

**REPORT OF THE VIRGINIA DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL**

**Virginia Alcoholic Beverage
Control Authority Transition:
Human Resources and
Procurement Policies and
Procedures [Chapter 730,
2015 Acts of Assembly]**

TO THE GENERAL ASSEMBLY OF VIRGINIA



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Report to the Virginia General Assembly

Virginia Alcoholic Beverage Control Authority Transition

Human Resources & Procurement Policies and Procedures

January 3, 2017

Prepared by the Virginia Department of Alcoholic Beverage Control





COMMONWEALTH of VIRGINIA

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January 3, 2017

Members of the General Assembly,

During the 2015 session of the legislative session, HB 1776 was enacted to improve the Department of Alcoholic Beverage Control's flexibility and efficiency as a regulator, wholesaler and retailer through its transition to an authority structure. The 15th enactment clause of the Virginia Alcoholic Beverage Control Authority Act of 2015 (Authority Act) stipulates:

"the Department of Alcoholic Beverage Control shall submit to the General Assembly for its review the proposed personnel and procurement policies, including such policies to facilitate the participation of small businesses and businesses owned by women, minorities, and service disabled veterans in the Virginia Alcoholic Beverage Control Authority's procurement process, that are developed for the use of the Authority in place of Department policies currently governing personnel and procurement. The submission shall detail all instances in which the proposed policies and procedures materially differ from those governing state agencies."

Pursuant to this enactment clause, enclosed please find the Virginia Alcoholic Beverage Control Authority's proposed procurement and human resources policies and procedures.

The Department's plans to successfully transition to a part-time Board, create a Chief Executive Officer (CEO) position, convert the entire workforce to the Authority are also included.

Respectfully submitted,

Travis G. Hill
COO, Secretary to the ABC Board



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Executive Summary

The 15th enactment clause of Chapter 730 and Chapter 38 of the Acts of Assembly (HB 1776 and SB 1032), the Virginia Alcoholic Beverage Control Authority Act of 2015 (Authority Act) stipulates:

“That by January 1, 2017, the Department of Alcoholic Beverage Control shall submit to the General Assembly for its review the proposed personnel and procurement policies, including such policies to facilitate the participation of small businesses and businesses owned by women, minorities, and service disabled veterans in the Virginia Alcoholic Beverage Control Authority's procurement process, that are developed for the use of the Authority in place of Department policies currently governing personnel and procurement. The submission shall detail all instances in which the proposed policies and procedures materially differ from those governing state agencies.”

To assist the agency with this transition, the agency embarked in strategic planning during the fall of 2015 and subsequently contracted with Human Resources, Procurement and change management consultants.

With the assistance of these external consultants, Virginia ABC has reviewed and updated all of its Human Resources and Procurement policies and procedures to reflect the intent of the legislation by achieving greater effectiveness and operational efficiencies.

This more business-minded approach has resulted in the proposal of new concepts such as “pay-for-performance,” the elimination of mandatory procurement sources, as well as evaluation of overall employee compensation and benefits.

The Workforce Transition Act (WTA) continues to pose significant fiscal and operational impacts as Virginia ABC plans to transition to an authority on July 1, 2018. As the Authority Act is currently written, Virginia ABC employees who are not invited or who choose not to accept their invitation for employment at the Authority are entitled to WTA benefits. The latter portion of the above statement not only significantly increases the agency's potential WTA payout but has the unintended consequences of delaying or initiating retirements for all to coincide on the single date of July 1, 2018.

Agency governance and organizational structure were also reviewed and modified to accommodate the change from a full-time three member Board to a part-time five member Board of Directors.

Further steps are necessary to ensure a “smooth and orderly transition” to become the Virginia Alcoholic Beverage Control Authority. Virginia ABC has external consultants under contract through April 2017 to continue to work on the creation of workforce conversion plans and implementation plans for the Authority's newly proposed policies. ABC executive staff and consultants will also focus on rolling out the new mission, vision and values, developing divisional-level key performance indicators (KPIs), and refining workforce transition costs over the fourth quarter of 2016. A phased approach is anticipated with opportunities being identified for immediate implementation versus those that must be put on hold until enabling legislation is passed or resources become available.

1 Organizational Transformation

Background

Pursuant to the Authority Act, Virginia ABC will be transitioning its operating structure from that of an executive branch agency to an independent political subdivision of the Commonwealth, exclusive of the legislative, executive or judicial branches of state government effective July 1, 2018. The Authority legislation is intended to permit Virginia ABC to provide greater value to the citizens of Virginia through enhanced service and profitability enabled by an authority structure. Virginia ABC is endeavoring to become a more efficient, agile and profitable organization by reorganizing to capitalize upon opportunities presented by this legislation.

1.1 Board Transformation

§ 4.1-101.04 of the Authority Act of 2015 provides that the Board structure and qualifications will change to require each member to have, “at least seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs.” The current three member, full-time Board will be replaced with a five member part-time board with staggered four year terms to foster continuity of oversight and governance. The part-time nature and established criteria indicate a shift from the Board being involved in day-to-day activities to playing a more strategic oversight role with the Authority.

1.1.1 Board Roles & Responsibilities

Per the authority legislation, the Board will still be appointed by the Governor and is required to meet at least once every sixty days. Initially, ABC plans to have the Board meet formally once every thirty days to 1) conduct a board meeting that focuses on ABC results including reviews of key performance indicators (KPIs) and 2) preside and rule on Appeals of previous Hearings decisions. This approach will ensure the proper amount of oversight for both the revenue and control sides of the business as the Authority commences operations. Board meetings may be extended beyond 30 days if operations warrant.

Recommended Legislative Changes:

One legislative change identified and recommended is the creation of the Virginia ABC Authority Board in January 2018 as opposed to July 1, 2018. The Authority Board will be composed of the 3 full-time Department of Alcoholic Beverage Control Board members and 2 part-time citizen Board members with qualifications for both the Department and Authority Board members being the requirements imposed by the Authority legislation. Department Board members will continue to be full-time pursuant to §4.1-102(E) until July 1, 2018 and the Department will continue in existence for the purposes of transferring employees and transitioning operations until December 31, 2018. The Department of Alcoholic Beverage Control Board will serve in a subsidiary capacity to the Virginia ABC Authority Board. This structure will allow for the Authority transition to occur beginning January 2018 through December 31, 2018.

1.1.2 Board Transformation: Hearings & Appeals

Since the authority legislation changed the Board make up from three full-time members to five part-time members, ABC had to rethink the hearings and appeals process in order to serve the public interest and licensee needs in a timely and effective manner. Since Board members will not be available on a daily basis to approve and sign Board Orders that resolve licensee violations, changes need to be made to

ensure delays in processing do not occur. Also, the current Board composition has the capacity to hold two appeals sessions every month which will not be possible with the new Board structure.

Consent settlements

- Current State Findings: Consent settlements are the quickest way to resolve straight forward cases (e.g. first time underage buy, late filing of MBAR report.)
- Administrative Recommendation: There will be an enhanced effort to drive violations to resolution via consent settlements and offers in compromise prior to hearings. The intent is to drive down the number of hearings and appeals overall through negotiated settlements handled by the Hearings division. This should reduce the potential workload for a part-time Board as well as the case volume for Hearing Officers.

Continuances

- Current State Findings: Continuances cause significant delays in violation processing and resolution. The reasons are often questionable and require investigation and supporting evidence.
- Administrative Recommendation: There will be continued focus on reducing frivolous continuances that delay hearings and ultimate resolution.

Board Orders

- Current State Findings: The current Board signs all Board Orders. If this process continues as an Authority, Board Orders could only be signed once every thirty days when the full Board gathered in person for the Board meeting and an Appeals session. This arrangement would significantly delay the issuance of final Board orders which could negatively impact public safety and licensee operations.
- Administrative Recommendation: The new Authority Board will delegate decision making and sign off on Board Orders for straight forward violations (e.g. first time underage buy, late filing of MBAR report.) to the Government Affairs Officer (GAO) or Hearings and Appeals Director. This approach will ensure straight forward resolutions will be processed quickly since they will not have to wait for Board sign off once every thirty days. The Board will still review Board Orders at the monthly Board meeting to ensure proper oversight over licensee violations.

Appeals Hearings

- Current State Findings: Appeals hearings are held twice a month. The new part-time board structure will not support this volume. The individuals that hear Appeals will need to change as an Authority.
- Administrative Recommendation: The five member board will still preside over the appeals process. The authority to rule on appeals will be delegated by the full Board to three specific members of the Board who will have full authority to rule on appeals. Appeals will be held once a month.

1.2 Introduction to Chief Executive Officer

The Authority legislation states that a full-time Chief Executive Officer (CEO) will be appointed by the Governor on July 1, 2018 when ABC officially becomes an Authority. This is a new position for ABC. Currently there is a Chief Operating Officer (COO) that reports directly to the Board. The Authority legislation states the newly appointed CEO will:

1. hold, at a minimum, a baccalaureate degree in business or related field of study
2. possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision or control of a business or legal affairs
3. receive compensation as determined by the Board and approved by the Governor
4. devote his/her full time to the performance of his official duties and shall not be engaged in any other profession or occupation

Recommended Legislative Changes:

Recommended legislation will call for the appointment of the CEO at the beginning of the next administration's term (January 2018) to coincide with other appointments (i.e. Board) and to ensure a smooth transition to an Authority beginning July 1, 2018.

The CEO will be responsible for overseeing day to day operations and reports to the Board. As such, ABC has developed key competencies and a job description for the Chief Executive Officer.

Key competencies surfaced due to the changing makeup of the Board from a full-time Board to a part-time Board. Some of the key competencies outlined for both the CEO and the Board are:

- Thinking Strategically
- Executing Strategies
- Leading Change
- Driving to Results
- Managing Talent
- Building Relationships

1.3 Organizational Structure

1.3.1 Mission, Vision, and Values

As a part of the change to an Authority, ABC took the opportunity to revisit and subsequently change the mission, vision and values (MVV's) to better capture and communicate the new direction of the agency.

ABC leadership (executive team and board members) participated in a series of facilitated discussions to revise agency MVV's to reflect the new direction as an Authority. Since the Authority Act challenged ABC to function more like a business, the MVV's needed revision to reflect the change. Leadership was challenged to make the language clear and concise so individuals at all levels inside and outside ABC could understand the focus and the direction as an Authority. The objectives in revising the values were to establish fundamental norms of behavior that: 1) are easy to remember and apply; 2) establish a positive and productive work environment; 3) emphasize service to all stakeholders; and 4) stress accountability for desired results.

The new MVV's are:

Mission:

To generate a reliable stream of revenue for Virginia and promote public safety through the responsible sale and regulation of alcoholic beverages.

Vision:

To bring good spirits and excellent service to Virginia.

Values (A SIP):

Accountability - We build trust by delivering on our promises.

Service - We take pride in our role as public servants and put customers, both internal and external, first in all we do.

Integrity - We are fair, consistent, transparent, and treat everyone with respect.

Performance Excellence - We are innovative, collaborative and strive to improve every day.

1.3.2 Organizational Key Performance Indicators (KPIs)

In order to function more like a business which is the intent of the Authority legislation, Virginia ABC will manage operations using organizational Key Performance Indicators to drive results and accountability throughout the Authority. These organizational KPIs will be compiled and reported on a monthly basis. The Board and CEO will use this “scorecard” to evaluate results and ask questions of ABC officers to ensure operations are meeting strategic goals and objectives as an Authority. The organizational KPI scorecard is as follows:

Virginia ABC Organizational KPI Scorecard 2016							
Employee	Target	Current	Last Yr	Internal Processes	Target	Current	Last Yr
Engagement Turnover Competency				Profit/Employee Process Improvement Index Cycle Time Index Project Performance Index			
Customer	Target	Current	Last Yr	Financial	Target	Current	Last Yr
Satisfaction Revenue/Customer				Total Revenue Operating Expense/Sales Total Transfers			
Public Safety	Target	Current	Last Yr				
Compliance Index Outreach Index Prevention Index							

There are five categories on the scorecard, each with individual measures that capture key aspects of performance. Each KPI will have a Target Value, a Current Value and a Prior Year Value. Virginia ABC leadership will be held jointly accountable for the achievement of the Target Values.

Divisional scorecards will cascade down from the organizational scorecard so each division is aligned with the overall objectives of ABC. Initiatives will be developed at the organizational and division levels to drive towards the Target KPI's.

The setting of KPIs is an important aspect of the strategic planning process and plays a major role in the measurement of progress of the organization towards the attainment of its planned goals. KPIs are quantitative and qualitative measures used to review an organization's progress against its goals. These are broken down and set as targets for achievement by departments and individuals. The achievement of these targets is reviewed at regular intervals.

KPI characteristics to be considered are as follows (A KPI does not need to satisfy all of these characteristics to be useful):

- Relevant to and consistent with the Authority's vision, strategy and objectives
- Focused on the Authority-wide strategic value rather than non-critical local business outcomes
- Representative – appropriate to the Authority together with its operational performance
- Realistic – fits into the agency's constraints and is cost effective
- Specific – clear and focused to avoid misinterpretation or ambiguity

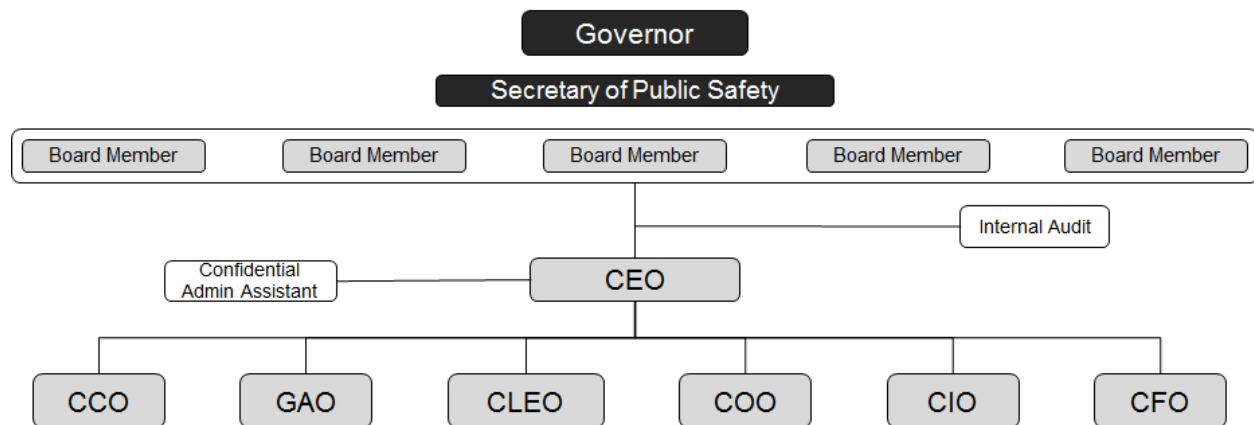
- Attainable – requires targets to be set that are observable, achievable, reasonable and credible under expected conditions as well as independently validated
- Measurable – can be quantified/measured, either quantitative or qualitatively
- Used to identify trends – infrequent changes, may be compared to other data over a reasonably long term and to identify possible trends
- Agreed – all contributors agree and share responsibility within the Authority
- Reported – regular reports are made available to all stakeholders and contributors
- Governed – accountability and responsibility is defined and understood
- Assessed – regular assessment of the KPIs to ensure continued relevancy

An effective planning process enables ABC leadership to take charge of their organization’s future and focus on the most important factors that deliver outstanding performance. The performance of the business can be effectively monitored and improved through the use of appropriate KPIs.

A series of workshops are now in progress to discuss, develop and implement divisional level scorecards that include measures that align and support the organization’s KPI scorecard above. ABC anticipates final scorecards to be completed and approved by ABC leadership by the start of 2017. In 2017, ABC divisions will start monthly scorecard reporting while continuing to refine data collection efforts to ensure the information used is complete, accurate and timely. These scorecards will feed the organization’s KPI scorecard that will be reviewed and discussed at monthly Board meetings.

1.3.3 Organizational Chart Changes

The following recommended new high level organizational structure supporting the Authority is under consideration:



**Key: Chief Communications Officer (CCO), Government Affairs Officer (GAO), Chief Law Enforcement Officer (CLEO), Chief Operating Officer (COO), Chief Information Officer (CIO), Chief Financial Officer (CFO)*

The new structure was created to group divisions and units by functional areas which report to a single “chief.” This structure not only reduces the number of direct reports to the CEO but also allows for consistent interpretation and application within each functional area. Many of the “chief” roles in the hierarchy above already exist within Virginia ABC’s current structure; however, there is one new addition and one modification. The GAO will be responsible for hearing and appeals, policy and legislative matters. The COO will be responsible for retail stores, logistics, real estate and merchandising. This is different from the current COO position which functions more like the CEO in the new structure.

This new structure resembles more of a typical business structure with leadership over customer facing functions (GAO, CLEO and COO) separate from shared service support (CCO, CIO and CFO).

Further delineation of the Authority's organizational structure will be drafted as part of workforce conversion planning which is underway and will continue through the Spring of 2017.

Recommended Legislative Changes:

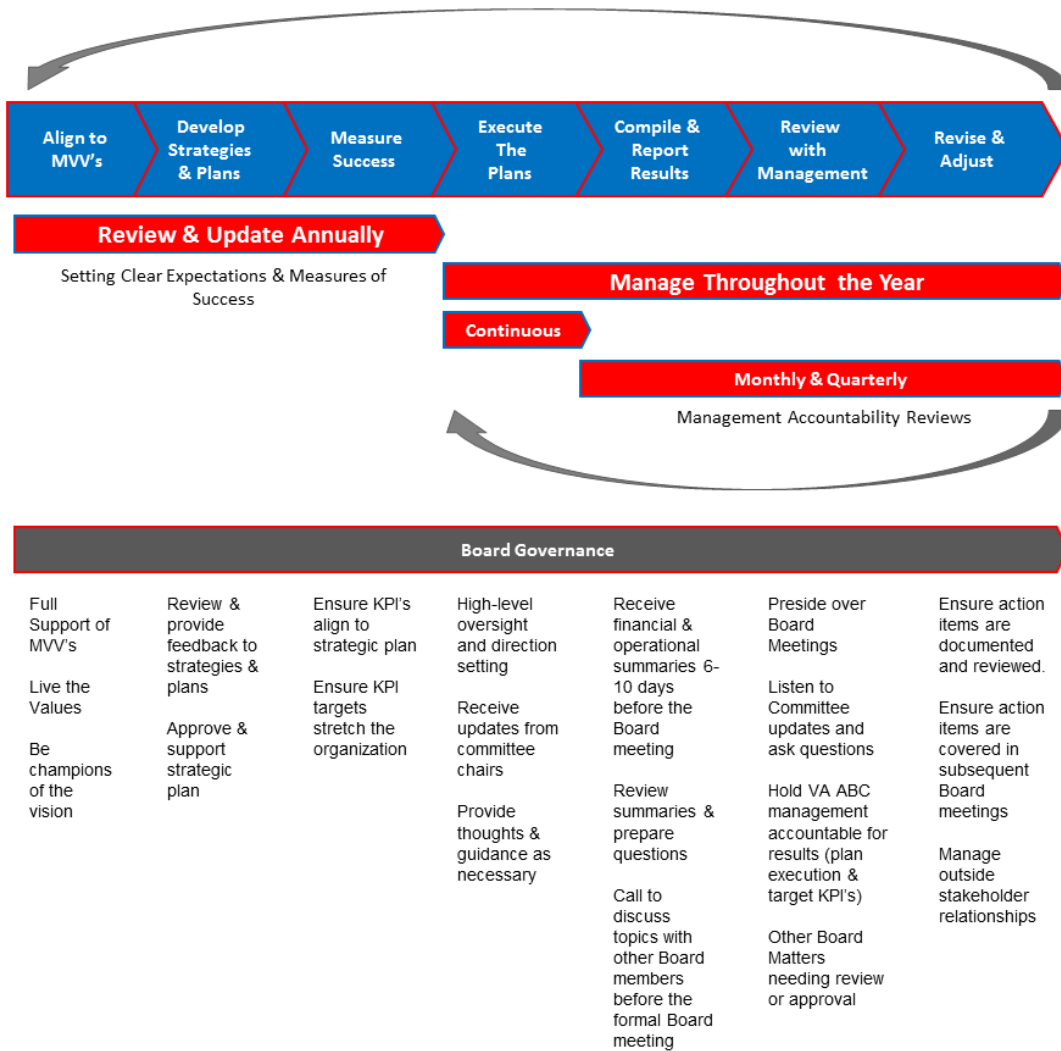
New legislation to return the Chief Financial Officer (CFO) to a non-appointed position to ensure continuity of day to day operations at the officer level independent of changes in administrations and appointees.

1.3.4 Governance & Oversight

Governance exists to inform and align decision making for business planning, policy and operations in order to meet business objectives, ascertain that risks are managed appropriately and verify that resources are being used responsibly and strategically.

The organizational KPI scorecard is a key part to the overall governance approach of ABC as an authority. It is part of a process that the Board will use to provide the necessary independent oversight of ABC operations. This includes visioning, strategy, measurement, reporting, project management and budget control.

The new Board governance process for ABC is as follows:



This new governance process will facilitate a new culture of accountability that will help drive responsible growth that serves the public interest.

2 Human Resources

Background

The authors of the Authority Act intended for it to permit Virginia ABC to provide greater value to the citizens of Virginia through enhanced service and profitability enabled by an authority structure. Virginia ABC is endeavoring to become a more efficient, agile and profitable organization by reorganizing to capitalize upon opportunities presented by this legislation. Actions include changing the employment structure and many governing human resources policies to enable proactive management, flexibility and the attraction and retention of talent to drive culture change.

2.1 Strategic Workforce Planning

The transition from the Department of Alcoholic Beverage Control to the ABC Authority, coupled with 15% of the agency's full-time classified workforce being "retirement eligible" within the next five years necessitates strategic forethought to the direction of the Authority as well as its changing workforce requirements. For example, the changing customer environment is driving more work to the digital forum thereby shifting job roles and responsibilities and requiring different skillsets.

Workforce planning is a continual process used to align the needs and priorities of the organization with those of its workforce to ensure it can meet its legislative, regulatory, service and production requirements and organizational objectives. Workforce planning enables evidence based workforce development strategies.

2.1.1 Strategy

In order to enable the Virginia ABC to effectively transition to an Authority structure in July 2018, Virginia ABC engaged outside consultants to conduct strategic workforce planning to ensure that ABC will have the right roles, skillsets and people in place to support the future state needs of the organization. Strategic workforce planning is the proactive process of examining the current state workforce and evaluating future state workforce needs to ensure that the right people are in the right place, at the right time, and at the right cost.

The strategic workforce planning process at Virginia ABC began with consultant-facilitated interviews of the business and functional leadership, in order to understand current state and future state organizational vision, strategies and goals. Consultants also captured relevant workforce trends, challenges, risks, and drivers that impact the work that the organization currently performs and will continue to perform in the future. The consultants met with business unit and functional group leaders individually, collecting data on the organization overall, but also capturing individual group needs and visions for the future state.

Once input on Virginia ABC's current environment and desired vision for the future were collected, the key differences or "deltas" between the current and future states were noted as gaps in their respective areas. These gaps were presented in the form of talent, skills, competencies, or organizational challenges to be addressed in order to meet the workforce demands of the future state Authority. In some cases, the gaps identified some key opportunities to add or up-level roles and skillsets in order to create a more effective organization for the future. Some of these roles were then recommended for market pricing by the consultants, so as to assess the market competitiveness of the role.

Strategic workforce planning also helped Virginia ABC to identify key work "drivers", or factors that actually "drive" or lead to the work that each business unit or function performs. There were some clear primary drivers, such as the growth in stores and sales, which have a tremendous overall impact on the work in each of the business units and functional areas. There were also a number of secondary drivers, such as square footage of a store, or the number of hours the store is open, which can drive work and the

need for specific positions within the Retail Operations division or other related divisions. The consultants worked closely with Virginia ABC to identify the various drivers of work, and to understand the impact that these drivers have on the organization in terms of workload and the need for specific positions.

2.1.2 Summary of Future State Workforce Requirements

As a result of the strategic workforce planning analysis performed on Virginia ABC by outside consultants, there were a number of future state recommendations that were made to support the transition in the short-term, as well as in the longer term transition to an Authority. Many of these recommendations were made to address some of the high-level, key gaps and themes identified in the areas of Leadership, Competencies and Skillsets, and potential Retirements.

Leadership is one of the key areas identified through the process of strategic workforce planning. Virginia ABC has examples of strong leaders, but there are many opportunities within the leadership and manager ranks to strengthen the core competencies of its leaders. As ABC becomes an Authority and functions more like a profitable private sector business, it will need to ensure that its leaders have clear accountabilities and skillsets/competencies relevant to the job. Leaders who are on the ABC Leadership team should also have strong talent management skillsets, so that they are also able to build strong teams and lead the organization to succeed as an Authority. Virginia ABC needs to train and recruit the “right level” of leadership for the positions within the Authority. Traditionally, compensation and the lack of organizational flexibility has been an impediment to being able to attract the right level of leadership talent. Exemptions from certain restrictive policies will permit the Authority to better match the skills needed with the appropriate resources and compensation.

Competencies and skillsets were other key areas where the strategic workforce planning analysis showed a number of gaps for each specific business unit or functional area. In the gap analysis performed by the outside consultants, a number of examples where role requirements within Virginia ABC hadn't been reviewed or updated in many years were identified. These roles are anticipated to undergo further change in the future state as it is expected that new and/or higher levels of skill or expertise will be needed. In conjunction with some of the market-pricing work being performed on the project, these roles in question were reviewed to ensure that they captured the requisite and updated skill sets needed to perform the role well into the future.

Recommended Legislative Change: Creation of the ABC Authority in January 2018 will permit Virginia ABC to begin to transition employees to the Authority according to the future state strategic workforce plan rather than by DHRM's current Layoff policy which is based upon seniority.

Retirements are a critical issue in the strategic workforce planning analysis, as many senior leaders and other critical and support resources are contemplating retirement prior to or in July 2018. Such departures will leave a large number of key openings that need to be filled while still running ABC Operations. Several Virginia ABC divisions could potentially be impacted by the retirements of their leaders and/or senior staff on the team. On a positive note, the number of potential retirements also presents a unique opportunity to identify and recruit new or different skillsets, which will ultimately benefit Virginia ABC in the longer term.

2.2 Authority Workforce Conversion

In order to implement the strategic workforce plan, a workforce conversion plan must be developed that will translate the strategic workforce plan into finite actions and calculate any associated costs. The primary focus areas being personnel retirements, attrition, WTA and other proposed organizational moves.

2.2.1 Current State

The first step to conversion planning is to identify whether any existing resources in the ABC organization have the potential to fill any of the positions to be freed by retirement, Authority transition attrition or any of the other organizational moves. Termed “succession planning,” it is the formal process of identifying, recruiting and developing people with the potential to fill key leadership/strategic roles and other critical positions within a company. Those individuals who are identified as having the potential to fill these critical roles are called “Successor Candidates”.

Succession Planning enhances Virginia ABC’s ability to:

- Increase business readiness for employee retirements, moves and attrition
- Identify internal talent/skill gaps and recruiting needs proactively
- Enhance ongoing employee engagement and commitment
- Prepare for a successful and sustainable transition to an Authority structure

Virginia ABC is in the process of creating detailed succession plans and conversion plans to identify and manage the key attrition, retirements and proposed organizational moves that are likely to occur during the transition from current to future state. Retirements are a primary area of concern due to the large potential number of retirements expected over the next two years, as well as the accelerated window of time during which they could transpire. The outside consultants have helped Virginia ABC highlight all of the potentially-impacted roles as “Strategic, Core, and Support”, in order to convey the relative importance and prioritization of backfilling these roles. “Strategic” rolls are to be filled first followed by “Core” then “Support” roles.

These processes have helped Virginia ABC identify viable internal successor candidates, as well as to highlight those areas where an external replacement would be likely.

2.2.2 Future State

Future state conversion planning is a critical milestone in the transition to an Authority, as it allows Virginia ABC to be proactive in the process of identifying the talent pipeline for current positions. In the future state conversion plan, outside consultants identified the roles at ABC which have an incumbent who will be eligible for retirement. Since each of these roles is marked in the analysis as either “Strategic”, “Core” or “Support”, priority may be assigned to the roles needing an immediate replacement. The fewest number of roles were the “Strategic” roles, and many of these will need to be filled externally because there is not another high-level strategic resource in the pipeline within ABC. There are also a large number of both “Core” and “Support” roles that will need to be filled. More of these roles have the potential to be filled by current employees at ABC.

The future state workforce conversion planning process will allow Virginia ABC to identify strong successor candidates that could replace those individuals who are retiring. In a few cases, there are viable internal successor candidates who would be able to easily step into the role if needed. In many other cases, there may be internal successors identified, but there would be some additional form of dual incumbency or longer-term training/ramp-up that is needed to ensure that the successor will be competent in the new role. The analysis also includes the risks inherent in having a vacancy in the position, and any key actions that need to be highlighted as part of the replacement plan.

The future state for Virginia ABC will depend a great deal on the decisions made to implement the Workforce Transition Act (WTA) and how it will be deployed. This topic will be explored further in the next section.

Implementation planning and timing becomes very important in the conversion planning discussion, due to the need to decide what of the recommended actions should happen “sooner rather than later”. Virginia

ABC and the outside consultants have reviewed the timing of the various actions in order to define what may be done in the short-term, and what will need to wait until the Authority transition is initiated. Also, depending on any actions or new information on WTA eligibility, this may trigger ABC employees to act prior to the Authority transition.

Recommended Legislative Change: A one-year transition period beginning January 2018 would afford Virginia ABC the ability to transition employees and implement changes in a phased approach thus mitigating the risk and impact of having all employees and policies change statuses on July 1, 2018.

2.2.3 Fiscal and Operational Impacts of the Workforce Transition Act (WTA)

The Workforce Transition Act (WTA) and its specifics, as detailed within the Virginia ABC Authority Legislation, appear to be a key driver in the decision for many employees to retire or leave at the time of transition to an Authority. The current language of the Authority Legislation allows Virginia ABC employees the opportunity to qualify for WTA if they choose not to accept their invitation of employment with the Authority.

There are a number of potential operational and fiscal impacts inherent in the WTA. As currently written, the Authority legislation provides that employees are able to make the choice to leave the Authority and receive WTA. The operational impact of this option is that many employees nearing, or at retirement eligibility, will choose to “hold out” for the WTA package and wait until July 2018 to declare. There may also be a group of employees who are eligible to retire but who wish to continue working who will elect to retire and take a job elsewhere due to the benefit being too lucrative to pass up. The current WTA approach may inadvertently cause pressure on the system because a large group would be choosing to exit at the same time. The obvious fiscal impact is that WTA will be granted to anyone who elects NOT to accept a role in the Authority, and will be a much larger cost to the state.

The operational and fiscal impacts of WTA, if changed so that those who choose not to join the Authority are not entitled to WTA, would be somewhat different. Fiscally, the cost to the state would be less since fewer people would qualify. The operational impacts of a change in WTA eligibility would likely be that employees respond in one of two ways: Employees who are no longer eligible for WTA and were planning to retire will likely retire sooner since there isn’t a WTA package for them to wait for in July 2018. On the other hand, those employees who were only going to retire because the WTA benefits and service credit were advantageous, will likely opt not to retire prior to the transition conversion. The operational impact of retirements spread out over a one or two year period, as opposed to retirements taking place on or around one specific date, is less severe on the organization.

Other fiscal considerations and impacts are the WTA and non-WTA/severance-related costs that will be incurred through this transition. Finance estimates of the WTA-related costs are approximately \$9 M. Those costs unrelated to WTA, (such as recruiting and hiring, training and ramp-up, dual incumbency, retention bonuses as appropriate) are also being calculated to estimate the potential impact. Conversion costs are currently being calculated based upon various scenarios and may significantly add to ABC’s potential payout.

Virginia ABC will continue to focus on minimizing operational impact to the business, while also balancing the fiscal and cost impacts of the actions taken, to promote a smooth transition of employees from the current state to the future state Authority.

2.3 Compensation & Salary Administration

Virginia ABC employs roughly 1,100 full-time “classified” employees and with the exception of a one-time 3% bonus in December 2012, and raises of 2% in 2013 and 2015 and a \$65 increase for each year of

service up to 30 years in 2015, agency wages have remained relatively flat while employee turnover has gradually increased. Virginia ABC's FY2016 turnover rate of 9.58% for full-time classified employees far exceeds national average for state employees of 1.5% as reported by the Bureau of Labor Statistics. The opportunity to earn more money at other agencies or organizations is a likely contributor to this statistic.

Currently, the Virginia ABC Compensation programs and policies are administered under the Virginia Department of Human Resource Management (DHRM) Compensation Policies and Procedures. The current compensation program has a salary structure consisting of nine (9) broad pay bands for purposes of recruitment, Pay Practices, and compensation administration. Virginia ABC utilizes shadow salary bands in the administration of their salary programs. The shadow salary bands are narrower in range, and better approximate the compensation value of the individual job.

2.3.1 Compensation

Virginia ABC is moving to become an authority within the State of Virginia which will enable them to operate more like a business. Employee compensation is a means to help reduce agency turnover, reduce annual training and hiring costs with filling vacancies, and to retain and attract the talent necessary for the future direction of the Authority. One approach to keeping the Authority competitive in the marketplace is to more closely align total compensation with equivalent private sector jobs, allowing it to attract new talent and retain existing talent.

As a first step, outside consultants worked with Virginia ABC to develop a future state compensation philosophy that will support the new Virginia ABC business strategy. This compensation philosophy will serve as the roadmap for the proposed revised compensation program that will lead to decisions on market based pay considerations, pay for performance and incentive programs.

The Virginia ABC compensation philosophy states:

"The Compensation Program has been designed to be supportive of the mission/business strategy, competitive with external labor markets, and equitable internally. In doing so, the base salary compensation levels will be targeted at the median of the various labor markets in which Virginia ABC competes for talent. These labor markets include for profit organizations and governmental agencies at a local, regional or national market place. Jobs are market priced against comparable positions in the appropriate competitive marketplace."

The external consultants, in conjunction with Virginia ABC, developed a list of current and new jobs in the organization that are representative of the levels and functions of the entire Virginia ABC organization. The benchmark jobs will be market priced against comparable positions in the appropriate competitive marketplace. The market is defined as the various labor markets in which Virginia ABC competes for talent. These labor markets include for profit organizations and governmental agencies in local, regional or national market places. The actual market pricing will be done utilizing local and national recognized published salary surveys. In addition, some of the jobs may need to be priced utilizing custom salary surveys where there is a lack of published salary survey data available.

Once the market pricing is complete, each of the Virginia ABC jobs will be slotted into a level based on the market data and the hierarchical Virginia ABC organization. All placements are reviewed with Virginia ABC to ensure there is concurrence. Based on the results of the organizational review, these levels will become the salary ranges within the market based salary structure. The salary structure will be comprised of salary ranges which will be developed and will encompass the jobs within ABC. The salary

structure is based principally on competitive market information and internal equity considerations. Each salary range has three (3) distinct points:

- a. The **minimum** is normally the lowest salary paid to an employee, hired or promoted into a job, which can perform all the requirements of the job.
- b. The **midpoint** is the average salary paid to an employee whose performance meets all expectations of the position, on a consistent basis over time. This typically reflects the marketplace salary level for a fully qualified and fully trained incumbent.
- c. The **maximum** represents the highest salary normally paid to an employee. A sustained period of performance that consistently exceeds expectations is necessary to reach the range maximum.

Typically, there is a 50% spread between the minimum and maximum of the range, which allows for the employee to progress through the range based on their performance, and to a lesser extent service. However, it is appropriate for the spread to be larger in the higher levels of the organization, as the number of promotional opportunities are reduced the higher up you go in the organization. In addition, there will be an approximate 10% differential between each of the salary range midpoints to allow for employee promotional opportunities and growth.

2.3.2 Pay for Performance

As part of its compensation philosophy, Virginia ABC is considering introducing Pay for Performance through two (2) new compensation programs:

1. Merit Increases
2. Incentive Pay

Pay for Performance links an employee's pay (base and/or variable), to an individual, group, and/or organizational performance. Pay for performance is an established best practice in the private sector and a "pay for performance" model incentivizes employee performance toward the realization of company goals.

Merit Pay

Presently at Virginia ABC there is no linkage between an employee's individual performance and the amount of the salary increase that an employee receives. Employees may receive base pay increases when the State of Virginia approves an across the board increase. There are other internal equity pay practices that may also result in an increase to base pay, but there is currently no pay incentive for an employee to perform at a higher level.

Virginia ABC is evaluating the feasibility of a pay-for-performance salary increase program, also referred to as a "merit increase". A merit increase is an adjustment to an individual's base pay rate based on performance. At the beginning of each performance year, the employee and their manager will agree upon a set of individual performance objectives that will be documented in the annual performance management tool. Periodically throughout the year, the manager and the employee will meet (formally and informally) and discuss progress against the objectives. At the end of the performance year, the manager will review the results of the employee's performance and will assign a rating to the results. This rating will serve as the basis for the amount of the employee's annual salary increase. Therefore, employees who have a higher rating will receive a larger merit increase than those who don't. The amount of the annual salary budget would be the same, but the change will be the differentiation of the individual annual salary increases based on performance.

2.3.3 Incentive Pay

Presently at Virginia ABC there is no linkage between the performance of the ABC organization and an employee's pay. The introduction of an incentive plan is to align employees' goals and performance with the goals and performance of the overall organization, and will both encourage and reward superior performance. The incentive awards are linked to the achievement of results for the overall organization, are a means for reward and recognition of business performance, and provide differentiation through variable pay which is re-earned every year.

At the beginning of each fiscal year, Virginia ABC Leadership will establish organizational metrics based on the upcoming business goals. The metrics will be cascaded and communicated throughout Virginia ABC to all eligible employees in the incentive program. Based on the achievement of these metrics, eligible employees will receive a lump sum incentive after the conclusion of the fiscal year. The amount of the incentive award will vary based on the results of the achievement of the organizational goals. The concept when looking at base pay plus incentive pay (total cash compensation) would be above average pay for above average performance, average pay for average performance and below average pay for below average performance. In addition, ABC may choose not to pay any incentive should the performance targets not be met. This program will be self-funded as the incentive is paid according to the performance results.

Incentive pay for all employees is a common best practice in the private sector as well as other existing Virginia Authorities (e.g. Virginia Lottery). Organizations are increasingly turning to incentive pay to align and reward employee performance as salary increase budgets continue to remain stagnant; base salaries are fixed costs while the incentive pay awards are variable costs based on the organization's performance.

Potential Legislative Change: In order to make clear that the ABC Authority has authorization to utilize funds to support a performance-based pay plan, a change is likely necessary to Item 475(Q)(5) of the introduced budget bill. This item specifically identifies those agency heads who have the authority to utilize agency funds for these types of pay plans.

3 Procurement

Background

§ 4.1-101.010 of the Authority Act exempts Virginia ABC from the Virginia Public Procurement Act (§2.2-4300 et seq.) as well as Chapter 20.1 of Title 2.2, the Virginia Information Technologies Agency Act (§2.2-2005 et seq.).

The enactment clause of the Authority Act further stipulates that Virginia Alcoholic Beverage Control Authority must continue to receive IT infrastructure and security services from the Virginia Information Technologies Agency (VITA) until July 1, 2019, unless otherwise provided for as part of the Commonwealth's disentanglement plan pursuant to the Comprehensive Infrastructure Agreement with Northrop Grumman. However, in no event shall the Virginia Alcoholic Beverage Control Authority be disentangled prior to October 1, 2018.

3.1 Procurement Strategy

The primary tenants of the ABC Authority's procurement strategy are to increase flexibility and realize efficiencies in as many areas as possible.

Recommended Legislative Changes:

In order to provide ABC with greater flexibility to make business decisions as they relate to purchasing as well as achieve the best value for the agency, it is imperative that the Authority be released from the mandatory sourcing as dictated by the Code of Virginia.

Beyond eliminating mandatory sources, Virginia ABC proposes removing extraneous approvals from approved budget purchases and streamlining the Request for Proposal (RFP) process to make the Authority more nimble, reduce demands on employee time and reduce the lead time from purchase initiation to receipt.

Virginia ABC plans to implement a formal contract lifecycle management process as it can lead to significant improvements in cost savings and efficiencies. Contract Management, which can be defined as the execution and monitoring of a contract for the purpose of maximizing financial and operational performance and minimizing risks, involves tracking purchases against contracts to insure preferred suppliers are used, rates adhered to, and discounts and rebates collected. It is anticipated that this endeavor will continue past July 1, 2018 to ensure a robust process is in place and full benefits are realized.

Additionally, implementation of a Vendor Management program is planned in order to assist the agency with achieving the most value from their contracts as possible. This involves continuous tracking of vendor contract performance and two-way dialog regarding contract performance. This program will be implemented in phases with the focus on Virginia ABC's highest value contracts (e.g. transportation contract) and will ensure that Virginia ABC receives all value from the contract as was originally intended.

Many of the recommended and planned actions described above not only provide Virginia ABC greater agility, similar to that of a private business entity, but also address the concerns raised by the Joint Legislative Audit & Review Commission (JLARC) in their “*Development and Management of State Contracts*” report to the Governor and General Assembly in June 2016. Such concerns include:

- Some contracts deviated from original expectations (*JLARC “Development and Management of State Contracts” report, page i*)
- Some policies can limit the agencies’ ability to make quality purchases at a reasonable cost (*JLARC “Development and Management of State Contracts” report, page i*)
- Lack of focus on contract administration policies undermines adequate contract monitoring and enforcement (*JLARC “Development and Management of State Contracts” report, page iii*)
- Comprehensive information on contract performance is lacking (*JLARC “Development and Management of State Contracts” report, page iii*)

4 Next Steps

Virginia ABC has external consultants under contract through April 2017 to continue to work on the creation of workforce conversion plans and implementation plans for the Authority’s newly proposed policies. ABC executive staff and consultants will also focus on rolling out the new mission, vision and values, developing divisional-level KPIs, and refining workforce transition costs over the fourth quarter of 2016. A phased approach is anticipated with opportunities being identified for immediate implementation versus those that must be put on hold until enabling legislation is passed or resources become available.

Policy Crosswalk

Organizational Transformation

Current State	Future State	What Changed	Why?
<p>Per the Authority legislation, the CFO position is appointed by the CEO on 7/1/18.</p>	<p>Submitted as a change in 2017 legislation amending the Authority Act. The CFO is a full time permanent position hired through normal Authority processes.</p>	<p>CFO is hired rather than appointed.</p>	<p>In order to have continuity of operations and leadership, the CFO should be hired in the normal course of operations, rather than appointed. Under the Authority all employees, including the CFO, will be at-will. In the event a change in personnel is needed, it may be made through normal agency employment practices rather than through an appointment.</p>
<p>COO position currently has ten direct reports. There is no current CEO.</p>	<p>CEO will be an appointed position that is new as an Authority. Under the CEO will be six direct reports: Chief Communications Officer (CCO), Government Affairs Officer (GAO), Chief Operations Officer (COO), Chief Law Enforcement Officer (CLEO), Chief Information Officer (CIO) and Chief Financial Officer (CFO).</p>	<p>The GAO is a new permanent position and the roles and responsibilities of the COO and other officers change slightly.</p>	<p>The new structure with six direct chief officers will provide the proper leadership over retail, law enforcement and H&A/Policy/Legislative while creating higher service levels in other support functions. The new structure will provide greater accountability on agency operations across all divisions and give CEO proper span of control to lead organization.</p>

Policy Crosswalk

Board Transformation

Current State	Future State	What Changed	Why?
With Authority legislation, the board will change from a three member full time board to a five member part time board that meets at least once every 60 days. Per legislation, they will be appointed by the Governor and start service on 7/1/18.	Creates the Virginia ABC Authority Board in January 2018 and initially populates the Authority Board of Directors with the 3 Department Board members and 2 additional citizen members. The qualifications for both the Department and the Authority Board members will be the requirements imposed by the Authority legislation. Department Board members will continue to be full time pursuant to §4.1-102(E) until July 1, 2018 and Department will continue in existence for the purposes of managing the transition until December 31, 2018.	Legislation will need to change in order to appoint the Authority board in January 2018 as opposed to July 1, 2018.	In order to enable the transition of employees from the Department to the Authority, the Department Board must be kept intact in order to keep Virginia ABC classified employees under that designation until such time they are transitioned to the Authority. As currently drafted, the Authority Act would have the Department go away on July 1, 2018 and the Authority coming into existence at that same moment. However, employees have 6 months to decide if they want to transfer employment to the Authority. A one day transition does not give the Authority time to properly notify employees of a transition and also eliminates the Department in which the classified employees are housed. This approach of keeping both entities in existence, while joining their boards and delegating duties allows the Authority to plan the transition and provide proper notice to employees. Consistent with the CEO recommendation, having the Board in place to govern ABC and understand the transition prior to 7/1/18 will provide steady leadership throughout the transition period.
Appeals are currently held twice a month in Richmond by the full time three member Board	Appeals will be heard once a month the day before the monthly Board meeting.	No legislative change but a reduction in the number of appeals sessions per month.	Since the Authority legislation changed the Board to five part time Board members with limited availability, ABC needs to have a more efficient and effective resolution process that reduces Board involvement in violation resolution (see below).
Current Licensees who commit violations are subject to fines and/or suspensions of their licenses. They can be settled via consent settlements, offers in compromise or the appeals process.	Reorganized Hearings and Appeals and Judicial Services to focus on incentives to settle/resolve more violations in less time.	The creation of a part-time Board necessitates operational changes to the Hearings & Appeals functional area as previous Board duties will need to be delegated in order to maintain service and efficiency in the hearings process.	The part time Board structure does not accommodate the hearing of appeals on a timely basis. Additional encouragement of settlement or resolution earlier in the adjudication process helps to streamline the overall hearings process and allows the Authority and licensees to properly resolve violations more quickly and focus on business operations that foster compliance.
	Limit frivolous delays	Emphasis placed on clear and concise upfront communication to licensee/counsel on timelines and acceptable reasons for delays as well as acceptable proof (documentation) to warrant the delay.	Currently, too many violations have last minute delays that are not properly justified. This delays the entire process and puts strain on limited resources.
	Grant more authority to the GAO and The H&A Director to settle standard, high volume violations that are straight forward (i.e. first time underage buy)	ABC Board signature will not be required on all Board Orders but rather authority will be delegated to Authority leadership to sign.	Delegation of signature authority on clear cut, incidental infractions will accommodate a part-time Board as well as make the overall hearings process more efficient.
	Submitted as changes to 4.1-103 and 4.1-103.03 in the 2017 proposed legislation amending the Authority Act - Establish a more comprehensive process that allows for bilateral negotiations and alternative dispute resolution to resolve violations ahead of the formal hearing.	Statutory changes recommended to occur to encourage settlement and/or resolution earlier in the adjudication process by allowing the Authority and licensee to actively negotiate a settlement.	Earlier resolution will not only streamline the existing hearings process but allow resources to be devoted to the more complex cases and appeals.
Submitted as change to 4.1-227 in the 2017 proposed legislation amending Authority Act - eliminate statutory caps on penalties to allow greater flexibility in imposing penalties in line with violations.	Statutory changes recommended to encourage settlement and/or resolution earlier in the adjudication process.	Current caps can sometimes render penalty amounts meaningless, becoming "just a cost of doing business". Greater flexibility in penalty imposition allows for further negotiation and penalties to match violations.	

