work-Related Leave is not available for time to serve on boards, councils, or other bodies that are part of or established by other entities including local governments.</li> </ul>

**WORK-RELATED ACTIVITIES**

General Provisions	Application
Work-Related Duties	<p>Civil and Work-Related Leave may be granted to the employee for absences during scheduled work hours for the following reasons:</p> <ul style="list-style-type: none"> <li>• to interview for other positions with the state;</li> <li>• to participate in resolution of work-related conflicts or of complaints of employment discrimination.</li> <li>• to attend work-related administrative hearings as a party or witness; or</li> </ul>

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	<ul style="list-style-type: none"> <li>to attend one initial session with the Employee Assistance Program per qualifying incident. Employees who are not eligible for the EAP because they have waived state health coverage may consult the third-party administrator to obtain a referral to other behavioral health resources.</li> </ul>
Interviewing for State Jobs	<ul style="list-style-type: none"> <li>Employees may request and use Civil and Work-Related Leave for the actual time, including reasonable travel time, necessary for interviewing for other state positions. Agencies may require verification of the time required.</li> <li>Agencies may establish reasonable limits for this use of Civil and Work-Related Leave. Employees must pay for any expenses incurred in interviewing for other state positions and must provide their own transportation.</li> </ul>
Resolution of Work-Related Conflicts or Complaints	<ul style="list-style-type: none"> <li>Employees who are grievants, witnesses, or representatives of grievants in a grievance initiated under the state Grievance Procedure will be granted reasonable time, including reasonable travel time, as Civil and Work-Related Leave to participate in grievance proceedings.</li> <li>Grievants, witnesses, and representatives of grievants may use Civil and Work-Related Leave to attend management step meetings and all hearings related to the grievance. Whenever possible, agencies should reschedule employees who regularly work the evening or night shift to a day shift schedule during the periods when they are requested to appear in grievance proceedings or related court hearings.</li> <li>Agency management may establish reasonable limits to Civil and Work-Related Leave for employees representing grievants.</li> </ul> <p>Civil and Work-Related Leave will be granted to employees for the following:</p> <ul style="list-style-type: none"> <li>to prepare as a grievant for the grievance procedure; agencies may establish reasonable limits for this use of Civil and Work-Related Leave to prevent abuse of state time;</li> <li>to meet with agency Human Resource representatives and/or with the Department of Human Resource Management's Office of Equal Employment and Dispute Resolution in accordance with the Grievance Procedure or related to a work matter affecting the employee for which a grievance has not been filed;</li> <li>to meet with the Office of Equity, Diversity, and Inclusion of the Department of Human Resource Management for the purpose of discussing work problems related to violations of the state's Equal Employment Opportunity Policy (Policy 2.05); or</li> <li>to participate in activities and proceedings of the mediation program.</li> </ul> <p>Civil and Work-Related Leave will not be granted to employees for the following:</p> <ul style="list-style-type: none"> <li>to meet with their attorneys.</li> </ul>

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	<ul style="list-style-type: none"> <li>• when agencies are considering or investigating violations of policy or performance-related concerns.</li> </ul>
Employee Assistance Program	<ul style="list-style-type: none"> <li>• An employee may use Civil and Work-Related Leave for his/her initial meeting for any covered service with a counselor from the Employee Assistance Program (EAP), or with another behavioral health service provider if: (1) the supervisor has advised the employee to modify workplace behavior and has recommended certain counseling, such as anger management; or, (2) the employee has waived state health insurance coverage and does not have access to the EAP.</li> <li>• Absence from work for subsequent meetings or appointments will be charged to the employee's available leave balances, as appropriate, or to leave without pay.</li> </ul>
Unemployment Compensation and Workers' Compensation Hearings	<ul style="list-style-type: none"> <li>• Civil and Work-Related Leave is granted for claimants and witnesses to attend hearings in compliance with an official notice from the appropriate authority.</li> <li>• Employees whose job responsibilities include attendance at unemployment or workers' compensation hearings will have time spent at such hearings included in their hours worked.</li> </ul>

**EMPLOYEE AND AGENCY RESPONSIBILITIES**

General Provisions	Application
Employee Responsibilities	<ul style="list-style-type: none"> <li>• Employees are responsible for giving as much notice as possible to their supervisors in advance of the occasion for using paid or unpaid Civil and Work-Related Leave.</li> <li>• Employees are responsible for returning to work as appropriate when the approved activity ends and for notifying their supervisors if they are unable to return to work as expected.</li> <li>• Employees are responsible for providing appropriate documentation as directed by their agencies concerning events and travel time needed, and for completing appropriate leave requests.</li> </ul>
Agency Responsibilities	<ul style="list-style-type: none"> <li>• Agencies are responsible for permitting employees to use leave in accordance with this policy and for establishing appropriate practices for verifying the reasons for use of this leave time.</li> <li>• Agencies should establish reasonable amounts of leave permitted for voluntary activities such as interviewing for other state positions.</li> <li>• Agencies may not refuse to grant leave for an employee to fulfill required activities covered by this policy. However, the agency</li> </ul>



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	<p>may discipline an employee for not providing reasonable notice for the absence.</p> <ul style="list-style-type: none"> <li>• If the employee does not provide adequate verification of the time missed, the agency may treat the absence as unauthorized. The agency may then apply their procedures for unauthorized leave and may: (1) charge the time missed to the employee's personal leave balances or to leave without pay; and, (2) impose discipline as specified in their policy.</li> <li>• Agencies must comply with relevant requirements concerning rest time permitted following the serving of jury duty (Code of Virginia § 18.2-465.1) and as officer of election (Code of Virginia <a href="#">§ 24.2-118.1</a>).</li> </ul>

## GLOSSARY

Administrative Summons	An official document requiring the presence of the named individual for a specified legal procedure.
Employee Assistance Program	The counseling service available to employees who participate in a state health plan for resolving issues affecting the employee's behavior and/or performance in the workplace.
Crime Victim	A person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony, assault and battery, stalking, sexual battery, attempted sexual battery, maiming, or driving while intoxicated. A spouse or child of such a person, a parent or legal guardian of such a person who is a minor; a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or a spouse, parent, sibling or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide. Code of Virginia <a href="#">Title 18.2</a> . Crimes and Offenses Generally.
Grievance Process	The formal process administered by the Office of Equal Employment and Dispute Resolution of the Department of Human Resource Management by which an employee may bring workplace concerns to upper management.
Jury Summons	An official document requiring an individual to appear in court and potentially to serve on a jury. Failure to comply may result in legal consequences, including a finding of contempt of court.
Officer of Election	A person appointed by an electoral board pursuant to the Code of Virginia <a href="#">§ 24.2-115</a> to serve at a polling place for any election. This does not include other poll workers, political workers, or volunteers.

Subpoena	An official document requiring an individual to appear in court as a victim, witness, or other participant in a legal proceeding. Failure to comply may result in legal consequences, including a finding of contempt of court.
Undue Hardship	A significant difficulty and expense to an agency which includes the consideration of the size of the agency and the critical need of the employee.