Policy Crosswalk

CEO Implementation

Current State	Future State	What Changed	Why?
<p>CEO position created as part of Authority legislation. Bill states new CEO will assume position 7/1/18 and will be appointed by the Governor.</p>	<p>Submitted as change to 4.1-101.01 in the 2017 proposed legislation amending Authority Act. CEO to be appointed by the new Governor at the <u>start</u> of the new administration.</p>	<p>Change legislation so the CEO is appointed at the start of the new administration in January, 2018 instead of waiting until 7/1/18.</p>	<p>In order to prepare for a successful transformation to an Authority, it makes more business sense to appoint the CEO at the start of the administration so he can lead the ongoing transition efforts that will be in motion at that time. This ensures stable leadership is in place on 7/1/18 which is critical to transition success. The CEO will be appointed at the beginning of future administrations so this initial appointment should follow that same timeline for consistency.</p>

Policy Crosswalk

Human Resources

Current State	Future State	What Changed	Why?
Process to raise grievances provides for multiple levels of appeal and including appeals to agencies outside of Virginia ABC. Process routinely required months to resolve concerns. (<i>DHRM 1.60 Standards of Conduct</i>)	Provide multiple levels of review to resolve grievances through an internal process that also provides more timely resolution. (<i>1.14 Grievance Procedures</i>)	Exclusively internal process that provides for a more concentrated timetable for issue resolution.	Enable the company to more efficiently resolve employee issues/concerns by reducing the amount of time associated with the process.
Time away from work benefits are spread across several different policies that included their own accrual and use requirements and limitations. (<i>DHRM 4.10 Annual Leave, 4.55 Traditional Sick Leave</i>)	Utilize a Paid Time Off (PTO) design that provides for accrual and use of all types of time off leave in one bank. (<i>4.2 Paid Time Off Policy</i>)	A Paid Time Off (PTO) leave bank design was adopted. Total leave amounts available to employees will not change, just the categorization of the leave and its tracking.	The use of a PTO design is a rapidly growing trend in the private sector as a means of simplifying administration burdens and increasing flexibility for improved work - life balance.
Use of a lengthy probationary period, multiple employment statuses, and restrictive hours of work provided for a slow start to the employment relationship. (<i>DHRM 1.45 Probationary Period, 2.20 Types of Employment, and 1.25 Hours of Work.</i>)	Simplification of work entry requirements, work classifications and hours of work. (<i>1.9 Introductory Period, 2.6 Types of Employment, 1.5 Hours of Work</i>)	Redesigned the Probationary Period by reducing its length from one year to 6 months and rebranding it as a "Introductory Period", reduced the number of work classifications to "Regular Full Time", "Regular Part Time" and "Wage" and provided flexibility for departments to develop work hours to meet business	Statistics establish that a majority of turnover occurs within the first 6 months of employment. Established processes that improve the work experience and facilitate a quicker transition into the company.
Structured processes are in place that provide for guaranteed employment rights. (<i>DHRM 1.30 Layoff, 2.10 Hiring, 1.57 Severance Benefits, and 1.65 Temporary Workforce Reduction.</i>)	Transition to the employment "at-will" designation. (<i>1.11 Layoff, 2.3 Hiring, 1.13 Severance Benefits, and 1.12 Temporary Workforce Reduction policies</i>)	Decisions regarding workforce issues will be determined based on skill, qualification, and performance instead of strictly seniority and classification.	Private sector, at-will employers rely on flexibility to ensure that their workforce is properly positioned to compete in the marketplace, while ensuring employees are treated fairly.
Current regulatory policies include provisions that are outside current private sector practices. (<i>DHRM 4.20 FMLA, 1.10 Service Recognition, 1.20 Employee Recognition Program, and ABC Compensatory Leave</i>)	Revise policies that support the need of the company and the motivation of the employees. (<i>4.4 FMLA, 1.19 Service Recognition, 1.20 Employee Recognition and 3.2 Compensatory Recognition</i>)	Revised the FMLA benefit period, updated recognition programs, and placed restrictions on the award of Compensatory Leave.	Maintain regulatory compliance while providing the company with market tested processes that improve engagement and retention.
Flat pay with adjustments only arising from statewide pay increases or agency initiated compensation studies. (<i>DHRM 3.05 Compensation</i>)	A base pay will be established with opportunity for increased pay to be achieved based upon realization of established performance goals. (<i>3.1 Compensation Policy</i>)	A pay for performance model is proposed. Amendment to the introduced Appropriations Act Item 475(Q)(5) is likely necessary to implement proposal	It is an established best practice in the private sector that a "pay for performance" model incentivizes employee performance toward the realization of company goals.

<p>The maximum severance payment to which an employee may be entitled is 36 weeks of salary. <i>(DHRM 1.57 Severance Benefits)</i></p>	<p>The maximum severance payment to which an employee may be entitled is 26 weeks of salary. <i>(1.13 Severance Benefits)</i></p>	<p>The maximum severance payment was reduced from 36 weeks to 26 weeks. This reduction in time will reduce the amount of time ABC pays insurance premiums from 12 months to the severance pay period plus two additional months, not to exceed 26 weeks.</p>	<p>Maintains a generous severance benefit for long-term employees but balances it against fiscal demands. Brings severance payments more in line with the private sector.</p>
<p>Agencies must provide a minimum of two weeks notice to employees before placing them in Temporary Work Force Reduction (TWFR). <i>(DHRM 1.65 Temporary Work Force Reduction)</i></p>	<p>Virginia ABC will strive to provide advance notice to employees before placing them in Temporary Workforce Reduction (TWFR). <i>(1.12 Temporary Workforce Reduction)</i></p>	<p>Removed requirement for ABC to give 2 weeks notice of TWFR. The agency will allow employees to use paid leave scheduled prior to TWFR to reduce leave accrual on the books.</p>	<p>Provides the agency with greater flexibility to use TWFR if necessary and brings the process more in line with the private sector.</p>

Policy Crosswalk

Procurement

Current State	Future State	What Changed	Why?
Vendor performance is not historically captured and dual-channel improvement discussions are not regularly conducted.	Implementation of a Vendor Management program that enables ABC to control costs, drive service excellence and mitigate risks to gain increased value from vendors throughout the contract life cycle (6.3 <i>Vendor Management Policy</i>).	An approach to identify, engage, measure, and analyze vendor performance will be implemented with the long-term goal to scorecard vendors and have continuous tracking and improvement.	Creation of a Vendor Management program will help ABC better control costs, receive service excellence and mitigate risks.
Information repositories and templates do not exist and in cases where they may exist, they are not consistently used.	Implementation of a Contract Administration process of systematically and efficiently managing contract creation, execution, analysis, reporting and closure / renewal, for the purpose of maximizing financial and operational performance and minimizing risk (6.2 <i>Contract Administration Policy</i>).	Information repositories are to be established, contract metrics will be defined, measured and communicated, regular contract audits to be conducted, templates and archives to be created, standardize workflows, and formally manage contract closeout and renewal.	Implementation of a Contract Administration process will help ABC improve efficiency, effectiveness and uniformity within the contract process.
ABC is required to purchase certain items from mandated sources (pens, printing, office furniture, etc.)	ABC will be able to evaluate all options and select vendor based upon best fit and value.	Elimination of mandatory sources through recommended legislation. Submitted as change to 4.1-101.010 in the 2017 proposed legislation amending Authority Act.	This provides ABC with greater flexibility to make business decisions as relates to purchasing and achieve the best value for the agency.
The following procurement methods are designated in the VPPA: competitive sealed bids (IFB), competitive negotiation (RFP), Small Purchase, Sole Source, Emergency and Reverse Auctioning (§2.2-4303, §2.2-4302.1 & §2.2-4302.2).	ABC will use competitive negotiations (RFP), Small Purchase, Sole Source, and Emergency as methods of procurement once it becomes an Authority.	ABC will no longer use competitive sealed bids (IFBs) or Reverse Auctioning as a method of procurement since it prevents negotiation between the vendor and ABC.	ABC should be able to negotiate anything with a vendor, whether price or terms & conditions. A negotiated competitive sealed bid and competitive negotiation would essentially be the same therefore the redundant process is eliminated (IFB).
Any procurement over \$500,000 must be approved by the Secretary of Public Safety	No spending approvals required outside the agency.	Notice of Authority spending over \$500,000 will be provided to the Secretary of Public Safety.	The removal of outside approvals from the procurement process will help ABC to streamline the process and make it more efficient.
The VPPA sets the spending limit for small purchases at \$100,000	ABC is setting the spending limit for small purchases at \$150,000 (2.1 <i>Procurement Responsibility & Authority Policy</i>).	The spending limit for small purchases was increased from \$100,000 to \$150,000.	By make spending limits uniform across all types of purchases, it will help ABC eliminate/reduce employee confusion as relates to purchasing spend limits.
The VPPA sets the spending limit for professional services at \$60,000.	ABC is setting the spending limit for professional services at \$150,000. This excludes construction and A&E (4.1 <i>Procurement of Professional Services Policy</i>).	The spending limit for professional services was increased from \$60,000 to \$150,000.	By make spending limits uniform across all types of purchases, it will help ABC eliminate/reduces employee confusion as relates to purchasing spend limits.

<p>Contract modifications for fixed price contracts require approval by the Governor or his delegate if they exceed 25% of the contract or \$50,000, whichever is greater. (§2.2-4309)</p>	<p>Contract modification for fixed price contracts require the CEO's and CFO's approval if they exceed 25% of the contract. <i>(2.1 Procurement Responsibility & Authority Policy)</i></p>	<p>Notice of significant contract modifications to Authority contracts will be provided to the Governor or his designee.</p>	<p>The removal of outside approvals from the procurement process will help ABC to streamline the process and make it more efficient.</p>
<p>The state small purchase charge card limit per transaction is \$5,000.</p>	<p>ABC's small purchase charge card limit per transaction will be \$10,000 <i>(3.5 Small Purchase Charge Card Policy)</i>.</p>	<p>Based on analysis of ABC's spend data a higher limit was felt to better address actual spend seen within the agency.</p>	<p>Raising the spend limit will result in fewer soliciations thus making the process more efficient for both the business owner and procurement staff.</p>
<p>SWaM vendor usage is mandated to exceed 42% of expenditure spend, along with purchases up to \$100,000 for goods and nonprofessional services and up to \$50,000 for professional services are exclusive to small or "microbusiness" vendors as long as their price is "fair and reasonable."(Executive Order #20 (2014)).</p>	<p>SWaM vendor usage is required when the vendor is a comparable fit and value to other non-SWaM vendors. <i>(3.4 Single Quote, 3.5 Small Purchase Charge Card policies)</i></p>	<p>Spending thresholds will no longer dictate which type of vendor must be used, but rather SWaM will still be a mandate when comparable fit and value can be obtained.</p>	<p>Organization will still utilize SWaM vendors when they are a comparable fit and value to other non-SWaM vendors. In working with SWaM businesses, Virginia ABC will continue to make internal procurement processes more efficient, flexible, and reduce procurement times.</p>

Virginia Alcoholic Beverage Authority

Human Resources Policy Manual

Version 1.0
Effective July 1, 2018

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It is the objective of Virginia Alcoholic Beverage Control Authority (Virginia ABC) to promote equitable and consistent human resource policies which specifically prohibit discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, disability or any other protected status under federal, state or local law, or Executive Order.

Employees at Virginia ABC are at-will employees. As such, this manual is not intended to be, and should not be interpreted as, a contractual commitment of continued employment between Virginia ABC and any employee. This Virginia ABC policy manual should be used as a reference and as a general guide rather than as an inflexible rule book. It is a resource for interpreting the variety of situations which can occur in the workplace. In each case when the policies in this manual are applied to such situations, including employee performance and possible misconduct, the appropriate disciplinary or counseling action will be determined at the Authority's discretion, on the basis of the particular facts or circumstances. Human resource questions, which are not directly addressed in this manual, should be referred to the employee's supervisor or the Human Resources division.

This policy manual contains general statements of policy but not detailed procedural guidelines for each policy. Except for the policy of at-will employment, Virginia ABC reserves the right to revise, delete, and/or add to the provisions of this policy manual. No oral statements or representations can change the provisions of this manual. Virginia ABC makes every effort to keep this manual current; however, there may be times when policies will change before this material can be revised. Furthermore, should there be any discrepancies between the policies contained in this manual and federal, state and local laws or benefit plan documents, employees will be afforded all their rights and privileges under such laws and plans.

The management of Virginia ABC should use this manual in conjunction with other manuals such as the Human Resource Management Manual, the PMIS User's Manual, the Employee Recognition Program Handbook, and the Health Insurance Manual (HIM), as an integrated system of human resource policies and procedures.

Policy Oversight

Develop new or revise existing policies. Provide interpretation for policies contained in the manual.

Policy Application

Ensure the fair and consistent application of all Authority Human Resources policies.

Distribution

Ensure employees are provided with appropriate training and orientation regarding policies and ensure they have access to policies and information. Ensure employees are made aware of new and or revised policies in a timely manner.

It is expected that supervisors at all levels of Virginia ABC management will be knowledgeable of the policies contained in the manual and strive to apply these policies equitably and fairly, and give appropriate consideration to previous actions which may have been taken under these policies.

This manual is a valuable reference for understanding employment policies at Virginia ABC. During an employee's new hire orientation, he or she will be given an opportunity to carefully review this policy manual and/or an employee handbook summarizing the policies contained in this manual.

Employees assigned to the Law Enforcement, Warehouse and Retail Operations Divisions may be subject to additional policies as outlined in their respective divisions' General Orders, Work Rules, or Standard Operating Procedures (SOP).

Section One: General Policies

1.1 Standards of Conduct

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to promote the well-being of its employees by maintaining high standards of work performance and professional conduct.

The objective of this policy is to set forth Virginia ABC's Standards of Conduct and the disciplinary Virginia ABC will utilize to address unacceptable behavior, conduct, and related employment problems in the workplace or outside the workplace when conduct impacts an employee's ability to do his or her job and/or influences Virginia ABC's overall effectiveness.

It is the intent of this policy for Virginia ABC to follow a course of progressive discipline which fairly and consistently addresses employee behavior, conduct, or performance which is incompatible with Virginia ABC's Standards of Conduct for employees. Disciplinary actions may involve a range of corrective and disciplinary actions which are applied based on the nature and history of the misconduct or unacceptable performance. Corrective and disciplinary actions will be administered through a prompt and fair process as described in this policy. The ultimate goal of this policy and its procedures is to help employees become fully contributing members of Virginia ABC. Conversely, this policy is also designed to enable Virginia ABC to fairly and effectively discipline and/or terminate employees whose conduct and/or performance does not improve or where the misconduct and/or unacceptable performance is of such a serious nature that a first offense warrants termination. Management must consult with the Human Resources division prior to taking any formal disciplinary action, such as a Written Notice.

NOTE: Virginia ABC reserves the right to forgo any stage of the disciplinary action process at its sole discretion. Employment at Virginia ABC is at-will. This policy does not change the at-will employment relationship. Employees may terminate their employment relationship with Virginia ABC at any time and for any reason, or for no reason at all, and Virginia ABC has the right to terminate the employment of any employee at any time for any lawful reason, or for no reason at all.

Employee Standards of Conduct

Employees covered by this policy are employed to fulfill certain duties and expectations which support the mission and values of Virginia ABC and are expected to conduct themselves in a manner deserving of public trust. The following list is not all-inclusive, but is intended to illustrate the minimum expectations for acceptable workplace conduct and performance.

Employees who contribute to the success of Virginia ABC's mission must:

- Report to work as scheduled and seek approval from their supervisors in advance for any changes to the established work schedule, including the use of leave and late or early arrivals and departures.
- Perform assigned duties and responsibilities with the highest degree of public trust.
- Devote full effort to job responsibilities during work hours.
- Maintain the qualifications, certification, licensure, and/or training requirements identified for their positions.
- Demonstrate respect for Virginia ABC and toward Authority coworkers, supervisors, managers, subordinates, contractors, vendors and customers.
- Use Virginia ABC and state equipment, time, and resources judiciously and as authorized.
- Support efforts which ensure a safe and healthy work environment.
- Utilize leave and related employee benefits in the manner for which they were intended.
- Resolve work-related issues and disputes in a professional manner and through established business processes, such as open door communications.
- Meet or exceed established job performance expectations.
- Make work-related decisions and/or take actions which are in the best interest of Virginia ABC.

- Comply with the letter and spirit of all Virginia ABC and state policies and procedures, the Conflict of Interest Act, and applicable Commonwealth laws and regulations.
- Report to management and the Human Resources division any job-related charges, such as embezzlement or larceny.
- Report circumstances or concerns which may affect satisfactory work performance to management, including any inappropriate (fraudulent, illegal, unethical) activities of other employees.
- Obtain approval from supervisor prior to accepting outside employment while simultaneously working for Virginia ABC to ensure it does not interfere with employee performance or create a conflict of interest.
- Obtain approval from supervisor prior to working overtime, if nonexempt under the Fair Labor Standards Act (FLSA).
- Work cooperatively to achieve work unit and Virginia ABC goals and objectives.
- Conduct themselves at all times in a manner which supports the mission of Virginia ABC and the performance of their duties.

1.2 Dress Code

The purpose of this policy is to define the dress code standards for all Virginia Alcoholic Beverage Control Authority (Virginia ABC) employees.

It is the policy of Virginia ABC to provide excellence in customer service by promoting a professional business image to internal and external customers. The Authority reserves the right to enforce dress standards acceptable in providing good business practices and service to the general public, the Authority, and the Commonwealth.

Virginia ABC maintains a 'business casual' dress policy, and has established guidelines for employees regarding appropriate dress, grooming, personal hygiene, and overall acceptable business appearance and attire for all employees. The standards reflect our intention to promote a professional image in all work environments. These guidelines are not all inclusive. Division-specific policies may also include additional information regarding dress code guidelines.

Employees who are scheduled to meet with external customers or facilitate a formal training class are expected to dress in traditional business professional attire (dress shirt, tie, jacket / dress suit, or skirt and blouse / business type shoes). Examples include training facilitators, employees representing Virginia ABC during a hearing, and employees presenting Authority information to other governmental officials.

All employees and managers are obligated to help ensure the consistent application and enforcement of our professional image to both our internal and external customers. If a supervisor or manager decides an employee's dress or appearance is not appropriate as outlined in this policy, he or she may take corrective action (refer to Policy 1.1 Standards of Conduct) and require the employee to leave the work area and make the necessary changes to comply with the policy. Time missed to change clothing will be charged to paid leave or leave without pay in accordance with Virginia ABC policy. (Refer to Policy 4.2 Paid Time Off, Policy 4.8 Leave Without Pay – Conditional/Unconditional)

General Standards

- A. The personal appearance of all employees is to be governed by the following:
 1. Clean, pressed, properly fitting business casual attire is appropriate.
 2. Hair must be clean, combed and neatly trimmed or arranged.
 3. Sideburns, moustaches, and beards must be neatly trimmed.
 4. Good personal hygiene must be maintained.
 5. Use perfume, cologne, after shave, and scented lotions sparingly or not at all, as some fragrances can have a debilitating effect on employees with allergies. Employees are expected to be respectful of co-workers who may be allergic or sensitive to odors or scented fragrances.

6. Offensive or vulgar tattoos must not be visible while at work, and visibly adorned body piercings are limited to ears only.
7. Name badges must be worn at all times for security purposes, including in retail stores.

B. The following are some examples of appropriate business casual attire:

1. Casual slacks or pants (i.e. Dockers, khakis, twill); mid-calf or ankle length Capri pants. Pants must be secured near the employee's waist.
2. Collared sport shirts or golf shirts, button-down shirts, blouses, sweaters, turtlenecks, sport coats.
3. Skirts, casual dresses, sundresses with jackets, casual pants outfits. Skirt length must not exceed three (3) inches above the knees.
4. Casual shoes (oxfords, loafers, boots, and sandals) in good condition.

NOTE: Blue jeans and denim may only be worn when approved by the employee's Division Director. Division-specific policies will include details regarding authorized wearing of denim.

C. The following are some examples of inappropriate dress:

1. Faded, baggy (sagging), tight, tattered or torn jeans or pants.
2. Collarless t-shirts, usually a lightweight, knitted cotton, pullover shirt, close-fitting and with around neckline and short sleeves, worn as an undershirt or outer garment.
3. Clothing displaying writing other than a manufacturer's logo.
4. Shorts, overalls, cotton/fleece pants and jogging suits, or 'pajama' pants.
5. Clothing with spaghetti straps; tank tops; halter tops; clothing revealing bare backs, stomachs, midriffs, or excessive cleavage; sheer clothing; or any sexually provocative clothing.
6. Lingerie must neither be visible nor worn as outerwear.
7. "Flip flops" or thong sandals, or other beach shoes.
8. In general, casual attire acceptable in an after work hours, party or social gathering, weekend, or other related environment is not acceptable business casual dress.

Retail Operations

In addition to the General Standards, dress standards specific to store employees may be found in the Retail Operations' SOP. All store employees are expected to be familiar with and in compliance with the established Dress Guidelines.

Enforcement Division

In addition to the General Standards, dress standards specific to all Bureau of Enforcement employees may be found in General Order 28. All enforcement employees are expected to be familiar with and in compliance with the established Dress Guidelines.

Logistics/Procurement & Support Services/Real Estate & Facilities Management Divisions

In addition to the General Standards, the following safety standards are in place for all employees who perform manual work:

- A. Shoes: All employees assigned to the Wholesale/Logistics Warehouse, the Supply Equipment Warehouse, and Real Estate & Facilities Management are required to wear steel-toed safety shoes. The safety shoes must comply with [ANSI standard "USA Standard's for Safety Toe Footwear."](#)
- B. Clothing and Jewelry: All loose articles of clothing must be secured to prevent being caught in moving equipment. Shirts must be completely tucked into pants, sweatshirt strings tucked into shirt, and neckties removed or secured. Dangling jewelry is not allowed (includes necklaces, bracelets, or earrings).
- C. Hair: To prevent being caught in moving equipment, hair longer than shoulder length must be secured on top or in back of head with a hat, hairnet, barrettes, or other appropriate hair accessories.

Exceptions:

- A. Division Directors have the authority to grant temporary exceptions to the dress code policy such as for “casual Fridays”, during scheduled office moves/cleaning, or extenuating circumstances, (e.g. weather, broken air conditioning, documented medical necessity, etc.).
- B. Employees who seek an exception to any part of this policy for religious purposes must submit their request, including the extent of the requested accommodation, in writing to their immediate supervisor. Requests for religious accommodations will be reviewed on a case-by-case basis, and require approval by the Director of Human Resources and the employee’s Division Director.
- C. Denim attire and tennis shoes may be worn on approved CVC Casual Button Day by those employees who meet the CVC eligibility guidelines.

1.3 Alcohol & Other Drugs

The intent of this policy is to define for all employees the Virginia Alcoholic Beverage Control Authority’s (Virginia ABC) expectations with respect to drugs and alcohol.

It is the objective of Virginia ABC to establish and maintain a work environment free from the adverse effects of alcohol and other drugs. The adverse effects of alcohol and other drugs create a serious threat to the welfare of fellow employees and to Virginia's citizens, and undermines the productivity of the Virginia ABC’s workforce, the Authority’s greatest asset. Therefore, Virginia ABC has adopted the following policy and procedures to address alcohol and other drug problems in its workforce.

Employee Responsibilities

- A. Report of Convictions - Employees must notify their supervisors of any conviction of:
 - 1. A criminal drug law, based on conduct occurring in or outside of the workplace; or
 - 2. An alcohol beverage control law or a law which governs driving while intoxicated based on conduct occurring in or outside of the workplace.
 - 3. Guilty plea or determination by court that evidence exists on which a conviction could be obtained.
- B. Method of Notification - Notification of a conviction or deposition pursuant to Code of Virginia §18.2 – 251.1 must be made in writing and delivered no later than five calendar days after such conviction to an employee’s supervisor.
- C. Effect of an Appeal of a Conviction - An employee's appeal of a conviction does not affect the employee's obligation to report the conviction.
- D. Report of Violations – Employees who suspect that another Virginia ABC employee is under the influence of alcohol or other drug must immediately contact their supervisor or the Human Resources division.

Violations - Each of the following constitutes a violation of this policy:

- A. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other drugs in the workplace. Possession of an unopened bottle of alcohol purchased from an onsite Virginia ABC store and accompanied by a purchase receipt will not be a violation of this policy.
- B. Impairment in the workplace from the use of alcohol or other drugs on or off Virginia ABC property, such as employees returning to work after consuming alcohol (i.e. during a scheduled lunch or dinner break).
- C. A criminal conviction for a:
 - 1. Violation of any criminal drug law, based upon conduct occurring in or outside of the workplace.
 - 2. Violation of any alcohol beverage control law or law that governs driving while intoxicated based upon conduct occurring in or outside of the workplace.

- D. An employee's failure to report to his or her supervisor the employee's conviction of any offense, as required in the "Employee Responsibilities" section of this policy.
- E. An employee's failure to notify supervision or the Human Resources division of known violations by other employees.

Substance Abuse Testing Programs

Blood, urine, or other approved sampling methods for drug and alcohol tests must be administered by certified personnel at an approved testing site. The chain of evidence for such samples must be carefully followed to ensure that the sample is submitted properly to the drug test contractor.

A. Reasonable Suspicion Testing

1. Significant and observable changes in employee performance, appearance, behavior or speech that provide "reasonable suspicion" of drug and/or alcohol use are grounds for requiring a fitness for duty evaluation, which may include drug and alcohol testing. Some examples of "reasonable suspicion" for testing include, but are not limited to:
 - a. Observation of inappropriate behavior or performance and/or other problems on the job that might be caused by substance abuse, e.g. stumbling, slurred or incoherent speech, apparent confusion in orientation, emotional outbursts, inability to perform normal job tasks, unsafe handling of equipment or tools, hyperactivity, lethargy, observed consumption of alcohol or drug use, odor of alcohol on breath or person, frequent unscheduled absences.
 - b. Employees who are injured at work as a result of their own actions may be required to submit to drug/alcohol testing if the cause of injury and the employee's behavior leads management to believe that the employee may be under the influence of alcohol or other controlled substance.
 - c. Virginia ABC may also test, to the extent permitted by law, particular employees when management has received information from a source, which in its judgment is reliable, and which leads the agency to conclude that the individual is in probable violation of this policy.
 - d. Instances where alcohol products are reported missing and the employee is a suspect, or where illegal or other drugs are found in the possession of the employee, or in or on personal property brought onto the Virginia ABC workplace premises by the employee, or otherwise while at work.
2. When a supervisor has a reasonable suspicion that an employee may be under the influence of drugs and/or alcohol, immediate action must be taken.
 - a. The supervisor must have another member of management observe the employee's behavior to verify the original suspicions.
 - b. Both managers must document the situation in writing to include date, time, location, description of behavior observed, and any witnesses to the behavior.
 - c. The supervisor must immediately contact the Director of Human Resources or designee (to include after hours and weekends).
 - d. A supervisor will escort the employee to a predetermined contracted drug testing center/facility or will manage the appropriate test on site, if applicable.

B. Post-Accident Testing

If an accident results in serious personal injury or death to another person, the employee(s) involved will immediately be subject to drug/alcohol testing. If an accident results in damage or non-serious injury, the employee(s) involved may be subject to drug/alcohol testing.

C. Employees Subject to Office of Fleet Management Services (OFMS) Regulations

1. All employees in positions requiring the operation of vehicles either owned by Virginia ABC or from the OFMS are required to follow the Virginia ABC policy on [Vehicle Safety and Accident Reporting](#) and [Fleet Management Manual - Rules & Regulations](#)
2. Both policies require the immediate reporting of any accident to the Virginia State Police to do a formal accident report and investigation. Documentation of any alcohol or drug abuse will follow accident-reporting procedures of the State Police.

Disciplinary Action

- A. Any Virginia ABC employee, regardless of employment status, who commits any violation, as described in the “Violations” section of this policy, will be subject to the full range of disciplinary actions, including termination of employment, pursuant to applicable disciplinary policies, such as Policy 1.1 Standards of Conduct.
 - 1. Within 30 calendar days of receiving notice of an employee's criminal conviction, as specified in “Report of Convictions” portion of this policy, or of any other violation of this policy, management will:
 - a. Take appropriate disciplinary action against the employee, up to and including termination of employment; and/or
 - b. Require the employee to participate satisfactorily in a rehabilitation program if a drug-related conviction is received, or recommend such a program if an alcohol-related conviction is received.
 - 2. The severity of disciplinary action for violations of this policy will be determined on a case-by-case basis. Mitigating circumstances that may be considered in determining the appropriate discipline include whether the employee voluntarily admits to, and seeks assistance for, an alcohol or other drug problem. Active disciplinary notices may also impact the severity of action taken.
 - 3. Based on the mission of Virginia ABC, alcohol-related convictions specifically have a negative impact on the Authority and as such will result in disciplinary actions ranging from a Group I Written Notice for non-probationary classified employees or a Written Counseling for probationary employees and wage employees, to a Group III Written Notice (classified employees only) and/or termination of employment (all employees). The level of severity will be determined based on the type of violation (i.e. DUI, purchasing alcohol for a minor, etc.).
- B. One Chance Opportunity – At management’s discretion, employees who would otherwise be terminated as a result of a positive drug or alcohol test and/or a drug or alcohol conviction, or for multiple formal disciplinary actions, may be granted “one opportunity” to rehabilitate provided mitigating factors support the decision. Employees who are afforded “one opportunity” will receive appropriate disciplinary action, and will be required to complete an approved rehabilitative program. Court-ordered rehab programs will also be considered an approved program in this type of situation. Virginia ABC reserves the right to randomly test employees in this program for up to two years after the infraction, at the Authority’s discretion.
- C. An employee's satisfactory participation in a rehabilitation program will be determined by management after:
 - 1. The employee's presentation of adequate documentation of satisfactory participation in the rehabilitation program (Virginia ABC has discretion to determine what documentation will be required); and/or
 - 2. Consultation with an authorized behavioral health administrator or with the rehabilitation program, provided that the employee gives his or her consent when the consultation is to be with the rehabilitation program which treated the employee.
- D. Any employee who violates this policy may be subject to random testing for up to two years at the Virginia ABC’s discretion. Refusal to comply with random testing may be subject to disciplinary action, up to and including termination of employment.

Management Responsibilities

Any Virginia ABC employee with supervisory responsibilities over other Virginia ABC employees is considered management for the purposes of this policy.

- A. Fair application of policy
 - 1. Virginia ABC is dedicated to assuring fair and equitable application of this policy. Therefore, management is required to use and apply all aspects of this policy in an unbiased and impartial

manner, and must contact and work collaboratively with the Human Resources division before taking any action.

2. Any supervisor who knowingly disregards the requirements of this policy, or who is found to have deliberately misused this policy in regard to subordinates, will be subject to disciplinary action, up to and including termination of employment.
- B. Management must provide to every employee an entire copy of Virginia ABC's Policy on Alcohol and Other Drugs. New employees will be given a copy of the policy upon hire. Employees will be required to complete an acknowledgement assessment in EmployeeConnect or the ABC Knowledge Center indicating their receipt of the entire policy.
 - C. Management in conjunction with the Human Resources division will provide training for the Authority and work unit managers and supervisors in the following areas:
 1. How to recognize behaviors that may indicate impairment from alcohol and/or other drug use;
 2. Administration of required testing procedures;
 3. Appropriate referral techniques; and
 4. Resources for rehabilitation for alcohol and other drug use.
 - D. Division Directors and/or the Virginia ABC Contract Administrator will require contractors working in the Authority's workplaces to certify that they will not commit violations as described in Section II of this policy as stated in the Procurement Contract. Where no official contract exists, individuals (i.e. IT Partnership employees) will be required to complete an acknowledgement assessment in the ABC Knowledge Center.
 - E. Upon notification that an employee has been convicted of a drug or alcohol law violation or deposition pursuant to Code of Virginia §18.2 – 251.1, the supervisor must immediately notify the Division Director and Director of Human Resources.
 - F. Within ten (10) calendar days after receiving notice that an employee covered by the federal Drug Free Workplace Act has been convicted of a criminal drug law violation occurring in the workplace, the Authority will notify any federal contracting or granting agency as applicable.

Rehabilitation Programs

Employees with problems related to the use of alcohol or other drugs are encouraged to seek counseling or other treatment. Supervisors, in consultation with Virginia ABC Human Resources division, will provide the following information to employees.

- A. Assistance when an employee is covered under State Health Insurance
 1. Employees are encouraged to consult with a behavioral health administrator to determine appropriate rehabilitation programs.
 2. The Virginia ABC Human Resources division will provide information regarding health insurance coverage for rehabilitation programs. Not all programs are licensed, accredited or covered under employees' health insurance coverage.
- B. Referral Assistance
 1. The Department of Behavioral Health and Developmental Services (DBHDS) maintains a current directory of Community Service Boards (CSB) across the state. These local and regional public funded agencies provide substance abuse services based on the individual's ability to pay. This directory may be reached at [DBHDS - CSB Information](#).
 2. The Department of Behavioral Health and Developmental Services (DBHDS) maintains a list of licensed substance abuse counselors. This directory is available at the agency web site [DBHDS - Licensed Provider](#).

- C. Leaves of absence to seek rehabilitation
 - 1. At the discretion of management and the Director of Human Resources or designee, employees may be granted leaves of absence from work to participate in treatment programs for alcohol and/or other drug use problems.
 - 2. Eligible employees (as defined in section Policy 2.6 Types of Employment) may use their accrued Paid Time Off or Traditional Sick Leave for treatment programs or initiate a claim under the Virginia Sickness and Disability Program (VSDP), as appropriate.

Confidentiality and Maintenance of Records

All records and information concerning personnel actions related to this policy will remain confidential and will be disclosed only with the employee's permission, or when the Authority determines that disclosure is necessary for compliance purposes.

1.4 Workplace Smoking

The purpose of this policy is to ensure the Virginia Alcoholic Beverage Control Authority (Virginia ABC) is in compliance with Code of Virginia §15.2-2800 – 2809 Virginia Indoor Clean Air Act and Executive Order #41 (2006) Banning Smoking in State Office And Vehicles.

Executive Order #41 (2006) prohibits any form of smoking in Virginia ABC or state government offices and Virginia ABC or state owned vehicles effective 1/1/2007. This policy covers the smoking of any tobacco product, including the use of smokeless or "spit" tobacco, and e-cigarettes and vaporizers.

Guidelines

- A. All Virginia ABC facilities are designated "smoke-free." This includes, but is not limited to offices, parking garages, covered walkways, temporary enclosed structures, trailers, tents and retail stores.
- B. Designated smoking areas will be located at least twenty-five (25) feet away from entrances of *all* ABC stores and facilities.
- C. For the convenience of our employees, customers, and visitors to the Virginia ABC Central Office who smoke, the Authority has positioned three gazebos on the property. The three gazebos are located on the north, south, and east sides of the building and are designated smoking areas.
- D. "No smoking" signs will be clearly, sufficiently and conspicuously posted at all entrances, vestibules, lobbies, loading docks and similar entryways where persons enter and exit a facility.
- E. Ashtrays and other smoking paraphernalia will be removed from all areas where smoking is prohibited, but may be provided at permitted outside smoking locations to aid smokers in disposing of smoking materials.
- F. Smoking is banned in all Virginia ABC and state-owned vehicles and rental vehicles.

General Issues

- A. Employees are permitted to smoke only during authorized breaks. Breaks must be in accordance with Policy 1.5 Hours of Work. Tobacco users are not entitled to additional breaks throughout the day.
- B. Management and supervisory staff will be responsible for ongoing compliance of this policy within their work areas. They are expected to adhere to standard practices in resolving issues of nonconformance (in addressing employee complaints) and maintaining expected levels of productivity within their work groups.

- C. Complaints and/or violations must be reported to the employee's immediate supervisor, division director, or to the Director of Human Resources. Violations of this policy by Virginia ABC employees may result in disciplinary action under Policy 1.1 Standards of Conduct.
- D. The Real Estate & Facilities Management division is responsible for posting appropriate signage around Virginia ABC facilities.

Enforcement

- A. All managers and Security employees of the Enforcement division will be responsible for enforcement of this policy in the Central Office.
- B. Store Managers or their designees will be responsible for enforcement of this policy in the Virginia ABC retail stores.
- C. Special Agents in Charge or designee will be responsible for enforcement of this policy in Regional Offices of Virginia ABC.

1.5 Hours of Work

The purpose of this policy is to establish the official workweek and overtime pay practices at the Alcoholic Beverage Control Authority (Virginia ABC). Due to the differing nature of Virginia ABC business or Division guidelines determine employee scheduling needs and management will communicate it to employees as part of their orientation.

It is the policy of Virginia ABC to provide guidelines for scheduling reasonable and flexible work hours for employees, as well as to provide convenient and consistent hours for citizens to transact business with the Authority.

General Provisions

Virginia ABC management reserves the right to establish and adjust the work schedules of employees of the Authority, being mindful of operations and the hours of public need.

Employees are expected to:

- Adhere to their assigned work schedules
- Accurately record all time worked in the timekeeping system
- Take breaks and lunch periods as authorized
- Notify management as soon as possible if they are unable to adhere to their schedules, such as late arrivals or early departures, and work overtime hours when required by management

Workweek Defined

The standard workweek for Virginia ABC is defined as 12:01 AM Monday and ending at 12:00 midnight Sunday, except for sworn employees, and Virginia ABC Store and Warehouse Divisions. Exceptions to the standard workweek may be authorized by the CEO.

The workweek for Virginia ABC wage employees, and Store and Warehouse Divisions (cost code 501 classified) is Friday 12:01 a.m. and ending Thursday at 12:00 midnight.

Virginia ABC sworn employees have a 14-day work period beginning at 12:01 AM Thursday and ending at 12:00 midnight Wednesday. Sworn employees are generally scheduled to work 80 hours during this work period.

Prohibition Against Working "Off the Clock"

Nonexempt employees under the Fair Labor Standards Act (FLSA) must accurately record all time worked in the timekeeping system. Nonexempt employees are strictly prohibited from performing any work which is not

recorded. This ban includes any work performed for Virginia ABC outside normal working hours, such as checking emails or responding to phone calls or text messages, unless preauthorized in writing by the employee's supervisor or manager. There may be emergency situations in which preauthorization is not possible and approval must be obtained as soon as possible thereafter. Failure to accurately record time worked is grounds for discipline, including possible termination of employment.

Any supervisor or manager, who encourages or suggests nonexempt employees work off the clock, is subject to disciplinary action, including possible termination of employment.

Nonexempt Overtime

All employees who are in positions designated nonexempt under FLSA are eligible for overtime pay in accordance with Virginia ABC policy and federal and state regulations and can earn compensatory time. (Refer to Policy 3.3 Overtime Policy and 3.2 Compensatory Leave policies)

A nonexempt employee under the FLSA may work overtime hours only as authorized in advance by his or her supervisor or manager. Overtime hours normally will not be authorized except where required by exceptional circumstances of an emergency or temporary nature.

Employees are expected to work overtime hours as required by their supervisor or manager. Depending on the individual position, overtime is considered a condition of employment, and refusal to accept it when reasonable notice has been given may be cause for discipline, up to and including termination of employment under Policy 1.1 Standards of Conduct.

Work Schedules

The standard hours for employees scheduled to work 8 hours per day or 40 hours per week are between 8:15 a.m. – 5:00 p.m., with an unpaid meal period of 30 – 45 minutes. Divisions of Virginia ABC, such as Warehouse, Retail Operations or Law Enforcement, may establish alternate standard work hours.

Management can temporarily adjust an employee's work schedule within a workweek to avoid overtime liability or to meet operational needs. At management's discretion, employees' schedules can be adjusted to meet the employees' personal needs. While there is no requirement for management to give notice of a work schedule change, whenever possible, a reasonable amount of notice should be given.

NOTE: Refer to Policy 4.2 Paid Time Off, Policy 4.12 Virginia Sickness and Disability Program, and Policy 4.11 Traditional Sick Leave for additional information pertaining to schedule adjusting.

An employee taking approved paid time off or sick leave, or leave without pay during the week may also be asked by his or her supervisor to work additional hours during the same week. With the approval of the employee, Virginia ABC may substitute the additional hours worked for the hours of leave, thus reducing or eliminating the need for the employee to use leave.

When changing the kind of leave requested by an employee and approved by the supervisor, Virginia ABC will ensure employees are able to use their leave as intended within the business demands of the Authority. For example, it is not acceptable for Virginia ABC to substitute compensatory leave for Paid Time Off without the employee's permission.

Meal Periods and Breaks

Supervisors or managers are responsible for scheduling meal periods and/or breaks as described below:

A. Mandatory Meal Period

Employees who work at least six (6) consecutive hours will be afforded a meal period (lunch break) of at least 30 - 45 minutes, except in situations where shift coverage precludes such lunch breaks.

Employees who work a second consecutive shift will be afforded a meal period after working four (4) consecutive hours during the second shift.

Virginia ABC generally recognizes a meal period as unpaid time for which an employee is relieved from work for a period of time. The lunch period is not to be included in the count of hours worked per day, except when Virginia ABC management has designated the lunch break as part of the work schedule. When nonexempt employees are required to periodically work during their meal period or any part of it, the time worked will be counted and must be reported as time worked in the timekeeping system.

B. Discretionary Breaks

Virginia ABC supervisors and managers may grant employees who work an eight-hour day or longer a maximum of one 15-minute rest break before and one 15-minute rest break after the required meal period. Rest breaks are included in the required hours of work per day.

C. Impermissible Use of Breaks

The meal period and the break(s) must be taken separately and breaks may not be used to extend the meal period. Managers reserve the right to determine when or if meal periods may be used to compensate for an employee's late arrival or early departure, or to cover time off for other purposes.

D. Breaks for Breastfeeding Mothers

Reasonable break periods will be provided for a breastfeeding mother to express breast milk for her child for one (1) year after the child's birth. Designated locations other than restrooms, shielded from public view and free from intrusion from coworkers and the public will be provided for the breaks. For nonexempt employees under FLSA, the breaks will need to be documented and reported as non-worked time if they exceed 15 minutes in duration. Breastfeeding mothers requiring these breaks should make the request to their immediate supervisor or manager and communicate the frequency and duration of the breaks.

Alternative Work Schedules

Virginia ABC has implemented the option of alternative work schedules. Employees working alternate work schedules should communicate their available hours of work to the customers and stakeholders. (Refer to Policy 1.16 Alternate Work Schedules.)

1.6 Holidays

The purpose of this policy is to provide eligible employees of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) with paid time off for specific holidays.

It is the policy of the Virginia ABC to provide ten (10) designated paid holidays and two (2) floating paid holidays for eligible employees. Floating holidays are available at the beginning of each calendar year. Any employee hired before the end of the first half of the calendar year receives two days; an employee hired during the second half of the calendar year receives one floating holiday. Upon supervisor approval, floating holidays may be taken in whole day increments on any day within the calendar year. Floating holidays may be used for religious observance, to celebrate an employee's birthday, or any other personal reason. Floating holidays must be used in the calendar year which they were earned.

Virginia ABC will communicate the designated holiday schedule or alternate holiday schedule to employees in a timely manner before the start of the new calendar year. The following is the list of Virginia ABC designated holidays:

Holiday	Date
New Year's Day	January 1

Martin Luther King, Jr. Day	3rd Monday in January
George Washington Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving	4th Thursday in November
Day After Thanksgiving	4th Friday in November
Christmas	December 25

In addition, other full or partial workdays may be designated as holidays by the Governor of the Commonwealth of Virginia or by the President of the United States.

When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday. When a holiday falls on a Sunday, the holiday will be observed on the following Monday. For full-time eligible employees, scheduled to work 40 hours per week, holidays are defined as eight (8) hour workdays. Paid holiday benefits for full-time employees, regularly scheduled to work between 20 – 39 hours, are prorated (i.e., an employee working 30 hours a week, will earn 75% of the value of the Holiday for which they would eligible if working full time).

Nonexempt Employees

Eligible non-exempt employees should ensure that they maintain enough paid leave to cover any personal absence that occurs on the last scheduled workday before a holiday and/or to cover absences on the first scheduled workday after the holiday. This includes any partial day holidays. Eligible nonexempt employees, who are on Leave Without Pay, for any portion of scheduled work hours, will not receive holiday pay.

Nonexempt employees, who are eligible for paid holidays, are paid in accordance with the following chart:

On the last workday before and the first workday after a holiday....	Non-Exempt Employees ⁽¹⁾
Employee Works	Yes
Employee is on Leave with Pay	Yes
Employee is on Leave Without Pay (for any portion of scheduled work hours)	No

NOTE: Nonexempt employees must work and/or be in paid leave status on the last workday before, and the first workday after an observed holiday in order to receive holiday pay.

For eligible non-exempt employees, holiday pay is not considered time worked for the purposes of overtime calculations. Only hours physically worked over 40 hours in any one workweek shall be compensated at the overtime rate, regardless of how many hours are worked on the holiday.

Exempt Employees

Eligible exempt employees who work, are on leave with pay, or on leave without pay for any portion of the scheduled hours will receive holiday pay, unless the employee is on extended leave without pay and not available for work.

Exempt employees, who are eligible for paid holidays, are paid in accordance with the following chart:

On the last workday before and the first workday after a holiday....	Exempt Employees
Employee Works	Yes
Employee is on Leave with Pay	Yes
Employee is on Leave Without Pay (for any portion of scheduled work hours)	Yes, unless on extended leave without pay and unavailable for work

Holiday Pay Calculation

Eligible employees of VA ABC will receive pay for hours worked and for the scheduled holiday in accordance with the following chart:

On the observed holiday, the....	Hours Worked Pay ⁽¹⁾	Holiday Pay ⁽²⁾
Employee is normally scheduled to work and is not required to work due to the holiday	No	Yes
Employee is normally scheduled to work and does work	Yes	Yes
Employee is normally scheduled to not work and does work	Yes	Yes
Employee is normally not scheduled to work and does not work	No	Yes ⁽³⁾

NOTE:

- (1) Hours Worked Pay should equal the number of hours actually worked. It may be provided in pay or in compensatory leave.
- (2) Holiday pay should equal 8 hours for full-time eligible employees and will be prorated for employees regularly scheduled to work between 20 – 39 hours.
- (3) Employees may receive pay or compensatory leave for the number of holiday hours proportionate to their work schedules, not to exceed 8 hours.

Holiday Timing

Eligible employees of VA ABC, who are commencing employment, who are terminating employment, or who are retiring will receive holiday pay if they are actively employed by Virginia ABC on the day of the holiday and have satisfied the requirements for the day before and after the holiday.

Leaves of Absence

Eligible employees of VA ABC will receive holiday pay when on approved leaves of absence in accordance with the following chart:

Type	Eligible for Holiday Pay	Other Notes
Leave with Pay	Yes	Not charged accrued leave for the holiday when a holiday occurs during leave with pay. Also applies to Bone Marrow Donation and Emergency/Disaster Leave.
Short-Term Disability	Yes	Based on the percentage of income replacement the employee is receiving. May use accrued leave to supplement disability benefit to receive 100% of pre-disability income.
Long-Term Disability Working	Yes	Based on the percentage of time the employee is scheduled to work. May use accrued leave to supplement disability benefit to receive 100% of pre-disability income.
Long-Term Disability	No	Ineligible to receive pay or leave for holidays.
Workers' Compensation	Yes	If the holiday occurs during the 92 calendar days for which Workers' Compensation salary supplements are payable.

Alternate Holiday Schedule

Full-time eligible employees who work alternate schedules may be scheduled to work more than eight hours on a holiday. In most cases, these employees are paid their regular salaries for the scheduled hours, including eight hours of pay for the holiday if an employee is not given an alternate day off during the week in lieu of the scheduled holiday. Employees may be eligible for additional pay or compensatory leave, or they may be required to use accrued leave.

Alternate Work Schedules Holiday Pay Calculation

Full-time eligible employees who work alternate work schedules (e.g., 9, 10, or 12 hour shifts) will receive compensation for the holiday equal to 8 hours. Employees must use accrued leave or flex their schedules (with supervisory approval) for the remainder of the work cycle to cover the entire shift.

For eligible employees working alternate work schedules, the formula for calculating leave charged and earned is in accordance with the examples in the following chart:

$$(8 \text{ Holiday Pay Hours} + \text{Hours Worked on Holiday}) - \text{Hours Scheduled to Work} = \text{Hours of Leave Charged (if negative) or Hours of Pay or Compensation Leave Earned (if positive)}$$

Leave Charged or Earned for Alternate Work Schedules	Employees in Example					
	A	B	C	D	E	F
Holiday Pay Hours	8	8	8	8	8	8
Plus (+)Hours Worked on Holiday	0	2	4	8	12	6
Total	8	10	12	16	20	14
Minus (-) Hours Scheduled to Work	12	12	12	12	12	10
Equals (=)						
Hours of Leave Charged (if negative) or Pay or Compensatory Leave Earned (if positive)	-4	-2	0	4	8	4

Employees A, B – If the employee is scheduled for 12 hours and works less than 4 hours, the employee is charged with leave.

Employee C - If the employee works 4 hours, no leave is charged and no additional pay or compensatory leave is earned.

Employees D, E – If the same employee works more than 4 hours, pay or compensatory leave is earned for those hours over 4.

Employee F – If the employee is scheduled for 10 hours and works more than 2 hours, pay or compensatory leave is earned for those hours over 2.

Religious Holidays

Virginia ABC will make reasonable accommodation in granting leave requests for the religious holiday needs of employees unless the accommodation will result in undue hardship to the authority. Employees may use accrued or earned floating holidays, or Paid Time Off, compensatory, or recognition leave. Employees should make these requests in advance to allow Virginia ABC to be able to accommodate these requests.

Transfers and Terminations

Employees will observe the holidays of the receiving agency, department, or authority of the Commonwealth of Virginia. No adjustments may be made for possible holidays lost or gained. Floating holidays are not paid upon termination of employment.

1.7 Emergency Closings

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to provide guidance to employees designated as essential and non-essential during emergency closings of Authority operations. Closings apply only to that portion of a shift or shifts which the employees are normally assigned.

It is the policy of Virginia ABC to provide guidance for employees in the event of emergency closings. This policy explains the notice to work, and pay and leave practices for employees designated essential to Authority operations, as well as for non-designated employees and those working an alternate work schedule. Employees should refer to the Addendum in this policy for additional guidelines. Furthermore, employees assigned to the Law Enforcement, Warehouse and Retail Operations Divisions may be subject to additional

policies as outlined in their respective divisions' General Orders, Work Rules, or Standard Operating Procedures.

This policy will be applied consistently on a statewide basis for circumstances which require emergency closings including inclement weather, utility failure, fire or other forced evacuations from the Authority or work site.

Designated Employees

Designated employees are exempt and nonexempt employees, who are required to work during an authorized closing because their positions have been designated by Virginia ABC as essential to Authority operations during emergencies. (Designated employees may be required to work during times they are not regularly scheduled to work.)

Virginia ABC may designate different employees as essential for different situations. For example, certain employees may be designated as essential to Authority operations during inclement weather situations while different employees may be designated essential during heating or electrical problems.

Notice to Work

- A. Any employee may be designated and required to work/telework during an authorized closing due to emergencies, Authority business needs, deadlines, or other expectations for Virginia ABC delivery expectations. Designated employees will be notified by their supervisor regarding any requirement to work based on advanced as possible notice of pending circumstances related to an emergency situation. These work requirements may include hours of work outside of an employee's normal work schedule, or hours beyond a standard 40 hour work week. A work week schedule is determined by management and may be scheduled to exceed a normal 40 hours work week schedule.

For example: Management may require employees to work an additional 6 hours on Saturday, thus now making the scheduled work week 46 hours. If an employee does not work the full scheduled 46 hours for this work week, then an employee must submit appropriate leave for this missed scheduled time, unless the employee was on previously scheduled and approved leave. All nonexempt employees who actually work hours over 40 hours in a work week will be eligible for overtime. (Refer to Policy 1.5 Hours of Work.)

The decision to require designated personnel to report to Richmond area work sites during authorized closings will be made by the respective Division Directors or designee. This decision will be communicated to the Payroll Manager and to the Director of Human Resources.

1. Designated Employees in Real Estate and Facilities Management are notified by their supervisor of their requirement to work based on advance notice of pending inclement weather reports or other emergency circumstances.
 2. Designated employees in Security are required to work their normally scheduled shifts during authorized closing, regardless if it is an entire shift closing or partial shift closing.
 3. Warehouse personnel are required to call Virginia ABC's main phone number (804-213-4400) two hours prior to their normal shift start time to find out what time or whether to report to work during a declared emergency closing.
 4. Employees teleworking from home or some other remote office/off-site location in any geographic location will work their normal schedule and not be covered by the Emergency Closing policy; unless the physical site has been officially closed, there is a loss of utilities, or connectivity with necessary business support people, equipment, or systems are not available.
- B. Central Office and Regional Offices inside Richmond Area
Decisions to close the Authority within the Richmond area will be made by the CEO of Virginia ABC or a designee. The CEO will exercise the discretion to close operations based on business need, welfare of its employees, and safety concerns for customers and employees.

C. Regional Offices outside Richmond Area

The appropriate Special Agent in Charge (SAC) will make closing decisions for Virginia ABC Regional Offices located outside of the Richmond area. Closing or altering schedule decisions will be timely communicated to the Director of Enforcement (or designee), Director of Human Resources, and Payroll Manager.

D. Retail Stores and Licensee Outlets

The appropriate Regional Manager (RM) will make closing decisions for Virginia ABC retail location closures in their respective regions. Closing or altering schedule decisions will be timely communicated to the Director of Retail Operations (or designee), Director of Human Resources, and Payroll Manager. RM's will decide whether retail locations will close, assume an altered schedule, or remain open based on emergency conditions and safety concerns for both employees and customers. Such decisions will be based on local conditions. Employees in the Retail Operations Division should also refer to Procedure No. SOP 403-7041 for additional policy information.

Virginia ABC Store employees are required to report to work as scheduled, unless they are notified otherwise by their supervisor. If Virginia ABC Store employees have any questions regarding authorized closings, they should contact their supervisor.

E. Warehouse

1. Decisions to close administrative agencies and authorities within the Richmond area will be made by the CEO or designee. When such authorized closings are approved for the Richmond area, this means an automatic 2-hour delay for Warehouse Employees. Warehouse Employees are required to call the Virginia ABC main number (804-213-4400) two hours prior to their normal shift start time to find out what time and whether to report to work during a declared emergency closing.
2. If the CEO or designee announces a delayed opening for Virginia ABC offices, Virginia ABC warehouse employees are expected to report to work at the regularly scheduled time of 6:30 a.m.
3. The Warehouse Supervisor will notify the Payroll Manager and the Director of Human Resources of hours warehouse workers are required to work during an authorized closing.

Compensation for Work

- A. Nonexempt employees who are required to work their normally scheduled shifts during an authorized closing, whether an entire shift closing or a partial shift closing, receive compensatory pay for those hours worked. An employee may elect compensatory leave in lieu of compensatory pay.
- B. All hours worked in a workweek, including hours worked during an authorized closing, will be counted for purpose of determining if overtime pay is warranted for nonexempt employees.
- C. Regular full- and part-time employees who do not report to work as scheduled must charge time missed to Paid Time Off, compensatory or leave without pay as appropriate.
 1. When a 2 hour delay of the work day is determined by the CEO, and conditions create transportation difficulties which result in late arrival to work, such lost time need not be applied to leave balances nor should the employee otherwise experience loss of pay if, in the judgment of the supervisor, the lost time was justifiable in view of the conditions.
 2. If deemed necessary, corrective action for failure to report to work may be taken under Policy 1.1 Standards of Conduct.
 - a. A designated employee's failure to report to work, work an altered work schedule, or work additional scheduled workweek hours beyond forty hours may result in disciplinary action under Policy 1.1 Standards of Conduct, and/or requiring the hours missed to be charged to leave with or without pay, as appropriate.
 - b. Wage employees may be subject to disciplinary action for failure to report to work as required by Virginia ABC management (Refer to Policy 1.5 Hours of Work).

3. For authorized closings, employees who are on approved leave with pay for an authorized closing day will not be charged leave for the day.

D. Wage employees will be compensated only for actual hours worked. Late openings and early closings will not be considered when determining actual hours worked.

Hire, Resignation and Separation Date

- A. When a designated employee is scheduled to begin work on an authorized closing day, he or she is expected to work that day. If he or she does not, the effective employment date will be the first day actually worked.
- B. If the last day a designated employee is to work before separation is an authorized closing day, he or she is expected to work. If he or she does not, the effective separation date will be the last day actually worked. (Refer to Policy 1.10 Termination/Separation from State Service)

Non-Designated Employees

Non-designated employees are those who are not required to work during an authorized closing because their positions have not been designated as essential during emergency conditions. Decisions to close follow the same procedures as those under Designated Employees.

Compensation

A. Full Shift Closing Compensation

A non-designated employee will be paid for the hours that he or she was scheduled to work during an authorized closing, if he or she worked or took paid leave the day before and the day after the authorized closing.

- 1. Pre-approved leave with pay – A non-designated employee who is on pre-approved leave with pay when an authorized closing occurs will have the time charged to the authorized closing and not to personal leave balances.
- 2. Short-term Disability – A non-designated employee who is on short-term disability under VSDP will continue to receive his or her percentage of compensation based on the benefits provided under VSDP.

B. Partial Shift Closing Compensation

A non-designated employee will be paid for the hours that he or she was scheduled to work during an authorized closing if he or she worked or took paid leave the day before and the day after the authorized closing.

Any scheduled hours not worked by a non-designated employee while Virginia ABC was open must be charged to PTO or compensatory leave or leave without pay.

NOTE: When road conditions and transportation difficulties cause a non-designated employee to arrive late, the supervisor may determine that the tardiness was justified. In such cases, the lost time will not be charged to the employee's leave balances or to leave without pay.

- 1. Pre-approved leave with pay – When a non-designated employee is on pre-approved leave during a partial shift closing, the hours of the authorized closing will not be charged to his/her leave balances or to leave without pay.
- 2. Failed to hear closing announcement – When a non-designated employee reports to work as usual because he or she has not heard an authorized closing announcement, he or she will be paid the regular rate of pay for the time worked but will not be credited in addition with

compensatory leave for any time worked during the authorized closing.

NOTE: If the supervisor determines that extenuating circumstances warrant that an employee receives compensatory leave, it may be granted.

C. **Alternate Work Schedule**

The supervisor has discretion to determine whether an employee on an alternate work schedule who was scheduled to work more than eight hours on an authorized closing day will be paid for the eight hours of authorized closing or for the scheduled hours.

When an employee on an alternate work schedule is scheduled to work less than eight hours on an eight hour, authorized closing day, he or she will be paid for hours actually scheduled.

Hire, Resignation and Separation Date

- A. When a non-designated employee is scheduled to begin work on an authorized closing day, he or she will receive pay for that day if he or she works the entire day following the authorized closing.

NOTE: For health insurance purposes, if the employee begins work on the first work day after an authorized closing which occurred on the first work day of the month, his or her coverage will be effective for the month.

- B. Scheduled resignation – When an employee’s scheduled resignation date becomes an authorized closing for the entire shift, the employee will be paid for that day if he/she worked or was on paid leave the day before the authorized closing. (Refer to Policy 1.10 Termination/Separation from State Service)

1.8 Performance Planning & Evaluations

The purpose of this Virginia Alcoholic Beverage Control Authority’s (Virginia ABC) policy is for the establishment of an effective performance management system in order for employees to have a clear understanding of the work expected from them, to receive ongoing feedback regarding how they are performing relative to expectations, to distribute available rewards accordingly, to identify development opportunities, and to address performance that does not meet expectations.

It is the policy of Virginia ABC that the performance planning and evaluation process provide a means for an employee and his or her supervisor to discuss, plan and review performance regularly throughout the review cycle, which culminates in an annual performance evaluation. Regular discussions:

- Help employees clearly define and understand their responsibilities.
- Provide criteria by which employees’ performance will be evaluated.
- Suggest ways in which employees can improve performance.
- Identify employees with potential for advancement within [Company Name].
- Help managers distribute and achieve divisional goals.
- Provide a fair basis for awarding compensation based on merit.

Performance evaluations are conducted on an annual cycle. Employees will generally receive an annual performance evaluation during the established period each year. Performance increases are not guaranteed and are based on Virginia ABC performance and financials and individual employee performance. When provided, a performance increase will accompany a performance evaluation if the employee’s performance and salary level so warrant. (Refer to Policy 3.1 Compensation)

Performance appraisals influence salaries, promotions and transfers. Therefore, it is critical that supervisors be objective and honest in conducting performance evaluations and in assigning overall performance ratings (Refer to the Addendum).

Overview

The Virginia ABC Performance Planning and Evaluation Process consists of a four-phase cycle: planning, managing, evaluating, and rewarding performance.

The planning phase is the foundation of the performance evaluation process. In this phase, employee goals and measures are set for the performance annual cycle through collaboration between the employee and his or her supervisor. Goals which are SMART are specific, measurable, achievable, relevant, and time-based, will increase employee motivation and commitment to goal attainment, leading to greater performance and productivity.

Regular communication between the supervisor and employee is critical during the managing phase of the performance evaluation cycle. Through regular formal and informal conversations, both parties are kept abreast of progress towards the successful completion of performance plans and goals. These discussions also enable the supervisor to provide timely feedback and coaching as the year progresses. Due to the performance cycle spanning several months, it is important for supervisors and employees to keep track of key performance highlights and challenges which occur during the year.

At the conclusion of the evaluation cycle, the supervisor meets with the employee to conduct the annual performance evaluation. If SMART goals have been set in the planning phase, and ongoing communication/feedback has taken place during managing phase, the overall outcome of the annual review should result in spending a minimal amount of time reviewing performance during the review cycle and the majority of the meeting planning for the upcoming review cycle.

When performance increases are available, employees may receive an increase to their annual base pay as a reward for performance. It is important to remember that performance increases should be differentiated between employees based upon their overall performance ratings and position in salary range. (Refer to Policy 3.1 Compensation)

Planning for Performance Cycle

A. Development of Performance Plan

Supervisors and employees work together to develop employees' performance plans according to instructions on Performance Evaluation Form. Generally, discussions should be held within 30 days of the beginning of the performance cycle. With an employee who is beginning a new or different position, these discussions should be held within 30 days of the employee's change date.

B. Approval of Performance Plan

1. The plans are signed by the supervisor and then forwarded to the reviewer for approval.
2. Reviewers should ensure that performance plans are appropriate before signing the forms.
3. Following the reviewers' approval, performance plans are presented to employees for their signatures.

C. Changes to the Performance Plan During Performance Cycle

Changes to the performance plan during the performance cycle generally are used for additional special assignments or material changes which necessitate the need to revise or terminate a specific goal. If, however, it is necessary to change one or more of the Core Responsibilities, the reviewer must approve the change(s). The performance plan is not intended to fully describe the tools or methods used to accomplish work; these may change without requiring a plan revision. If core responsibilities include project-based assignments, supervisors may develop a core responsibility statement indicating the general nature of the projects, and a measure noting that the project is completed in accordance with the objectives, standards, within budget, and timelines established and communicated at the time of assignment.

Changes to the performance plan should be noted on the performance evaluation form and initialed and dated by the supervisor, reviewer, and employee. If it is necessary to add additional pages, each page should be initialed and dated by the supervisor, reviewer, and employee and the page(s) attached to the original form.

Other changes which should be noted on the performance evaluation form include assignments performed for more than 30 workdays while on light duty status or in an acting status.

Managing During Performance Cycle

Supervisors should document employees' performance and provide regular feedback to them throughout the performance cycle. Documentation may be in the form of notes, memos, etc., and must be retained in supervisors' confidential files, rather than in employees' official personnel files.

A. Feedback

Regular feedback provided by supervisors during the cycle may be informal or formal. Frequent informal feedback is encouraged, but there may be times when formal feedback is more appropriate. Formal feedback should be documented through memos or interim evaluations. Employees should receive copies of formal feedback documentation and the copies of documentation (including interim evaluations) should be retained in the supervisor's confidential files for use in completing the annual evaluation. The originals are maintained electronically by the Human Resources division for incorporating into the master personnel file.

B. Interim Evaluations

Employees should receive interim evaluations near the middle of the performance cycle. Interim evaluations should be conducted regularly during the performance cycle to advise employees of their progress toward meeting performance measures or to document performance problems.

Interim evaluations should be maintained in supervisors' documentation files to be used when the annual evaluation is completed.

C. Introductory Employees

Introductory employees should receive formal performance feedback at the 60 and 90 day points and approximately two weeks prior to the completion of their introductory periods. Supervisors should also routinely provide structured feedback to introductory employees during their Probationary Periods. (Refer Policy 1.9 Introductory Period.)

D. Extraordinary Performance During the Cycle

Supervisors are encouraged to recognize incidents of employee performance which are truly extraordinary. A supervisor should document incidents of extraordinary performance on the Acknowledgement of Extraordinary Contribution form. The form must be signed by the supervisor and reviewer, given to the employee, and a copy retained in the supervisor's confidential file until the annual performance evaluation is completed.

E. Identifying Substandard Performance

Supervisors should immediately identify poor, substandard, or unacceptable performance. Supervisors normally should address first-time minor or marginal performance issues through performance counseling and coaching.

An employee may receive a Notice of Improvement Needed/ Substandard Performance form at any time during the performance cycle if the employee exhibits substandard performance on any core responsibility, special assignment, Authority or Division objective, or core value or core competency. Reviewers must approve and sign such Notices. Supervisors should consult with the Human Resources division prior to issuing such notices on methods for improving performance.

Receipt of a Notice of Improvement Needed/Substandard Performance form also may result in issuance of a Written Notice under Policy 1.1 Standards of Conduct.

F. Improvement Plan

The Notice of Improvement Needed/Substandard Performance form must include an improvement plan, which should have an improvement period of no less than 30 days or more than 90 days. The improvement plan will be developed by the supervisor and the employee. If agreement cannot be reached, the supervisor may establish the improvement plan, with guidance from the Human Resources division. The plan should be included on the form or attached to it. Employees should be given a copy of the Notice and improvement plan.

NOTE: If a Written Notice is used in place of a Notice of Improvement Needed/Substandard Performance Form to support a rating of Below Contributor, and the notice is subsequently removed pursuant to the Grievance Procedure, the Performance Evaluation must be modified accordingly.

G. Personnel Changes

If the employee's supervisor leaves his or her position during an employee's performance cycle, the departing supervisor should complete an interim evaluation of the employee's performance.

If, after six months into the performance cycle, an employee transfers, is promoted or demoted into a new position with a different supervisor, within Virginia or to another state agency, then an interim evaluation should be completed. The interim evaluation should be completed by the supervisor prior to the employee's departure. For transfers to another agency, the interim performance evaluation will be completed on the original form and sent with the personnel file to the new agency for retention by the new supervisor.

Evaluating Performance

A. Performance Cycle

To the extent possible, performance evaluations should reflect performance levels for the entire performance cycle.

NOTE: The following types of leave taken must not be used to negatively impact the employee's overall performance rating: overtime, compensatory, on-call, workers' compensation, military, Family and Medical Leave, Short-term Disability, and Long-term Disability-Working status under the VSDP program. However, the time an employee actually works during the performance cycle may impact the percentage of performance increase he or she is eligible to receive. (Refer to Policy 3.1 Compensation)

If a supervisor changes an employee's performance plan during the performance cycle, the employee should be evaluated based on the performance plan in effect during each portion of the cycle. Evaluations of performance during each portion of the cycle should be consolidated to an "overall" rating and documented on the form which is in effect at the end of the cycle. Virginia ABC uses a three-level performance rating scale as defined in the Addendum to this policy:

B. Supervisor's Role

An employee's immediate supervisor must complete the evaluation section of the evaluation form, according to the form's instructions.

If a new supervisor has been assigned during the performance cycle, then the new supervisor should review the performance plan, make necessary modifications, and make his or her own assessment

along with the former supervisor's assessment prior to determining the employee's overall evaluation at the end of the performance cycle.

The new supervisor is responsible for completing the annual performance evaluation. In some cases, however, the reviewer or other designated person may need to assist the new supervisor or complete the evaluation.

An employee who is working for two (2) or more supervisors at the same time should be evaluated by only one of the supervisors, with input from the other supervisor(s). Only the evaluating supervisor should sign the evaluation form.

C. Gathering Information

Supervisors should identify all the potential sources of evaluation information including observable employee behaviors. In addition to the observations of the immediate supervisor, information can come from other sources, including the employee, peers, customers, subordinates, supervisors, and data. Employees should be informed of the potential sources at the beginning of the performance cycle, when they receive their performance plans.

D. Self-Evaluation

Each employee must be afforded an opportunity to provide the supervisor with a self-assessment of his or her job performance for the rating period. The employee should be asked to provide a self-evaluation at least two weeks prior to the evaluation meeting. A supervisor must review and consider the self-assessment when completing an employee's performance evaluation.

E. Team Evaluations

If Virginia ABC evaluates an employee based upon the employee's performance as a team member, each individual team member's supervisor is responsible for conducting the evaluation of that employee's performance throughout the cycle. Performance feedback from others (other supervisors or managers, customers and the employee's peers) may be considered as determined by the supervisor and/or reviewer.

F. Performance Evaluation Meeting

During the performance evaluation meeting only the employee and the supervisor should attend. In order to have the kind of open and honest exchange of information which is vital to the performance management process, it is important that the privacy of the meeting be maintained. In most cases, no third party should be brought into this meeting. If unusual and important concerns require the presence of a third party, a Human Resource professional should attend.

G. Reviewer's Role

The reviewer must review the performance plan and performance evaluation sections of the evaluation form before they are presented to the employee. If the reviewer does not agree with the evaluation, the reviewer should discuss the differences with the supervisor. The reviewer and Division Director have the authority to change the employee's evaluation.

Furthermore, if an employee disagrees with an evaluation and cannot resolve the disagreement with the supervisor, the employee may request the reviewer take another review of the evaluation and meet with the employee.

Re-Assessment

An employee who receives a rating of "Below Contributor" must be re-assessed and have a performance improvement plan developed, as outlined below.

A. Re-assessment Plan

Within 10 workdays of the evaluation meeting during which the employee received the annual rating of Below Contributor, the employee's supervisor must develop a performance improvement plan which sets forth performance measures for the following three months, and have it approved by the reviewer.

- The supervisor should develop a performance improvement plan including, employee development initiatives to improve performance.
- The employee's reviewer, and then the employee, should review and sign the performance improvement plan.
- If the employee transfers to another position during the re-evaluation period, the re-assessment process may be terminated.
- If at any time during the three month re-assessment period the employee's performance does not improve or performance declines, the employee may be subject without a formal re-evaluation to demotion, reassignment, or termination. (Refer to Policy 1.1 Standards of Conduct)

B. Three Month Re-assessment

The employee must be re-assessed within approximately two weeks prior to the end of the three month period. If an employee is absent for more than 10 consecutive work days during the three month re-evaluation period, the period will be extended by the total number of days of absence, including the first 10 work days.

C. If Performance Does Not Improve

If the employee receives a re-assessment rating of "Below Contributor," the supervisor, in consultation with the Human Resources division, may demote, reassign, or terminate the employee by the end of the three (3) month re-evaluation period.

D. Demote or Reassign

At management discretion, an employee whose performance during the re-evaluation period is documented as not improving, may be demoted within the three month period to a position in a lower salary range or reassigned to another position in the same salary range which has lower level duties if Virginia ABC identifies another position which is more suitable for the employee's performance level. A demotion or reassignment to another position will end the re-evaluation period.

When an employee is moved to another position with lower duties due to unsatisfactory performance during, or at the end of the re-evaluation period, the action is considered a Performance Demotion and Virginia ABC may reduce the employee's salary. (Refer to Policy 3.1 Compensation.)

E. Terminate

If Virginia ABC determines there are no acceptable alternatives to demote, or reassign at any time during the 3-month re-assessment period, termination based on the unsatisfactory re-assessment is the proper action.

F. Disciplinary Action

The re-assessment process supports ongoing actions to improve employee performance; however, it does not prevent Virginia ABC from taking disciplinary action based on the employee's poor performance or other reasons stipulated in Policy 1.1 Standards of Conduct.

Retention of Performance Evaluation Forms

A. Completed Evaluation Forms

Evaluation forms, including those developed for re-assessment, are official personnel documents and are maintained electronically.

B. Interim Evaluations and Performance Documentation

Interim evaluations are maintained electronically by the Human Resources division. Copies of interim evaluations may be retained in the supervisor's confidential files until completion of the annual evaluation.

C. Self-Evaluation

Documentation submitted for self-evaluation is maintained electronically by the Human Resources division.

1.9 Introductory Period

The purpose of this Alcoholic Beverage Control Authority (Virginia ABC) policy is to establish guidelines for the introductory period of employment during which the supervisor carefully considers whether the employee is able to meet the standards and expectations of the job and if the employee should be retained by Virginia ABC. The employment at will (defined below) status is not impacted during this introductory period.

It is the policy of Virginia ABC to require employees serve a period of introductory employment. It gives Virginia ABC the opportunity to observe and evaluate the capacity of the employee, which includes the employee's ability to satisfactorily perform the essential functions of his or her job; and to observe and evaluate the employee's work habits and conduct, including attendance and the employee's relationship with coworkers and management.

Introductory Period Requirements

All persons, who begin either original employment or re-employment serve an 180-day introductory period effective from the dates of their employment. This includes employees who transfer from other agencies in the Commonwealth to Virginia ABC.

Although newly promoted employees do not serve an official introductory period, they must receive a minimum of two interim evaluations during the same 180-day period to determine continued suitability for the new position. The employee may be offered to be returned to his or her previous position or an equivalent vacancy if the evaluation period is not completed for any reason other than misconduct under Code of Virginia §2.2- 2812 and there is a position vacancy.

A. New Introductory Period Required

A person who is selected for a position which requires certification following completion of a prescribed training program must complete a new introductory period.

B. Notification of New Introductory Period

Offer letters or other written employment notification also must include information about the additional introductory requirement, as appropriate.

Extended Introductory Period

A. Performance Reasons

Introductory periods may, at the sole discretion of Virginia ABC, be extended for up to 30 additional days for performance reasons. The reasons for the extensions must be documented on an

Introductory Progress Review form (refer to Attachment A). The supervisor of an employee's immediate supervisor must approve extensions of the introductory period for performance reasons. If the reviewer's position is vacant, the next level of management must approve. The decision to extend an introductory period must be in consultation with the Department of Human Resources and tracked electronically.

Documentation used by Virginia ABC to support extending the introductory period must provide information to the employee about the performance deficiencies, expected level of performance and the period for which the introductory period is extended.

B. Leave

Introductory periods will be extended when employees are on leave with or without pay, including Workers' Compensation, Family Medical Leave, Military leave with or without pay, or on VSDP (Virginia Sickness and Disability Program) short-term disability (STD) leave or long-term disability (LTD)-Working status for more than 14 consecutive calendar days. Also included are periods of short-term disability where the employee is working in an "active employment" status with restrictions/modifications.

Extensions include the first 14 days of absence, as well as those days in excess of 14, up to the return to work date.

C. Change of Position During Introductory Period

When an introductory employee moves to a different position within Virginia ABC during the introductory period, Virginia ABC has the discretion to start a new introductory period, extend the original introductory period or allow the employee to complete the original introductory period.

D. Limitation on Extension

The total introductory period may not exceed 7 months, excluding periods of leave with or without pay as described above.

E. Notice of Extension

Employees must be notified in writing if their introductory periods will be extended for performance reasons or due to leave or if a new introductory period is required as a result of a change in position.

Performance Expectations

The supervisor will review performance expectations with each new employee within the first 30 days of employment. (Refer to Policy 1.8, Performance Planning and Evaluation.) The supervisor should also inform the employee of any training or support available to them during the introductory period to help ensure his or her success.

A. Performance Feedback and Documentation

Supervisors are responsible for providing feedback and evaluating new employees' performance frequently during the introductory period. An Introductory Review Form must be completed during the introductory period to document the employee's progress and to provide feedback to the employee.

Documentation of an employee's progress during the introductory period, such as memoranda, should be kept in a confidential supervisor's file separate from an employee's official personnel file. (Refer to Policy 6.2 Personnel Records Management) Employees should be provided copies of interim evaluations.

Introductory Progress Reviews

A. 60 and 90 Days

The supervisor will meet with the introductory employee at 60 and 90 days to advise the employee of his or her progress toward meeting established performance plans. The supervisor should review with the employee:

- The performance plan which was discussed at the beginning of employment (Refer to Policy 1.8, Performance Planning and Evaluation Policy); and

- An Introductory Progress Review form, which the supervisor has completed based on the employee's performance to date. (A rating of "Contributor" indicates satisfactory performance.)

NOTE: Decline in or unsatisfactory performance at any time during the introductory period may be a basis for termination of employment.

B. End of Introductory Period

The supervisor will meet with the introductory employee approximately 2 weeks prior to the completion of his or her introductory period and provide a progress review. The Introductory Progress Review form is to be used for this formal progress review.

C. Record Retention

The Introductory Progress Review forms completed at 60 and 90 days and at the end of the introductory period are official forms of Virginia ABC, which must be kept in the employee's master personnel file maintained by the Department of Human Resources. Copies of Introductory Review Forms may be retained in a supervisor's file until completion of the review at the end of the introductory period. (Refer to Policy 6.2 Personnel Records Management)

Interim Progress Reviews

A. 60 and 90 Days

The supervisor will meet with the newly promoted employee at 60 and 90 days to advise the employee of his or her progress toward meeting established performance plans. The supervisor should review with the employee:

- The performance plan which was discussed at the beginning of employment (Refer to Policy 1.8, Performance Planning and Evaluation Policy); and
- An Interim Progress Review form, which the supervisor has completed based on the employee's performance to date. (A rating of "Contributor" indicates satisfactory performance.)

NOTE: Decline in or unsatisfactory performance at any time during the interim evaluation period may be a basis for termination of employment.

B. End of Interim Evaluation Period

The supervisor will meet with the newly promoted employee approximately 2 weeks prior to the completion of his or her 180-day interim evaluation period and provide a progress review. The Interim Progress Review form is to be used for this formal progress review.

C. Record Retention

The Interim Progress Review forms completed at 60 and 90 days and at the end of the 180-day interim evaluation period are official forms of Virginia ABC, which must be kept in the employee's master personnel file maintained by the Department of Human Resources. Copies of Interim Review Forms may be retained in a supervisor's file until completion of the review at the end of the interim period. (Refer to Policy 6.2 Personnel Records Management)

Employment At Will

During the introductory or interim evaluation period, Virginia ABC may immediately terminate employment, with or without cause and with or without notice. Likewise, the employee may also terminate his or her employment with Virginia ABC at any time, with or without notice and with or without cause. The introductory or interim evaluation period is not a term of employment and is not intended, nor does it, impact the at will nature of the relationship between Virginia ABC and the employee.

Completion of Introductory Period

The supervisor should notify the employee in writing when the 180-day introductory period has been completed satisfactorily.

If an introductory employee works beyond the 180-day period without being notified (1) of satisfactory completion or (2) that the introductory period was extended, the employee will be regarded as having successfully completed the introductory requirement.

Termination or Disciplinary Action

If Virginia ABC determines at any time during the introductory period that an employee is not suited for the job, the employee should be terminated or allowed to resign. Records related to termination will reflect "Unsatisfactory performance during the introductory period" or "Resignation in Lieu of Termination."

Prior to, or in lieu of, termination, introductory employees may be disciplined (using Policy 1.1 Standards of Conduct as a guide.). Written Notice forms may not be issued when disciplining introductory employees.

Notice of termination will be in writing by memorandum or letter, not by a Written Notice form under the Standards of Conduct Policy. If notification must be made by mail, it should be sent by certified or registered mail.

Initial introductory employees do not have access to the Virginia ABC grievance procedure. (Refer to Policy 1.14 Grievance Procedures)

An introductory employee who claims that termination or other disciplinary action was based on race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, disability or any other protected status under federal, state and local laws may file a discrimination complaint using the following options.

A. **Concerns or Complaints of Discrimination or Retaliation**

Per the Executive Order, any Virginia ABC introductory employee may bring his or her concerns or file a complaint in accordance with Policy 2.1 Equal Employment Opportunity and Policy 2.7 Workplace Harassment.

No employee will be retaliated against for raising good faith concerns about a violation of the nondiscrimination policy.

Performance Increases During the Introductory Period

Increases for newly promoted introductory employees must be based on their most recent Introductory Progress Review ratings. Ratings must be at the Contributor level or above to be eligible for performance increases, as outlined below.

- Introductory employees will be evaluated on the Introductory Progress Review form.
- Any form used to support a performance increase will be retained in the employee's official personnel file.
- An employee's overall performance must be rated at the Contributor level or above to receive a performance increase.

1.10 Termination/Separation from State Service

It is the policy of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) to ensure that employee separations and transfers, including interagency and internal transfers within Virginia ABC, voluntary and involuntary terminations and separations due to the death of an employee, follow standard procedures.

This policy outlines the different types of transfers and separations of employment from Virginia ABC and the related procedures and the benefits the employee is entitled to.

Separation of employment from Virginia ABC- whether voluntary or involuntary – marks the end of the employment relationship between the Authority and the employee. A voluntary separation occurs when an employee leaves a job on his or her own initiative, as with a resignation, interagency transfer to another state agency, or retirement. An involuntary termination is one initiated by the Authority, and includes a layoff or discharge. Certain employees who separate voluntarily, including interagency transfers, or who are laid off and are later reemployed by Virginia ABC may be eligible for reinstatement of certain benefits.

Employment at Virginia ABC is at-will. Employees may terminate their employment relationship with Virginia ABC at any time and for any reason, or for no reason at all, and Virginia ABC has the right to terminate the employment of any employee at any time for any lawful reason, or for no reason at all.

Types of Employee Separation from Virginia ABC Service

A. Resignation

1. Resignation is an employee's voluntary separation of employment from Virginia ABC service.
2. Advance notice
 - a. An employee who plans to resign from Virginia ABC service is asked to give reasonable notice, preferably at least two weeks, along with a written explanation for the resignation.
 - b. An employee's failure to give reasonable notice of resignation may be documented on the employee's termination report.
3. Withdrawal of resignation
 - a. Virginia ABC may choose to accept an employee's request to rescind his or her resignation within 30 calendar days of separation. If the Authority accepts the request to rescind the resignation the PMIS transaction should be changed to reflect a leave without pay for the period of separation, therefore, the employee will not experience a break in service. Upon Virginia ABC approval, an employee may use appropriate accrued PTO or other leave to cover the absence.
4. Job Abandonment
 - a. Refers to the voluntary resignation of the employment when an employee, who is not on any form of authorized leave fails to show up to work or fails to contact his or her supervisor for three working days, unless there are extenuating circumstances, which otherwise prevent the employee or a personal representative of the employee from notifying Virginia ABC of the reason for the absence.
5. Involuntary
 - a. A separation which is reported as a resignation, but is later found to have been involuntary will be treated as a discharge. (Refer to Discharge section.)

B. Interagency Transfer

1. A separation of employment with Virginia ABC to work for another agency of the state.

C. Retirement

1. There is no mandatory retirement age for employees.
2. Disability retirement
 - a. Any employee who participates in the Traditional Sick Leave Program, regardless of years of State service, including service with Virginia ABC, is eligible to apply for disability retirement while employed or within 90 days after termination, so long as:
 - i. While employed, the employee acquires a disabling condition which is likely to be permanent, as documented by a physician; and
 - ii. The condition prevents the employee from performing his or her job.
 - b. The amount of disability benefits will vary according to an employee's years of service and age.
3. Early retirement
 - a. An employee may take early retirement if he or she: is
 - i. At least 55; and

- ii. Has at least five years of service with Virginia ABC and the state.
- b. Early retirement may result in reduced benefits if the employee has less than 30 years of service.
- 4. Retirement as an alternative when employee who participates in the Traditional Sick Leave Program becomes unable to perform the job. (Refer to Policy 4.11 Traditional Sick Leave)
 - a. If an employee becomes mentally or physically incapable of performing his or her job, and there is no reasonable job accommodation identified first through the exploratory process, including through transfer or demotion to another position, which will enable the employee to perform his or her job, Virginia ABC may require the employee to apply for disability or early retirement.
 - b. If an employee such as one described in section Disability Retirement above declines disability or early retirement, Virginia ABC may apply Policy 1.1 Standards of Conduct, to address unsatisfactory performance.
- 5. For additional information on retirement benefits, consult the Virginia Retirement System's resources at [Virginia Retirement System Publications](#).

D. Death

Termination of employment from Virginia ABC due to the death of the employee.

E. Discharge

Discharge is an employee's involuntary termination from Virginia ABC service; however, it does not include termination as a result of layoff, which is described in the Separation-Layoff section below.

F. Separation-Layoff

Separation-layoff is a separation from Virginia ABC service as the result of a layoff, or prior to the return from temporary work force reduction, or because the employee rejected an offer of re-employment which offers the same salary and does not require relocation. (Refer to Policy 1.11 Layoff)

Benefits Upon Employee Separation From Virginia ABC Service

In addition to retirement benefits which may be payable to retiring employees, employees separating from Virginia ABC service, excluding interagency transfers, may be entitled to the following:

A. Payment for Accrued Leave

Covered employees separating from Virginia ABC service may be entitled to receive payments for accrued Paid Time Off, traditional sick leave, compensatory and leave, in accordance with the Leave Policies. Employees who participate in the Virginia Sickness and Disability Program and who have disability credit balances may be entitled to receive payment or convert the credits into VRS service credit. (Refer to Policy 4.12 Virginia Sickness and Disability Program.)

B. Health Insurance

Employees separating from Virginia ABC service may be eligible to continue health insurance coverage through the state and should consult with the Human Resources division regarding options. Employees may have additional options through www.healthcare.gov.

Recording Date of Employee Separation and Accrued Leave

A. Employee Not on Leave

The termination report of an employee not on leave must state the separation date as the last day the employee worked and will include any amounts to be paid for accrued PTO and other leave.

B. Employee on Leave

1. Employee on leave with pay
The termination report of an employee on leave with pay will notate the termination date as the last day that the employee was on paid leave.
2. Employee on leave without pay
The termination report of an employee on leave without pay who fails to return to Virginia ABC service will notate the termination date as the last day of leave without pay.

Final Pay

An employee who voluntarily separates from Virginia ABC employment or is terminated will be paid through the last day of work, plus any unused accrued Paid Time Off or other leave benefits subject to specific policy limitations, less outstanding advances or other agreements the employee may have with the Authority. In cases of an employee's death, the final pay due to that employee will be paid to the Administrator or Executor of the employee's estate. If there is no Administrator or Executor, payment will be made in accordance with the Code of Virginia § 64.1-123.

1.11 Layoff

The purpose of this policy is for Virginia Alcoholic Beverage Control Authority (Virginia ABC) to implement reductions in the work force according to uniform criteria when it becomes necessary to reduce the number of employees or to reconfigure the work force including change of positions from full-time to part-time status. The decision to implement layoff must be nondiscriminatory and must comply with the provisions of Policy 2.1 Equal Employment Opportunity. This policy should be used with Policy 1.13 Severance Benefits. It is the policy of Virginia ABC to ensure the equitable treatment of employees when reduction in force becomes necessary. If it becomes necessary to terminate an employee's employment or reduce his or her hours because of lack of work, changes in the nature and scope of the work, or for other operational reasons, the termination or reduction in hours is considered a layoff.

Virginia ABC will strive to provide as much notice as feasible to employees to be affected by layoff. The final written notice may be given to employees on the effective date of the layoff. The notification will include the reason for the layoff and the effective date of the layoff as well as any other pertinent information.

NOTE: Layoff is not to be used to address performance issues or to terminate poor performers. Poor performance is handled under Policy 1.1 Standards of Conduct or Policy 1.8 Performance Planning and Evaluation.

Summary of Layoff Process

Virginia ABC management should conduct the following process in implementing layoff:

- Consider alternatives to layoff.
- Identify position(s)/duties to be eliminated using steps provided in this policy.
- Determine whether a voluntary layoff program is a viable alternative to implementing involuntary layoffs.
- Identify employees affected by the decision to reduce or reconfigure the work force using steps provided in this policy.
- Determine if viable placement options exist within the Authority and make offer(s) to affected employee(s), which may result in:
 - Placement in the same salary range;
 - Demotion in lieu of layoff; or
 - Layoff.
- If no viable placement option exists prior to layoff for employees identified by the layoff sequence, Virginia ABC may decide to notify other employees in the same work unit, geographic area, and position, who are performing substantially similar job duties of the layoff of an employee or

employees. Employees may then notify management in writing of their voluntary interest in being considered for layoff.

- Implement the layoff, including providing written notification and administering severance benefits to eligible employees affected by the layoff.

Virginia ABC Decisions Prior to Implementing Layoff

Virginia ABC determines the factors which will guide the layoff process according to the criteria below. The Authority is responsible to identify employees for layoff in a manner consistent with business needs and the provisions of this policy.

Before implementing a layoff, Virginia ABC should:

- Determine if there are alternatives to layoff, such as a freeze on hiring, promotions, or pay raises, asking employees to take time off, and/or cutting other costs.
- Determine whether the entire Authority or only certain designated work unit(s) are to be affected;
- Designate business functions to be eliminated or reassigned;
- Review vacant positions within Virginia ABC to identify valid vacancies which can be used as placement options in lieu of layoff, and
- Determine if Virginia ABC will offer the option which allows other employee(s) in the same work unit, position, and performing substantially the same duties to request in writing to be considered for voluntary layoff if no placement options are available for employee(s) initially identified for layoff.
- Conduct a disparate impact analysis of the planned layoff.

NOTE: Valid vacancies may be filled after Virginia ABC has determined that no employees to be affected by the layoff are eligible for or interested in the positions.

Implementing Layoff

A. Layoff Selection Process

After identifying the work which is no longer needed or must be reassigned, Virginia ABC must select employees for layoff. Employees will be selected for layoff based on several criteria. Evaluation of the foregoing criteria will be within the sole discretion of Virginia ABC.

- The needs of Virginia ABC and the ability to fulfill those requirements.
- Promotion potential and transferability of skills to other positions within Virginia ABC.
- Demonstrated current and past performance.
- Knowledge, skills, abilities, education and experience level.
- Demonstrated productivity, including attendance (with the exception of certain approved absences, such as FMLA).
- Disciplinary record.
- Employee status, such as regular full- and part-time employees, and wage employees. Generally wage and regular part-time employees are selected for layoff over regular full-time employees.
- Length of service with Virginia ABC.

B. Reduction to Part-time

To achieve the required savings, or to respond to changed workload patterns, Virginia ABC may reduce a regular full-time position to regular part-time status (minimum of 20 hours per week). If the employee chooses to remain in the part-time position, he or she will be considered sufficiently qualified and a suitable regular full-time position becomes available as determined by Virginia ABC.

If an eligible employee declines the part-time position, he or she may be eligible for layoff and severance benefits.

Layoff for Employees on Leave of Absence

A. Leave with Pay, Family and Medical Leave or Unconditional LWOP (Position Held)

Employees who are on any paid leave, Family and Medical Leave (refer to Policy 4.4 Family Medical Leave) or on Unconditional Leave Without Pay (position held, refer to Policy 4.8 Leave Without Pay Conditional/ Unconditional) are considered active employees and will be treated as if they were in their positions. If their positions are to be abolished and they are otherwise qualified to receive the benefits outlined herein, they must be provided placement options and the appropriate severance benefits.

If their positions are not being abolished, they may not be used as placement options for other employees impacted by layoff.

B. Military Leave Without Pay

Employees on Military Leave Without Pay generally are eligible for placement or recall if a suitable position becomes available as determined by Virginia ABC under this policy and for severance benefits under Policy 1.13 Severance Benefits. Employees on leave without pay-military retain employment rights for five years as stated in the Uniformed Services Employment and Reemployment Rights Act (USERRA). Refer to Policy 4.9 Military Leave, for information on reemployment rights.

Layoff benefits will be made available to eligible employees on Military Leave Without Pay upon their return if their position was abolished during their absence and no other placement option is available upon their return.

C. VSDP - Short-Term Disability (STD) and Long-Term (LTD)-Working Disability

Employees on STD and LTD-working under the VSDP may receive notice of layoff. Eligible employees may be on leave without pay-layoff and VSDP short-term or LTD-working status concurrently. (Refer to Policy 4.12 Virginia Sickness and Disability Program)

The effective date of layoff for these employees will be the date designated by Virginia ABC regardless of their VSDP status.

D. Long-Term Disability (LTD), and Conditional Leave Without Pay (LWOP) (Position Not Held)

Employees who are on LTD under the VSDP (refer to Policy 4.12 Virginia Sickness and Disability Program) or who are on Conditional Leave Without Pay (position not held, refer to Policy 4.8 Leave Without Pay-Conditional/Unconditional) generally are not eligible for placement or for severance benefits under Policy 1.13 Severance Benefits.

Positions of employees on LTD or on Conditional LWOP may be considered valid vacancies and used as placement options for employees impacted by layoff.

E. Workers' Compensation

Employees receiving Workers' Compensation benefits can be notified of layoff. The layoff effective date for these employees will be the date designated by Virginia ABC regardless of their Workers' Compensation status.

Placement Opportunities Before Layoff

A. Pre-Layoff Leave

Virginia ABC will grant pre-layoff leave to employees who will be impacted by layoff unless Authority business needs preclude approval. Pre-layoff leave granted on an intermittent basis, should be scheduled and approved by the employee's supervisor before it is used.

B. Placement Within Virginia ABC

During the time between Initial Notice and Final Notice of Layoff, Virginia ABC at its sole discretion, will attempt to identify internal placement options for the affected employees using criteria such as the following:

- The needs of Virginia ABC and the ability to fulfill those requirements.
- Promotion potential and transferability of skills to other positions within Virginia ABC.
- Demonstrated current and past performance.
- Knowledge, skills, abilities, education and experience level.
- Demonstrated productivity, including attendance.
- Disciplinary record.
- Employee status, such as regular full- and part-time employees, and wage employees. Generally wage and part-time employees are selected for layoff over full-time employees.
- Length of service with Virginia ABC.

After Virginia ABC has identified employees eligible for placement, an attempt will be made to place them in valid vacancies for which the employee is best qualified at the same or lower level in the same or lower Pay Band, regardless of work hours or shift. Once such a position has been offered and declined by the employee, Virginia ABC has no obligation to consider additional placement options for the employee.

C. Placement of Employees on Leave With Pay, Unconditional Leave Without Pay for Illness or Disability, and VSDP

Eligible employees identified for layoff while on

- Leave with pay,
- Unconditional leave without pay for illness or disability,
- STD, or
- LTD-working

Virginia ABC must hold positions identified as placement options for the period of time that an employee is eligible for FMLA.

D. Effective Date of Placement

Placement within Virginia ABC should take place on the date the layoff would have become effective; however, the Authority may determine it is in the best interest of the employee and/or the Authority to make the placement effective prior to that date.

E. Notice of Placement

If a placement option is identified within Virginia ABC, the Authority must give the employee a final layoff notice using the L-1 Form indicating that the employee is being offered placement and the employee's acceptance or declining of the placement. This notice should be given prior to the effective date of layoff.

F. Use of Regular Part-Time Positions as Placement Options

Regular part-time positions may be offered to regular full-time employees as placement options if there are no regular full-time positions available for placement. Employees who accept such placement will be eligible, if sufficiently qualified, for a suitable position if one becomes available as determined by Virginia ABC and the continuation of health benefits in accordance with this policy and Policy 1.13 Severance Benefits.

If the employee chooses to remain in the part-time position, he or she will be considered sufficiently qualified and when a suitable regular full-time position becomes available as determined by Virginia ABC. Employees will remain eligible for the continuation of health benefits for one year through

Eligible employees who decline placement to regular part-time positions will have their employment terminated under the layoff and will be eligible for layoff benefits and severance benefits, if applicable, as described in Policy 1.13 Severance Benefits.

G. Best Qualified

Virginia ABC management, at its discretion, must determine whether an employee is *[best] qualified* for the position being considered as a placement option. The Employee Work Profile, the employee's work experience, qualifications, and performance evaluations should be used as guides in making this determination.

H. Compensation

It is the intent of Virginia ABC to maintain employees' salaries where possible; however, when it is not feasible due to budget constraints, Virginia ABC may offer lower salaries to employees who are placed in lieu of layoff.

1. Placement within the same salary range

Normally, placement within the same salary range, whether to the same or a different job, does not result in a change in the employee's base salary. However, if funding constraints exist, Virginia ABC may offer a lower salary upon placement. Employees who accept placement within their same Pay Band which results in a salary reduction will be eligible to apply, if sufficiently qualified, for a suitable position if one becomes available as determined by Virginia ABC.

2. Demotion in lieu of layoff

Employees who are placed in positions which are in lower Pay Bands normally will retain their salaries if the salaries are within the employee's new Pay Band. If an employee's salary is above the Pay Band's maximum, Virginia ABC may freeze the employee's current salary for a maximum of six months from the placement date, before reducing it to the maximum of the Pay Band. However, if funding constraints exist, Virginia ABC may immediately reduce the salary to the maximum or offer a lower salary upon placement. Employees who accept placement in a lower Pay Band, which results in a salary reduction, will be eligible to apply, if sufficiently qualified, for a suitable position if one becomes available as determined by Virginia ABC.

3. Loss of Differential

If the position offered as a placement option is not assigned a differential similar to the employee's former position, the Authority may remove the differential at placement, resulting in a salary reduction. Employees who accept placement to a position which results in loss of differential (salary reduction) will be eligible to apply, if sufficiently qualified, for a suitable position if one becomes available as determined by Virginia ABC.

4. Performance increases

An employee who is placed within Virginia ABC will be eligible for performance increases in accordance with Policy 1.8 Performance Planning and Evaluation and Policy 3.1 Compensation.

I. Decline Vacancy

1. Reduction in salary

An employee may decline a position which results in a salary reduction including loss of a differential (regardless of the location of the position) and if eligible, will receive layoff and severance benefits.

2. Relocation

An employee may decline a position which would require relocation (regardless of salary) and if eligible, will receive layoff and severance benefits.

3. No reduction in salary or relocation

An employee who declines a regular full- or part-time vacancy in the same or lower Pay Band which (1) would not require relocation or (2) would not result in a reduction in salary or classification will be separated under the layoff and will not be entitled to other benefits under this policy or to severance benefits.

J. Alternative Employee Designation When No Placement Options Available

Virginia ABC may choose to lay off employees who agree in writing to accept voluntary layoff instead of those employees identified by the above process. Before this can occur Virginia ABC must:

1. Determine that they want to use this option in implementing the layoff;
2. Notify other employees in the same work unit who are in the same position performing substantially the same duties as those of the identified employee; and
3. Ensure that these decisions support Virginia ABC operational needs and are in compliance with the other provisions of this policy.

Eligible employees laid off will receive layoff and severance benefits. (Refer to Policy 1.13 Severance Benefits)

Final Notice of Layoff

A. Final Notice

If no placement options are available within Virginia ABC as determined by the Authority or within other Executive Branch agencies as investigated by the employee, Virginia ABC will:

- Give the employee a final layoff notice using the L-1 Form indicating the employee effective date of the layoff. This notice can be given either as part of the initial notice if Virginia ABC has already determined there are no placement options within the Authority or as a final notice after Virginia ABC has reviewed all placement options and determined there are none available.
- Inform the employee of his or her eligibility to severance benefits,
- For employees not entitled to severance benefits, Virginia ABC must provide information on continuance of life insurance and health insurance (COBRA).

Placement Opportunities After Layoff

A. Return to Virginia ABC

Following layoff, employees may apply for vacancies at Virginia ABC for which they are sufficiently qualified as determined by Virginia ABC. (Refer to Policy 2.3 Hiring)

During an employee's severance period, Virginia ABC may at its discretion recall an employee to a position in his or her position and salary held at layoff. Consideration will be given to the best qualified individual as determined by Virginia ABC.

1. Rehire Declined

- Same Position-No Salary Reduction: If an employee declines a position in the same role as his or her former position which does not require relocation or a salary reduction, his or her severance benefits cease.
- Relocation or Salary Reduction: An employee may decline rehire and retain eligibility for any remaining severance if the offered position:
 - Requires the employee to relocate, or
 - Results in a salary lower than the salary of his or her former position.

2. Performance Increases

Employees who are rehired may be entitled to performance increases in accordance with the provisions of Policy 1.8 Performance Planning and Evaluation and Policy 3.1 Compensation.

B. Return to State Employment

Employees should reference [DHRM Policy 1.30 Layoff](#) for information on the procedures and recall rights of former state employees in other state agencies.

Effects of Layoff on Leave Accruals and Service Credit

A. Paid Time Off and Annual Leave Bank

An employee who is laid off will be paid for his or her unused PTO and Annual Leave Bank up to the maximum allowed in accordance with Policy 4.2 Paid Time Off.

Employees, subject to layoff, who transition from STD to LTD, retain his or her PTO and Annual Leave Bank balance while on leave. Payment of accrued leave will be up to the maximum allowed in accordance with Policy 4.2 Paid Time Off when the employee is able to return to work and is separated due to layoff.

B. Traditional” Sick Leave

An employee who has five or more years of continuous Virginia ABC or state service may be paid for his or her “traditional” sick leave in accordance with Policy 4.11 Traditional Sick Leave.

C. Disability Credits

An eligible employee’s Disability Credit balance will be paid in accordance with Policy 4.12 Virginia Sickness and Disability Program. Employees also may choose to elect to convert unused disability credits to service credits to increase their VRS benefit according to the Virginia Retirement System.

Employees on STD or LTD-working who are placed are laid off may supplement with Disability Credits while on leave to receive 100% income replacement.

Employees on STD and leave without pay-layoff who transition into LTD will have Disability Credits transferred to the Third Party Administrator in accordance with Policy 4.12 Virginia Sickness and Disability Program.

D. Compensatory Leave

An employee will be paid for accrued compensatory leave when laid off. (Refer to Policy 3.2 Compensatory Leave)

1.12 Temporary Workforce Reduction

The purpose of this policy is to set forth Virginia Alcoholic Beverage Control Authority’s (Virginia ABC) guidelines for Temporary Workforce Reductions (TWFR) in the event business conditions or budgetary requirements necessitate taking such action.

It is the policy of Virginia ABC to reduce employees’ work hours and pay temporarily or to place employees in a non-working status temporarily should such adjustments be required to the workforce. Such reductions are limited to no more than 690 work hours in a 365-day period. Certain employee benefits are protected during the period of reduced hours or non-working status.

Implementing Temporary Workforce Reduction

Identification of Employees for TWFR	Virginia ABC management will identify employees to be affected by a TWFR based on Authority business needs. Employees may request to be considered for TWFR; however, Virginia ABC has final authority for identifying employees for TWFR. The decision must be non-discriminatory and must comply with provisions of Policy 2.1 Equal Employment Opportunity. Virginia ABC should consider reducing or eliminating the hours of wage employees in non-revenue producing roles as an alternative or addition to TWFR of regular full- and part-time employees.
Duration of TWFR	The period during which an employee’s work hours are reduced or eliminated may be continuous or intermittent, but may not extend for more than 365 days from the date of the first schedule change due to TWFR. Additionally, TWFR cannot be imposed on an employee in successive years. That is, an employee who has been placed on TWFR is not subject to another TWFR for 365 days from the date of his or her last scheduled TWFR change. For example, the schedule of an employee on TWFR is reduced for the period January 10

	through May 29. This employee is not subject to another TWFR until May 30 of the next calendar year.
Maximum Amount of Reduction	A regular full-time, 40-hours per week employee's work schedule may be reduced by no more than 690 hours per 365-day period. The limit for regular part-time classified employees must be pro-rated according to their percentage of a 40-hour schedule.
FLSA Impact of TWFR	Virginia ABC may reduce the work hours and salary of an FLSA-exempt employee for some or all hours in a workweek due to budgetary requirements. The employee's exemption is lost only for the workweek(s) when the hours and salary are reduced. If Virginia ABC uses TWFR for business reasons unrelated to budgetary requirements, the hours and salaries of FLSA-exempt employees may only be reduced in full workweek increments.
Prior to Implementing TWFR	Before implementing a TWFR, Virginia ABC must: <ul style="list-style-type: none"> • Designate business functions to be suspended or reassigned, • Determine whether the entire Authority or only certain designated Divisions are to be affected, • Determine if TWFR will be imposed as non-working status, reduced schedule, or a combination, and • Determine if voluntary requests for TWFR will be considered.
Notification Process	Virginia ABC will strive to provide advance notice to employees before placing them in TWFR. The following information must be included in the notice to employees: <ul style="list-style-type: none"> • Extent of the TWFR (reduced hours, non-working status, or a combination) and total reduced hours anticipated; • Schedule for the entire period of the TWFR as far as possible, and • Status of employee's benefits during the TWFR including leave accrual rate for employees working reduced hours. <p>Management reserves the right to alter the TWFR schedule as business needs require. Virginia ABC will notify employees if further reductions are to be made. Such changes should fall within the original 365-day period and should not exceed the policy maximum (690 hours for full-time employees).</p> <p>NOTE: A modified schedule does not change the employment-at-will relationship between the employee and Virginia ABC.</p>
Conclusion of TWFR	At the end of the TWFR, Virginia ABC will strive to place the employee in his or her original position and schedule. If the Authority determines staff reductions must be made on a permanent basis, the provisions and procedures of Policy 1.11 Layoff will be applied.

TWFR For Employees on Leave With Pay and VSDP

VSDP Short Term Disability (STD) Benefits	<p>An employee on STD under the Virginia Sickness and Disability Program (VSDP) (refer to Policy 4.12 Virginia Sickness and Disability Program) may receive notice that his or her position will be subject to a TWFR. STD benefits will not be reduced because of the TWFR status except that the employee may not use annual, compensatory leave to restore his or her salary to 100% income replacement. However, disability credits may be used during TWFR to restore the employee's salary to 100% income replacement.</p> <p>If the employee is released to work full-time/full duty within the time period of the announced TWFR, he or she will be placed on the TWFR schedule (reduced hours, non-working, or combination status at that time.</p> <p>Time when the employee is on TWFR status, reduced hours, non-working, or combination status, counts toward the 180-day period for LTD eligibility.</p> <p>If an employee moves from STD into LTD non-working status after receiving notification of TWFR or beginning TWFR, the employee then is on LTD status only</p>
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	and the position is considered vacant.
VSDP Long-Term - Working Disability Benefits	<p>An employee on LTD-Working status under VSDP may receive notice that his or her position will be subject to a TWFR. Benefits provided to employees will not be reduced because of TWFR status. The employee may not use annual, compensatory leave to restore his or her salary to 100% income replacement, but may use disability credits to receive 100% income replacement. Virginia ABC will be responsible for payment for disability credits used.</p> <p>While in TWFR employees in LTD-Working status will receive disability benefits from the Third Party Administrator at 60% of pre-disability salary. The employee will continue to be considered in LTD-Working status and will receive the Virginia ABC-paid portion of health care and life insurance premiums. Employees will not be eligible for the health insurance credit.</p>
Workers' Compensation	<p>Employees placed on TWFR non-working status who are receiving Workers' Compensation benefits will continue to receive these benefits while authorized. Employees not under VSDP who normally would receive an Authority supplement will not receive this supplement during non-working TWFR.</p> <p>Annual, compensatory leave, and family and personal leave may not be used to supplement salary to receive 100% income replacement for non-VSDP or VSDP employees receiving benefits. Employees receiving VSDP benefits may use Disability Credits to restore their salary to 100%.</p> <p>Employees placed on TWFR reduced hours who are receiving Workers' Compensation benefits or who have been returned to modified duty through Workers' Compensation may be eligible to receive the Workers' Compensation benefit.</p> <p>NOTE: Each case must be evaluated individually to determine whether employees will be entitled to receive these benefits. Virginia ABC should contact the Workers' Compensation Office at least two weeks prior to placing on TWFR an employee who is receiving Workers' Compensation benefits to ensure that benefits are coordinated accurately.</p>
Filing VSDP Claims During TWFR	<p><u>Reduced Hours</u> – The disability benefit for employees who file VSDP claims while in TWFR reduced hours will be based on the employee's salary while working reduced hours. When employee reverts to a non-reduced schedule his or her disability benefit will be calculated on his or her pre-TWFR salary. If the employee continues to be disabled during the remaining scheduled TWFR, the disability benefit will be based on the pre-TWFR salary.</p> <p>Example: The employee's hours are reduced to 20 hours per week for two weeks each month for 12 months. During the 2nd two-week reduction the employee files a VSDP claim, serves the 7-calendar-day waiting period, and begins receiving STD benefit on the 8th day at 100%. The benefit is based on reduced schedule salary, but will revert to pre-TWFR salary when the end of the two week reduction expires. If the employee remains disabled for the remainder of the scheduled TWFR, the employee's STD benefit will be based on pre-TWFR salary.</p> <p><u>Non-Working Status</u> – Employees who file VSDP claims while on TWFR non-working status will not be able to receive STD income replacement benefits until their schedule reverts to working status. At that time employees must serve a 7-calendar-day waiting period before receiving STD benefits. The 180-calendar day period begins on the first day of the 7-calendar-day waiting period.</p>
Leaves of Absence With Pay	Employees who are on a form of paid Family and Medical Leave, such as STD, or other Leaves of Absence With Pay, including absences for illness or disability, are considered active employees. If their positions are identified for TWFR they will be notified and provided appropriate benefits.
Use of Previously Approved Leave	Employees who have requested and had leave approved prior to a TWFR, may still use accrued leave to cover their absence.

During TWFR	
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Impact of TWFR on Benefits

During a TWFR an employee's benefits are affected as follows:

NOTE: Benefits for employees on a combination of reduced hours and non-working status will be determined by their status at the time.

Paid Time Off Accrual	<p><u>Reduced Hours</u> – Employees will accrue PTO on a prorated basis, according to the percentage of full-time hours they are scheduled to work during a pay period when subject to TWFR.</p> <p>Example: A full-time employee whose work hours are reduced during a TWFR to 40% of 40 hours per week (16 hours per week) per pay period will earn PTO at 40% of the full accrual rate.</p> <p><u>Non-Working Status</u> – Employees will not accrue PTO during pay periods when they are not scheduled to work.</p>
Traditional Sick Leave Accrual	<p><u>Reduced Hours</u> – Employees will accrue traditional sick leave on a prorated basis, according to the percentage of full-time hours they are scheduled to work during a pay period. Refer to the example above.</p> <p><u>Non-Working Status</u> – Employees will not accrue traditional sick leave during pay periods when they are not scheduled to work.</p>
Disability Credits	<p><u>Non-Working or Reduced Hours</u> – Employees receiving STD or LTD-working disability benefits may use disability credits during periods of TWFR to restore salary to 100% income replacement. Disability credits must be used in increments of 8 hours.</p>
Leave Balances	<p><u>Paid Time Off, Traditional Sick, and Compensatory, Leave</u> – Balances are retained. Leave may be used as appropriate to cover absences from scheduled work time for employees working reduced hours.</p> <p>Virginia ABC may extend the compensatory leave expiration date to account for periods of non-working TWFR.</p>
Holidays	<p>An employee working reduced hours under TWFR will be entitled to receive holiday pay or compensatory time for a holiday only for the number of hours that he or she is scheduled to work that day.</p> <p>For example, if an employee whose work hours are reduced is not scheduled to work on Mondays, he or she is ineligible for holiday pay for any holidays that fall on Monday. However, if the employee is scheduled to work 8 hours on Mondays, he or she will receive pay for the holiday.</p> <p>An employee on TWFR non-working status does not receive pay or compensatory time for any holidays which occur during the TWFR period.</p>
Service Credit for Leave	<p><u>Reduced Hours and Non-Working Status</u> – Employees whose hours are reduced or who are placed in a non-working status will receive full service credit during the period of TWFR for the purpose of determining their years of service as they affect the following:</p> <ul style="list-style-type: none"> • Paid Time Off accrual rate; • Eligibility to receive payment for accrued traditional sick leave upon leaving Virginia ABC or state service; and • VSDP months of service
Service Credit for Retirement	<p>If an employee on TWFR earns any pay during a month, Virginia ABC will make its retirement contribution based on the employee's full salary before TWFR, and the employee will receive service credit towards retirement for the entire month at the pre-TWFR salary.</p>

	<p>If an employee on TWFR has no earnings during a month, Virginia ABC will not make a retirement contribution and the employee will not receive retirement service credit for that month.</p> <p><u>Service Credit for Employees Receiving VSDP Benefits</u> - A VSDP-participating employee on TWFR, whether in reduced hours or non-working status, who is receiving STD benefits, will continue to receive the full retirement contribution and service credit. Employees receiving LTD benefits will receive service credit only.</p>
Healthcare Insurance	<p>Virginia ABC will continue to pay its portion of the health insurance premiums for employees on TWFR, whether reduced hours, non-working, or a combination status. Virginia ABC should inform employees of alternatives for paying the employee share of their premiums if payroll deduction is no longer suitable.</p>
Life Insurance	<p>Virginia ABC will continue to pay the life insurance premiums for employees during TWFR based on the employees' pre-TWFR compensation.</p> <p>If an employee should die during a TWFR, his or her beneficiaries would be entitled to benefits based on the employee's regular, pre-TWFR compensation.</p>
Optional Life Insurance	<p>Employees who want to continue optional life insurance must coordinate monthly payment arrangements with Virginia ABC.</p>
Impact on Introductory Period	<p><u>Reduced Hours</u> – Reduced hours under TWFR do not affect the duration of an employee's introductory period.</p> <p><u>Non-Working Status</u> – An employee's introductory period is extended by the amount of time the employee is in a non-working status under TWFR if the non-working status included a period of more than 14 consecutive days.</p>
Unemployment Compensation	<p>Employees on TWFR may be eligible to receive Unemployment Compensation. Decisions are made by the Virginia Employment Commission.</p>

1.13 Severance Benefits

The purpose of this policy is for Virginia Alcoholic Beverage Control Authority (Virginia ABC) to provide severance benefits to eligible regular full-time and part-time employees who have been laid off from Virginia ABC service under Policy 1.11 Layoff.

It is the policy of Virginia ABC's to provide severance pay and benefits to eligible employees as the result of an involuntary layoff from the Authority. This policy provides details on eligibility, severance pay, and the continuation of benefits. Regular part-time employees receive benefits under this policy on a pro-rata basis in accordance with their scheduled hours.

Virginia ABC Responsibility

Before providing severance benefits to an eligible employee, Virginia ABC must:

- Ensure that the provisions of the Policy 1.11 Layoff have been made available to eligible employees;
- Determine eligibility of regular part-time employees to receive Severance Benefits; and
- Provide information to employees explaining their options and access to appropriate benefits.

The decision to provide severance benefits must not be made on the basis of an employee's race, color, religion, gender, age, national origin, disability, political affiliation or any other protected status under federal, state or local law.

Virginia ABC is responsible for notifying the VSDP Third Party Administrator of any severance payments received by VSDP participants on LTD.

Benefits for Eligible Employees

Employees separated from Virginia ABC service under Policy 1.11 Layoff receive severance benefits as described in this policy including:

- Severance payments,
- Continued Virginia ABC contribution toward health insurance premiums, and
- Continued Virginia ABC contribution of life insurance premiums, or
- Enhanced retirement

EXCEPTION: Eligible regular part-time employees may receive severance payments and the Virginia ABC contribution to life insurance premiums; however, they are ineligible to receive health insurance premiums and the enhanced retirement option.

<p>Severance payments</p>	<p>The number of severance payments received by an eligible employee is based on the employee's years of continuous Virginia ABC and state service.</p> <p>Eligible employees receive severance payments in accordance with Virginia ABC's payroll schedules, twice per month for regular full- and part-time employees. For the purpose of determining the severance payment, partial years of service are rounded up to the next highest year. For example, if an employee has 9 years and 5 months of service at the time of layoff, it will be considered 10 years of service for the severance payment calculation.</p> <p>Employees covered by this policy will be eligible for a minimum of two weeks' severance, plus an additional week of severance for every year of service, up to a maximum severance payment of 26 weeks of salary.</p> <p>Example:</p> <table border="1" data-bbox="618 999 1263 1255"> <thead> <tr> <th>Years of Service</th> <th>Weeks of Severance</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>3</td> </tr> <tr> <td>2</td> <td>4</td> </tr> <tr> <td>5</td> <td>7</td> </tr> <tr> <td>10</td> <td>12</td> </tr> <tr> <td>15</td> <td>17</td> </tr> <tr> <td>20</td> <td>22</td> </tr> <tr> <td>24+</td> <td>26</td> </tr> </tbody> </table> <p>*For the payment calculation, the employee's weekly salary is determined by dividing his or her annual salary by 52. The amount to be paid will be calculated according to the guidelines above.</p> <p>The chart in the Addendum to this policy outlines the relationship of severance to other benefits.</p>	Years of Service	Weeks of Severance	1	3	2	4	5	7	10	12	15	17	20	22	24+	26
Years of Service	Weeks of Severance																
1	3																
2	4																
5	7																
10	12																
15	17																
20	22																
24+	26																
<p>Health insurance</p>	<p>Virginia ABC will continue to pay its portion of the employee's health insurance premium from the effective date of layoff plus two months from the end of the month of the last severance payment made to the employee under this policy, not to exceed a total of 26 weeks. The employee is responsible for paying his or her share of the premium as directed by Virginia ABC. An employee who wishes to make allowable changes to coverage should contact his or her Health Benefits Administrator within 31 days of the layoff.</p> <p>Regular part-time employees regularly scheduled to work 20-29.9 hours per week are not eligible to receive this benefit.</p>																
<p>Life insurance</p>	<p>The Authority will continue its contribution toward group life insurance from the effective date of layoff through the end of the month of the last severance payment made to the employee under this policy.</p>																

<p>Enhanced retirement benefits</p>	<p>In lieu of being laid off and receiving health insurance, life insurance and severance payments, an eligible member of the Virginia Retirement System (VRS) or the Virginia Law Officers' Retirement System (VaLORS) who is at least age 50 and vested may elect to use the total value of these severance benefits to have the Commonwealth purchase years to be credited for retirement purposes toward either the employee's</p> <ul style="list-style-type: none"> • Age, or • Creditable service, or • Divided between age and creditable service. <p>Once the retirement credit is added, the member must be at least age 55 with 5 or more years of service or at least 50 with 10 or more years of service (for VaLORS) and retire on an immediate annuity.</p> <p>EXCEPTION: Any employee eligible for unreduced retirement must have credits added to service and not age.</p> <p>The cost of each year of age or creditable service purchased will be equal to 15% of the employee's present annual salary. The number of years of age or creditable service to be purchased will be equal to the amount obtained by dividing the cash value of the severance payments and the life and health insurance benefits for which the employee would be eligible by the cost of each year of age or creditable service.</p> <p>VRS Form 11, Employer Certification of Involuntary Separation Under Workforce Transition Act of 1995, should be used to effect this transaction. (Form is available on the VRS website.)</p> <p>Retirement Effective Date The enhanced retirement benefit cannot apply to a deferred retirement; therefore, an employee who chooses this option must retire at the beginning of the month following the effective date of the abolishment of his or her position.</p>
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Effect of Leaves of Absence on Severance

<p>Leave with Pay, Family and Medical Leave or Unconditional LWOP (Position Held)</p>	<p>Employees on Family and Medical Leave (Refer to Policy 4.4 Family and Medical Leave) or on Unconditional Leave without pay (position held, refer to Policy 4.8 Leave Without Pay-Conditional/Unconditional) are considered active employees and will be treated as if they were in their positions. Eligible employees must receive Layoff and Severance Benefits.</p>
<p>VSDP</p>	<p>If affected by layoff, an employee who is receiving VSDP benefits also may be eligible to receive severance benefits. Eligibility is determined by provisions of this policy.</p> <p>If an employee who retires under these provisions was receiving VSDP benefits, the VSDP benefits cease at retirement.</p> <p>Short-Term Disability For eligible employees on STD, severance payments begin on the effective date of layoff.</p> <p>Eligible employees who are laid off while in VSDP STD will receive severance and disability benefits concurrently. However, severance payments will offset the VSDP disability payment. The offset is calculated based on the gross STD payment and gross severance payment.</p> <p>When the severance payment period ends, VSDP benefits will resume according to the normal VSDP schedule if the employee still is considered disabled. Time spent on severance counts towards 180 days of STD.</p>

	<p>Severance payments are not delayed because an employee is in STD status and the period of severance does not alter the calculation of days on STD toward eligibility for LTD.</p> <p>If an employee on STD is released to return to work full-time, the layoff will be effectively immediately and VSDP benefits cease and any severance benefits remaining will continue, according to this policy.</p> <p><u>Retirement Contributions and VRS Service Credit:</u> Employees receiving severance and STD disability benefits will continue to receive full retirement contributions and service credit while in STD.</p> <p>LTD - Working Eligible employees who are laid off while on VSDP LTD-working status will receive severance and disability payments concurrently. However, severance payments will offset the VSDP disability payment. The offset is calculated based on the gross STD payment and gross severance payment.</p> <p>Virginia ABC is responsible for notifying the VSDP Third Party Administrator of severance payments so that the VSDP benefit will be offset.</p> <p>Employees are not eligible to receive the health insurance credit while in LTD status because the Authority continues to pay its part of the premium. Employees must pay the appropriate portion to continue coverage. If an employee is still disabled and on LTD when layoff expires he or she will then be eligible to receive the health insurance credit and continue receiving VSDP benefit.</p> <p><u>VRS Service Credit:</u> Employees receiving severance and LTD-Working disability benefits will continue to receive VRS Service Credit during period of VSDP eligibility and severance.</p> <p>Long-term Disability An employee who moved from STD into LTD status after receiving notification of layoff and beginning to receive severance benefits will continue receiving severance payments for the appropriate amount and time period and will remain on Virginia ABC's active health care plan for the period of LTD in accordance with policy. The Authority also will continue to provide the employee's life insurance premiums for the same period.</p> <p>Severance payments will offset the VSDP disability payment. Virginia ABC is responsible for reporting severance payments to the VSDP Third Party Administrator.</p> <p>Employees on LTD must pay the appropriate portion to continue health care plan coverage. If an employee is still disabled and on LTD at the end of the severance period, he or she will then be eligible to receive the health insurance credit and continue receiving VSDP benefit.</p> <p><u>VRS Service Credit:</u> Employees receiving severance and LTD- Disability benefits will continue to receive VRS Service Credit during the period of VSDP eligibility.</p> <p>Employees who are in LTD status when the notification of layoff occurs are not eligible for the rights described in this policy or in Policy 1.11 Layoff.</p>
Workers' Compensation	<p>Eligible employees who are laid off while receiving Workers' Compensation benefits will receive severance, Workers' Compensation payments and VSDP benefits if applicable. Workers' Compensation (WC) benefits cannot be offset by severance payments. However, the Virginia ABC supplement for employees not covered by VSDP will cease and any VSDP benefits received by employees</p>

	enrolled in VSDP will be offset by severance payments.
Conditional Leave Without Pay	An employee on Conditional Leave Without Pay (position not held) when the notification of layoff occurs is not eligible for Severance Benefits. (Refer to Policy 4.8 Leave Without Pay – Conditional and Unconditional.)

Cessation of Severance Benefits

Severance benefits may end before the payment schedule is completed if an employee declines certain recall opportunities or returns to work at Virginia ABC or another state agency.

Decline of Recall	All severance benefits end when a laid off employee declines recall to his or her former position, where there is no salary reduction or requirement to relocate.
Return to Work	<p>Severance payments will cease when an eligible employee returns to any agency, authority or institution of the Commonwealth through:</p> <ul style="list-style-type: none"> • Re-employment into a salaried position • Hourly employment, or • Contractual agreement as an independent contractor or consultant. <p>An employee who has used the severance benefit to enhance his or her retirement benefit can return to employment with Virginia ABC or the state. However,</p> <ul style="list-style-type: none"> • Retirement benefits cease when the employee enters a VRS-covered position, and • The enhanced retirement benefit will not apply to any future retirements.
Severance Payments Reinstated	<p>If the individual enters into a wage or contractual employment relationship during the period when severance payments would have been made, and then ends that employment relationship before the severance payments would have ended, he or she may receive the remaining severance payments.</p> <p>However, any payments missed while the individual was engaged in these employment relationships will not be made up.</p> <p>NOTE: Virginia ABC will continue its contribution to life and health insurance premiums (except for regular part-time employees scheduled to work 20 – 29.9 hours per week) for the severance period as defined in this policy. Virginia ABC contributions end when the employee is reemployed into a regular full-time position with Virginia ABC or a full-time salaried state position, or resigns before the 12 months ends.</p>

Unemployment Compensation

Decisions regarding eligibility for unemployment compensation are made by the Virginia Employment Commission. Generally unemployment compensation will not begin until the end of the severance period.

Effect on Payroll Deductions

While employees are receiving severance payments certain payroll deductions may not be made:

- Deferred Compensation
- Pre-Tax Buy Back of Prior Service

1.14 Grievance Procedure

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to provide a process by which employees may informally resolve workplace conflicts through open door communications and/or to formally raise workplace-related grievances to the management of Virginia ABC.

It is the policy of Virginia ABC to provide guidance to employees in resolving workplace conflicts through informal open door communications with management. If the issue cannot be resolved informally, this policy further establishes the formal grievance procedures to work-related problems and concerns available to regular full- and part-time employees of Virginia ABC. It is important that conflicts and grievances be resolved

quickly, at the lowest level possible and through the least formal process. Regardless, this policy does not require regular full- and part-time employees to first go through informal channels prior to filing a written grievance.

Employees and management will act in good faith when utilizing these procedures. All parties should understand that the goal of open door communications and the grievance process is to provide a forum through which to resolve work-related issues. Virginia ABC cannot guarantee an issue will be resolved to the employee's satisfaction, but it can ensure that each employee has an opportunity to express and discuss concerns, as well as for those eligible, to formally file a grievance if not satisfied with the informal resolution.

Non-Retaliation

No person will be harassed or retaliated against for raising an issue through informal open door communications or for the filing of a written grievance. No person will be harassed or retaliated against for assisting or participating in any part of either process. Retaliation is a serious offense. All allegations of retaliation and/or harassment will be investigated and may lead to disciplinary action, up to and including termination of employment (Refer to Policy 1.1 Standards of Conduct). If any employee has concerns about retaliation, he or she should immediately report the concern to his or her supervisor, or next level of manager and/or to the Department of Human Resources.

Open Door Communications

It is Virginia ABC's intent to foster an atmosphere of open and free communication and to underscore management's commitment to consider and address those issues and concerns brought to them by employees. Having an Open Door policy means that the door to an employee's supervisor's office (whether real or figurative) is always open. It provides a work environment where:

- Open and honest communication between managers and employees is a day-to-day business practice at Virginia ABC.
- Employees may seek counsel, provide or solicit feedback, or raise concerns with the management of Virginia ABC without fear of reprisal. Such interactions should always take place in the appropriate setting and in a professional manner.
- Management holds the responsibility for creating a work environment where employees' input is welcome, and issues are surfaced early and are candidly shared.

Employees who experience a work related conflict, have questions or suggestions, or who have a complaint should first attempt to discuss the matter through open door communications with their supervisor. In most cases, talking with the supervisor is the most effective and efficient way to resolve issues. In some situations this may be difficult or inappropriate. In such cases, the employee may request a meeting with a designee from the Department of Human Resources to discuss the issue.

Issues are usually resolved through this informal open door communications. If a satisfactory resolution is not reached at this level, then complaints may be brought forward by eligible employees through Virginia ABC's grievance procedure.

Grievance Procedure

Virginia ABC encourages the resolution of employee problems and complaints through informal open door communications whenever possible. When informal means are unable to resolve an issue the employee may file a written grievance. As an employee moves through the grievance process, there will be regular verbal and/or written communications and status updates between the employee and the Department of Human Resources or designee.

A. Access to Procedure

This grievance procedure is available to all regular full-time and part-time employees of Virginia ABC who have completed the introductory employment period, except the CEO and direct reports.

Employees will not be subject to retaliation or adverse employment actions for any complaints brought

in good faith. If the time constraints mentioned in the procedure below are missed by the complainant then the grievance will be considered resolved according to the most recent step completed. An employee can withdraw a grievance at any time; however, he or she may not reinstate the complaint once it is withdrawn for the same occurrence. Virginia ABC may designate a substitute to any management step.

B. Grievable Issues

A grievance is defined as a complaint by an employee relating to his or her employment, including but not limited to:

- The misapplication of Virginia ABC policies, practices, rules, regulations, procedures, ordinances, and statutes.
- Acts of coercion, retaliation, reprisal, harassment, or intimidation.
- Complaints of discrimination on the basis of race, age, color, sex, national origin, religion, disability, political affiliation, sexual orientation, genetics, military status or other protected status under federal and state law.
- Formal disciplinary actions or other adverse personnel actions including formal written notices, suspension, demotion, or termination. (Refer to Policy 1.1 Standards of Conduct)
- Arbitrary and capricious performance evaluations

C. Nongrievable Issues

Management reserves the exclusive right to conduct the affairs and operations of Virginia ABC; therefore, the following complaints are not grievable:

- Hiring, promotion, transfer, assignment, layoff and retention of employees.
- Work activity which may reasonably be expected to be part of job content.
- The methods, means and personnel by which office operations and work activities are to be carried on.
- Establishment and revision of wages, salaries, position classifications, or general benefits.
- The contents of established human resources policies, procedures, rules, regulations, ordinances, and statutes.
- Informal supervisor actions such as interim evaluations, counseling memoranda and oral reprimands; or
- Terminations, layoff, demotion or suspension from duties because of lack of work, reduction in force or job abolition.

D. Grievance Procedures

1. If unable to resolve informally through open door communications, the employee may submit a grievance in writing to his or her immediate supervisor and the Virginia ABC Director of Human Resources within 30 work days of the event or action giving rise to the complaint. If the grievance is against the immediate supervisor then it should be given to the next level manager. If the complaint is against the employee's respective C-level, the grievance should be submitted to the Director of Human Resources and CEO. The grievance form must contain the nature of the complaint, the facts in support of the claim, date and time of incident(s), the names of any witnesses, any other relevant information, and the relief requested.

Employees requiring general assistance with the grievance process may contact the Department of Human Resources for guidance. After submitting a grievance, employees may not add to or amend a complaint following Step One of the grievance process. In the event additions or amendments are made to the grievance during Step 1, it is at the sole discretion of Virginia ABC on whether to extend the length of time designated to complete the various stages of Step One. If time is extended, the employee will be informed in writing.

The Director of Human Resources or designee will have final authority to determine whether an employee's complaint is grievable and will render a determination of grievability within five work

days of receipt of the employee's written complaint and notify all parties involved in writing. (For the purpose of this step in the process, workdays are considered Monday through Friday, not including Saturday or Sunday.) A determination of grievability is final and binding on the employee and may not be appealed. If the grievance is against the Director of Human Resources, the C-level position over the employee's division will designate an impartial Division Director or other C-level to make the determination.

If determined to be grievable, the immediate supervisor, will have five work days to schedule a face to face meeting to attempt to resolve the grievance. Within 10 work days of the meeting, the immediate supervisor will provide a written decision to the employee. The decision must outline the nature of the grievance, the supervisor's findings, and any remedial action to be taken. During this step, a representative of the Human Resources division will communicate regularly with the employee regarding the status.

NOTE: If the employee filing the grievance is the Division Director this step will include the employee's respective C Level.

2. If the grievance is not resolved in the previous step, the employee may advance the grievance to the Division Director. The employee will have five work days from the receipt of the Step One decision to advance the grievance to the appropriate party with a copy submitted to the Director of Human Resources. The appeal should include copies of all documentation from the previous step. The Division Director may request additional information as needed and will have 10 work days to review the grievance documentation, render a decision and notify all parties involved in writing. During this step, a representative of the Department of Human Resources will be in regular communications with the employee regarding the status.

NOTE: If the complaint is against the employee's respective C-level, the decision of the CEO is final and binding and may not be appealed.

3. If the grievance is not resolved, the employee may continue the grievance by submitting the grievance form along with copies of all previous documentation to the respective C-level within five business days of the receipt of the decision from Step Two. The respective C-level may request additional information as needed and will render a decision in writing to all parties involved within 30 work days. During this step, a representative of the Department of Human Resources will be in regular communications with the employee regarding the status. The respective C-level decisions are final and binding and may not be appealed.

Notice of all final decisions will be provided to the CEO. The CEO will have discretion on whether to further review or investigate the matter subject to grievance and take any action deemed appropriate.

E. Procedural Issues

The Virginia ABC Director of Human Resources will have oversight of the grievance procedure in order to insure compliance with its provisions. Any questions of compliance with this procedure should be addressed to the Director of Human Resources. All decisions regarding the procedure will be final and binding and not appealable. The Director of Human Resources will retain all grievance related materials in confidential files separate from individual personnel files.

At any step during the grievance procedures, the Division Director, the respective C-level, or the CEO may uphold, reduce or rescind corrective or disciplinary actions taken by Virginia ABC. When an employee is reinstated from suspension or termination, they may order:

- Full, partial, or no back pay.

- Back pay, if any, will be offset by any interim earnings which the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission.
- Employee will receive reimbursement for any health insurance premiums that he or she paid during the period which would have been paid by Virginia ABC.
- Credit for annual and sick leave that the employee did not accrue during the period of discharge and/or suspension.
- A reduction in the employee's disciplinary record such that a termination no longer could take place (e.g., the employee has only three Group I Written Notices or one Group II Written Notice).

Confidentiality

Information concerning an employee grievance is to be held in confidence. All parties involved in investigating a grievance are to discuss it only with those individuals who have a legitimate need to know about it or who are needed to supply necessary background information or advice.

Confidential Support of Harassment and Discrimination Complaints

The Virginia ABC Director of Human Resources or designee is available to assist employees in dealing with sensitive situations, particularly those concerning allegations of harassment, including sexual harassment, or discrimination. The Director of Human Resources will provide confidential, informal counseling to the complainant and explore means of resolving the situation. No written request or grievance is required. A representative of the Human Resources division will provide regular communication with the complainant during the investigation.

1.15 Teleworking

The purpose of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) telework policy is to achieve business efficiencies, reduce traffic congestion and transportation costs, support the Authority's Continuity of Operations Plan (COOP), and provide an enhanced work/life balance to Virginia ABC employees. It is the policy of Virginia ABC to promote general work efficiencies by offering telework opportunities for eligible employees when there is a mutual benefit to the Authority and the employee. Telework is appropriate for only certain employees and jobs. To be eligible for telework, employees must be performing at the Contributor level and must work in positions suitable to teleworking (Refer to Policy 1.8 Performance Planning and Evaluation). Division Directors in consultation with the Human Resources division are responsible for designating positions eligible for full-time, intermittent, or occasional telework.

For certain positions, telework may be a condition of employment, based on Virginia ABC's business needs. In such cases, this requirement will be included when the position is advertised and in correspondence offering employment.

Telework is a formal agreement between the employee, his or her supervisor, the Division Director, and the Human Resources division. Employees may discontinue the telework arrangement, at will, at any time, unless telework is mandated by Virginia ABC as a condition of employment. The availability of telework as a flexible work arrangement for employees of Virginia ABC may be discontinued at any time at the discretion of the Authority. Every effort will be made to provide two (2) weeks' notice of such a change to accommodate commuting, child care and other problems which may arise from such a change. There may be instances; however, when no notice is possible.

Teleworking is not intended to be used in place of sick leave, Family and Medical Leave, leave used under the Virginia Sickness and Disability Program, Workers' Compensation leave, or other types of leave. Additionally, telework will not be used during periods when the employee is the sole caregiver to a child, spouse, or others within the household where the teleworking takes place. However, Division Directors, in consultation with the Human Resources division, may determine whether or not it is appropriate to offer telework as an opportunity for partial or full return to work based on Authority policy and the criteria normally applied to decisions regarding the approval of telework.

The Telework policy does not apply to alternate work schedules or alternate work sites used on a temporary basis.

Telework Categories

There are five telework categories at Virginia ABC. For the telework category descriptions, refer to Addendum A of this policy.

W - Office/Facility Worker,
M - Mobile Worker,
T - Full-Time Teleworker,
H - Hybrid Teleworker,
L - Limited Teleworker:

Conditions of Employment

The employee's terms and conditions of employment, as well as compensation, benefits, work status and work responsibilities will not change due to participation in the telework program.

Hours of Work and Other

Employees in telework arrangements must agree to apply themselves to their work during work hours. The total number of hours employees are expected to work will not change, regardless of work location and the telework arrangement. Employees must be accessible during their work hours by telephone, instant messaging and email.

Supervisors may require employees to report to a central workplace as needed for work-related meetings or other events, or may meet with employees in the alternate work location as needed to discuss work progress or other work related issues. Supervisors have the authority to temporarily suspend telework arrangements if employees need to work at a particular Virginia ABC site in order to complete projects, tasks or to fulfill other duties and requirements of their positions.

Employees, who telecommute, will be held to the same standard of compliance with Virginia ABC's timekeeping practices as office-based employees due to the nature of the work arrangement. Employees must keep accurate time records of hours worked. Nonexempt employees under the Fair Labor Standards Act (FLSA) must have preauthorization before working overtime and must not perform any work off the clock. (Refer to Policy 3.3 Overtime and Policy 1.5 Hours of Work)

Telework Agreement

Employees approved to telework must sign and adhere to the Virginia ABC Terms of Telework Agreement (Telework Agreement). The telework agreement and arrangement is not valid until all parties have signed the Telework Agreement form. Refer to Addendum B for Virginia ABC Telework Procedures.

It is recommended supervisors and employees annually review and if necessary renew telework agreements.

The Virginia ABC Telework Agreement includes the following conditions:

- The duration of the agreement;
- The work schedule and how it can be changed;
- How leave is to be requested and approved by the supervisors;
- Status of employees during emergencies or weather-related closings affecting the central or alternate workplace under Policy 1.7 Emergency Closings;
- How routine communication between the employee, supervisor, co-employees, and customers

will be handled at a level consistent with employees working at the office or in a manner and frequency which seems appropriate for the job and the individuals involved;

- Employee's performance plan/expectations;
- The equipment and/or supplies which will be used, and who is responsible for providing and maintaining them;
- Authority-provided equipment/supplies are to be used for business purposes only, and to notify Virginia ABC immediately when equipment malfunctions.

As deemed necessary by Virginia ABC, the Telework Agreement may include additional conditions which require employees to:

- Comply with all Virginia ABC rules, policies, practices and instructions;
- Notify their supervisors immediately of any situations which interfere with their ability to perform their jobs;
- Permit supervisors access to the alternate work location during normal work hours;
- Maintain safe work conditions and practice appropriate safety habits;
- Confirm that the work location is free from hazards;
- Notify their supervisors immediately of any injury incurring while working;
- Absolve Virginia ABC from liability for damages to real or personal property resulting from participation in the telework program; and
- Assume responsibility for the security of information, documents, and records in their possession or used while teleworking and not take restricted-access material home without the written consent of their supervisors.

Termination of Agreement

The Telework Agreement between an employee and Virginia ABC may be terminated at any time by either party, at will, for any reason, with or without advance notice. If Virginia ABC terminates the agreement, every effort will be made to give the employee two (2) weeks' notice. If an employee terminates the agreement, employees are asked to give two (2) weeks' notice of their intent to end the arrangement. If telework is a condition of employment, the employment relationship between the employee and Virginia ABC may be terminated.

Workers' Compensation Liability

Virginia ABC may be liable for job-related injuries or illnesses which occur during employees' established work hours in their alternate work locations due to a telework arrangement.

Equipment and Materials

Virginia ABC may provide equipment and materials needed by employees to effectively perform their job duties. In cases where full-time telework is a condition of employment, Virginia ABC will provide the necessary equipment and materials. However, where agreements specify, employees may be authorized to use their own equipment.

A. Virginia ABC-owned or Issued Equipment

- Virginia ABC-owned or issued equipment may be used only for authorized Authority purposes by authorized employees.
- Employees are responsible for protecting Virginia ABC-owned or issued equipment from theft, damage and unauthorized use.

B. Maintenance

- Virginia ABC-owned or issued equipment used in the normal course of employment will be maintained, serviced and repaired by the Authority.
- Virginia ABC will stipulate who is responsible for transporting and installing equipment, and for

returning it to the central workplace for repairs or service.

- When employees are authorized to use their own equipment, Virginia ABC will not assume responsibility for the cost of equipment, repair, or service.

NOTE: While the use of non-Virginia ABC-owned or issued equipment may be permissible, employees who telework must be in compliance with the Virginia Information Technologies Agency's (VITA) Information Technology Standard "Use of Non-Commonwealth Computing Devices to Telework". (SEC511-00) (07/01/2007) and the Virginia ABC Information Technology Security Manual. Consistent with Virginia ABC's expectations of information security for employees working at the office, employees who telework will be expected to ensure the protection of proprietary Virginia ABC and customer information accessible from their alternate office. Steps include, but are not limited to, use of locked file cabinets and desks, regular password maintenance, and any other steps appropriate for the job and the environment.

1.16 Alternative Work Schedules

The purpose of alternate works schedule policy is to conserve agency resources and be responsive to employee work and family needs where possible.

It shall be the policy of the Virginia Alcoholic Beverage Control Authority to conserve agency resources and be responsive to employee work and family needs where possible. To support this policy, alternate work schedules will be implemented where they meet the mutual needs of the agency and employees.

General Considerations

- A. Work units must be adequately staffed and supervised to ensure service delivery and a prompt responsive to customers (internal and external) during normal business hours of 8:15 AM to 5:00 PM.
- B. Individual and unit productivity must be maintained with no reduction in service or output. Alternate work schedules may be canceled if productivity or service declines.
- C. Work schedules must be in compliance with the Fair Labor Standards Act (FLSA) for those non-exempt positions covered by the Act.
- D. Implementation of alternate work schedules is a cost-neutral benefit. Therefore, the Authority will not authorize overtime for work that can be performed during a standard workweek.
- E. Operational needs for some divisions preclude the implementation of flex hours for some employees.
- F. Employees who do not wish to participate in alternate work schedules will not be required to do so.
- G. Employees who work alternate schedules are encouraged to arrange personal appointments on days off whenever possible. Otherwise, staffing levels may be jeopardized during those days in which they are scheduled to work.
- H. Alternate work schedules will be constructed in such a manner as to include applicable lunch and rest breaks. Lunch breaks will not count toward hours worked. Supervisors may grant employees two fifteen-minute breaks per day. Breaks will count toward hours worked.

Request and Approval:

- A. Alternate work schedules request will be directed to the employees supervisor in writing and will include all details of the work schedule (shift start and end, days off, etc.); how adequate supervision will be ensured; handling of sick days, annual leave days, and holidays; anticipated results and benefits with requested implementation date.

- B. Supervisor will approve the request for the alternate work schedule and forward to the Division Director for approval. The Division Director is encouraged to consult with the Human Resource Director regarding implementation of alternate work schedules and to resolve any problems or issues affecting FLSA compliance or State or agency policy.
- C. Once a schedule is chosen, employees should not request changes in days off or hours worked; however, individual circumstances that necessitate changes in schedule will require written pre-approval by the supervisor.
- D. An employee must resubmit his/her written request when changes in hours of work occur.
- E. Once approved, the alternate work schedules will be piloted for 90 days, after which Supervisors will conduct an evaluation for effectiveness. Participating employees should commit to stay on the alternative schedule for 90 days to provide accurate evaluation data.
- F. The right to suspend or terminate this policy for an individual or work section for misuse or to meet agency requirements will be the responsibility of the appropriate Division Director.

Sample Work Schedules:

A. Divisions are responsible for ensuring adequate supervision and coverage of all areas Monday through Friday from 8:15 AM through 5:00 PM. Full services must be available throughout those hours.

- o **Standard Schedule:** 8 hour day, 5 days per week

<u>Mon</u>	<u>Tue</u>	<u>Wed</u>	<u>Thu</u>	<u>Fri</u>	<u>Sat</u>	<u>Sun</u>
8	8	8	8	8	0	0
8	8	8	8	8	0	0

B. Three alternative schedule options are available to employees. Alternate schedules impacting sick, annual leave, and holidays must comply with the Policy 1.6 Holidays.

- o **Option A:** 10 hour day, 4 days per week

<u>Mon</u>	<u>Tue</u>	<u>Wed</u>	<u>Thu</u>	<u>Fri</u>	<u>Sat</u>	<u>Sun</u>
10	10	10	10	0	0	0
10	10	10	10	0	0	0

- o **Option B:** 9 hour day, 4 days per week
4 hour day, 1 day per week

<u>Mon</u>	<u>Tue</u>	<u>Wed</u>	<u>Thu</u>	<u>Fri</u>	<u>Sat</u>	<u>Sun</u>
9	9	9	9	4	0	0
9	9	9	9	4	0	0

- o **Option C:** 9 hour day, 8 days per 2 weeks and
8 hour day, 1 day per 2 weeks

<u>Mon</u>	<u>Tue</u>	<u>Wed</u>	<u>Thu</u>	<u>Fri</u>	<u>Sat</u>	<u>Sun</u>
9	9	9	9	9	0	0
9	9	9	8	0	0	0

NOTE: ** This schedule is ONLY available to employees who are exempt from the Fair Labor Standards Act. Employees electing this option take the same day off every other week

1.17 Employee Technology Usage

The purpose of this Virginia Alcoholic Beverage Control Authority (ABC) policy is to ensure the appropriate, responsible, and safe use by employees of Virginia ABC's information technology and electronic communications.

The following sets forth the policies of Virginia ABC regarding the acceptable use of its information technology and communications systems, which include but are not limited to: electronic mail; voice mail; computers, laptops and related equipment; Virginia ABC issued mobile devices such as cell phones and iPads, as well as using the employee's own device for Virginia ABC-related work.

Virginia ABC complies with all applicable federal, state and local laws as they relate to the employer/employee relationship, and nothing contained herein should be construed to violate any of the rights or responsibilities contained in such laws.

Employee Usage of Virginia ABC Technology

All employees who use Virginia ABC's systems must agree to comply with this policy, in addition to abiding by Virginia ABC's policies on Internet Privacy, Information Security, and Social Media.

A. User Requirements

1. General Requirements

When using Virginia ABC information technology and communications tools, users should:

- Follow all applicable Virginia ABC and Commonwealth policies. Users may not violate any provision of this policy, any supplemental policy adopted by Virginia ABC, or any other policy, regulation, law or guideline as set forth by local, State or Federal law (refer to Code of Virginia [§2.2-2827](#)). This may include but is not limited to copyright laws, trademark laws, and other legislated requirements.
- Be responsible and professional in their activities. Employees should conduct themselves in a manner which supports the mission of Virginia ABC and the performance of their duties.
- Exercise the appropriate care to protect the Authority's information technology tools against the introduction of viruses, spyware, malware, or other harmful attacks. When using Virginia ABC's electronic communications tools or Internet access, employees must:
 - Use the Internet, electronic communications tools and social media only in accordance with state and Virginia ABC policy;
 - Maintain the conditions of security (including safeguarding of passwords) under which they are granted access to such media;
 - Check with the Virginia ABC Information Technology Division prior to downloading or accessing a file or document if the source of the file or other circumstances raises doubts about its safety.
- Be respectful of Virginia ABC, the state, other employees, customers, vendors, and others when posting and communicating information. (Refer to the Social Media Policy issued by the Communications Division) Users should be sensitive to referring to or including others in their communications and posts and should be aware of any associated potential liabilities.

2. Business Use Requirements

Virginia ABC provided information technology tools are the property of the Virginia ABC and are provided to facilitate the effective and efficient conduct of Authority business. Users are permitted access to the Internet and electronic communications tools to assist in the performance of their jobs. Some users may also be permitted to access and use social media to conduct Authority business. (Refer to the Social Media Policy issued by the Communications Division)

When using information technology and electronic communications tools provided by Virginia ABC, users should:

- Use their accurate identities and state their affiliation when using electronic communications or social media for business purposes.
- Ensure the security of sensitive or confidential information, as well as accuracy, when

communicating electronically or posting the information on internal or external websites, including social media. (Refer to the Social Media Policy issued by the Communications Division)

- Ensure information is accurate prior to posting on social media sites, state or Virginia ABC websites, or other electronic media sites. If it is discovered that information is inaccurate after posting, users should work to quickly correct the errors. (Refer to the Social Media Policy issued by the Communications Division)

3. Personal Use Requirements

Personal use means use that is not job-related. In general, incidental and occasional personal use of Virginia ABC's information technology tools including the Internet is permitted as long as the personal use does not interfere with the user's productivity or work performance, is not illegal or offensive, does not interfere with any other employee's productivity or work performance, and does not adversely affect the efficient operation of the Virginia ABC's systems and networks.

When using Virginia ABC electronic communications, users should:

- Be clear that their communication or posting is personal. For example:
 - Users should use their personal email addresses and not those related to their positions with Virginia ABC when communicating or posting information for personal use.
 - Users may use a disclaimer when posting opinions or views for personal use such as, "The views expressed on this (website, blog, social media site) are my own and do not reflect the views of my employer, Virginia ABC or of the Commonwealth of Virginia." Use when appropriate to ensure these views are not viewed as official Virginia ABC or state communications.

D. Prohibited Activities

Certain activities are prohibited when using Virginia ABC's Internet and electronic communications in reference to the work environment. Employees who engage in prohibited activities may be subject to disciplinary action, up to and including termination of employment. (Refer to Policy 1.1 Standards of Conduct). Prohibited activities include, but are not limited to:

- Any use that is in violation of applicable local, state, and federal law.
- Accessing, uploading, downloading, transmitting, printing, posting, or storing fraudulent, threatening, obscene, intimidating, defamatory, harassing, discriminatory, sexually explicit, or otherwise unlawful messages or images. (Refer to Code of Virginia [§2.2-2827](#), Policy 2.1 Equal Employment Opportunity, Policy 2.7 Workplace Harassment, and Policy 1.21 Workplace Violence)
- Installing or downloading computer software, programs, or executable files contrary to the [Virginia Information Technology Agency's \(VITA\), Information Security Policy, Standards, and Guidelines](#).
- Accessing, uploading, downloading, transmitting, printing, communicating, or posting access-restricted Authority information, proprietary Virginia ABC information, sensitive state data or records, or copyrighted materials in violation of Virginia ABC or state policy.
- Upload, download, or otherwise transmit copyrighted, trademarked, or patented material; trade secrets; or other confidential, private, or proprietary information or materials without Virginia ABC's prior written authorization.
- Using proprietary Virginia ABC information, state data or records, and social media to locate Authority customers for personal reasons.
- Posting information or sending electronic communications such as email using another's identity.
- Permitting a non-user to use for purposes of communicating the message of some third party individual or organization.
- Posting photos, videos, or audio recordings taken in the work environment without written

consent from the Communications Division.

- Using Virginia ABC or organization logos without written consent from the Communications Division.
- Texting, emailing, or using hand-held electronic communications devices while operating a state or Virginia ABC vehicle according to the [Office of Fleet Management Services Policies and Procedures Manual](#).
- Any other activities designated as prohibited by Virginia ABC policy.

E. No Expectation of Privacy

Communications on Virginia ABC's systems are not private and security is not guaranteed. Passwords and user ID's are designed to protect Virginia ABC's confidential, private and/or proprietary information from outside parties, not to provide employees with personal privacy in the messages. Anything in Virginia ABC's electronic communication system may be monitored or reviewed by others even if the information has been deleted, or has been entered into the system on a "confidential" or "personal" basis. Employees should have no expectation of privacy in any computer files.

Passwords

Passwords are an important aspect of information technology security. They are the front line of protection for user accounts. A poorly chosen password may result in the compromise of Virginia ABC's entire network. As such, all employees with access to the Authority's systems are responsible for taking the appropriate steps. Employees should refer to the standards in the Information Security and the Information Security Program Manual.

Bring Your Own Device

Employees of Virginia ABC may have the opportunity to use their personal electronic devices for work purposes when authorized in writing, in advance, by the employee and management. Personal electronic devices include personally owned cellphones, smartphones, tablets, laptops and computers. (Refer to IT Policy Bring Your Own Device)

While at work, employees are expected to exercise the same discretion in using their personal devices as is expected for the use of Virginia ABC devices. Virginia ABC policies pertaining to harassment, discrimination, retaliation, confidential information and standards of conduct apply to employee use of personal devices for work-related activities.

Excessive personal calls, emails or text messaging during the workday, regardless of the device used, can interfere with employee productivity and be distracting to others. Employees must handle personal matters on non-work time and ensure friends and family members are aware of the policy. Exceptions may be made for emergency situations and as approved in advance by management. Supervisors, in consultation with the Human Resources division, reserve the right to request employees' cellphone bills and use reports for calls and messaging made during working hours to determine if use is excessive.

Employee Conduct

Employees are expected to conduct themselves with a high degree of professionalism. This policy must be followed in conjunction with other policies governing appropriate workplace conduct and behavior. (Refer to Policy 2.1 Equal Employment Opportunity, Policy 2.7 Workplace Harassment, and Policy 1.21 Workplace Violence) Violations of Virginia ABC's policies concerning information technology and communications systems usage are to be brought to the immediate attention of Virginia ABC management. Any violations may result in disciplinary action, up to and including termination of employment. (Refer to Policy 1.1 Standards of Conduct)

Prohibition Against Working "Off the Clock"

Nonexempt employees under the Fair Labor Standards Act (FLSA) are prohibited from performing any work outside normal working hours unless preauthorized in writing by the employee's supervisor. This includes reviewing, sending and responding to emails or text messages, responding to phone calls, or making phone calls. Failure to accurately record time worked is grounds for discipline, including possible termination of employment. (Refer to Policy 2.6 Types of Employment, Policy 1.1 Standards of Conduct and Policy 3.3 Overtime)

Virginia ABC Responsibilities and Requirements

Virginia ABC has the following responsibilities and requirements related to this policy.

A. Monitor Usage

No user should have any expectation of privacy in any message, file, image or data created, sent, retrieved, received, or posted in the use of Virginia ABC's information technology and communication systems. Virginia ABC has a right to monitor any and all aspects of electronic communications and social media usage. Such monitoring may occur at any time, without notice, and without the user's permission.

In addition, except for exemptions under the Act, electronic records may be subject to the [Freedom of Information Act](#) (FOIA) and, therefore, available for public distribution.

B. Communication

Virginia ABC is responsible for ensuring employees have access to, read, understand, and acknowledge this policy and any related policies. With regard to use of information technology, Virginia ABC is responsible for:

- Retaining electronic records in accordance with the retention requirements of the Library of Virginia.
- Requiring and retaining acknowledgement statements, signed by each user, acknowledging receipt of a copy of this policy.

C. Address Violations

Violations of this policy must be addressed under Policy 1.1 Standards of Conduct. The appropriate level of disciplinary action will be determined on a case-by-case basis by the Division Director or designee, in consultation with the Human Resources division, with sanctions up to or including termination of employment depending on the severity of the offense, consistent with the appropriate applicable policies.

1.18 Workforce Planning

The purpose of workforce planning is to plan the human resource requirements which align to the Virginia Alcoholic Beverage Control Authority's (Virginia ABC) operational and strategic plan. Workforce planning is a dynamic process, involving frequent modifications of direction in response to changing economic and business conditions. Many factors must be considered in developing workforce plans, such as the strategic and operational plans of Virginia ABC, projected budget forecasts, retirement, resignation or other career plans of current employees; and current succession plans.

This policy outlines the workforce planning approach, which supports Virginia ABC in acquiring, engaging, developing, and retaining the workforce talent necessary to meet Authority goals and objectives and fulfill the requirements of the "Virginia Performs" scorecard.

Virginia ABC will:

- Assess Virginia ABC talent requirements.
- Develop and implement Virginia ABC workforce planning and talent management strategies.
- Develop succession planning strategies.

- Integrate workforce planning and strategic planning to support Virginia ABC goals.
- Produce and analyze appropriate data in order to measure results and revise strategies as needs change.
- Report Virginia ABC workforce planning and talent management progress to the Virginia Performs scorecard.

Workforce Planning Considerations

- Staffing needs assessment
- Business plan requirements;
- Workforce composition and demographics;
- Skills gap analysis;
- Identification of skills needed and those no longer needed;
- Assessment of training and development needs and resources;
- Assessment of recruiting needs and resources;
- Evaluation; and
- Action plans

As strategic workforce planning is currently being undertaken with the assistance of outside consultants this policy will continue to be elaborated upon as the Authority’s workforce plan is developed .

1.19 Service Recognition

The purpose of this policy is to recognize specific milestones in an employee's service with the Virginia Alcoholic Beverage Control Authority (Virginia ABC) and any other prior service with other state agencies and authorities.

This policy provides for the recognition of employees for their service to the Virginia ABC and the state and authorizes Virginia ABC to develop programs for acknowledging such service.

Employees eligible for a service recognition award and who are on a leave of absence will receive the acknowledgement upon return to active employment.

Employees who terminate employment prior to their anniversary date or the service award ceremony are not eligible for the service recognition.

Virginia ABC Responsibilities

Timing and Nature of Awards	<p>Virginia ABC is responsible for developing a program to recognize employees’ service.</p> <p>All Virginia ABC employees, regardless of type of employment, are eligible for a one year service recognition award as determined by the Authority.</p> <p>Regular full- and part-time employees, as defined in Policy 2.6 Types of Employment, receive additional service recognition in the forms of:</p> <ul style="list-style-type: none"> • Awards starting at five years and for each five-year increment thereafter; • Presentation of service awards at least annually; and • An appropriate presentation ceremony.
Presentation Ceremonies	<p>Virginia ABC will determine the manner in which service awards are presented:</p> <ul style="list-style-type: none"> • For recognition of one year of service, there is no formal presentation ceremony. • For awards starting at five years of service, presentation ceremonies are to be held during work hours and will be

	<p>reasonable in duration and consistent with Virginia ABC's mission and business needs; and</p> <ul style="list-style-type: none"> Expenses incurred for the presentation of service awards must be reasonable, and necessary for providing an appropriate event. <p>Virginia ABC may combine service award presentations with other recognition ceremonies.</p>
Calculating State Service	<p>Virginia ABC service includes all state salaried employment worked at all agencies and authorities of the executive, legislative, and judicial branches of Virginia government. Virginia ABC and state service includes all periods of approved leave with and without pay.</p> <p>NOT INCLUDED for service recognition:</p> <ul style="list-style-type: none"> Non-working Long-Term Disability; Wage employment as defined in Policy 2.6 Types of Employment other than for recognition of one year of service with Virginia ABC. <p>Employees must pass the service milestone before receiving the recognition award for that level of service; service time is not rounded up.</p> <p>Virginia ABC has established workable cutoff dates as needed in order to administer the program efficiently. For example, Virginia ABC may require employees to reach the service milestones by October 31 to qualify to receive an award at a December ceremony.</p>
Service Recognition Award Items for five-year increments.	<p>Service recognition gift items are available through contracts.</p> <p>Employees eligible for service awards may select a gift item for the service level attained or from a lower level. For example, an employee eligible for a 20-year award may select an item from the 20-year group or may opt for one item from the five, ten, or fifteen year group.</p>
Availability of Funds	<p>The CFO of Virginia ABC or designee must ensure the availability of funds to support their programs for awards for length of state service.</p>
Records Retention	<p>Virginia ABC will maintain such records as are needed to implement the service awards program. Where Library of Virginia or Department of Accounts regulations apply, Virginia ABC is expected to comply.</p>

1.20 Employee Recognition

This Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy establishes the standards, considerations, and approval processes for the employee Reward and Recognition Program.

The purpose of the Virginia ABC Employee Reward & Recognition Program is to recognize employees, individually or as teams, for significant contributions in achieving the Virginia ABC mission, strategic objectives, and customer service expectations.

Each employee's direct supervisor, with the approval of CEO, may develop reward and recognition criteria in addition to the criteria established in this policy which meets the business needs of Virginia ABC. This policy is intended to reward exceptional performance outside the range of normal job requirements and routine activities. Each Director will determine what level of supervision within the Division is authorized to implement this policy.

Senior Management, to include Division Directors and supervisors, are encouraged and expected to actively implement this program. It is intended that rewards be distributed on an ongoing basis throughout the

Authority's fiscal year (July 1-June 30). Awards issued by Division Directors should be communicated to all employees within the work unit or division to recognize the work of those employees, encourage others to participate, and to demonstrate transparency of the program. Awards received during the year should be reflected in the employee's annual performance evaluation.

Funding & Eligibility Criteria

- A. Each year funds and leave hours will be allocated for the upcoming fiscal year for the employee Reward and Recognition Program as a percentage of Division payrolls, dependent on financial resources available for each fiscal year of Virginia ABC. The funds may be proportioned for distribution into 3 categories (enforcement, wholesale/Retail Operations, and all other divisions and offices).
- B. All Virginia ABC regular full- and part-time and wage employees up to, but excluding Division Director level and above, are eligible for nomination and selection for the employee Reward & Recognition Program if they meet the following criterion:
 - 1. Have no active disciplinary actions (group notices) on file.
 - 2. Be employed with Virginia ABC for a minimum of six months.
 - 3. Have at least a "Contributor" overall performance rating on the most recent performance evaluation.
- C. Division Directors and above, to include the CEO and Board, are not eligible to be nominated or selected to receive any employee Reward or Recognition award under this program.

Type of Awards

- A. Monetary Awards
 - 1. Both wage and classified employees are eligible to receive monetary awards.
 - 2. Virginia ABC directors or designees, at their discretion may make cash awards to employees in the amount of \$50.00, \$100.00, \$250.00 and \$500.00.
 - 3. An employee may receive several reward and recognition monetary awards within a year, as long as the total per employee does not exceed the \$2,000 limit during a fiscal year (July 1-June 30).
 - 4. All monetary awards are subject to appropriate state and federal taxes and will be taxed accordingly.
 - 5. All awards of up to \$500.00 must be reviewed and approved by the Division Director and Director of Human Resources, with final approval by the CFO. Awards in excess of \$500.00 must be approved by the CEO.
 - 6. Awards made in conjunction with the Operational Excellence Award, or any other Board initiated awards do not count towards the \$2,000 annual limitation defined above.
- B. Leave Recognition
 - 1. Only regular full- and part-time employees are eligible to receive recognition leave awards.
 - 2. Virginia ABC Directors or designee, at their discretion may award to a classified employee Recognition Leave in increments of 4 hours, 8 hours, 16 hours or 24 hours of time off with pay, per award.
 - 3. The maximum recognition leave for any employee in a calendar (leave) year is 3 days (24 hours).
 - 4. Recognition leave expires within 12 months of the date it is awarded. Unused active recognition leave is paid to the employee upon separation or transfer to another state agency within this same twelve-month period.
 - 5. The value of recognition leave awarded will not be included in the computation of the \$500 cash award limit per employee per fiscal year.
 - 6. A regular full- or part-time employee may receive the maximum Monetary and the maximum Recognition Leave award in the same fiscal year.
 - 7. All awards in the amount of 16 hours or 24 hours must be reviewed and approved by the Division Director and the Director of Human Resources, with final approval by the CFO.

C. Team Award

1. For the purpose of this policy, a team is defined as a group of employees from the same division, a cross-functional group of employees, or a cross divisional group of employees completing a designated task or project, such as a process improvement team (PAT).
2. A team leader may recommend team awards to their Division Director, or a Division Director may make a recommendation to the Human Resource Director.
3. The Human Resource Director, in conjunction with the referring Division Director, will determine the appropriate level of award for the team based on the criteria outlined in the next section of this policy.

Award Criteria

Nominations for rewards and recognition under this program, and programs specific to Divisions, must meet one of the following criteria.

A. Public Safety

- Employees who demonstrate extraordinary performance and/or contributions, which enhance Virginia ABC's commitment to our customers and the community.
- Employees who demonstrate heroic or courageous acts while conducting Virginia ABC business or community-related activities.
- Employees who go above and beyond normal job requirements to ensure safety to the citizens of the Commonwealth.
- Employees who provide significant contributions to Community Policing concepts.

B. Customer Service

- Employees who have a record of consistent achievement over time which significantly contributes to the mission and goals of the Authority and advance Virginia ABC services to the citizens of Virginia.
- Employees who consistently or proactively provide a level of service to internal and/or external customers which exceeds customer expectations.
- Employees who strive to solve the customer's problem while effectively communicating service options, policies, and procedures.
- Employees who convert a dissatisfied customer (internal or external) into a satisfied one.
- Employees who contribute outstanding effort which benefits the work unit or Virginia ABC.
- Employees who improve their communication, solicit feedback, and modify behavior or process to become more customer service oriented.

C. Revenue / Internal Process

- Employees who demonstrate unusual initiative or creative ability in developing and improving Virginia ABC business processes, procedures, or policies resulting in substantially increased productivity, profits, efficiency, economy, customer service and/or a reduction in expenses.
- Employees who recommend and help implement cost savings or efficiencies.
- Employees who develop solutions to complex business problems or turn problems into opportunities.
- Employees who streamline work processes in a manner that allows new duties and responsibilities to be incorporated into Virginia ABC without adding positions and increasing the Maximum Employment Level (MEL).
- Employees who develop new ideas which improve employee on-the-job safety in a cost effective manner.

D. Teamwork

- Employees who demonstrate a commitment to quality results by successfully leading change and innovation, building teams, and developing and empowering people.
- Employees who exhibit catalyst behaviors that energizes and mobilizes others.

- Employees who recognize the strengths and contributions of co-workers.
- Employees who build trust, respect, and commitment among fellow team members.
- Employees who work together to develop and implement strategies to resolve a work unit or Authority crisis.
- Employees who demonstrate by consistent performance a positive attitude, individual initiative, integrity, loyalty and/or responsiveness to the needs of our customers and coworkers.
- Employees who demonstrate by their consistent behaviors support for Virginia ABC's core values: integrity, loyalty, excellence, and teamwork.

E. Learning & Growth

- Employees who display progressive, technical and functional expertise.
- Employees who acquire new skills and/or attain relevant certifications or education which enhance Virginia ABC operations and go beyond what would normally be expected in a given job field.

Factors to be Considered in Determining Appropriate Level of Award

- Once a determination for an award has been made, based on the criteria in Section III, the level of award must be determined.
- Supervisors should identify specific criteria, either individually or in combination to determine the most appropriate award level. Some examples follow, however, this list is not all-inclusive.
 - Length of time/effort
 - Savings to Virginia ABC (time, money, etc.)
 - Team award
 - Virginia ABC-wide impact
 - Services provided under extraordinary circumstances
 - Services provided which are not within scope of normal responsibility
 - Complexity of effort

Administration of Rewards

- Awards will be acknowledged through specialty cards (ABC Bucks) developed and printed by Virginia ABC and distributed by the Human Resources division. Recognition pins may be used in place of or in conjunction with the ABC Bucks. Once the manager is informed that the reward is approved, he or she should immediately notify and recognize the employee(s) with the ABC Buck and/or pin.
- Cash awards will be processed in the next available pay cycle and available to the employee on the payday following the close of the pay cycle. Awards will be included as part of regular paycheck. Distribution will follow existing pay practices.
 - If the employee has direct deposit the cash award will be direct deposited and an earnings statement will be issued.
 - If an employee is registered with Payline the cash award will be reported via the system.
- Leave codes have been created by Department of Accounts to enter and maintain Recognition Leave activity as follows:
 - RE – Recognition Leave Earned – Recognition leave will be keyed into CIPPS by Payroll.
 - RT - Recognition Leave Taken – to be used by employee in the ABC Time Attendance & Leave system when using recognition leave.

1.21 Workplace Violence

The purpose of this policy is for the Virginia Alcoholic Beverage Control Authority (Virginia ABC) to address prohibited activities, designate responsibility for conducting threat assessments and preparing employee

guidelines on handling violent situations, and identify support the Authority provides to victims of workplace violence.

Virginia ABC is committed to preventing workplace violence and to maintaining a safe work and shopping environment. Virginia ABC has adopted the following guidelines to deal with intimidation, harassment or other threats of or actual violence that may occur onsite or offsite during work-related activities.

Virginia ABC does not tolerate and strictly prohibits acts or threats of workplace violence committed by or against any employee, customers or others doing business with the Authority. Furthermore, the Authority strictly prohibits employees from making threats or engaging in violent acts and will take the appropriate corrective action for violations of this policy, including termination and pursuing legal prosecution. (Refer to Policy 1.1 Standards of Conduct)

Prohibited Conduct

Prohibited conduct in the workplace includes, but is not limited to:

- Injuring another person physically;
- Engaging in behavior that creates a reasonable fear in or injury to another person;
- Possessing, brandishing, or using a weapon while on Virginia ABC property or engaged in Authority business, except as expressly permitted for sworn employees of the Bureau of Law Enforcement;
- Damaging property intentionally;
- Directly or indirectly threatening to injure an individual or damage property;
- Committing injurious acts motivated by, or related to, domestic violence or sexual harassment;
- Retaliating against any employee who, in good faith, reports a violation of this policy;
- Stalking another person on or off Virginia ABC premises regardless of intent; and
- Telephone harassment regardless of whether it takes place during working or nonworking hours.

Identifying and Responding to Risks

Virginia ABC identifies, prepares for and responds to workplace violence hazards as follows:

A. Threat Assessment:

1. The Workplace Safety Committee, headed by the Virginia ABC Human Resources division with organization-wide representation, assesses the threat vulnerability to violence and determines the appropriate preventative measures. The Committee reviews the workplace to identify existing or potential violence hazards.
2. The Virginia ABC Internal Audit Division maintains records of all threats and incidents of violence committed against employees.
3. The Human Resources division maintains all records of disciplinary actions taken as the result of workplace violence. Access to such records is on a need-to-know basis only.

B. Security planning for at-risk employees: Some employees are known to be at greater risk of workplace violence because of the nature of their jobs, such as law enforcement agents and employees working in Virginia ABC stores. Other employees may be at risk because they are subject to domestic violence, threats, or harassment from a current or former spouse or partner or other non-employee. Human Resources, Internal Audit and Enforcement personnel are to work with at-risk employees, and their supervisors to develop safety plans which address the specific risks the employees face while at work.

C. Pre-hire screening: The Human Resources division conducts a criminal history record review of candidates referred for employment consideration and conducts reference checks with candidates' previous employers and persons listed as references. The Human Resources division may delegate reference checks to the hiring Division, subject to agreement between Human Resources and the hiring Division. The Virginia ABC Bureau of Law Enforcement conducts an extensive background investigation for potential sworn employees; therefore, the pre-hire screening provisions of this policy do not apply.

Guidelines for Handling Violent Situations

IF A WORKPLACE VIOLENCE THREAT IS IMMINENT, EMPLOYEES SHOULD IMMEDIATELY CALL 911.

- A. In the event of a threat or danger, an employee who is subjected to such a situation or witnesses such a situation must immediately notify his or her supervisor, another manager, or the Human Resources division.

All suspicious individuals or activities should also be reported as soon as possible to a supervisor. Employees should not place themselves in peril.

- B. In the event of an emergency situation, in addition to immediately notifying the local police department, the incident must be reported to the Virginia ABC Director of the Bureau of Law Enforcement.
- C. The supervisor must document information provided by the employee and notify the Division Director or designee and the Director of Human Resource within 24 hours or by close of the next business day. The Director of Human Resource will consult with Internal Audit, Bureau of Law Enforcement, or other internal or external representatives when an investigation is indicated or if the situation warrants.
- D. Threats of suicide made by employees must always be taken seriously. If an employee appears to be planning to take action immediately, local emergency authorities should be contacted by calling 911, since management and other employees generally are not qualified to handle such a situation directly. If there are doubts as to whether the threat is immediate, the employee's supervisor may contact local services, such as an employee assistance program, or a suicide hotline, such as the National Suicide Prevention Lifeline at 1-800-273-8255, or hospital. The Human Resources division should be immediately notified, including nights, weekends and holidays of such incidents.
- E. Where Divisions have internal policies and procedures, which are specific to operation, property, or programs, employees will be provided with a copy of such information.

Support for Victims of Violence

- A. Victims of violent incidents in the workplace may be exposed to a variety of medical, psychological, and legal consequences.
 - 1. Virginia ABC provides support to victims of workplace violence by contacting health care plan representatives, referring victims to appropriate community resources, and completing Workers' Compensation reports.
 - 2. The Authority also cooperates with law enforcement personnel in the investigation of a crime and the prosecution of an offender.
 - 3. Employees are debriefed by law enforcement and the Human Resources division 24-to-48 hours after a serious violent occurrence to explain what happened and what steps are being taken by Virginia ABC to support affected employees.

Enforcement

- A. Virginia ABC is committed to the immediate investigation of any reported violence, harassment, or threats committed on Authority premises, including retail operations. All employees who commit violent acts or who otherwise violate this policy are subject to corrective action or discipline, up to and including termination of employment. (Refer to Policy 1.1 Standards of Conduct)
- B. Virginia ABC will seek prosecution of all who engage in violence on its premises or against its employees while engaged in Virginia ABC business.

Physical and Verbal Altercations

- A. Expected employee conduct: To ensure both safe and efficient operations, Virginia ABC expects and requires all employees to display common courtesy and engage in safe and appropriate behavior on the job at all times. Any involvement with incidents of physical violence is considered dangerous and unacceptable behavior that violates this standard of appropriate behavior in the workplace.
- B. Unacceptable provocation: Racial or ethnic slurs, sexually harassing remarks, threats of violence, and any other provocative comments, language, or actions are not tolerated. An employee who makes provocative comments or otherwise engages in provocative conduct towards co-workers or other individuals is held as accountable as the employee who initiates a physical confrontation.
- C. Off-duty and off-site conduct: Employees are responsible for their conduct on Virginia ABC premises, whether they are on-or-off duty. Employees are also responsible when traveling on Authority business, and any time they are working for or are representing Virginia ABC away from the premises.
- D. Discipline: The Human Resources division and law enforcement promptly investigates any physical or verbal altercation, threats of violence, or other conduct by employees that threatens the health and/or safety of other employees or the public or otherwise might involve a breach of or departure from the standards of conduct for Virginia ABC employees. All incidents of physical altercations are treated as misconduct and can result in disciplinary action, up to and including termination of employment. Pending the results of an investigation, Virginia ABC may suspend employees who are involved in physical altercations which result in injuries, create a significant risk of injury, or have a significant adverse impact on safety.

Prohibition on Retaliation and False Reports

Virginia ABC prohibits retaliation against any employee who, in good faith, reports a violation of this policy. All reports of violence will be handled in a confidential manner, with information released on a need-to-know basis. Management and the Human Resources division will be sensitive and responsive to fears from the reporting employee of reprisal.

Deliberately false or misleading claims of violence, which appear to have been made with the intention to harass or appear to be frivolous or an abuse of the violence reporting process will be considered violations of Policy 1.1 Standards of Conduct and the employee may be subject to disciplinary action, up to and including termination of employment.

Section Two: Equal Opportunity & Employment Practices

2.1 Equal Employment Opportunity

The purpose of this policy is to affirm the Virginia Alcoholic Beverage Control Authority (Virginia ABC) is an equal opportunity employer and prohibits discrimination and harassment, of any kind, towards any employee or applicant for employment.

It is the policy of Virginia ABC to prohibit discrimination and harassment of any type and to provide that all aspects of human resource management be conducted without regard to race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, or disability in accordance with the Governor's Executive Order on Equal Opportunity EO-1 and state and federal antidiscrimination laws. *(For the purpose of this policy, "disability" is defined in accordance with the "Americans with Disabilities Amendments Act" and "genetics" in accordance with Title II of the Genetic Information Non-Discrimination Act.)*

Governor's Executive Order

The Governor's Executive Order on Equal Opportunity includes the following key provisions:

A. Prohibits Discrimination

- Employment discrimination on the basis of race, sex, color, national origin, religion, age, veteran status, political affiliation, genetics, or against otherwise qualified persons with disabilities.
- Lowering of *bona fide* job requirements, performance criteria, or qualifications in order to give preference to any state employee or applicant for state employment on the basis of the above prohibitions.
- All employees, including department heads, managers, and supervisors, from taking retaliatory action against any person making allegations of violations of the Executive Order.

B. Emphasizes Recruitment Efforts

Directs agency and authority heads and managers to take measures, as determined by the Director of the Department of Human Resource Management (DHRM), to emphasize the recruitment of qualified minorities, women, persons with disabilities, and older persons to serve at all levels of state government.

C. Provides Procedures for Alleging Violations of the Executive Order

Any state employee or applicant for state employment may file an allegation of violation of the Executive Order with the Office of Equal Employment Services (OEES) in the Department of Human Resource Management.

Virginia ABC conforms to the spirit as well as the letter of the Executive Order and all applicable laws and regulations governing nondiscrimination in employment in every location in which the authority has facilities or employees assigned. All employees are responsible for conducting themselves in a manner consistent with the Governor's Executive Order.

Employment Practices Covered

All employment decisions at Virginia ABC are made strictly on the basis of business needs, job requirements, and individual qualifications and performance. The prohibition against employment discrimination applies to all aspects of the hiring process and employment practices, including, but not limited to:

- Hiring, demotion, promotion, role change, in-band adjustment, layoff, and transfer;
- Performance management and employee development;
- Corrective actions, including disciplinary actions; and compensation, pay practices, benefits, and other terms, conditions, and privileges of employment.

Non-retaliation

No employee or applicant for employment will be retaliated against for raising good faith concerns about a violation of the nondiscrimination policy, opposing a discriminatory action, or participating in an investigation of an alleged violation of the nondiscrimination policy. This non-retaliation policy applies to anyone who reports an incident, files a complaint, or cooperates in an inquiry or investigation about an allegation of discrimination, or who participates in the Virginia ABC's complaint resolution or grievance procedure as a complainant, a witness, an investigator or in any other capacity.

Retaliation is typically a significant adverse employment action taken against an employee because the employee raised a concern or a complaint about discrimination or participated in the complaint resolution process. Retaliation may also be any other action that could discourage a reasonable person from raising a concern or complaint about discrimination or participating in the complaint resolution process. For some individuals, retaliation may include a significant action that adversely affects that person's employment status.

Retaliation is a serious offense. A complaint of retaliation will be investigated and may lead to disciplinary action, up to and including termination of employment. If any individual has concerns about retaliation, he or she should immediately report the concern.

A. Special rules concerning discussions about pay

Virginia ABC recognizes that transparency in regard to discussions of salary and wages may promote fairness and equality. Virginia ABC will not terminate or in any other manner retaliate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant.

While employees are generally free to discuss their own pay or the pay of another, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (1) in response to a formal complaint or charge; (2) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by Virginia ABC; (3) consistent with Virginia ABC's legal duty to furnish information; (4) of information which is otherwise publically available, or (5) in response to FOIA request.

Concerns or Complaints of Discrimination or Retaliation

Employees and applicants may also confidentially inform their immediate supervisor, hiring manager, other division or store management, or the Virginia ABC Director of Human Resources of any allegations of discrimination. Refer to Policy 1.14 Grievance Procedures.

Per the Executive Order, any Virginia ABC employee or applicant for employment with Virginia ABC may bring their concerns or file a complaint with the Office of Equal Employment Services (OEES) in the Department of Human Resource Management at (800) 533-1414. Additional information is available on the website at <http://www.dhrm.virginia.gov/equal-employment-opportunity>

Employees and applicants may also contact the State Fraud, Waste and Abuse Hotline for the Office of the State Inspector General at (800) 723-1615. More information is available on the website at <https://osig.virginia.gov/program-areas/citizen-services/report-fraud-waste-and-abuse/>

The Virginia ABC Director of Human Resources, or designee, will promptly investigate all allegations, maintaining the confidentiality of everyone involved to the extent possible. Refer to Policy 1.14 Grievance Procedures.

2.2 Americans with Disabilities Act (ADA)

The purpose of this policy is to comply with the Americans with Disabilities Act (ADA), as amended and provide guidance on the request and approval of accommodations, internal appeal after denial of a request for accommodations and external options after a denial of accommodations.

It shall be the policy of the Virginia Alcoholic Beverage Control (ABC) Authority to comply fully with the Americans with Disabilities Act (ADA), as amended, and to observe consistent objective standards in the handling of requests for accommodation under the ADA.

The ADA is a federal anti-discrimination statute designed to remove barriers, which prevent qualified individuals with disabilities from enjoying the same terms, conditions, and privileges of employment that are available to persons without disabilities. It is the policy of ABC to enforce the provisions of the ADA by determining whether an employee has a disability, as defined in the Act, and if he/she is otherwise qualified for the job.

Request for Accommodation:

Accommodations will be considered on a case-by-case basis, placing emphasis on meeting verifiable needs of the individual requesting the accommodations, without causing the Authority any undue hardship.

- A. Employees are encouraged to submit their requests in writing to the Director of Human Resources, at the Virginia Alcoholic Beverage Control Authority, 2901 Hermitage Road, Richmond, VA, 23220. The request should include the name of the employee, location of work, supervisor's name, and the accommodations requested to continue to perform essential job functions. Supervisors receiving any type of request for accommodation should immediately contact Human Resources for guidance.
- B. The Director of Human Resources or designee determines if the request falls under the provisions of the ADA. Medical certifications may be required detailing the medical impairment, if the impairment is temporary or permanent, and suggestions for accommodations necessary to perform essential functions as detailed in the employee's position description.
- C. After a determination that the disability is covered under the ADA, Human Resources will consult with all parties, i.e. supervisor, employee, and medical professional to determine if reasonable accommodations can be made. If so, an accommodation plan agreeable to all parties will be developed by Human Resources and the supervisor. An accommodation response letter is forwarded to the requestor with a copy to all interested parties.
- D. If it is determined that the request does not fall under the provisions of the ADA or a reasonable accommodation cannot be made, the requestor will be notified by letter. The requestor may appeal the decision by contacting the Chief Executive Officer of the Authority.

Internal Appeal of Denial of Accommodation:

Virginia ABC has adopted the following internal review process providing for prompt and equitable resolution of denials of requests for ADA accommodations. Use of this process is not a prerequisite to the pursuit of other remedies.

- A. An internal appeal should be made in writing to the Authority's Chief Executive Officer and must include: the name and address of the person filing the appeal, information on the disability/impairment, a brief description of the accommodations requested, and the resolution sought.
- B. This appeal must be filed within 30 days after the employee receives denial of an accommodation request.

- C. The Chief Executive Officer shall conduct a review of the record, all information submitted, and provide for a reasonable opportunity to submit additional written information relevant to the appeal.
- D. Within 30 days of the receipt of the appeal, the Chief Executive Officer shall issue a written determination as to the validity of the appeal and a description of the resolution. A copy will be sent to the employee.
- E. The Human Resources Division shall maintain the files and records of the Authority relating to the complaints filed with appropriate confidentiality.

External Options for Denial of Accommodation:

Authority employees may file a complaint with the state Office of Equal Employment Services or initiate a grievance under the Authority's grievance procedure.

Other remedies for employees include the filing of an ADA complaint with the federal [Equal Employment Opportunity Commission](#) or other responsible federal agency.

2.3 Hiring

The purpose of this Virginia Alcoholic Beverage Control Authority's (Virginia ABC) policy is to provide guidelines for an efficient and consistent competitive hiring process which promotes equal employment opportunity and a highly effective workforce. (Refer to the Administrative Procedures in this policy.)

It is the policy of Virginia ABC to prohibit discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, disability or any other protected status under federal and state law in the recruitment, selection and hiring of its workforce.

General Principles

The following principles apply to all aspects of this policy and for all procedures described herein.

- A. **Persons with Disabilities**
When requested, Virginia ABC must provide reasonable accommodation throughout the hiring process to applicants with disabilities when such applicants are being considered for employment.
- B. **Equal Employment Opportunity**
Virginia ABC must take action consistent with Policy 2.1 Equal Employment Opportunity, to ensure that its recruiting and hiring procedures are conducted without regard to race, sex, color, national origin, religion, age, veteran status, political affiliation, genetics, disability or any other protected status under federal and state law.

2.4 Employment Background Checks Process

The purpose of the background checks is to verify application information, to help determine suitability of the candidate, and to ensure to the extent possible that the candidate does not present a risk to the agency.

It shall be the policy of the Virginia Alcoholic Beverage Control (ABC) Authority to conduct applicable background checks on all selected candidates for employment, including classified and wage, and where deemed necessary for contracted employees (when not conducted by the employing agency). Applicable background checks include, but are not limited to employment reference checks, education checks, criminal history check, credit or financial check, and driving record check. The Human Resources division is responsible for managing the employment background check process.

Virginia ABC requires a Criminal History Record Review (CHRR) for all candidates selected for wage or classified employment, prior to, and/or as a “condition of employment”. The CHRR requirement shall be stated in advertisements for all wage and classified “non-sensitive” designated positions.

Agency positions designated as “sensitive” require candidates being considered for employment to undergo a more thorough, fingerprint-based criminal history check from the Federal Bureau of Investigation (FBI) through the Virginia State Police (VSP). A fingerprint-based criminal history check is more extensive than a Virginia-based CHRR check through VSP, and supersedes the need for a statewide-only CHRR background check. The fingerprint-based criminal history requirement will be stated in advertisements for all sensitive positions.

Under no circumstances shall any candidate be offered employment, transfer, promotion, or contractual assignment in a manner that is inconsistent with the provisions of this policy. A “conditional offer of employment” may be extended to a candidate pending the outcome of any background check results. An unfavorable criminal history check may result in discontinued employment consideration or immediate termination of the affected candidate.

Employment History and Reference Checks:

Employment history will be documented through the candidate’s state application and other supporting employment related credentials (e.g.: resume). The hiring manager is responsible for conducting and documenting a minimum of one reference check (multiple reference checks recommended) only for the candidate recommended for hire. (Upon request, the HR Office may perform the reference check). An acceptable prior-employment related reference check must be provided by the candidate; validation and documentation of the reference check is a “condition of employment” and helps protect the agency from “negligent hiring” liability. Both employment history and reference check documentation will be maintained by HR within the official position recruitment file. Exception: sworn position background investigation reports will be retained in a secured file by the Bureau of Law Enforcement.

Additional Background Checks (i.e.: Driving records, credit reports, etc.):

HR reserves the right to require and pursue other job related background checks to include financial, credit, criminal, driving, or other specifically job related background checks prior to employment for certain positions based on the nature of the positions.

2.5 I-9

The purpose of this policy is to ensure the Virginia Alcoholic Beverage Control Authority (Virginia ABC) abides by federal regulations in regards to confirming the eligibility of employees to work in the United States.

It is the policy and intent of Virginia ABC to comply with the provisions of The Immigration Reform and Control Act of 1986 (IRCA), which legally mandates the verification of the employment eligibility status of workers. This policy is developed in accordance with the guidelines issued by the United States Citizenship and Immigration Services (USCIS), an agency of the Department of Homeland Security (DHS), and Policy 2.3 Hiring.

Form I -9

On the first day of employment with Virginia ABC, all new hires are required to complete Section 1 of the Form I-9 and within three days of employment commencing, the employee must present authentic documentation of his or her identity and eligibility to work in the United States to his or her supervisor. Also within three working days, rehires must complete Section 3 of the I-9 if they have not completed one for Virginia ABC or the state in the past three years, or if their previous I-9 is no longer retained or valid, such as due to a name change.

Section 3 of the I-9 form must also be completed if an employee's employment authorization or documentation of employment authorization has expired ("reverification").

An employee's failure to complete the I-9 process within the required timeframe may result in termination of employment in accordance with federal regulations.

e-Verify

Virginia ABC must also comply with the reporting requirements of the E-Verify system in confirming the eligibility of new hires and re-hires to work in the U.S. Based on the information provided by the new or re-hire on the Form I-9 form, E-verify compares the information electronically against records contained in DHS and Social Security Administration (SSA) databases to confirm or deny the employee's eligibility to legally work in the U.S. Employees will be allowed to continue work during the verification process.

Hiring Managers

Hiring managers responsible for I-9 authorization will receive appropriate training. The Human Resources division will provide additional training or assistance as needed.

Hiring managers who fail to strictly follow the provisions of the DHS as it applies to this policy will be subject to disciplinary action under Policy 1.1 Standards of Conduct.

Storing I-9 Forms

All completed original I-9 forms are retained and stored in a secure location in the Human Resources division in accordance with federal regulations and to safeguard personal information about employees. It is against Virginia ABC policy for hiring managers to maintain copies for their records.

Retaining I-9 Forms

Virginia ABC must have a completed I-9 form on file for each person for each employee hired in return for wages or other payments. Virginia ABC must retain original I-9 forms for the entire time of an employee's employment. If an employee leaves the Authority, Virginia ABC must keep the form for three years after the employee's hire date or one year after the employee's separation, whichever comes later.

2.6 Types of Employment

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to define the classifications of employment and to the terms and conditions associated with each.

It is the policy of Virginia ABC to define job classifications so employees understand their employment status and benefits eligibility. These classifications do not guarantee employment for any specified period of time. The right to terminate the employment relationship at will at any time is retained by both the employee and Virginia ABC.

Fair Labor Standards Act Job Classifications

All employees are designated as either nonexempt or exempt under state and federal wage and hour laws:

A. Nonexempt Employees

Employees whose work is covered by the federal Fair Labor Standards Act (FLSA). They are not exempt from the law's requirements concerning minimum wage and overtime for hours worked exceeding 40 hours during a defined workweek. (Refer to Policy 1.5 Hours of Work and Policy 3.3 Overtime)

B. Exempt Employees

Employees who are generally executives or managers or professional, administrative or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Certain computer professionals may also be exempt. Exempt employees hold jobs which meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

Each position at Virginia ABC is identified as exempt or nonexempt according to criteria set forth in the FLSA. Classifications are made by the Department of Human Resources in conjunction with the appropriate staff and are evaluated periodically to ensure continued compliance with the FLSA.

Virginia ABC Job Classifications

Virginia ABC has established the following categories of employment for both nonexempt and exempt employees:

A. Regular Full-Time

An employee scheduled to work for 40 hours per week or more throughout the calendar year. Employees holding these positions are eligible for all the insurance and leave benefits as outlined in this policy.

B. Regular Part-Time

An employee typically scheduled to work for less than 40 hours, but at least an average of 20 hours per week, for the entire calendar year. Regular part-time employees may be eligible for insurance and leave as described in each leave benefit policy. Certain benefits may be available at the employee's option and at the employee's cost. Refer to the Addendum to this policy.

C. Wage

An employee who receives pay for hours worked rather than a fixed salary and is eligible for overtime pay for hours worked in excess of 40 hours in a workweek. Wage employees may work for no more than 1,500 hours for Virginia ABC per year unless approved in writing by the CEO. A year is the 365-day period between May 1 and April 30. Employees holding these positions are not entitled to any insurance and paid leave benefits provided by Virginia ABC; however, they are covered by the Worker's Compensation, Public Health Emergency Leave and Family Medical Leave policies.

General Provisions

Employment at Virginia ABC is at-will. Employees may terminate their employment relationship with Virginia ABC at any time and for any reason, or for no reason at all, and Virginia ABC has the right to terminate the employment of any employee at any time for any lawful reason, or for no reason at all.

The terms and conditions of employment vary depending on the classification of employment. Tenure of employment, compensation, entitlement to overtime, benefits, access to the grievance procedure, eligibility for layoff and severance benefits, and certain other employment conditions and actions are specific to the employee's type of employment. Changes from one category to another may involve different terms and conditions of employment.

All Virginia ABC employees addressed by this policy are eligible to receive benefits accorded by the Virginia Workers' Compensation Act in compliance with the qualification criteria of that program.

Any records related to the hiring or employment of all employees must be managed in accordance with Policy 6.1 Personnel Records Disclosure, Policy 6.2 Personnel Records Management, and with all applicable sections of the Code of Virginia.

Virginia ABC may establish additional terms and conditions of employment as long as they do not conflict with any provisions of state or federal law.

General Terms and Conditions for Regular Full- and Part-time Employees

An employee may hold only one 100% Regular Full-Time position at a time with Virginia ABC. An employee may hold two Regular Part-Time positions, each 50% FTE or 20 hours per week. The total FTE filled by an employee may not exceed 100%.

A. Regular Full- and Part-time employees of Virginia ABC have access to:

1. The grievance procedures following completion of the introductory period (Refer to Policy 1.9 Introductory Period and Policy 1.14 Grievance Procedures).
 - a. Non-introductory law enforcement officers employed by Virginia ABC also have access to the procedural guidelines of Code of Virginia § 9.1-500 – 507 in cases of investigation of work-related matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer.
2. The State Employees' Discrimination Complaint procedures administered by the Office of Equal Employment Services of the Department of Human Resources Management.

B. Compensation and Benefits

Virginia ABC establishes the compensation of regular full- and part-time employees based on the salary range to which the position is assigned, the pay factors as described in Policy 3.1 Compensation, and in compliance with other related Virginia ABC policies.

In accordance with Virginia ABC policies, benefits for Virginia ABC regular full- and part-time employees include:

- Accumulate and use paid leave;
 - May receive approval to take unpaid leave;
 - Participate in state retirement, life insurance, and related plans;
 - Participate in the Virginia Sickness and Disability Program (VSDP) by opting in during an enrollment period or by being hired or rehired on or after January 1, 1999;
 - Are eligible to participate in the state health plan and flexible benefits program;
- Receive severance benefits in the event of a layoff.

C. Interagency Transfers

Regular Full- and Part-time employees of Virginia ABC who enter covered, classified employment with another state agency or authority will have his or her service with Virginia ABC counted as state service for the purposes of:

- Determining the rate of annual leave accrual;
- Computing eligibility for service recognition awards; and
- Crediting months of service for VSDP benefits.

Regular full- and part-time employees of Virginia ABC who enter covered, classified employment with another state agency without a break in service will have his or her service with Virginia ABC counted as state service for the purpose of determining seniority as it is determined by [DHRM Policy 1.30 Layoff](#).

Leave balances accrued by Regular Full- and Part-time employees of Virginia ABC may be transferred when the employee moves without a break in service to a classified position with another state agency or authority only if: (1) the leave was accrued at the same or lower rate as that for covered employees; and (2) the receiving agency or authority chooses to accept the accrued balance.

General Terms and Conditions for Wage Employees

Wage employees are limited to working 1,500 hours per fiscal year, which is calculated as the 365-day period from May 1st through April 30th each year.

- When a Wage employee has reached the maximum of 1,500 hours within the 365-day period, he or she may not be permitted to work again for Virginia ABC during that 365-day period. Virginia ABC may rehire the employee following that period, starting a new 365-day period.
- No exceptions to the 1,500-hour rule limit are permitted without the written authorization of the CEO.

A. Compensation and Benefits

Virginia ABC establishes the compensation of Wage employees based on the salary range to which the position is assigned, the pay factors as described in Policy 3.1 Compensation, and in compliance with other related Virginia ABC policies.

Wage employees receive pay only for hours actually worked and are considered nonexempt for the purposes of the FLSA. Accordingly, Virginia ABC must keep thorough and accurate records of all time worked by Wage employees. Wage employees may be eligible to receive pay increases in accordance with VA ABC Policy 3.1 Compensation.

Wage employees are not eligible for paid holidays or any other paid time off. They are eligible for the following:

- Leave without pay for family and medical reasons in accordance with Policy 4.4 Family and Medical Leave;
- Workers' Compensation benefits, and
- Leave without pay for military service. When a wage employee returns from active military service, reemployment will be granted under the terms provided in the United Services Employment and Reemployment Rights Act (USERRA).
- Leave under VA ABC Policy 4.10 Public Health Emergency Leave.

B. Other Human Resources Policies

In general, human resources policies promulgated by the Department of Human Resources apply to Wage employees only as specified in each policy.

Wage employees may apply for posted regular full- or part-time positions at Virginia ABC. Wage employees of Virginia ABC are considered internal applicants and in other state agencies.

A wage employee hired into a regular full- or part-time position will not receive service credit for any period of Wage employment with Virginia ABC. A Wage employee who enters Regular Full- or Part-time employment must serve an introductory period. (Refer to Policy 1.9 Introductory Period.) Compensation will be determined using the starting pay policy. Refer to Policy 3.1 Compensation)

Retirees from Virginia ABC service may not return to Virginia ABC or any state agency or authority position, including a Wage position, for at least 13 weeks after retirement. Employees and Virginia ABC are prohibited from making re-hire arrangements prior to the employee's retirement. Employees should contact the Virginia Retirement System for further details.

2.7 Workplace Harassment

It is the policy and intent of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) that all employees be treated with respect and work in an environment which is free of conduct which can be considered harassment, of any kind.

It is the objective of Virginia ABC to provide a work environment conducive to the performance of job duties and free from harassment, intimidation, coercion or retaliation in any form, regardless of intent, against employees who either complain of harassment or aide in the investigation of such as a complaint. Employees who violate this policy are subject to disciplinary action, up to and including termination of employment in accordance with Policy 1.1 Standards of Conduct.

Prohibited Conduct

- A. Harassment – Virginia ABC strictly forbids harassment of any employee, applicant for employment, vendor, or contractor, on the basis of an individual’s race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, or disability in accordance with the Governor’s Executive Order on Equal Opportunity EO-1 and state and federal antidiscrimination laws.
- B. Sexual Harassment – Virginia ABC strictly forbids sexual harassment of any employee, applicant for employment, vendor, or contractor. Sexual harassment is defined by the Equal Employment Opportunity Commission Guidelines as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Under Title VII of the Civil Rights Act of 1964, there are two types of sexual harassment: a) quid pro quo and 2) hostile work environment. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Employees are prohibited from harassing other employees or third parties whether or not the incidents of harassment occur on Virginia ABC premises and whether or not the incidents occur during working hours.

- C. Retaliation – Virginia ABC will not tolerate any form of retaliation directed against any employee or third party who either complains about harassment, who witnesses harassment in the workplace and reports the conduct, or who participates in any investigation concerning harassment.

Reporting Allegations of Workplace Harassment

Employees and third parties should report incidents of workplace harassment as soon as possible after the incident occurs.

If comfortable, employees who believe they are the victims of workplace harassment or a hostile environment should respond to the alleged harasser directly, by objecting and by requesting the unwelcome behavior to stop.

- A. Employees have several options for reporting their complaints. Virginia ABC encourages employees to first report their harassment complaints to Virginia ABC. Under no circumstances will the individual alleging harassment be required to file a complaint with the alleged harasser.
 - 1. An employee may choose to report allegations of workplace harassment to any Virginia ABC manager, supervisor or Division Director that they feel comfortable reporting to.
 - 2. An employee may also choose to report allegations directly to the Virginia ABC Director of Human Resources or the Assistant Director of Human Resources.
 - 3. Eligible employees may also use the grievance procedures set forth in Policy 1.14 Grievance Procedures.
- B. For employees, who believe for any reason that they cannot effectively communicate their concerns through Virginia ABC channels, there are alternatives as listed below:
 - 1. The state [Office of Equal Employment Services, Virginia Department of Human Resource Management](#). Additional information is available on the website at <http://www.dhrm.virginia.gov/equal-employment-opportunity>. The complaint must be filed within 180 days of the last alleged harassment.
 - 2. The federal [Equal Employment Opportunity Commission](#). Federal complaints must be filed within 300 days of the last alleged harassment.

3. The State Fraud, Waste and Abuse Hotline for the Office of the State Inspector General at (800) 723-1615. More information is available on the website at <https://osig.virginia.gov/program-areas/citizen-services/report-fraud-waste-and-abuse/>

This Workplace Harassment policy should not be used to bring frivolous or malicious complaints against other employees or third parties. If a complaint has been made in bad faith, as demonstrated by clear and convincing evidence, disciplinary action, up to and including termination, may be taken against the employee making the complaint. (Refer to Policy 1.1 Standards of Conduct)

- C. Supervisors or managers receiving the complaint must first obtain the basic details from the employee alleging the complaint or witnessing harassing behavior by covering the following questions:
 1. Who committed the alleged harassment?
 2. What exactly occurred or what was said?
 3. When did it occur and is it still ongoing?
 4. Where did it occur?
 5. How often did it occur?
 6. Were there any witnesses?
 7. Is there other possible evidence such as video, audio recordings that need to be preserved?
- D. Supervisors or managers receiving the complaint must notify their Division Director within 24 hours or by close of business the next day. In the event the complaint is being made against that Division Director, the complainant must be filed with the Director of Human Resources or the Assistant Director of Human Resources.
- E. The Division Director receiving the complaint must notify the Human Resources division and the Division Director of the employee making the complaint if the complaint originated within a different Division.
- F. The Human Resources division and the employee's Division Director will communicate and make decisions on steps and timelines for conducting an investigation. The Human Resources division will within 24 hours of receipt of complaint notify the employee and assume responsibility for conducting a prompt and appropriate investigation, conducting whatever inquiry they deem necessary, and will arrange interviews with the complainant, the alleged harasser, and any other appropriate persons. The Human Resources division will provide regular communications with the complainant during any investigation.
- G. The investigation, subject to the confidentiality provisions in this policy, will afford the accused an opportunity to respond to the allegations.

Policy Violations

- A. Engaging in Harassment - Any employee who engages in conduct determined to be harassment or encourages such conduct by others will be subject to corrective action, up to and including termination, under Policy 1.1 Standards of Conduct.
- B. Allowing Harassment to Continue - Managers and/or supervisors who allow workplace harassment to continue or fail to take appropriate corrective action upon becoming aware of the harassment may be considered parties to the offense, even though they may not have engaged in the harassment behavior.
- C. Failure to Respond - Managers and/or supervisors who allow workplace harassment to continue or who fail to take appropriate action will be subject to disciplinary action, including demotion or termination, under Policy 1.1 Standards of Conduct.

Management Responsibilities

- A. Managers or supervisors must communicate this policy to employees and third parties. Communication must include:
- Educating employees about the types of behavior which can be considered workplace harassment, and
 - Explaining procedures established for filing workplace harassment complaints.
- B. Managers and supervisors are required to:
- Stop any workplace harassment of which they are aware, whether or not a complaint has been made;
 - Express strong disapproval of all forms of workplace harassment;
 - Intervene when they observe any acts which may be considered workplace harassment;
 - Take immediate action to prevent retaliation towards the complaining party or any participant in an investigation; and
 - Take immediate action to eliminate any hostile work environment where there has been a complaint of workplace harassment.
- C. Managers or supervisors receiving complaints of workplace harassment have a legal duty to report allegations, assist with the investigation as directed, and take immediate and appropriate corrective action as needed in consultation with the Division Director and the Virginia ABC Director of Human Resources or the Assistant Director of Human Resources.
- D. Managers or supervisors at any level, who allow workplace harassment to continue or fail to take prompt and appropriate corrective action upon becoming aware of such behavior, may be considered a party to the offense, even though they may not have engaged in such behavior.
- E. Managers or supervisors must make clear to employees that they will protect confidentiality of the harassment allegations to the extent possible. An effective investigation, however will involve revealing certain information to the alleged harasser and potential witnesses. Information will be shared on a “need to know” basis only.
- F. It is the policy of Virginia ABC to prohibit adverse treatment of employees because they report harassment or provide information related to such complaints. Managers and supervisors must undertake appropriate measures to ensure that retaliation does not occur.

Confidentiality

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. However, the identity of the complainant is usually revealed to the respondent and witnesses.

All information pertaining to a harassment complaint or investigation is maintained by the Human Resources division in secure files. The Human Resources division can answer any questions relating to the procedures for handling information related to harassment complaints and investigations to complainants and respondents.

Retaliation

Retaliation against persons who oppose or complain about harassment is strictly prohibited. Retaliation is any action that has the effect of punishing a person for engaging in a legally protected activity, such as alleging harassment, making a harassment complaint, or assisting in a harassment investigation. The Director of Human Resources will take adequate steps to ensure that the complainant is protected from retaliation during the period of the investigation and following the proceedings and will remain in regular communications with the complainant.

Section 3: Compensation Management

3.1 Compensation

The purpose of this policy is to define the compensation policy and administration practices for the Virginia Alcoholic Beverage Control Authority (Virginia ABC).

It is the policy of Virginia ABC to develop a compensation philosophy and a set of guidelines and procedures which support the mission/business strategy are competitive with external labor markets, transparent, and internally equitable. In practice, the Authority strives to provide fair pay based on an employee's role in the organization; the market value of the job; an employee's performance in that position, and the opportunity for additional rewards based on the approved KPI's of the Authority. The Authority's Employee Recognition Program (Policy 1.20) provides additional opportunities for acknowledging specific achievements by employees at the discretion of management.

Overview

Virginia ABC strives to pay employees based on the market value of the actual job performed and sustained personal performance in the job. The midpoint of each salary range designates the typical median market value, for employees performing similar jobs in the competitive marketplace, as specified in the Authority's Compensation Philosophy. The processes for the compensation actions included in this policy are to be made as a collaborative effort between the management of the business functions involved and Human Resources in order to ensure cross-functional equity is maintained for the Authority. Approval roles and responsibilities are documented in the Salary Administration Guidelines (to be developed). Budgets for all compensation elements will be determined by the executive leadership team based on organizational needs and available funds. Individual performance is measured and documented through Policy 1.8 Performance Planning and Evaluation Program.

- Jobs will be reevaluated periodically by Human Resources and salary ranges may be adjusted based on competitive market movement and Virginia ABC financials.
- Virginia ABC employees' salaries may be adjusted based on this policy and other state policies applicable to authorities of the Commonwealth of Virginia and/or relevant provisions of the Appropriation Act (Budget Bill).
- Compensation actions retroactive more than thirty (30) days are discouraged and must be discussed with the Director of Human Resources prior to implementation.
- All salary decisions must be documented and approved in accordance with the Salary Administration
- Guidelines (to be developed)

Establishing Base Pay

Base pay is set for each employee based on the established salary range for the assigned position. The appropriate base pay for an individual is determined by the employee's qualifications and ability to fully function in the assigned position and in relation to the base pay of others in the same position that have comparable responsibility and performance. These guidelines apply to all employees entering the Authority, including those who may be returning from COV retirement or leaves (See Policy 4.9 Military Leave and Policy 4.8 Leave Without Pay – Conditional/Unconditional).

A. Employees New to Position

- Starting base pay is negotiable within the salary range for the assigned position and should be set according to the employee's ability to competently perform the job.
- An employee new to a position, regardless of previous employment, must meet all job requirements specified in the assigned position job description.
- An employee with minimal qualifications and prior work experience for a position based on the requirements in the job description should start at an entry pay rate closer to the minimum of the salary range.

- An employee with the requisite qualifications and work experience should start at a salary closer to the midpoint.
- Starting salaries should not exceed the maximum of the salary range.
- Starting pay above the midpoint needs a documented justification and agreement between the Division Director and the Human Resources representative.

Performance Based Pay Adjustments

Employee pay progression from the entry rate to the midpoint should be consistent with the length of time usually required for complete job mastery when performance is at a level expected for the position. Generally, progress and adjustments to base pay are made based on an employee's change in responsibility, performance, and/or variations in the market rates for specific positions.

A. Performance Increases (Merit)

A performance increase occurs when a budget for this purpose is approved by Virginia ABC. Budgets are based on set financial factors as determined by the CEO and executive leadership of the Virginia ABC. Additional guidelines and specific recommended increase amounts should be followed as set forth in the ABC Salary Administration Plan and in the Performance Merit Matrix published with the Performance Budget Communication.

- A performance increase is intended to provide pay progression for employees who regularly meet and/or exceed annual performance goals and expectations within the parameters established in the ABC Salary Administration Plan.
- Division Directors will receive a performance increase budget based on the total base pay of the employees they currently manage who are eligible to participate in the program.
- It is management's responsibility to allocate the merit budget appropriately based on both performance and the current position of each employee within the position's assigned salary range.
- Performance increases are given to ensure an employee progresses as appropriate within the salary range, using the midpoint as the rate for a fully experienced employee in the role who meets and/or exceeds performance goals.
- Base pay increase percentages may be smaller as an employee's progression occurs in the salary range, even if several employees are performing at the same level.
- An employee's base pay may not exceed the maximum of the salary range due to a performance increase, although other forms of compensation may be considered. (Refer to Additional Compensation below)

Specific guidelines for determining appropriate performance increase amounts for each performance rating and position in the range will be determined by the CEO and ABC executive leadership and communicated based on the annual merit budget for the Authority.

NOTE: Employees returning from a leave of absence may be eligible for a performance increase given while on leave for their performance in the job prior to the leave. (Refer to Policy 4.8 Leave Without Pay – Conditional/Unconditional)

B. Promotions

Adjustments to base pay and promotional increases should follow the guidelines in the Authority's Salary Administration Plan. A promotion occurs when an employee moves into a different position with significantly greater job responsibilities and a higher salary range within the same or another workgroup.

- Promotions are limited to employees who meet the appropriate criteria and performance rating in the current role. (Reference the Performance Management Program for specific guidelines on determining performance levels.)
- A title change is not necessarily a promotion. The salary range of the new position must be higher than the previous position; otherwise, it is considered a reassignment, a transfer, or simply a title change and does not warrant a base pay adjustment.

- A promotional increase must bring the employee's base pay to the minimum of the new salary range of the new position.
- The guidelines for Establishing Starting Salary (above) for employees new to the position should be followed when determining the appropriate base pay as the result of a promotion.
- Promotional increases should not move the base pay to exceed the maximum of the salary range of the new position.
- Promotional increases which exceed the amount of the available budget for salary adjustments (separate from the performance increase budget) must be approved by the Division Director and CFO in consultation with the Director of Human Resources.

Incentive Plan

The purpose of the Virginia ABC Incentive Plan is to align employees' goals and performance with the goals and performance of the overall organization, and will both encourage and reward superior performance. The incentive awards are linked to the achievement of results for the overall organization, are a means for reward and recognition of business performance, and provide differentiation through variable pay which is re-earned every year. Specific criteria for the Incentive Plan will be developed by the executive leadership team and updates made to this policy once approved.

- At the beginning of each fiscal year, the Virginia ABC Leadership will establish organizational and divisional metrics based on the upcoming business goals.
- The metrics will be cascaded and communicated throughout the Virginia ABC organization to all eligible employees in the incentive program.
- Based on the achievement of these metrics, eligible employees will receive a lump sum incentive after the conclusion of the fiscal year.
- The amount of the incentive award an employee achieves will be based on the following requirements:
 - The incentive target payout of the salary range that the employee's job is assigned to. Generally, the higher the salary range, the higher the target %;
 - The target % is based on the midpoint of the salary range, not the employees' base pay.
 - Exceeding the performance metric will result in an incentive award greater than the target award;
 - Meeting the performance metric will result in an incentive award equal to the target award;
 - Not meeting the performance metric will result in an incentive award less than the target award;
- No incentive payment will be made if the actual results are less than 80% of the goal.
- The Incentive payment will be paid annually in a one-time lump sum which is not benefits bearing.
- Employees must have a performance rating of (to be determined) to be eligible for participation of the program.
- Employees must be on the Virginia ABC payroll at the end of the fiscal year and have worked a minimum of six (6) months during the fiscal year (employees who worked more than six (6) months but less than twelve (12) months will receive a prorated award).
- The incentive payment is subject to actual financial results and the approval of the Virginia ABC CEO.

Market Based Adjustments

A market based adjustment may be necessary when a job analysis shows that an employee is being paid inappropriately low compared to the midpoint and others in the position with similar experience and performance or when the midpoint of the salary range is no longer the competitive market rate for a position. All market based adjustments must be reviewed with Human Resources and Finance prior to approval from the Division Director. All market based adjustments are given at the discretion of management and are not guaranteed.

- Adjustments are to be used only when normal performance or promotional increases will not bring the employee up to the proper pay level within a reasonable period of time.
- Adjustments are funded by a separate budget outside of the performance and promotional budgets.
- Adjustments may be used at any time, as long as the appropriate Adjustment budget funds are available.

- Employees who receive a market based adjustment will still be eligible for normal performance or promotional increases.
- Any adjustment should be made with consideration to internal equity.
- Adjustments should never exceed the maximum of the salary range.

A. Position Reclassifications – Salary Range Increases

A base pay adjustment may be needed (but is not guaranteed) when the competitive market rate for a position is determined to be significantly greater than the midpoint of the assigned salary range and/or the salary range is increased for the position.

- The “new” market rate must be confirmed through a formal job evaluation of the position by the Human Resources division using Authority approved competitive data analysis.
- Whenever a position is reclassified to a higher salary range, the base pay of each employee performing in the job should be reviewed and if necessary, adjusted to ensure proper compensation is maintained.
- If an employee’s base pay falls below the minimum of the new salary range, the base pay should be adjusted to at least the minimum of the range. For high performing employees, especially those in critical positions, additional adjustment may be acceptable in order to ensure the base pay is appropriate.
- If the employee is already paid at or above the Midpoint for the new Salary Range, no pay adjustment typically is necessary. The most recent performance rating of each employee should be reviewed to ensure eligibility for an equity adjustment.

B. Compression

A compression adjustment may be needed when the entry rates for new hires with less experience are exceeding the rates of incumbents with more experience. The identification of a bona fide compression situation does not guarantee that an adjustment will occur.

- A compression situation must be confirmed through a formal job analysis of the position by the Human Resources division using Authority approved competitive data.
- A compression adjustment may be given to each employee in the position to ensure equity is maintained.
- Compression adjustments should not increase base pay above the maximum of the salary range.
- The most recent performance rating of each employee should be reviewed to ensure eligibility for a compression adjustment.

Reassignments

A. Lateral Move

A lateral move occurs when an employee moves to a new position within the same salary range as the previous position, regardless of the whether or not the employee moves to a new workgroup.

- A lateral move may occur in lieu of a layoff.
- A lateral move does not include an adjustment to base pay outside of the annual performance increase cycle.
- If a lateral move occurs during the normal performance increase cycle, the employee still is eligible for a performance increase based on the performance rating received for the previous position.

B. Reassignment to a Lower Salary Range

An employee may transfer to a position within the Authority with a salary range which is lower than the current salary range. The intent of this policy is to allow flexibility in handling these scenarios on a case-by-case basis as a collaborative effort with management and HR which may include reducing or "freezing" base pay when appropriate to maintain equity across the Authority.

- A reassignment to a lower salary range may occur in lieu of a layoff.
- Base pay above the new salary range maximum may be “frozen” based on considerations by management.

Performance increases may be paid as a lump sum bonus at the discretion of management while the base pay remains above the maximum.

- Employees who are reassigned to a position with less responsibility at a lower salary range due to a performance issue may incur a reduction in base pay if the amount is above the maximum of the new pay range. (See Demotion).
- Consideration should be given to the performance levels of others in the position and the morale of the workgroup when decisions are made in regard to reassignments due to a demotion. (Reference Performance Management Program for specific guidance on reassignments due to performance issues)
- All reassignments to a lower salary range must be reviewed with the Division Chief and the Director of Human Resources when Base Pay reductions are considered.

C. Competitive Offers

The Authority makes every effort to ensure that all employees are paid competitively for the value of their positions and successful performance. A competitive offer may be made to an employee who receives an offer of employment from outside of the Authority. Management may provide competitive salary adjustments to employees who are deemed critical to the agency's mission and on-going operations when the employee receives a job offer from another state agency or authority (internal competitive salary offer), or from outside of state government.

- The employee must provide a documented offer of employment from an external organization with a higher compensation level for a comparable position.
- A review of the position by Human Resources in consultation with the Division Director determines that the employee's current role and performance warrants a higher base pay (See Market Based Adjustments above)
- The employee holds a position of critical importance to the Authority and the loss would impact authority business needs significantly.
- The employee has been consistently rated and documented as a high performer.
- In all cases, the impact to internal equity of the current workgroup and the organization should be given careful consideration prior to extending a counter offer.
- Budget funds must be available for the increase to base pay and the long-term impact to the Authority reviewed.
- The competitive offer may not increase base pay above the maximum of the salary range.
- The Director of Human Resources and Division Director must approve all competitive offers which increase base pay.
- Compensation options outside of base pay adjustments may be applied in addition to or in lieu of base pay adjustments. (Reference the Additional Compensation Options/Non-Base Pay Adjustments below)

Additional Compensation Options (Non-Base Pay Options)

Non-base pay options allow management to provide payment, leave, or non-monetary items to employees without an impact to base pay. This may be in the form of a supplement (differential) to base pay or a lump sum payment.

Budgets for all additional compensation options are separate from the performance increase and promotion budgets and must be confirmed by the CFO prior to the award.

A. Lump Sum Bonus

Lump sum bonuses allow management flexibility to provide additional monetary compensation to employees without adjusting base pay. Budgets for lump sum bonuses are separate from the performance increase and promotion budgets. Funds for lump sum bonuses must be confirmed by the CFO prior to the award.

- Budget constraints allow funding for the current fiscal year, but not a year-over-year adjustment to base pay

- An employee's base pay is at or above the salary range maximum and is not eligible for a performance increase to base pay during the regular review cycle.
- An employee receives a payment at the end of a temporary assignment with increased responsibility in lieu of continuous temporary pay. (see Temporary Pay below)
- An employee receives a payment for work on a project. (See Project Based Incentives below)
- An employee is eligible for an award under the Employee Recognition Program for individual or project work. (See Policy 1.20)
- An employee is eligible for an award under the Employee Suggestion Program.
- An employee is a participant in the Employee Retention Program.
- A new hire receives a sign-on bonus.
- An employee is eligible for a competitive offer in the form of a lump sum bonus

B. Project-Based Incentives

Project-based incentives are used to encourage individuals to remain employed for the duration of key projects that are critical to the agency's operation or mission. The executive leadership will set the criteria for budgets, targets, eligibility and determine the process for payments for this program. Specifics will be documented in the Salary Administration Plan (to be developed).

- The Portfolio Steering Committee will identify valid projects that are critical to the Authority's operation or mission and determine participant eligibility for the incentive bonus before or during the project lifecycle.
- Project plan/milestones must be developed and documented to identify the timing of payments before the project begins.
Funds for project-based incentives must be confirmed to be available by the CFO before the award is made.
- Project-based incentives may be paid at the completion of the project, or in increments upon the completion of identified milestones.
- The amount an employee can receive for a project-based incentive may not exceed established threshold per fiscal year for any project or cumulatively for milestones completed on a project.

C. Differential Payments

Differentials are payments used to supplement base pay to make total compensation more competitive with the specific market conditions. The special conditions are in addition to the normally expected role and/or responsibilities set forth in the job description and are compensated for in the competitive market. These payments, apply to an identified portion of employees and not necessarily to all employees in a specific position.

The need and eligibility for a differential is determined by the Director of Human Resources based on confirmed market and other competitive practices. Differential Payment eligibility for VRS is determined and defined by VRS requirements.

- Differentials are not "additions" to base pay, although the actual payments may be combined with base pay in the paycheck.
- Differentials may be made for a temporary assignment for an employee assuming greater responsibility for a specified period of time or "Acting" in a higher position during a transition. (See Temporary Pay)
- Differentials may be discontinued at any time as the result of market conditions if deemed no longer valid by Human Resources.
- Differentials are not guaranteed when employees remain in the same role, but working conditions and/or the work location changes.
- Proposals for additional differentials must be submitted to the Director of Human Resources with appropriate documentation.

D. Temporary Pay

Management may provide temporary pay to an employee who is assigned different duties on an interim basis, in a position with a higher Salary Range, because of the need for additional assignments on a project or as may be specified in other Authority Policies. Temporary pay is a management-initiated practice intended to recognize work above and beyond the normally expected responsibilities of an employee for a limited period of time. The criteria for Temporary Pay will be developed by the executive leadership and documented in the Salary Administration Plan. Temporary Pay is defined in this policy to be consistent with the VRS term in regard to VRS requirements for eligible compensation.

- Temporary Pay is not an Adjustment to Base Pay; rather it is a Supplement to Base Pay for a limited time.
- Temporary Pay is paid at the discretion of the agency and may be eliminated at any time management determines appropriate.
- Temporary Pay may be used only for assignments which exceed thirty (30) days.
- The effective date for beginning Temporary Pay and the length of time for the payments to be made are at management's discretion.

Temporary pay is recorded as a special rate with an identified expiration date, and is extended as necessary or discontinued when the employee no longer performs the additional assignment(s).

- Temporary Pay should be calculated based on the market value of the responsibilities and the equity of others in similar positions with comparable Performance Ratings on a case-by-case basis and in conjunction with the Director of Human Resources. (See Establishing Base Pay above)
- The amount of temporary pay shall not be the basis for computation of promotion or leave balance payments if the employee separates.

E. Retention Bonus

Retention Bonuses are used to encourage current employees to remain in specific critical positions. Budgets for lump sum bonuses are separate from the performance increase and promotion budgets. Funds for lump sum bonuses must be confirmed by the CFO prior to the award. Retention bonuses are appropriate under the following circumstances:

- The employee holds a position of critical importance to the Authority and the loss would impact Authority business needs significantly.
- A retention bonus may be offered as part of a total compensation package for a new hire (See Exceptional Recruiting Options below)
- A participant must be a documented high performer; employee's with a below contributor performance rating are not eligible to participate. (Reference Performance Management Plans)
- Management must identify positions and/or specific employees who are eligible for a retention bonus.
- The Retention bonus agreement is reviewed annually and may be discontinued at the discretion of management.
- A Retention bonus of up to \$10,000 during a fiscal year to current employees.
- The employee must agree to work for the Commonwealth and remain with the employing agency for a period up to one year.
- Agencies must establish and document the amount and schedule of the payment.
- A formal written agreement, which includes requirements for satisfactory performance and duration of employment, must be executed with each employee outlining payback terms if the agreement is not met.

NOTE: The agreement should be reviewed and approved by the Office of the Attorney General before the agreement is initiated between the Authority and all participants.

F. On-Call, Call-In, and Travel Pay

Employees may be called back to work during non-work hours, asked to be available to be called back to work, and/or asked to travel for work related reasons. Additional compensation for these activities may be required under federal and state labor laws. The Authority will compensate all employees appropriately as legally required (Reference FLSA, etc.)

Non-Monetary Compensation Options

Non-monetary compensation options allow management the flexibility to reward employees in non-monetary ways.

A. Annual Leave (PTO) and/or Compensatory Leave Incentives

Paid leave incentives are intended to encourage employees to remain in specific critical positions and/or as an additional reward and retention tool. This may be given in the form of Annual Leave (PTO) or Compensatory Leave. (Refer to Policy 4.2 and Policy 3.2 for additional details on paid leave)

- Management must identify specific positions and or individuals eligible for additional annual leave incentives.
- Paid leave may be awarded for participation on a project when Budgets are not available for monetary awards. (See Project Based Incentives above)
- Paid leave may be awarded as a retention bonus in lieu or in addition to monetary payments (See Retention Bonus above)
- Paid leave may be awarded as part of a total compensation package offered to a new employee. (See Sign-On Bonus)
- Paid leave may be awarded in addition to or in lieu of monetary counter offers for existing employees (See Counter Offers above)
- Management must document any extensions authorized and retain information in the Authority files.
- Management may pay off paid leave balances to this designated group of employees rather than allowing the time to accrue, or may require the use of the paid leave within a specific timeframe.
- The use of paid leave as a reward will be reviewed on a case-by-case basis by the Director of Human Resources to determine eligibility.

Exceptional Recruitment Options

Exceptional incentive options are reserved exclusively for situations where employees are extremely difficult to recruit and retain from outside of state government and critical to the agency's mission and ongoing operations.

- Management may use these options individually or select a number of options to use in combination with each other.
- Management may use these options in addition to the options found under establishing base pay.
- Eligibility for the options will be reviewed on a case-by-case basis by the Director of Human Resources.
- Management must request approval for use of the options from the Director of Human Resources and provide documentation in support of the need based on criticality to agency mission, significant recruitment and retention difficulties, and similarity to incentives used in the related labor market.

3.2 Compensatory Leave

The purpose of this policy is for Virginia Alcoholic Beverage Control Authority (Virginia ABC) to provide uniform guidelines for the accrual, use, and payment of compensatory leave.

It is the policy of Virginia ABC to provide eligible employees compensatory leave as a form of paid time off for having worked additional hours in a workweek; or having worked on an official office closing day, a holiday, or a scheduled day off; or when a holiday falls on an employee's regularly scheduled day off. Virginia ABC assumes exempt employees under the Fair Labor Standards Act (FLSA) will from time to time independently determine extra hours are necessary to carry out his or her normal job responsibilities. In these instances, compensatory leave is not awarded.

Accrued compensatory leave may be used to provide paid time off from work for any purpose with advance supervisor approval.

Accrual of Compensatory Leave

Rate of Accrual	Eligible employees earn compensatory leave on a hour-for-hour basis.
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	Accordingly, an employee may earn one hour of compensatory leave for each hour that he or she is required to work for the reasons cited in the above section.
Duration of Accrued Compensatory Leave	Accrued compensatory leave lapses within 12 months from the date it is earned. Thus, once lapsed, accrued compensatory leave may not be used or paid off upon an employee's change of status or separation of employment.
Exception to Duration for Certain Positions as a Retention Incentive	<p>Virginia ABC may extend indefinitely the time employees have to use earned compensatory leave when the employees hold positions which have been identified by Virginia ABC as critical to the Authority's mission and for which the Authority has significant difficulty retaining qualified employees (Refer to Policy 3.1 Compensation).</p> <ol style="list-style-type: none"> 1. When an employee is transferred, promoted or demoted to a position which does not have the same designation as being difficult to hire for or critical to Virginia ABC, the employee's compensatory leave balances which were extended will lapse 12 months from the date of status change, if they are not used before that date. 2. However, when an employee is transferred, promoted or demoted to a position which does not have the same designation, Virginia ABC may authorize payment for any compensatory balances that were extended but not used prior to the status change.

How Compensatory Leave is Credited for Nonexempt Employees

Eligibility to Receive Compensatory Leave	<p>A nonexempt employee is only eligible to earn compensatory leave when the hours worked in a workweek are 40 hours or less.</p> <p>EXAMPLE:</p> <p>A nonexempt employee who works ten hours on Monday, calls in sick on Tuesday, and works eight hours on Wednesday, Thursday, and Friday will receive two hours of compensatory leave for the extra hours worked on Monday, rather than overtime pay, because the employee did not actually work over 40 hours during the workweek.</p>
Required by Management	<p>To earn compensatory leave, a nonexempt employee must be required by management to work:</p> <ol style="list-style-type: none"> 1. Additional hours in a workweek in which the employee has taken a holiday or leave, but has worked no more than 40 hours; 2. On an official office closing day if he or she is designated as an "essential employee"; 3. On a holiday; or 4. On a scheduled day off. <p>NOTE: Nonexempt employees will also be credited with compensatory leave when a holiday falls on a scheduled rest day.</p>

How Compensatory Leave is Credited for Exempt Employees

Exempt Employee will Receive Compensatory Leave	<p>An exempt employee will earn compensatory leave when required by the Division Director or his/her designee to work:</p> <ol style="list-style-type: none"> 1. On an official office closing day if he or she is designated as an essential employee"; or 2. On a holiday. <p>NOTE: Exempt employees will be credited with compensatory leave when a holiday falls on a regularly scheduled day off.</p>
Other Times for Earning Compensatory Leave	An exempt employee may be awarded compensatory leave when the employee is required by the Division Director or his/her designee to work

	more hours in a workweek than the Division Director or his/her designee believes is reasonably expected for the accomplishment of the position's duties.
Meaning of "Required to Work"	<p>For the purposes of this policy, required to work means:</p> <ol style="list-style-type: none"> 1. The requirement to work additional hours must be specifically authorized by the Division Director or his/her designee. General or blanket authorizations for an exempt employee to work beyond his or her regularly scheduled hours will not be the basis for earning compensatory leave. 2. Additional work hours are intended only to relieve specific peak workload needs and will not be authorized to provide for continuous workload requirements. 3. Additional work hours <u>do not</u> include extra hours that an exempt employee <u>independently</u> determines is necessary to carry out his or her job responsibilities.

Compensatory Leave Must be Authorized

An employee must have Virginia ABC approval before earning compensatory leave. Compensatory leave must be authorized in writing by the Division Director or his/her designee.

Compensatory leave should be authorized before the employee works the hours which result in compensatory leave. However, if emergency conditions exist which make it impossible to authorize compensatory leave before it is earned; written authorization should be prepared as soon as possible, thereafter.

Treatment of Compensatory Leave Upon Change of Status

Payment of Compensatory Leave Balance	<p>Employees will receive payment for compensation leave accruals as follows:</p> <ol style="list-style-type: none"> 1. Full lump sum payment An employee will be paid in a lump sum for his or her accrued compensatory leave when the employee: <ul style="list-style-type: none"> • Leaves Virginia ABC service by resignation, retirement, layoff, termination, death; or • Is transferred, promoted, or demoted from Virginia ABC to another agency. 2. Payment upon employee's death. Payment upon an employee's death will be made to the Administrator or the Executor/Executrix. If there is no Administrator or Executor of the employee's estate, payment will go to the surviving spouse, or if none, to the next of kin in accordance with Section §64.1-123 of the Code of Virginia. Payment may be held for 60 days.
Change of Status	Balances will be retained when regular full- or part-time employees reduce work hours.
Payment Optional When Other Changes in Status	<p>Virginia ABC may allow employees to retain their accrued compensatory leave, or such leave may be paid in a lump sum when employees are:</p> <ol style="list-style-type: none"> 1. Placed on voluntary leave without pay for at least three months; or 2. Transferred from a covered to a non-covered position.
Retention of Accrued Compensatory Leave	When an employee is transferred, promoted or demoted to another regular full- or part-time position within Virginia ABC, the employee will retain his or her accrued compensatory leave.

Impact of Military Leave on Compensatory Leave	<p>At the employee's option, all or part of compensatory leave balances may be:</p> <ul style="list-style-type: none"> • Applied to the period of absence due to military service; • Paid up to the allowable payment limit at the time of placement on leave without pay; and/or • Retained until reinstatement from military leave without pay. <p>Retained compensatory leave will be available for use for one year following reinstatement of employment.</p> <p>NOTE: At the employee's option, payment may be made in either: a) lump sum or b) payment on the regular payroll schedule.</p>
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3.3 Overtime

The purpose of this policy is to set forth the Virginia Alcoholic Beverage Control Authority (Virginia ABC) guidelines for the authorization and payment of overtime when it is necessary to meet the business and operational needs of the Authority.

It is the policy of Virginia ABC to compensate all nonexempt employees in accordance with the Fair Labor Standards Act (FLSA) for hours worked in excess of the prescribed work period, which is 40.0 hours per week for all employees except sworn employees, whose work period is 80.0 hours within two weeks.

This policy establishes Virginia ABC guidelines for overtime compensation in two categories as outlined in FLSA, exempt employees, and nonexempt employees. The Bureau of Law Enforcement Operations and the Wholesale/Retail Division have additional information in their division policies regarding hours worked, overtime, and compensation. In the event there is a conflict between the Virginia ABC policy and a division policy, this Authority policy will prevail.

The use of overtime should be limited whenever possible by adjusting time so that no more than the scheduled hours are worked in a defined work period. When overtime is necessary for exceptional requirements of a temporary or emergency nature, it must be preauthorized in writing, or as soon as possible.

Employees will be paid for all overtime worked, regardless of whether it is approved or not by management. However, employees working unauthorized overtime will be subject to discipline, including the possibility of termination of employment.

In the event that overtime is accrued and paid as a result of the CIPPS (Payroll system) rounding process, no prior approval is required.

General Considerations - Work Schedules

- A. Employees generally have a work schedule of 40 hours per week based upon the Virginia ABC standard defined workweek beginning at 12:01 AM Monday and ending at 12:00 midnight Sunday.
- B. All Virginia ABC sworn employees have a work schedule of 80 hours per 14-day period beginning at 12:01 AM Thursday and ending at 12:00 midnight Wednesday.
- C. The workweek for Virginia ABC wage employees, and Store and Warehouse Divisions (cost code 501 classified) is Friday 12:01 a.m. and ending Thursday at 12:00 midnight.

- D. Virginia ABC has four optional work schedules (Refer to Policy 1.16 Alternate Work Schedule). The number of hours in a workday and the specific days worked may vary according to the employee's division or work unit needs. Employees must receive prior approval from their supervisor before working an alternate schedule. Approval must be in writing (email or memo) and forwarded to the Human Resources division for inclusion in the employee's master personnel file. (Refer to Policy 6.2 Personnel Records Management)
- E. In computing the total hours an employee is to be compensated during the work period, only actual hours worked are considered in computing overtime pay.

Overtime

A. Nonexempt Employees

1. Authorization for nonexempt employees to work overtime must be preauthorized in writing by the supervisor. When overtime is required and extenuating circumstances prevent prior approval, the overtime worked should be approved by the supervisor as soon as possible. TAL users must write the approval in the comment box.
2. Nonexempt employees will receive overtime pay for all hours they work beyond the established 40-hour (or 80-hour for sworn employees) work period. At an employee's option, straight time or compensatory leave will be provided to nonexempt employees for hours worked under the 40-hour work period, but greater than the standard weekly schedule.
3. When a nonexempt employee is required to work on a Virginia ABC designated holiday which is a scheduled day off, the employee will be either paid 8 hours for the holiday, in addition to the hours worked on the holiday, or credited with compensatory leave.
4. Wage employees do not qualify for compensatory time or any type of leave, and will always receive pay for actual hours worked, including overtime for hours worked in excess of 40-hours in a workweek (or 80-hours for sworn employees).

B. Exempt Employees

1. Exempt employees may be credited with compensatory leave when required and preauthorized in writing by a supervisor or manager, to work greater than the work period due to extenuating circumstances. When emergency conditions exist which make it impossible to preauthorize compensatory leave before it is earned, written authorization should be obtained as soon as possible.
2. Exempt employees are not eligible for overtime pay, but may receive compensatory leave on an hour-by-hour basis for preauthorized hours worked for extenuating circumstances. The approval must be in writing and submitted to Payroll.
3. General or "blanket" authorization for an exempt employee to work beyond their regular scheduled hours will not be the basis for earning compensatory leave.
4. Additional work hours do not include extra hours which an exempt employee independently determines is necessary to carry out his or her job responsibilities.

C. Supervisor Responsibility

1. Immediate supervisors are responsible for approving all overtime worked. Approval must be given prior to the time actually worked, whenever possible. Written documentation is required, and TAL users must write the approval in the employee's comment box.
2. Supervisors are also responsible for managing overtime by adjusting employees' schedules to reduce unnecessary overtime. If an employee has worked additional hours before the end of the work period, either approved or unapproved, the supervisor may adjust the employee's schedule at the end of the work period to reduce or eliminate overtime. Refer to the Addendum at end of the policy for examples.

Record Keeping

- A. Supervisors are responsible for ensuring that all nonexempt employees complete an accurate time record, and that a signed (by the employee) time record copy is maintained for at least three (3) years in accordance with the FLSA.
- B. Prior approval for overtime must be documented in TAL for the appropriate time record in TAL to which it applies. TAL users will have the documentation automatically printed on the time record from the comment box.
- C. Compensatory leave credits must be used within (12) twelve months from the date earned.
- D. The payment, retention or transfer of compensatory leave credits when an employee leaves Virginia ABC service, transfers to another state agency or is placed on voluntary leave without pay for at least (3) three months, is administered in accordance with Policy 3.2 Compensatory Leave.

Prohibition Against Working “Off the Clock”

Nonexempt employees under the Fair Labor Standards Act (FLSA) must accurately record all time worked in the timekeeping system. Nonexempt employees are strictly prohibited from performing any work which is not recorded. This ban includes any work performed for Virginia ABC outside normal working hours, such as checking emails or responding to phone calls or text messages, unless preauthorized in writing by the employee’s supervisor or manager. Failure to accurately record time worked is grounds for discipline, including possible termination of employment.

Any supervisor or manager, who encourages or suggests nonexempt employees work off the clock, is subject to disciplinary action, including possible termination or employment.

3.4 On-Call Pay

The purpose of this policy is to define the need and situations for which on call services are required and how they will be compensated.

It shall be the policy of the Virginia Alcoholic Beverage Control Authority to provide compensation to employees who are required to be on-call in circumstances necessary to support specific business needs and maintain pre-determined service levels.

Virginia ABC is committed to delivering support service levels that enable all divisions to meet their business needs in a manner that is consistent with the agency’s mission. Therefore, careful consideration of the true business need for on-call services must be given before any employee is assigned on-call status.

This policy defines considerations for determining: 1) the need for on-call services, 2) employee eligibility, and 3) the method of compensation.

Determining the Need of On-Call Services:

- A. The decision to implement on-call services in any work unit must be made in writing, by the appropriate Division Director, to the Director of Human Resources and the Payroll Manager. In making this decision, Directors should consider pre-determined continuity of service standards, operational needs, agency/customer expectations, and the essential nature of the work to be performed. The approval should be for specific work activities. Directors must then identify designated role titles and position numbers approved for on-call status.
- B. Supervisors may use on-call only for approved work activities. If circumstances arise whereby on-call service is needed for work that has not previously been approved, the supervisor must obtain permission to make on-call assignments from the appropriate Division Director.

Employee Eligibility:

- A. Employees in designated role titles and position numbers must be assigned to an on-call status by their supervisor. Employees must possess the requisite skills needed to perform the potential on-call work.
- B. An employee designated as on-call must be accessible by telephone or pager within 15 minutes of notification, and must be able to report to work within one hour if it is determined that the employee is needed on site.
- C. Employees assigned to on-call status must remain available and alert in the event that a return to the workplace is necessary. Thus, the consumption of alcohol while on-call is prohibited.
- D. Employees must notify their supervisor 24 hours in advance if they are unable to be on-call. Illness or other emergencies should be reported to the supervisor as soon as possible. Failure to report while on-call without prior approval may result on disciplinary action in accordance with the Standards of Conduct Policy.
- E. Employees, who by the nature of their role, are required to carry a pager but are not required to physically report back to work – i.e. they can trade their responsibilities, have no personal activity restrictions, etc., are not considered on-call for compensation purposes.

Method of Compensation:

- A. Non-exempt and exempt employees in approved roles will be compensated for on-call duty at the rate of one hour per eight hours on-call. To determine this rate, the total number of hours assigned on-call minus the actual hours worked, divided by eight will determine the appropriate amount. For example, an employee who is on-call Sunday through Saturday, and works Monday through Friday, eight hours each day, will receive two hours of on-call pay for the days worked (Monday through Friday), and three hours for the two days not working (Sunday and Saturday). On-call compensation will be paid each pay period.
- B. Time spent serving on-call is not considered hours worked, and is therefore not calculated towards a normal 40-hour workweek.
- C. When an employee reports to work while on-call, the employee shall receive a minimum of two hours of Call-Back Pay, and will be compensated in accordance with the current Overtime Policy.
 - 1. Call-back pay is considered minimal compensation for employees who are required to return to work during off hours, and guarantees that the employee receives at least two hours of pay.
 - 2. If the employee returns to the workplace and works more than two hours, then he/she will receive compensation for the actual hours worked.
 - 3. Call-back pay will also be granted to approved employees who are required to return to work while not on-call.
- D. With prior approval from the supervisor, an employee may perform work from home in lieu of physically reporting back to work. Work of this nature must be accurately recorded and verified by the supervisor. Such work time will also be compensated in accordance with the current Overtime Policy.
- E. Employees who are on any type of leave for the entire work day cannot earn on-call pay for that day.

Additional Supervisory Responsibility:

- A. Supervisors are encouraged to rotate employees through on-call assignments so that individuals are not overly burdened.
- B. Supervisors are responsible for maintaining accurate records of on-call assignments, and ensuring the accuracy of TAL records.

- C. Each Division Director is responsible for ensuring that this policy is applied consistently within his/her work unit and with other related work units.
- D. Regular assessment of all on-call staff and activities shall be made to continually determine the needs and to keep cost to a minimum. Supervisors are encouraged to use on site operations staff resources, monitoring tools and automation to reduce on-call, where appropriate.

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Section Four: Benefits Management

4.1 Civil & Work Related Leave

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to provide guidelines for the granting of 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 complaints and certain other work-related activities.

It is the policy of Virginia ABC to provide employees with paid and/or unpaid leave for the purposes of attending to their civic and work-related duties. This policy sets forth the types of leave covered, and the conditions under which leave is paid or must be charged to Paid Time Off (PTO), compensatory leave or taken leave without pay.

General Provisions

Civil and Work-related Leave is a leave type for use under the specific circumstances as explained in this policy. There are two broad categories; paid and unpaid leave related to the employee's civic duty, and; paid leave related to workplace issues.

This policy further permits reasonable travel time with approved Civil and Work-related Leave.

Although wage employees are not covered by this policy and are not eligible to receive paid leave time, Virginia ABC understands such employees may be called to jury duty and other civic responsibilities and employees be released from work to fulfill those obligations.

A. Charging Time to Civil and Work- Related Leave

- Employees should request use of Civil and Work-related Leave as far ahead of time as possible. The employee's supervisor and Division Director must preapprove the leave. Employees may charge to Civil and Work-related Leave only the time away from work which is necessary to perform the appropriate duties, plus reasonable travel time. Virginia ABC will require documentation of the event to verify it qualifies the employee to use Civil and Work-related Leave.
- 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 PTO.
- Whenever possible, Virginia ABC will 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.

Civil and Work-Related Leave for Civic Reasons

Civil and Work-related Leave is granted to an employee to fulfill the civic duties and functions listed below. Virginia ABC will permit employees to be away from work for these purposes:

- As required by a summons to jury duty.
- To appear as a crime victim or as a witness in a court proceeding or deposition as compelled by a subpoena or summons.
- To accompany the employee's minor child when the child is legally required to appear in court.
- To serve as an officer of election.
- To serve as a member of a state council or board.
- To attend his or her own naturalization ceremony.

Civil and Work-related Leave is not granted for use by an employee for any of the following:

- Who is a defendant in a criminal matter, where criminal matter means either an alleged misdemeanor or felony.

- Who has received a summons to appear in traffic court (except as a witness).
- Who is a party to a civil case, either as plaintiff or defendant, or who has any personal or familial interest in the proceedings.

A. Provision for Crime Victims

- Virginia ABC allows 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 Authority with a copy of the form provided to the employee by the law enforcement agency pursuant to subsection A of § 19.2-11.01 of the Code of Virginia and, if applicable, provided the Authority a copy of the notice of each scheduled criminal proceeding which is provided to the employee as victim.
- Paid Civil Leave will apply when the employee's presence at legal proceedings is compelled by subpoena or summons. Employees may use existing PTO and/or compensatory leave balances for court proceedings which do not qualify for paid leave, however Virginia ABC will provide unpaid leave if requested.
- Virginia ABC may limit the paid or unpaid leave provided under this section if the employee's absence creates an undue hardship for the Authority.
- PTO and Traditional Sick Leave will not accrue in any semi-monthly pay period in which an employee takes unpaid Civil Leave.

B. Provision for Jury Duty and Officers of Election

- As required by the Code of Virginia §§ 18.2-465.1 and 24.2-118.1, employees who appear for jury duty or who serve as 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 jury duty or officer of election service.
- Employees may not be compelled to charge the time off to PTO. Work shifts missed in compliance with this provision will be charged to Civil and Work-related Leave.
- No adverse employment action will occur as a result of employee use of Civil and Work-related Leave for these purposes.

C. Compensation/Reimbursement for Civil Service

- Compensation to an individual under subpoena or summons or serving as 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.
- 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.
- Employees using Civil and Work-related Leave may not retain payment for services rendered as juror, witness, or officer of election. Those who choose to retain such payments must charge the absence to personal leave.
- To charge absences from work to Civil and Work-related Leave, employees must submit to Virginia ABC any payments for services rendered. Failure to submit such payments within a reasonable period of time as determined by the Authority will result in the absence being charged to PTO or compensatory, or, if no leave balances are available, to leave without pay.
- 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:
 1. They work the entire shift, or
 2. They work a portion of the work shift and charge the remainder to Paid Time Off, compensatory leave, or to leave without pay.

D. Other Court Duties

- 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:
 1. Employees attending court as part of their job duties, such as a law enforcement officer.
 2. Employees under subpoena to appear as expert witnesses because of their Virginia ABC positions.
 3. Employees called by the Commonwealth as expert witnesses.
 4. Employees subpoenaed as witnesses in criminal proceedings that arise out of their job duties.
- Employees may not retain any payment beyond their normal salary for these services, but may keep funds received in reimbursement for expenses.
- On a case-by-case basis, if Virginia ABC 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 job, the Authority may grant Civil and Work-related Leave for that court appearance.

E. State Councils and Boards

- 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.
- 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 Virginia ABC. Refer to Code of Virginia § 2.2-2813.
- Employees serving on boards or committees as a required or approved part of their employment with Virginia ABC 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 nonexempt employees.
- Civil and Work-related Leave is not available for time to serve on boards, councils, or other bodies which are part of or established by other entities, including local governments.

Civil and Work-Related Leave for Work-Related Activities

Civil and Work-related Leave may be granted to the employee for absences during scheduled work hours for the following reasons:

- To interview for other positions with Virginia ABC.
- To participate in resolution of Work-related conflicts or of complaints of employment discrimination. To attend Work-related administrative hearings as a party or witness.
- To attend one initial session at DHRM's Career Center and one subsequent visit per leave year thereafter.
- 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.)

A. Interviewing

- 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. Virginia ABC may require verification of the time required.
- Virginia ABC may establish reasonable limits for this use of Civil and Work-related Leave. Employees must pay for any expenses incurred in interviewing for other Virginia ABC positions and must provide their own transportation. Employees interviewing for positions with other state agencies must use accrued PTO or compensatory leave, or take leave without pay in accordance with policy.

B. Resolution of Work-Related Conflicts or Complaints

- Active employees of Virginia ABC, who are grievants, witnesses, or representatives of grievants in a grievance initiated under the Virginia ABC Grievance Procedure will be granted reasonable time,

including reasonable travel time, as Civil and Work-related Leave to participate in grievance proceedings.

- Grievants, witnesses, and representatives of grievants may use Civil and Work-related Leave to attend meetings and all hearings related to the grievance. Whenever possible, Virginia ABC should reschedule employees who regularly work the evening or nightshift to a day shift schedule during the periods when they are requested to appear in grievance proceedings or related court hearings. Virginia ABC management may establish reasonable limits to Civil and Work-related Leave for employees representing grievants.
 - Civil and Work-related Leave will be granted to employees for the following:
 1. To prepare as grievant for the grievance procedure. Virginia ABC may establish reasonable limits for this use of civil and work-related leave to prevent abuse of state time.
 2. To meet with Virginia ABC Human Resource Representatives and/or in accordance with the Grievance Procedure or related to a work matter affecting the employee for which a grievance has not been filed.
 3. To meet with the Human Resources division for the purpose of discussing work problems related to violations of the Virginia ABC's Equal Employment Opportunity Policy.
 4. To participate in activities and proceedings of the grievance procedure.
 - Civil and Work-related Leave is not available for employees to meet with employees' attorneys.
- C. Career Center
- Virginia ABC may allow an employee to use Civil and Work-related Leave for his or her first meeting with the Career Center at DHRM and for one subsequent visit per leave year thereafter. This meeting is a one hour session to identify career development needs and to develop an individualized preliminary plan of action. 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.
- D. Employee Assistance Program
- An employee may use Civil and Work-related Leave for his or 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. In consultation with the Human Resources division, 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.
 - Absences from work for subsequent meetings or appointments will be charged to the employee's available leave balances, as appropriate, or to leave without pay.
- E. Unemployment Compensation and Workers' Compensation Hearings
- Civil and Work-related Leave is granted for claimants and witnesses to attend hearings in compliance with an official notice from the appropriate authority.
 - Employees whose job responsibilities include attendance at unemployment or workers' compensation hearings will have time spent at such hearings included in their hours worked.

Employee Responsibilities

- 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.
- 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.
- Employees are responsible for providing appropriate documentation as directed by Virginia ABC concerning events and travel time needed, and for completing appropriate leave requests.

Virginia ABC Responsibilities

- Virginia ABC is 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.
- Virginia ABC has established reasonable amounts of leave permitted for voluntary activities such as interviewing for other Virginia ABC positions.
- Virginia ABC may not refuse to grant leave for an employee to fulfill required activities covered by this policy. However, the Authority may discipline an employee for not providing reasonable notice for the absence.
- If the employee does not provide adequate verification of the time missed, Virginia ABC may treat the absence as unauthorized. The Authority may then apply procedures for unauthorized leave and may: (1) charge the time missed to the employee's PTO balance or to leave without pay; and, (2) impose discipline as specified in Policy 1.1 Standards of Conduct.
- Virginia ABC 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 § 24.2-118.1).

4.2 Paid Time Off

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to provide paid leave benefits in the form of Paid Time Off (PTO) which addresses the diverse needs of eligible employees as defined in Policy 2.6 Types of Employment.

It is the policy of Virginia ABC to provide PTO to regular full- and part-time employees. PTO promotes a flexible, employee managed approach to time off. Employees are accountable and responsible for managing their own PTO hours to allow for vacation, illness or disability supplement, the care of dependents, appointments, religious observations, emergencies or other needs which require time off from work. PTO must be scheduled in advance and approved by the employee's supervisor, except in cases of illness or emergency. Verification of the use of PTO for sick leave may still be required by the employee's immediate supervisor.

The Virginia ABC PTO policy will replace the following DHRM leave policies:

- Annual Leave
- Sick Leave under VSDP
- Family/ Personal Leave under VSDP
- Traditional Sick Leave

Annual Leave at Conversion to PTO

When this policy takes effect on July 1, 2018, employees' existing Annual Leave balances will convert to an Annual Leave Bank up to the maximum carryover amount as dictated by DHRM 4.10 Annual Leave policy. This bank will be available for employees' use throughout their remaining tenure with Virginia ABC and will pay out upon termination according to the provisions in this policy. While this time can be used, no more time will accrue in this bank after the June 24, 2018 accrual.

Example 1: Tyrone has 17 years of Virginia ABC and state service and has an annual leave balance of 375 hours. On July 1, he will have an Annual Leave Bank with 336 hours as that is the maximum carryover allowable for his tenure under the existing DHRM Policy 4.10 Annual Leave. He forfeits the remaining 39 hours as he would under the existing policy.

Example 2: Jessie has 3 years of state service and has an annual leave balance of 84 hours. On July 1, she will have an Annual Leave Bank with 84 hours as this is below the maximum carryover allowable for her tenure under the existing Annual Leave Policy. She forfeits nothing.

Traditional Sick Leave at Conversion to PTO

When this policy takes effect on July 1, 2018, employees' existing Traditional Sick Leave balances will be paid to an employee with five or more years of continuous regular full- or part-time Virginia ABC or state

service, subject to the limitations of DHRM Policy 4.55 Traditional Sick Leave. Per DHRM policy the amount is 25% of the employee's accrued traditional sick leave balance up to a maximum of \$5000.00.

General Provisions

In general, all periods of continuous regular full- and part-time Virginia ABC and state service count in setting the accrual rate. Counted service includes all:

- Salaried Virginia ABC and state service in positions covered and not covered by the Virginia Personnel Act, and
- Regular full- or part-time positions, and
- Regular full- and part-time Virginia ABC and state service which is broken or consecutive.

Upon rehire into a regular full- or part-time position, the employee's PTO leave accrual rate calculation includes all cumulative periods of salaried Virginia ABC and state service. Periods of Leave Without Pay of more than 14 consecutive calendar days normally do NOT count as service. Adjustment of the leave anniversary date is required to record such LWOP periods.

EXCEPTIONS: The following types of Leave Without Pay do not require adjustment of an employee's leave anniversary date:

- Military Leave Without Pay (Refer to Policy 4.9 Military Leave);
- LWOP under Temporary Work Force Reduction (Refer to Policy 1.12 Temporary Workforce Reduction).

Accruing PTO

PTO for a regular full-time employee scheduled to work 40 hours per week, is accrued each pay period that an employee works on the 9th and 24th of the month according to the chart below. If an employee works a partial year then he or she will earn the number of accruals for the pay periods worked. Employees who are actively employed on the accrual date will accrue leave. Similarly, employees who terminate employment with Virginia ABC will only accrue PTO if they are active on the accrual date. Virginia ABC's leave year is defined as January 10 – January 9 of the following year.

Annual PTO Accrual - Regular Full-Time Employee			
Years of Service	Hours Earned Pay Period	Hours Earned Leave Year	Days Earned Leave Year
< 5	8.0	192	24
5-9	9.0	216	27
10-14	10.0	240	30
15-19	11.0	264	33
20-24	12.0	288	36
25+	13.0	312	39

A. Accrual of PTO for Regular Part-Time Employees

Employees who are regularly scheduled to work less than 40 hours but who retain their leave benefits eligibility by working at least 20 hours in a workweek will receive a pro-rated accrual of PTO based on the number of hours regularly scheduled and Virginia ABC and state tenure.

Example: Rhonda works 32 hours each week and has four years of state service. Her accrual would be $((32/40) * 8.0) = 6.4$ hours per pay period.

B. When PTO Does Not Accrue

PTO does not accrue in the following situations:

- During any semi-monthly pay period when (a) the employee is on leave without pay (including leave sharing), or (b) no work is performed by the employee;
- After 90 consecutive calendar days of leave with pay, regardless of the type of leave to which the absence is charged, including short-term disability (STD) under the Virginia Sickness and Disability Program (Policy 4.12 Virginia Sickness and Disability Program). A return to work for a full pay period interrupts the count of 90 consecutive calendar days of leave with pay. If another period of leave with pay occurs, a new 90-day period begins and the employee continues or resumes leave accrual;
- When an employee is suspended (LWOP) pending the results of an official investigation or of court action or placed on disciplinary suspension (Refer to Policy 1.1 Standards of Conduct).
- When an employee is on Leave Without Pay-Layoff or Temporary Work Force Reduction non-working status.
- When the employee is in non-working Long Term Disability (LTD) status through VSDP.

Requesting and Using PTO

In order to effectively promote a balance between work responsibilities and personal commitments, Virginia ABC encourages all employees to schedule time off throughout the year. Employees must request and receive approval from their supervisors to take PTO. Employees should make their requests for leave as far in advance as possible. When practical, and for as long as Virginia ABC's operations are not affected adversely, the Authority will attempt to approve an employee's request for PTO. However, supervisors may deny the use of PTO because of Virginia ABC business requirements. Approval of leave may be rescinded if the needs of the Authority change.

Written (including emailed) requests and approvals for taking PTO are recommended to provide documentation.

In the case of illness or other unforeseen absence, employees must contact their supervisor as soon as possible prior to their normally scheduled start time to notify him or her of the absence. In reviewing the request for approval, Virginia ABC should consider all relevant matters, including:

- The circumstances necessitating leave,
- Whether the employee should have anticipated the need, and
- The promptness with which the employee contacted his or her Virginia ABC supervisor or other member of management in the supervisor's absence.

Divisions of Virginia ABC may establish additional procedures consistent with this policy for requesting and using PTO. Employees assigned to the Law Enforcement, Logistics and Retail Operations Divisions may be subject to additional policies as outlined in their respective divisions' General Orders, Work Rules, or Standard Operating Procedures (SOP).

A. Schedule Adjusting

An employee taking approved PTO may be asked to work additional hours on his or her day off. With the approval of the employee, Virginia ABC can substitute the additional hours worked for PTO hours, thus reducing or eliminating the need to use the employee's accrued PTO leave.

The intent of this provision is to give mutually beneficial flexibility to employee and Virginia ABC. It is not intended that employees be prevented from appropriate use of PTO.

B. Unapproved PTO Leave

When an employee takes PTO which was requested but not approved, the employee will be subject to the following actions:

- The absence will be designated as unauthorized;
- The employee will not be paid for the time missed;

- Because the employee has experienced leave without pay, he or she will not accrue PTO or Traditional Sick Leave for the pay period(s) when the absence occurred; and
- The Authority may also take disciplinary action under Policy 1.1 Standards of Conduct.

C. PTO on Final Workday

Employees may request and, if approved, use annual leave on their last scheduled workday before separation from Virginia ABC service, including retirement. Use of PTO will be approved based on the needs of the business in relation to work being performed by the separating employee and the need to fill the position. PTO balances remaining after separation will be paid up to the maximum as provided in this policy.

D. Using PTO While Receiving VSDP Benefits

Employees may use their PTO or Annual Leave Bank hours to receive full pay during periods of STD or LTD-Working disability benefit of less than 100% (hour for hour). (Refer to Policy 4.12 Virginia Sickness and Disability Program)

E. Workers' Compensation Leave Supplement

An employee in the Traditional Sick Leave program may use PTO or other appropriate leave to supplement Workers' Compensation benefits in order to receive his or her full salary upon completion of receipt of 92 days of Authority supplement. (Refer to Policy 4.13 Workers' Compensation Leave Supplement)

F. Leave Sharing

Employees may donate from their accrued PTO balance to other employees who are eligible to receive the donation according to the criteria and procedures in Policy 4.5 Leave Sharing. Donations are typically in 8-hour increments.

G. Suspension Pending Investigation or Outcome of Court

Although employees are on LWOP during suspension pending investigation or outcome of court proceedings, employees may use PTO to continue receiving pay.

Reporting Absences

Employees should submit leave requests to their supervisor as soon as possible to ensure availability of time off as well as to arrange coverage. Employees must report all PTO taken weekly in the timekeeping system. Nonexempt employees report actual hours of leave taken and must account for at least 40 hours in each work week if regularly scheduled to work full-time. Due to the nature of their work, exempt employees take leave in one hour increments. All leave must be approved by the immediate supervisor or next level manager in the supervisor's absence.

Borrowing PTO

In certain circumstances, employees with zero or low PTO balances may need time off in excess of their current leave balances. This is most common with new employees who are just building their balances. In recognition of that, Virginia ABC policy allows for employees on a case-by-case basis to borrow up to 40 hours of PTO to cover these absences upon supervisor and Division Director approval. Borrowed time will display as a negative PTO balance in the leave tracking system. Generally, borrowing PTO should only be approved in unplanned circumstances or for new employees who have not yet built up a substantial leave balance but who are hired with preapproved vacation time. An employee with any time in their Compensatory or Annual Leave Banks may not borrow PTO; rather, he or she must exhaust all of their other leave before borrowing PTO time.

Each employee is accountable for knowing his or her correct PTO balance and accrual rate. The failure of Virginia ABC's systems or errors by responsible employees does not remove that responsibility. If it is discovered an employee has accrued or used PTO leave in excess of the amount to which he or she was

entitled without prior authorization, incorrect balances must be corrected, and the employee may be required to repay Virginia ABC for leave taken in error. Repayment may be made by

- Deducting the excess hours from the employee’s current PTO balance, if adequate;
- Deducting from future PTO accruals until the amount of over-use is repaid;
- Deducting the equivalent value of the leave time from the employee’s pay over a time deemed reasonable by the CEO or designee; or
- A combination of methods as deemed appropriate by the CEO or designee.

If an employee has a borrowed or negative PTO balance upon separation, then he or she must compensate Virginia ABC for the negative balance at his or her current salary, regardless of the rate at which the time was borrowed. Virginia ABC reserves the right to deduct this money owed from the employee’s paycheck or VRS account if necessary.

Example: Joe has a PTO balance that equals -14 hours when he submits his resignation. His current salary is \$50,000. Joe owes Virginia ABC \$336.54 on his last day ($\$50,000/2080 \text{ hours} \times 14 \text{ hours}$).

Carry Over of PTO

All employees are encouraged to use their PTO in order to maintain a healthy work-life balance and have time to relax and refresh away from the office. Accordingly, employees may carryover unused accrued PTO each year based on the following chart.

Annual PTO Carry Over – Regular Full-Time Employee		
Years of Service	Maximum Carryover/Hours	Maximum Carryover/Days
< 5	160	20
5-9	200	25
10-14	240	30
15-19	280	35
20-24	320	40
25+	360	45

Furthermore, Virginia ABC will buy back accrued PTO from the employee up to the first 80 hours lost due to carryover limitations at 50% of the employee’s regular pay, if the employee has used at least 80 hours of PTO during the plan year. The buyback will occur after the end of the plan year. Employees have the option to receive a taxable cash payment or they may defer their payment to their 457(b) deferred compensation account.

Carryover rates for employees in regular part-time status are not reduced proportionately, but are based on total years of service.

EXCEPTION: The CEO or designee may grant an exception to the limit of accrued PTO leave which may be carried over into the next year when employees have not been allowed to use their leave because of Authority work demands over a substantial period of time. Such exceptions should be given in writing and should indicate the timeframe during which the employee must use the additional PTO.

A. Extended Carryover for Members of Military Forces

At the end of the leave year (January 10 – January 9), a regular full- time Virginia ABC employee who is a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard may carry forward accrued PTO hours without limitation. These hours above the normal carryover limits will be designated as Military Bank leave and held for use only during periods of active military duty as provided by the Code of Virginia, § 2.2-2903.1. (Refer to Policy 4.9 Military Leave)

Military Bank hours will transfer with the employee from one regular full-time Virginia ABC position to another state position. Upon termination from Virginia ABC or state employment, any remaining Military Bank leave is forfeited. Military Bank leave is not paid out, and it may not be converted to PTO or any other leave type.

To qualify to accrue Military Bank leave, the employee must

- Be designated as MR (military reserve) or NG (National Guard) in his or her official Personnel Management Information System (PMIS) record, and
- Submit a completed Application for Military Leave Bank certifying eligibility to accrue Military Bank leave.

Impact of Changes in Status

Certain changes in employee status affect the accrual, use, retention, and/or payment of PTO. Employees should also refer to sections of this policy Transferring to Virginia ABC from Another State Agency and Leave Balances Upon Transfer to Another State Agency.

A. From Classified to Wage

An employee who is transferred from a regular full- or part-time position to a wage position in Virginia ABC will receive a lump sum payment, up to the allowable maximum, for his or her PTO balance.

1. Reducing Work Hours
Current leave balances will be retained when an employee reduces work hours and continues in a regular part-time status. An employee's PTO accrual rate will change in proportion to his or her reduced work hours.
2. Short-Term Disability
Short-term Disability (STD) is a paid status. PTO balances are retained and may be used according to VSDP guidelines to supplement salary. (Refer to Policy 4.12 Virginia Sickness and Disability Program)
3. Long-term Disability Working
Employees in LTD-working status retain their PTO balances and may use them to supplement the disability benefit. (Refer to Policy 4.12 Virginia Sickness and Disability Program)
4. Long-term Disability
Employees who participate in the Virginia Sickness and Disability Program must be paid up to the maximum allowed for any PTO hours remaining when beginning long-term disability (LTD) status. (Refer to Policy 4.12 Virginia Sickness and Disability Program)

Impact of Leave Without Pay on PTO Balances

A. Suspensions

Suspension pending investigation or court action:

- If the investigation results in no disciplinary action, any PTO applied to the period of suspension will be reinstated and any accruals not received will be credited to the employee's PTO balance.

Disciplinary suspension:

- Disciplinary suspensions under Policy 1.1 Standards of Conduct are without pay. Employees may not use PTO or Annual Leave Bank leave to avoid pay loss during a disciplinary suspension. PTO does not accrue during a disciplinary suspension.

B. Military Leave

When an employee goes on Military Leave, all or part of PTO and Annual Leave Bank balances may be:

- Applied to the period of absence due to military service to continue paid status;
- Paid up to the allowable payment amount at the time of placement on leave without pay; and/or
- Retained until reinstatement from military leave.

Virginia ABC may approve requests for payments of PTO and Annual Leave Bank from employees who originally chose to retain their balance but then request payment while on Military Leave. (Refer to above section Extended Carryover for Members of Military Forces and Policy 4.9 Military Leave)

C. Workers' Compensation

After the Virginia ABC-provided supplement ends, and employees have exhausted remaining leave balances, the employee should be placed on LWOP-Workers Compensation and PTO accruals will cease if they have not already ended. Refer to Policy 4.12 Virginia Sickness and Disability Program for further information.

D. Other Leave Types With or Without Pay

Employees may choose to retain their maximum allowable accrued PTO or to be paid in a lump sum when they begin:

- Leave Without Pay–Layoff; and
- Any other conditional or unconditional leave without pay for a period exceeding 3 calendar months.

E. Temporary Work Force Reduction

PTO leave is retained during periods of Temporary Work Force Reduction (TWFR) and may be used only for scheduled work times during a TWFR (Refer to Policy 1.12 Temporary Work Force Reduction). PTO may not be used to restore the employee's salary to 100%.

PTO as an Incentive Option

When Virginia ABC has identified positions which are critical to the Authority's mission and for which the Authority has significant difficulty attracting or retaining qualified employees, Virginia ABC may provide certain PTO benefits as incentives for prospective employees new to Virginia ABC and state employment to accept Virginia ABC employment or for current employees to continue in their positions. The CEO of Virginia ABC must approve these actions. Refer to Policy 2.3 Hiring and Policy 3.1 Compensation for an explanation of how these options may be applied.

A. Additional PTO

Virginia ABC may provide up to 30 days (240 hours) of PTO during a leave year to a new employee as an incentive to accept employment with Virginia ABC or to a current employee as an inducement to continue with Virginia ABC, upon approval from the CEO.

B. Advanced Availability of PTO

Virginia ABC may advance up to 30 days (240 hours) of PTO against future accruals during a leave year to a new employee as an incentive to accept employment or to a current employee as an inducement to continue with Virginia ABC, subject to CEO approval. Advancement of PTO as an incentive is different than borrowing PTO as covered in the Borrowing PTO section of this policy.

C. Treatment of Incentive Leave under this Policy

PTO provided for recruitment and retention purposes is not subject to the carryover limits of this policy, but is subject to the payment limits and status change provisions outlined in this policy.

D. Payment of Annual Leave as an Incentive

Virginia ABC may negotiate to pay a specified amount of accrued PTO as a retention incentive. Employees should be encouraged to retain a balance of leave time for future use. The written agreement with the employee should include details of the payment agreement and any obligations incurred by the employee.

E. Formal Agreement

When Virginia ABC implements one of these annual leave incentives, a formal written agreement must be executed with the employee. This agreement must include, at a minimum:

- A requirement for satisfactory performance;
- The required length of employment to be released from the repayment clause in the written agreement;
- An outline of repayment terms if the time and/or performance requirements are not met.

Transferring to Virginia ABC From Another State Agency

State employees who accept employment with Virginia ABC will forfeit any unused Sick, and Family/Personal upon becoming a Virginia ABC employee. Annual Leave balances upon transfer will be converted to the Annual Bank and can be used accordingly. Transferring employees will immediately begin accruing PTO according to their total state service on the accrual dates mentioned above.

Example: Rosalyn is transferring to Virginia ABC from a legislative branch agency; she has 125 hours of Annual Leave, 24 hours of Family/Personal Leave, and 60 hours of Sick Leave. Rosalyn has 11 years state service. When she transfers, 125 hours will be added to the Annual Bank; she will forfeit 84 hours of leave, and will accrue 10.0 hours of PTO per pay period beginning with the first accrual after her hire date.

Leave Balances Upon Transfer to Another State Agency

If an employee transfers to another state agency and that agency is willing to accept leave balances from Virginia ABC, then the PTO time will be converted to VSDP Sick, Family/Personal (FP), and Annual Leave. The converted Annual Leave amount will be added to any time in the Annual Leave Bank for a combined Annual Leave total. Time will be converted back to the multiple leave types used by the state in the following order which is to the benefit of the employee.

The first hours used will be considered VSDP Sick Leave, up to the amount which would have been accrued based on service. The next hours will be considered VSDP Family/Personal Leave, and then Annual Leave. Refer to the chart and examples below for those conversion amounts.

PTO Conversion - Regular Full-Time Employee		
Years of Service	Sick Hours	Family/Personal Hours
< 5	64	32
5-9	72	32
10-14	80	40
15-19	80	40
20-24	80	40
25+	80	40

Example 1: LaToya has decided to work for an Executive Branch agency after 15 years with Virginia ABC and has a PTO balance of 52 hours and an Annual Leave Bank with 190 hours. She has used 200 hours of PTO since January 10 of this year.

1. Deduct hours as Sick Leave (80) (200 hours used-80 hours sick allotment = 120)
2. Deduct hours as FP (40) (120 hours used – 40 hours FP allotment = 80)
3. 80 PTO hours used would be considered Annual Leave used.

Hours Transferred:

Sick = 0	Family/Personal = 0
Annual = 242 (52 PTO balance + 190 Annual Leave Bank = 242)	

Example 2: Russell is leaving to work at another independent agency after 4 years with Virginia ABC and has a PTO balance of 120 hours and an Annual Bank with 60 hours. He has used 40 hours of PTO this year.

1. Deduct hours as Sick Leave (64) (40 hours used – 64 sick allotment = -24)

Hours Transferred:

Sick = 8	Family/Personal = 32
Annual = 180 (120 PTO balance + 60 Annual Leave Bank = 180)	

An employee transferring to another state agency also has the option to cash out their accrued but unused PTO according to the payout rules below.

Leave Balances Upon Separation

Upon separation from Virginia ABC, employees will receive a cash payout of accrued but unused leave up to the maximum allowable in the chart below. The maximum allowable payout includes both Annual Bank time and PTO time that is accrued but unused. If an employee has a negative PTO balance, then he or she must pay Virginia ABC the value of the borrowed leave as described previously in this policy. By borrowing time, the employee acknowledges that Virginia ABC may deduct the amount owed from the employee's paycheck or VRS account if necessary. The employee may also pay Virginia ABC via cash, money order or personal check.

Annual PTO Payout - Regular Full-Time Employee		
Years of Service	Maximum Payout/Hours	Maximum Payout/Days
< 5	192	24
5-9	240	30
10-14	288	36
15-19	288	36
20-24	336	42
25+	336	42

Payout rates for employees in regular part-time status are not reduced proportionately, but are based on total years of service.

Payment at an employee's death will be made to the Administrator or Executor. If there is no Administrator or Executor of the employee's estate, payment will go to the surviving spouse, or if none, to the next of kin in accordance with §64.1-123 of the Code of Virginia.

A. Rescinding Resignation

Virginia ABC may choose to accept an employee's request to rescind his or her resignation within 30 calendar days of separation. If Virginia ABC accepts the request to rescind the resignation, the PMIS transaction should be changed to reflect a leave without pay for the period of separation; thus the employee will not experience a break in service. Upon Authority approval an employee may use appropriate accrued leave to cover the absence.

If the employee received payment for PTO leave, including any accrued hours in the Annual Leave Bank, he or she may recover the accrued PTO balance and any additional leave that was over the maximum payout amount by reimbursing Virginia ABC the amount of payment received at separation. Balances will not be restored until full payment has been made.

B. Return or Reinstatement

If an employee leaves Virginia ABC and is paid for his or her PTO or Annual Leave balance, then returns within 180 calendar days, he or she may buy back the PTO or Annual Leave by reimbursing the full amount he or she received by Virginia ABC. The amount of PTO or annual leave restored will not exceed the maximum payout amount. That is, if the employee had hours above that amount at separation, those hours are not restored at reinstatement.

Additionally, if:

- An employee returns to ABC within 180 calendar days of the beginning of Long-Term Disability, he or she can buy back the PTO or annual leave for which he was paid by reimbursing the full amount, or
- If an employee returns from leave within 180 calendar days of receiving payment for his or her annual leave balance while on LWOP he or she can buy back the PTO or annual leave for which he or she was paid by reimbursing the full amount received.

Payment may be by lump sum or according to a payment schedule as determined by Virginia ABC. Such leave is not available for use until full reimbursement has been made

Virginia ABC Responsibilities

- A. Leave as Financial Obligation of Virginia ABC
Payment for leave is an expenditure of Commonwealth funds. Therefore, records related to employee leave are subject to audit by the Auditor of Public Accounts, the State Internal Auditor, and the Authority's internal auditor.
- B. PTO and Annual Leave Bank Records
Virginia ABC must maintain accurate and up-to-date leave records in sufficient detail which can be evaluated during an audit by appropriate officials.
- C. Reporting Absences
Virginia ABC must record in PMIS paid leaves, as well as unpaid leaves of absence, which are greater than 14 calendar days. Use PSE003 to record paid leave absences.

4.3 Emergency/Disaster Leave

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to grant up to 80 hours of paid leave annually to qualifying employees who are called away from their regular jobs to provide specific kinds of emergency services during defined times of state and/or national disaster. Furthermore, Virginia ABC will grant up to 80 hours of paid leave annually to employees who are victims of disasters which meet the criteria specified in this policy.

It is the policy of Virginia ABC to provide guidance to classified employees regarding the purpose for taking paid leave under this policy and the criteria by which such requests will be considered and approved. This policy does not cover occasional events, such as inclement weather or localized power failures, which are covered by Policy 1.7 Emergency Closings.

An employee is subject to a maximum of 80 hours of paid leave per leave year between this Emergency Disaster Leave policy and Policy 4.10 Public Health Emergency Leave.

Basic Provisions

- A. Pay During Emergency Disaster Leave
An employee will continue to receive his or her normal salary for up to 80 hours while using approved Emergency Disaster leave under this policy.

Virginia ABC will **not** pay for expenses related to providing emergency service, such as travel, food, or lodging.

B. Leave to Provide Emergency Services

Virginia ABC may approve an employee's request to use up to two weeks (80 hours) of paid leave annually to provide emergency services in compliance with the criteria of this policy.

Employees asked by emergency/relief service authorities to extend their service beyond 80 hours for the same event may request approval from Virginia ABC to use appropriate accrued leave or leave without pay. Approval is at the discretion of the CEO or designee.

NOTE: If supplying emergency service is within an employee's normal job duties, the employee will serve in the manner directed by Virginia ABC. The time will be treated as normal hours of work and will not be considered Emergency Disaster Leave under this policy.

C. Qualifying Events

Employees may be granted leave to provide emergency services if all of the following criteria are met:

- The area is covered by an official declaration of major disaster by the President of the United States, or a declaration of a State of Emergency by the Governor of Virginia or the governor of another state.
- Public officials at the site of the disaster have requested the assistance of individuals with specialized skills or training.
- The employees possess the required specialized skills or training requested by the authorities.
- Employees present written requests to provide emergency services and obtain approval prior to using leave under this policy.

D. Leave for Victims of Disaster

Leave may be available under this policy to an employee who has sustained severe or catastrophic damage to or loss of his or her primary personal residence, or has been ordered to evacuate that residence, as a result of a natural or man-made emergency or disaster.

The CEO or designee has sole discretion for authorizing up to 80 hours of leave per leave year under this policy for employees who meet all criteria shown below:

- The event resulted in a formal declaration of a State of Emergency or of federal disaster status.
- The employee's primary residence was located in the officially declared disaster area.
- Formal documentation from recognized disaster relief organizations or insurance companies verifies severe, extreme, or catastrophic damage to or loss of personal property as a result of the declared emergency in which the damage or required evacuation rendered the employee's home temporarily or permanently uninhabitable.

Virginia ABC will **not** pay for expenses incurred by the employee in recovering from the personal effects of a disaster.

Employee Responsibilities

Employees are responsible for obtaining preapproval from their Division Director or designee prior to taking such leave, and for providing the required documentation or verification as listed above.

Virginia ABC Responsibilities

- Review submitted requests for employee eligibility under this policy.
- Consider the need for the employee to provide the specified assistance and the expected impact of the employee's absence on the Authority's ability to fulfill its mission.
- Ensure the employee has provided the appropriate documentation before awarding paid leave.

- Verify the employee has not already taken leave under Policy 4.10 Public Health Emergency Leave to ensure total leave taken does not exceed 80 hours per leave year between the two policies.

4.4 Family & Medical Leave Act (FMLA)

The purpose of this policy is to provide guidance regarding the Family and Medical Leave Act (FMLA) and the interaction of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) other Human Resource policies. More information may be found on the Department of Labor's [FMLA](#) website.

It is the policy of Virginia ABC to fully comply with the FMLA and to provide eligible employees with up to 12 weeks of unpaid family and medical leave per leave year because of their own serious health condition or the serious health condition of an eligible family member, or up to 26 weeks of unpaid leave to care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the servicemember.

Eligibility

All Virginia ABC employees who have been employed by the Commonwealth for a total of at least 12 months in the past seven years and have worked for at least 1,250 hours in the previous 12-month period are eligible.

Virginia ABC defines the leave year as the 12-month period measured forward from the first date an employee takes FMLA leave and expires 12 months later.]

NOTE: Employees who are not eligible for family and medical leave at the beginning of a period of approved leave may become eligible during this period and begin family and medical leave once he or she meets the eligibility requirements.

Leave Amount

If eligible, an employee is entitled to receive up to 12 weeks of unpaid family and medical leave per leave year on either a continuous, intermittent, or reduced leave schedule basis for any one or more of the following reasons.

- The prenatal care for or the birth of a child, and to care for the newborn child.
- Placement of a child with the employee for adoption or foster care.
- To care for the spouse as defined in accordance with Executive Order #30, Marriage Equality in the Commonwealth of Virginia, son, daughter or parent with a serious health condition.
- Because of a serious health condition which renders the employee unable to perform the functions of his/her position.
- Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty, or has been notified of an impending call or order to active duty in support of a contingency operation.

Eligible part-time employees may take up to 12 weeks of unpaid family and medical leave per leave year for the reasons listed above. Hours taken will be counted on a prorated basis corresponding to the percentage of hours they normally are scheduled to work during a calendar year.

Example: A part-time employee works 25 hours per week year-round. During any 12-week period, she works a total of 300 hours. Therefore, if intermittent leave is taken, she may take up to 300 hours of family and medical leave in a calendar year.

Eligible wage employees may take up to 12 weeks of unpaid family and medical leave per leave year. Actual hours taken will be counted on a pro-rated basis corresponding to the percentage of hours they normally are scheduled to work during the 365-day period prior to the date family and medical leave is scheduled to begin.

NOTE: When both spouses are employed by Virginia ABC, they are limited in the amount of family and medical leave they may take for the birth and care of a newborn child, or the placement of a child for adoption or foster care to a combined total of 12 weeks. Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Paid Leave

Employees have the option of using paid leave, as appropriate under each particular leave policy, for absences covered under family and medical leave. Virginia ABC may designate such leave as family and medical leave, if it meets the conditions set forth in this policy.

If an employee's accrued leave balances are used for family and medical leave, then Virginia ABC is required to provide only the number of unpaid workdays which, when combined with the number of days of other leave taken, equal a total of 60 workdays or 480 work hours, prorated for employees who regularly work less than a 40 hour workweek.

Example: An employee uses 3 days of sick leave and 18 days of annual leave to care for a parent who has a serious health condition. Virginia ABC allows him or her to take an additional 39 days of unpaid leave if requested.

Intermittent Leave or Reduced Leave Schedule

When medically necessary because of an eligible employee's own serious health condition or the serious health condition of a child, spouse or parent, an employee may take family or medical leave on an intermittent leave basis or work a reduced schedule, not to exceed 480 hours for full-time employees.

Employees who take intermittent leave or work a reduced schedule may either use their available paid leave balances as permitted by each specific leave policy or take unpaid family and medical leave. Intermittent FMLA may be taken in the smallest increments allowed.

Employees do not accrue Paid Time Off and Traditional Sick Leave for pay periods when they are on leave without pay status during family and medical leave.

If approval is granted in advance by Virginia ABC, an employee may take leave intermittently or on a reduced schedule to care for a newborn child, or a child that has been placed with the employee for adoption or foster care.

When the conditions noted above are applicable, Virginia ABC may temporarily transfer the employee to another position that better accommodates the intermittent leave or reduced schedule as long as the new position carries equivalent pay and benefits.

Employee Responsibility

An employee should submit a written request to the Virginia ABC Human Resources division for family and medical leave at least 30 calendar days prior to the anticipated leave begin date or as soon as practicable in unforeseen circumstances. If an employee is not able to provide notice because of an illness or injury, notice may be given by a family member or a spokesperson as soon as practicable.

NOTE: An employee must comply with Virginia ABC's leave request procedures, absent unusual circumstances. Failure to do so may be grounds for delaying or denying an employee's request of FMLA qualifying leave.

Certification of Need for Leave

Virginia ABC may require that a request for family and medical leave be supported by a Health Care Professional's (HCP) certification of the medical condition of the person affected.

When leave is for the employee's own serious health condition, the health care provider should complete the "[Certification of Health Care Provider for Employee's Serious Health Condition](#)" form (U.S. Department of Labor Form WH-380-E) to satisfy the certification requirement.

NOTE: VSDP claim approval documentation will be accepted for FMLA purposes.

When leave is for a family member's serious health condition, the health care provider should complete the "[Certification of Health Care Provider for Family Member's Serious Health Condition](#)" form (U.S. Department of Labor Form WH-380-F). Medical certification is required except in the case of birth, adoption, or foster placement. Other confirmation may be required in the case of adoption or foster placement.

Medical certification must be obtained by the employee and returned to Virginia ABC Human Resources division within 15 calendar days of the request or upon return to work from an absence that may qualify as FMLA leave (absent extenuating circumstances). If an employee fails to provide certification, recertification, or clarification in a timely manner then Virginia ABC may deny FMLA leave until the required certification is provided.

Leave Because of a Qualifying Exigency

An eligible employee may take family and medical leave for qualifying exigencies while his or her spouse, son, daughter, or parent who is a member of a regular component of the Armed Forces, or a member of the National Guard or Reserves is on active duty or called to active duty status in support of a contingency operation.

Employees may use any or all of their available Paid Time Off or compensatory when they exercise these new leave rights.

The employee should submit a complete and sufficient "[Certification of Qualifying Exigency for Military Family Leave](#)" (U.S. Department of Labor Form WH-384) form and submit it to the Virginia ABC Human Resources.

The first time an employee requests leave because of a qualifying exigency, he or she must provide a copy of the covered military member's active duty orders or other documentation issued by the military. This documentation must include the dates of the covered military member's active duty service. This information need only be provided once. A copy of new active duty orders or other documentation issued by the military must be provided if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

Leave to Care for a Covered Servicemember

An eligible employee is entitled to receive up to 26 weeks of unpaid leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the servicemember. The single 12-month period commences the first day leave is taken to care for the covered servicemember and expires 12 months later.

NOTE: An eligible employee is entitled to a combined total of 26 weeks of unpaid leave during a single 12-month period for any FMLA-qualifying reason. The 26 weeks allowed to military caregivers is not in addition

to the 12 weeks otherwise allotted. If an employee has used 26 weeks caring for an injured servicemember, and then needs time off for some other FMLA qualifying reason in that same 12-month period, the employee is not eligible for additional FMLA leave.

Example: An eligible employee may take 16 weeks of family and medical leave to care for a covered servicemember and 10 weeks of family and medical leave to care for a newborn child for a total of 26 weeks.

The employee should submit a complete and sufficient [“Certification for Serious Injury or Illness of Covered Servicemember”](#) form (U.S. Department of Labor Form WH-385) to his or submit it to the Virginia ABC Human Resources.

Virginia ABC Actions

Virginia ABC must grant an eligible employee's request to take up to 12 weeks of family and medical leave, or 26 weeks of leave to care for a covered servicemember, during a leave year or 12-month period, as applicable, for the reasons stated above.

Upon receiving a request for family and medical leave, Virginia ABC must notify the employee of his or her eligibility for FMLA within five business days. Virginia ABC may require certification for leave requested for an employee's serious health condition, for his or her family member's serious health condition, or for the serious injury or illness of a covered servicemember, before granting family and medical leave. Virginia

ABC will provide the employee with a completed [“Notice of Eligibility and Rights & Responsibilities”](#) form (U.S. Department of Labor Form WH-381).

In accordance with FMLA regulations, Virginia ABC will make a determination on a family and medical leave request within five business days of receiving sufficient information to make a determination. Once a determination has been made, Virginia ABC will provide notification to the employee using the [“Designation Notice”](#) form (U.S. Department of Labor Form WH-382).

Virginia ABC may designate family and medical leave for an employee if notified that the employee has a serious health condition, rather than wait for the employee to request it.

Returning from Leave

Upon returning from family and medical leave, an employee is entitled to be reinstated to his or her original position, or an "equivalent position." During periods of family and medical leave, the Human Resources division may require employees to report periodically on their status and intent to return to work, and may require certification from health care providers that employees are able to return to work.

Status of Benefits during Periods of FMLA

Virginia ABC will continue to contribute to the health insurance premiums of regular full- and part-time employees who are using paid leave, as appropriate under each particular leave policy, for absences covered by the provisions of the FMLA. An employee who is on paid leave under FMLA will pay the same portion of his or her health insurance premiums as he or she would if not on leave.

Virginia ABC will continue to contribute to the health insurance premiums of salaried employees who are on leave without pay under the provisions of FMLA. The employee's premium contributions will be handled as if they were on leave without pay for other reasons. Premiums are due to Virginia ABC by the first day of each month of coverage. If the employee fails to make premium payments, Virginia ABC will follow the same procedures to terminate coverage as they would if employees failed to pay premiums while on leave without pay for other reasons.

If an employee fails to return to work at the end of leave under FMLA, Virginia ABC may recover from the employee Virginia ABC's share of premiums paid during the period of leave without pay. However, there will be no recovery of premium if the employee fails to return to work as a result of the onset, recurrence, or continuation of serious health conditions that entitle the employee to leave to care for him or herself or for a family member; or other circumstances beyond the employee's control.

Other employee benefits will be treated as follows:

- Performance increases - employee eligibility for performance increases will be determined in accordance with the Performance Planning and Evaluation policy and the Policy 3.1 Compensation Policy.
- Life insurance – Virginia ABC will continue to pay life insurance premiums while employees are on family and medical leave.
- Leave accrual - employees will not accrue Paid Time Off or Traditional Sick Leave hours during any period of leave without pay, or after 90 calendar days on leave with pay.
- Retirement - Retirement contributions (including the component to fund the retiree health credit) will be made for any pay period in which qualifying compensation has been received by the employee. Retirement contributions will not be made for any pay period in which no qualifying compensation has been received by the employee (i.e., the employee was on leave without pay for the entire pay period).

Next Annual Leave Anniversary Dates - when more than 14 consecutive calendar days of unpaid family and medical leave are taken, employees will be placed on inactive service status and their next annual leave anniversary dates will be advanced according to the length of time taken on unpaid family leave.

Family and medical leave without pay should be keyed in as a PSE003 transaction, with the FMLA Code changed to "Y" in the Personnel Management Information System (PMIS) when more than 14 consecutive calendar days for FMLA are taken.

FMLA Records Management

Virginia ABC must make, keep and preserve records pertaining to their obligations under FMLA. Records must be kept for at least three years and must include the information listed below:

- Basic payroll and identifying employee data, including: name, address, and occupation; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; and total compensation paid.
- Leave designated as FMLA leave, both paid and unpaid, and the dates employees took it. (If FMLA leave is taken in increments of less than a day, the hours must be noted.)
- Copies of employee's notices of leave furnished to the Authority.
- Any documents (including written and electronic records) describing employee benefits or Authority policies and practices regarding the taking of paid and unpaid leaves.
- Records of premium payments.
- Records of any dispute between Virginia ABC and an employee regarding designation of leave as FMLA leave, including any written statement from the Authority or employee of the reasons for the designation and for the disagreement.

Records and documents relating to medical certifications, re-certifications or medical histories of employees or employee's family members will be maintained in separate secure files/records and treated as confidential medical records except to the extent:

- Supervisors and managers may be informed regarding necessary restrictions on work duties and necessary accommodations.
- Floor wardens may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment.

- Government officials investigating compliance with FMLA (or other pertinent law) will be provided relevant information, as necessary, upon request.

4.5 Leave Sharing

The purpose of this policy is to permit eligible employees of Virginia Alcoholic Beverage Control Authority (Virginia ABC) in Leave Without Pay (LWOP) status to receive income by using Paid Time Off (PTO) hours donated to them by other employees. (Refer Policy 4.8 Leave Without Pay-Conditional/Unconditional)

It is the policy of Virginia ABC to allow for the donation of accrued PTO to Donation Leave for sharing with eligible employees in certain circumstances. Employees who would like to make a request to receive donated PTO from their co-workers must have a situation which meets the criteria detailed in this policy.

4.6 Leave to Donate Bone Marrow or Organs

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to establish leave for bone marrow and organ donation as a separate category of leave, which is in addition to annual sick leave and other forms of leave.

Virginia ABC recognizes the significant medical benefit for an employee and donor recipient and authorizes eligible employees to receive up to 30 workdays of paid leave under the Leave to Donate Bone Marrow or Organs policy in any calendar year, in addition to other forms of paid leave. Paid leave under this policy may only be used for donating bone marrow or organs.

Requesting Leave

Eligible employees must request leave according to Virginia ABC procedures prior to the effective date of the leave. The request should be made as far in advance as possible to assist the employee's supervisor in planning for the absence.

A. Medical Certification

Employees must submit medical certification to support the use and expected duration of the leave.

B. Family and Medical Leave

Bone Marrow and Organ Donor (BMOD) leave will not be considered Family and Medical Leave (FMLA).

C. Virginia Sickness and Disability Program (VSDP)

Due to BMOD leave continuing employees' full pay, BMOD leave will not be considered VSDP leave and will not receive VSDP benefits during periods which are certified for BMOD leave.

D. Workers' Compensation

If employees are receiving Workers' Compensation (WC) benefits when they decide to donate bone marrow or an organ, the WC benefits will be suspended during the time certified for BMOD leave. When the BMOD period ends, WC benefits will continue, as appropriate.

Return from Leave

Employees returning from BMOD leave are guaranteed they will be returned to the positions they held when the leave began.

A return to work note from the employee's physician must be presented when an employee is returning to work after taking leave covered by this policy.

Extension of Leave

If it becomes medically necessary for an employee's BMOD leave to extend beyond the expected duration, up to 30 days in a calendar year, the time will be charged to other appropriate leave balances and may be considered FMLA. (Refer to Policy 4.4 Family and Medical Leave Act)

VSDP

Employees who participate in VSDP should contact the VSDP Third Party Administrator according to program guidelines. In these cases, VSDP eligibility including the applicable waiting period would begin following the 30 days of BMOD leave.

4.7 School Assistance & Volunteer Services Leave

The purpose of this policy is to set forth Virginia Alcoholic Beverage Control Authority's (Virginia ABC) philosophy and administrative guidelines regarding volunteer and school assistance leave and to supports the Governor's Commission on National and Community Service which encourages Virginians to dedicate service to others.

It is the policy of Virginia ABC to provide guidance to grant employees up to 16 hours of paid leave in any leave year to provide volunteer services through eligible non-profit organizations within or outside their communities.

§2.2-2821.2 of the Code of Virginia increases from 16 to 24 the number of hours of paid leave in any leave year (in addition to other paid leave) which may be allowed to Virginia ABC employees to serve with a volunteer fire department and rescue squad or auxiliary unit thereof. NOTE: This time is not in addition to the 16 hours of paid volunteer service leave to provide other volunteer services or school assistance.

Reason for Leave

Leave under this policy may be used for providing volunteer service through volunteering for non-profit organizations or for school assistance as outlined below.

A. Volunteer Opportunities

1. Volunteer Fire Departments and Rescue Squads - Members of volunteer fire departments and rescue squads, or auxiliary units thereof, will be granted paid leave of up to 24 hours under this policy in accordance with §2.2-2821.2 of the Code of Virginia.
2. Other Volunteer Service Activities - Employees may be granted paid leave under this policy to provide voluntary service as part of an organized service project sponsored by a community, national or other service organization. For example, an employee could be granted volunteer leave to:
 - a. Deliver meals to the elderly or to needy community citizens through an organization such as Meals on Wheels;
 - b. Attend non-profit boards and committee meetings (Scouts, Big Brother/Big Sister, Red Cross, etc.);
 - c. Participate in activities directly related to non-profit fundraising (e.g., set up/take down, registration, answering phones, recruiting/organizing/training volunteers);
 - d. Do yard work, painting, cleaning, maintenance through a non-profit organization, or;
 - e. Volunteer for Scouts, Big Brother/Big Sister, or other non-profit organization, such as SPCA.

B. School Assistance

1. Employees with children may be granted paid leave under this policy to:
 - a. Meet with a teacher or administrator of a public or private preschool, elementary school, middle school, or high school concerning their children, step-children, or children for whom the employee has legal custody; or

- b. Attend a school function in which such children are participating.
2. Any employee may be granted paid leave under this policy to perform volunteer work approved by any teacher or school administrator to assist a preschool, elementary school, middle school, or high school.

NOTE: Schools for which this leave may be granted include any public preschool, elementary, middle or high school. This term may include private and charter preschools, elementary, middle or high schools only if the employee has children, step-children or children for whom the employee has custody attending the private school.

C. Home Schooling

Employees may be granted paid leave under this policy to assist in the education of their child (or step-child or child for whom the employee has legal custody) in state-approved home education curricula, including meetings with local school board officials and required field trips.

Administrative Procedures

A. Supervisor's Approval

1. Employees must receive approval from their supervisors prior to using volunteer leave. If response to emergency situations as a member of a volunteer fire department or rescue squad will result in tardiness, employees must notify their supervisors according to Virginia ABC or individual Division procedures and protocols.
2. Supervisors may require written verification from an official of the service organization for use of volunteer leave. If the leave is used for school assistance, written verification should be from a school administrator or teacher.

B. Scheduling

1. Virginia ABC will attempt to approve leave at the time requested by employees, but have the discretion to disapprove leave if it would significantly impact Authority operations.
2. Virginia ABC may determine it is not possible to release certain employees under this policy, such as employees in law enforcement (essential) positions, due to staffing requirements. When adequate, capable back-up staff is readily available, or if it is possible to adjust employees' schedules, employees' requests should be granted. If they are unable to grant volunteer leave requests, Virginia ABC will inform affected employees as soon as possible after the decision are made.

Amount /Availability of Leave

A. Regular Full-Time Employees

1. Volunteer Leave may be used in increments of one hour at a time by exempt employees. Nonexempt employees eligible for leave under this policy may take leave in the smallest timekeeping increment.
2. A maximum of 16 hours of paid leave per leave calendar year will be made available to current employees on January 10 each year and to new employees upon beginning employment.

NOTE: Employees who are members of a volunteer fire or rescue squad departments must be granted an additional 8 hours of paid leave to be used exclusively for the purpose of providing firefighting and rescue services.

B. Regular Part-Time Employees

Hours of paid leave will be made available to regular part-time employees in an amount proportionate to the percentage of hours they work in a full 40-hour workweek.

Example: Employees working 32 hours per week are entitled to 12.8 hours (or, in the case of a volunteer firefighter, 19.2 hours) of volunteer leave.

C. Duration

1. No Carryover - Leave not taken under this policy in a calendar year will not be carried forward to the next year.
2. No Payout - There will be no payment for unused volunteer leave upon employees' separation from Virginia ABC service.

4.8 Leave Without Pay Conditional/Unconditional

The purpose of this policy is to establish guidelines for Directors of Alcoholic Beverage Control Authority's (Virginia ABC) to grant employees unpaid time off from employment with the Authority, following consultation with the Human Resources division.

It is Virginia ABC's objective to allow eligible employees to take unpaid time off from work under specified circumstances due to personal situations, often times beyond their control.

The leave provided for in this policy runs concurrently to any leave which may be required under applicable laws such as the Family and Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Virginia ABC also has a leave sharing program. (Refer to Policy 4.5 Leave Sharing) Amounts donated to an employee under this policy may be used during unpaid leave periods.

Purpose of Conditional and Unconditional Leave Without Pay

Summarized below are the two forms of leave without pay:

A. Unconditional Leave Without Pay

Virginia ABC may grant unconditional leave without pay for reasons which include:

1. Educational purposes of which allow employees time to further their education through study related to their work or that of Virginia ABC.
2. Military purposes which require a longer period of absence than permitted for military leave with pay (refer to Policy 4.9, Military Leave), and
3. Personal purposes, including, but not limited to illness for employees participating in the Traditional Sick Leave Program, and or for a Family Medical Leave (FMLA) covered absence to care for a family member. (Refer to Policy 4.11 Traditional Sick Leave and Policy 4.4 Family and Medical Leave).

B. Conditional Leave Without Pay

Virginia ABC may grant conditional leave without pay for reasons where a guarantee of reinstatement is not practical due to the Authority's need to fill the employee's position. This leave without pay may be granted for the same reasons listed above for unconditional leave without pay, excluding military leave without pay.

Length of Conditional and Unconditional Leave Without Pay

Both types of leave without pay are limited to a period of 12 consecutive months. However, Virginia ABC may extend an employee's leave period beyond 12 consecutive months in the following situations:

- A. Extended disability - leave without pay may be extended up to an additional 12 consecutive months;
- B. Active duty with the Armed Forces - leave without pay may be extended up to an additional 48 consecutive months if a normal discharge, up to 48 months if hospitalized;

- C. Leave to pursue a course of study - leave without pay may be extended up to an additional 12 consecutive months if approved by the Director of Human Resources or the CEO; or
- D. Non-state employment which is of vital importance to the state and/or national welfare - leave without pay may be extended up to an additional 12 months if approved by the Director of Human Resources.

Virginia ABC Responsibilities Regarding Leave Without Pay

- A. Unconditional Leave Without Pay

Virginia ABC will inform the employee, who is taking an unconditional leave without pay, in writing the status of the employee's benefits during the unconditional leave.
- B. Conditional Leave Without Pay

Virginia ABC will explain in writing to an employee who is taking a conditional leave without pay:

 - 1. That automatic reinstatement is possible only if the employee's old position is vacant;
 - 2. That if the employee's old position is not available at the end of leave without pay, the employee will be separated and that he or she may be employed again only through the normal hiring and selection process (Refer to Policy 2.3 Hiring)
 - 3. The status of the employee's benefits during the conditional leave; and
 - 4. The procedure for seeking reinstatement or a return to state service through the normal recruitment and selection process.
- C. Authorization for Leave Without Pay

Employees requesting leave under FMLA or Uniformed Services Employment and Reemployment Rights Act (USERRA) must receive approval from the Human Resources division. All other requests for LWOP must be approved by the employee's Division Director.
- D. Authority Assistance

If an employee is not reinstated at the end of the conditional leave, Virginia ABC will assist the employee in identifying vacancies for which the employee might be qualified in other state agencies and authorities.

Effect of Leave Without Pay Upon Benefits and Salary Increases

- A. Accrued Leave
 - 1. Sick leave for employees participating in the Traditional Sick Leave Program (Refer to Policy 4.11 Traditional Sick Leave) will be retained during an employee's leave without pay.
 - 2. Virginia ABC has the discretion to allow employees to retain their accrued PTO during either type of leave without pay in accordance with the provisions in Policy 4.2 Paid Time Off.
 - o An employee must be on leave without pay (for reasons other than military) for 90 consecutive calendar days before becoming eligible for the payment of accrued PTO.
 - o If PTO is paid, it must be for the total amount permitted under Policy 4.2 Paid Time Off, not a portion of the accrued balances.
 - 3. Virginia ABC may allow employees to retain their accrued compensatory leave, or such leave may be paid in a lump sum when employees are placed on voluntary leave without pay (not layoff) for at least 90 consecutive calendar days.
- B. Effect on Next Leave Anniversary Date

An employee will not accumulate PTO while on leave without pay, either unconditional or conditional. After a leave without pay of 14 consecutive calendar days, the employee's next leave anniversary date for the purpose of accruing PTO will be adjusted in accordance with the following chart:

Calendar Days on Leave Without Pay	Pay Periods Deducted
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1 - 14	0
15 - 31	1
32 - 46	2
47 - 61	3
62 - 76	4
77 - 91	5

C. Effect on Incentive Increases

An employee on unconditional or conditional leave without pay may have his or her performance increase amount affected depending upon the number of hours missed from work. (Refer to Policy 3.1 Compensation)

D. Effect on Months of Service for VSDP

Time on unconditional or conditional leave without pay will not be credited as months of service for VSDP.

4.9 Military Leave

The purpose of this policy is to protect the job rights of employees who are absent from the work-place as a result of military leave and to explain the interactions of the Virginia Alcoholic Beverage Control Authority's (Virginia ABC) other Human Resources policies.

It is the policy of Virginia ABC to permit employees to take military leave, with or without pay, for active duty in the armed services of the United States, and permits employees who are former and inactive members of the armed services, or current members of the reserve forces of any of the United States' armed services, or of the Commonwealth's militia, or the National Defense Executive Reserve to take military leave in accordance with federal and state law. Furthermore, this policy provides continued salary for employees in the Commonwealth's Militia called up by the Governor to respond to natural or man-made disasters.

Virginia ABC will not subject current or prospective employees to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. No person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of this membership. Additionally, no person will be subjected to retaliation or adverse employment action for exercising his or her rights under this policy. If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee is encouraged to immediately report his or concerns. (Refer to Policy 2.1 Equal Employment Opportunity)

Eligibility for Military Leave

An employee is eligible for Military Leave when, during Virginia ABC employment, if he or she:

- Is called to required military training,
- Is called into state or federal active military service,
- Is called up by the Governor under §44-75.1 and §44-78.1 of the Code of Virginia to respond to natural or man-made disasters, or
- Voluntarily enters active service in any branch of the United States military, the Commonwealth's Militia, or the National Defense Executive Reserve.

Military Leave may be with pay or without pay. Criteria for Military Leave With Pay and Military Leave Without Pay are explained below.

Military Leave With Pay

Virginia ABC will provide the following military leave with pay in accordance with the following chart:

15 Workdays/Federal Fiscal Year	<p>The employees listed below will be granted up to 15 workdays (120 hours) of paid military leave. A workday represents 1/260 of the total working hours an employee is scheduled to work during the entire federal fiscal year.</p> <ul style="list-style-type: none"> • Current members of the armed services, including members of the reserve forces of any of the United States' armed services, who are called to: <ul style="list-style-type: none"> ○ Participate in federally-funded military training duty or ○ Report for a tour of active federally-funded duty. • Former members of the armed services who are called to report for active duty. • Members of the Commonwealth's militia who are engaged in training duty or state active duty approved by the Governor or his designee. • Members of the National Defense Executive Reserve who are senior executives called to service with the federal government or engaged in training approved by the Governor or his designee. <p>Employees do not lose accrued leave balances when taking these 15 days of military leave with pay.</p>
Access To Military Leave With Pay (15 Days)	<p>An employee on LWOP, including leave without pay-military, does not have access to the 15 days of paid military leave available to employees who go onto military leave from an active working status. Access is restored when the employee returns from LWOP status.</p>
Physicals	<p>Employees are paid up to 8 hours per federal fiscal year for pre-induction and other physical examinations required for military service <u>in addition to</u> the 120 hours discussed above.</p> <p>NOTE: The leave record should show "military leave with pay-physical." Because PMIS will not accept an amount that totals more than 120 hours, this may need to be entered manually.</p>
Military Leave For Emergency Service	<p>The Governor of Virginia may call the Commonwealth's Militia to respond to natural or man-made disasters in Virginia or in another state. (Refer to Va. Code §§ 44-75.1 and 44-78.1.) Employees called to such emergency response military duty are on military leave with pay. This time is separate from and in addition to the 15 days of paid military leave per federal fiscal year available for military training or active military duty, as detailed above.</p>
Effects of Remaining on Paid Leave	<p>Employees' benefits are not affected during military leave with pay. Employees continue to accrue Paid Time Off (PTO) for 90 calendar days. The Virginia ABC contribution to health insurance premiums continues, and life insurance coverage is not changed.</p>

A. Options for Using Accrued Leave at Beginning of Military Leave

In addition to the 15 days for training or active duty plus 8 hours for a physical examination, employees on military leave may remain in paid status by using all or part of their accrued leave balances (except traditional sick leave) in accordance with the following chart:

Use of Leave – General	<p>In the provisions below relating to PTO and compensatory leave, the employee who chooses to be paid for some or all of his or her accrued balances may elect to receive payment either (a) in a lump sum or (b) on the Virginia ABC's regular payroll schedule. The employee who chooses to use some or all of his or her accrued balances to remain in active status must use the leave consecutively. Sporadic use of paid leave is not permitted. Employees who choose to use leave time to remain in active status, must do so before going on LWOP-Military status.</p> <p>The employee may elect during military leave to receive a lump sum payment</p>
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	<p>for any retained leave balances which qualify to be paid. Once employees have begun their period of active military service, employees may amend their original instructions and may request payment in a lump sum for retained leave balances. Employees may not, however, apply retained leave to certain days in the middle of their period of Leave Without Pay-Military. If they choose to use leave time to remain in active status, employees should do so before going on LWOP-Military status.</p>
Paid Time Off	<p>At the employee's option, all or part of PTO balances held at the beginning of active military duty may be</p> <ul style="list-style-type: none"> • Applied to the period of absence due to military service; • Paid up to the allowable payment limit at the time of placement on leave without pay; and/or • Retained until reinstatement from military leave without pay
Military Bank Leave	<p>A full-time Virginia ABC employee, who is a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard, may carry forward all excess accrued PTO hours to be retained as Military Bank Leave (MB). When the yearly carry-over adjustments to PTO are made on January 10 of each year, the amount of leave in excess of the allowable carry-over amount will be added to the employee's MB category if that employee has an MR (Military Reserve) or NG (National Guard) designation in PMIS and has authorized accrual of MB leave.</p> <p>Hours over the normal carryover limits retained as Military Bank leave may be used only during active military duty as provided by Code of Virginia § 2.2-2903.1.</p> <p>Military Bank leave may not be paid out or credited in any other form to the employee. It is either used during active military duty or it lapses upon separation, retirement, or death. (Refer to Policy 4.2 Paid Time Off)</p> <p>Using Military Bank Leave An eligible regular full-time employee whose excess PTO has been retained as Military Bank leave may apply any such banked leave at the beginning of active military duty. Employees beginning active military duty should indicate their request to use Military Bank leave, and other accrued leave, on their Military Leave Worksheet (see attachment A).</p> <p>Military Bank leave may be applied to the period of absence due to active military duty in the same way that other accrued leave is applied. Regular payroll deductions continue. Sporadic use of MB leave is not permitted.</p> <p>An employee on active military duty may choose to retain all or part of his or her Military Bank leave. The balance will remain available for use only during future periods of active military duty.</p>
Compensatory Leave	<p>At the employee's option, all or part of compensatory leave balances held at the beginning of active military duty may be:</p> <ul style="list-style-type: none"> • Applied to the period of absence due to military service; • Paid as allowed by policy at the time of placement on leave without pay; and/or • Retained until reinstatement from military leave without pay. Retained compensatory leave will be available for use for one year following reinstatement.
Sick Leave – Traditional	<p>Employees participating in the Traditional Sick Leave program under Policy 4.11, Traditional Sick Leave, have these options for their accrued sick leave balances:</p>

	<ul style="list-style-type: none"> • Employees with less than five years of continuous state service at the beginning of military leave without pay retain their sick leave balances, which are reactivated upon reinstatement to state service. • Employees with five or more years of continuous state service at the beginning of military leave without pay may: <ul style="list-style-type: none"> ○ Retain their entire sick leave balances to be reactivated upon reinstatement to Virginia ABC or state service, or ○ Be paid for 25% of their traditional sick leave balances up to \$5,000. If paid, the remaining 75% of the balance lapses and will not be restored upon their reinstatement to Virginia ABC or state service.
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Military Leave Without Pay

Employees will be granted military leave without pay for the duty indicated in their military orders which is not covered by military leave with pay or by the employee’s use of his or her PTO, military bank, compensatory, overtime, or family and personal leave balances. Virginia ABC service continues to accumulate while an employee is on Military Leave.

Active Military Supplement	Pursuant to Executive Order 44 (2003), Regular full- and part-time employees called to active duty military service in the Armed Forces of the United States and on LWOP-military whose gross military salary plus allowances is less than their base Virginia ABC salary are eligible to receive the Active Military Supplement. Employees need to provide the Virginia ABC Human Resources division a military Leave and Earnings Statement (LES) when they begin active duty and when any change in their salary or allowances occurs so that Virginia ABC can confirm their eligibility for the supplement and can calculate the amount due.
Exempt Employees	FLSA exempt employees' salaries may not be reduced as a result of a partial workweek absence on military leave. However, Virginia ABC may count employees' military pay for the week toward their salaries. Thus, if an employee's military pay is equal to or higher than the employee's weekly salary, Virginia ABC is not required to pay the employee any salary for that week. If an employee's military pay is less than his or her salary, but the military pay is supplemented in accordance with Executive Order 44 (2003), then Virginia ABC's obligation to the employee for the partial workweek will have been met.
Layoff	Employees on active military duty during layoff will be placed on Military Leave Without Pay. Employees will retain layoff and severance benefits until released from active military duty.
Temporary Work Force Reduction	An employee who remains on the payroll by using accrued leave while on active military duty may be subject to Temporary Work Force Reduction (TWFR) if his or her position would otherwise have been affected by the reduction. Unpaid leave will be substituted for paid leave for the time affected by the TWFR. An employee on Military Leave Without Pay is generally not subject to TWFR.

A. Benefits During Military LWOP

Paid Time Off	Employees do not accrue Paid Time Off (PTO) when they are in a leave without pay status.
Sick Leave– Traditional	Employees will not accrue traditional sick leave when in leave without pay status. (Refer to Policy 4.11 Traditional Sick Leave)

Health and Related Benefits During LWOP Military	<p>For eligible employees, coverage will continue through the end of the month in which the leave without pay begins. If the employee returns from leave the following month, and works at least one-half of the workdays in the month, coverage will not lapse.</p> <p><u>Coverage for Active Military Duty/LWOP Greater Than 14 Days</u> Employees called to active military duty whose active Virginia ABC employee benefits will lapse due to being placed on military leave without pay will be offered benefits for themselves and their covered dependents in Extended Coverage for up to 24 months. These employees and dependents are eligible for federal health benefits. However, they will be allowed to continue health benefits with the State Program and upon election of Extended Coverage will receive the State contribution for up to 24 months without an administrative fee. Beyond the 24-month period, conversion to non-group coverage is available.</p> <p><u>Premium Conversion</u> All health care premiums are deducted on a pre-tax basis. Premiums for the month in which leave without pay begins may be collected either by a lump sum pre-tax payroll deduction or on an after-tax basis by personal check.</p> <p><u>Flexible Reimbursement Account</u> Medical Reimbursement Accounts - Participating employees who are called to active duty may continue participation through the end of the plan year. The participant's elected contributions for the period of leave must be collected either by a lump sum pre-tax payroll deduction or monthly on an after-tax basis by personal check.</p> <p>Alternatively, within 31 days of taking an unpaid leave of absence, the employee may elect to discontinue participation in the medical reimbursement account. Coverage will cease on the first day of the month after the employee begins an unpaid military leave of absence. Elected contributions for the final month of coverage may be collected on a pre-tax basis by lump sum deduction or on an after-tax basis by personal check. The employee can be reimbursed for expenses incurred through the end of the final month of coverage.</p> <p>Dependent Care Accounts - Coverage will cease on the first day of the month after the employee begins an unpaid military leave of absence.</p>
Life Insurance	For eligible employees, Virginia ABC will continue to provide basic group life insurance coverage at no cost to the employee for a maximum of 24 months from the date military leave without pay begins. After 24 months, an employee may convert to an individual life insurance policy and pay the entire premium.
Holidays	Employees will not be granted or paid compensatory leave for holidays occurring during periods of military leave without pay.
Retirement Contributions	If employees earn any pay in the months in which military leave without pay begins or ends, Virginia ABC will make retirement contributions based on the employees' full monthly base salaries. Contributions will be discontinued for the remaining time employees are on military leave without pay.

Reinstatement to Virginia ABC Service

Employees of Virginia ABC on military leave will be eligible for reinstatement in accordance with the following chart:

Eligibility for Reinstatement	Reemployment rights extend to persons who have been absent from a position of employment because of performing duty in the uniformed services. The cumulative length of service that causes a person's absences from a position may not exceed five years.
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<p>Exceptions</p>	<p>USERRA lists eight categories of service which are exempt from the five-year limitation. These include:</p> <ul style="list-style-type: none"> • Service to complete an initial period of obligated service; • Service from which the employee through no fault of his or her own cannot obtain a release within the five year limit (e.g., a service member on deployment at sea when the five year limitation expires) • Required training for reservists and National Guard members; • Service under an involuntary order for active duty during domestic emergency or national security related situations; • Service on active duty because of a war or national emergency declared by the President or Congress (other than training) • Active duty by volunteers supporting “operational missions” for which reservists have been ordered to active duty without their consent (other than for training) • Service by volunteers ordered to active duty in support of a “critical mission or requirement” in times other than war or national emergency and when no involuntary call up is in effect; and • Federal service by members of the National Guard called into action by the president to suppress an insurrection, repel an invasion, or to execute the laws of the United States.
<p>Duration of Eligibility for Reinstatement</p>	<p>Employees remain eligible for reinstatement to previous positions for a cumulative period of up to five years of active duty. (Note the eight categories of service exempt from the five-year limitation listed above.) That eligibility may be extended for up to two additional years only when:</p> <ul style="list-style-type: none"> • Extension of active military service is requested by and for the convenience of the federal government; • A longer state active duty period is fixed by the Governor; or hospitalization resulting from active duty continues after discharge.

A. Guidelines for Reinstatement

Policies and procedures for reinstatement are consistent with the Uniformed Services Employment and Re-Employment Act of 1994 (USERRA), except where state law confers a greater benefit. Veterans must be placed in positions they would have attained if they had remained continuously employed.

<p>Requests for Reinstatement</p>	<p>Requests for reinstatement must be made to Virginia ABC either orally or in writing. They should state that the person is seeking reinstatement to his or her former employment upon return from military service.</p> <p>These requests should include certificates or release orders that confirm satisfactory completion of military service and provide the date of discharge.</p> <p>NOTE: Virginia ABC is not obligated to reinstate an employee who has not satisfactorily completed military service or training. Eligibility for reinstatement must be evaluated on an individual basis, taking into consideration the employee's military record and work history with Virginia ABC and the state. Additionally, an employee may not return to his or her regular full- or part-time position prior to the date of discharge shown on the official discharge documents.</p>
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Time Frames for Requests for Reinstatement	<p>Employees must <i>request reinstatement</i> within 90 calendar days of the day after release from active duty. Employees remain on Military LWOP during the permitted period of time between discharge from active military duty and reinstatement to active state employment.</p> <p><u>Disability Incurred Or Aggravated</u> The reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. This period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control which would make reporting within the two-year period impossible or unreasonable.</p>
Effective Date of Reinstatement	Employees are to be reinstated within a reasonable period of time after notification to Virginia ABC, normally considered to be within 5 to 10 workdays. However, Virginia ABC circumstances may require longer periods.
Based On "Escalator Principle"	Employees are qualified for pre-service positions or for positions to which they are entitled under the "escalator principle." That is, they will step back on the seniority escalator at the salary they would have held had they kept their positions continuously during military service. The purpose of the reemployment statute is to place veterans in the positions they would have attained if they had remained continuously employed, not a better position or a worse position.
Same Or Comparable Position	<p>Employees will be reinstated to their previous positions or to comparable positions in terms of pay, status, and location when they meet the minimum qualifications for the position. If employees no longer meet the minimum qualifications of their former positions because of changes in job duties, they must meet the changed requirements within a reasonable time after reemployment, or be offered positions requiring skills comparable to those required in former jobs with like seniority, status, pay, and location.</p> <p>Before being placed in other positions, employees will be offered training to increase their ability to perform the jobs, if such training would have been available to them if no military service had occurred.</p>
Change In Authority Business Needs	<p>When Virginia ABC's circumstances have changed, thereby making it impossible or unreasonable to reinstate the employee, the Authority may take one of the following actions.</p> <p><u>Comparable position available</u> – If employees' formerly held positions have been abolished, they will be placed in positions comparable in Salary Range and pay to those previously held.</p> <p>NOTE: If the nature and level of duties of a current position are substantially similar to those of the returning employee's pre-service position, a change of title does not justify the conclusion that the pre-service position has been abolished.</p> <p><u>Comparable position not available</u> – If comparable positions are not available, employees will be considered affected by a reduction in force, and the provisions of Policy 1.11 Layoff and Policy 1.13 Severance Benefits, will apply.</p>
Military Service Disability	When employees become disabled during military service and cannot perform the duties of their previous positions, and reasonable accommodations are not possible without undue hardship to Virginia ABC, efforts must be made to place them in the most closely comparable positions for which they qualify.

B. Leave Benefits Upon Reinstatement

For employees who return to Virginia ABC service, Military Leave Without Pay is not considered a break in Virginia ABC or state service. Thus, periods of military leave without pay do not interrupt Virginia ABC or state service for the purpose of computing years' of service, determining Paid Time Off accrual rates, or establishing eligibility for traditional sick leave payment upon termination.

Paid Time Off	Employees' periods of military leave without pay will be included as Virginia ABC
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	<p>service when determining their rates for accruing PTO.</p> <p>If an employee chooses to receive pay for accrued PTO when going on LWOP-military and then returns to Virginia ABC or state service within 180 days, he or she may buy back the PTO for which he or she was paid by reimbursing the full amount received to the Authority.</p>
Compensatory Leave	Retained compensatory leave will be available for use during the year following reinstatement. Any unused compensatory leave retained from before military leave will expire one year after reinstatement.
Traditional Sick Leave	An employee who returns from military leave to Virginia ABC service within 180 days may buy back any traditional sick leave for which he or she was paid by reimbursing the full amount received to the Authority. The remaining 75% which could not be paid will be restored when the purchase is complete. Employees who repurchase traditional sick leave upon return do not have to serve another five-year period eligibility period for payment of sick leave upon separation.
Family Medical Leave (FMLA)	Time spent on military leave without pay counts toward an employee's eligibility for leave under the FMLA.

C. Health and Related Benefits Upon Reinstatement

For eligible employees who return to Virginia ABC service, benefits will be reinstated in accordance with the following chart:

Health Insurance Coverage	<p>When the employee returns to Virginia ABC service, the employee may make health benefits elections to enroll in a plan and select a membership level if the employee was gone for more than 30 days.</p> <p>If the employee returning from military leave without pay was gone less than 30 days, the employee must return to the same plan and membership level in which he or she was enrolled prior to the leave. Premiums will be deducted on a pre-tax basis. Benefits coverage will become effective either on the first day of the month of his or her reinstatement to active state employment, or on the first day of the month following the date of his or her reinstatement to active state employment, provided that the employee submits the appropriate paperwork within 31 days of reinstatement from military leave without pay.</p>
Flexible Reimbursement Account	<p>If the employee returning from military leave without pay was gone less than 30 days, the employee must return to the reimbursement account(s) elections he or she had prior to the leave.</p> <p>If the employee returning from military leave without pay was gone more than 30 days, the employee may make new elections for both the Medical and Dependent Care Accounts provided that the employee submits the appropriate paperwork within 31 days of reinstatement from military leave without pay. The account(s) will be effective the first of the month following the receipt of the completed paperwork.</p>
Life Insurance	When an employee is reinstated to active Virginia ABC employment following military leave without pay, the employee's basic group life insurance coverage will continue or resume, as appropriate.
Retirement Credit	Employees reinstated to Virginia ABC service after active military duty are entitled to retirement service credit for periods of military LWOP as stipulated in Virginia Retirement System guidelines.
Introductory Period Affected	Introductory employees who take military leave with or without pay for more than 14 calendar days will have their introductory periods extended for the length of the leave, including the initial 14 days.
Compensation	<p>Employees returning to their previous positions from military leave will be reinstated at the same salary as when they were placed on military leave status, or the salary they would have attained had they kept their positions continuously during military service (escalator principle) as follows:</p> <ul style="list-style-type: none"> Any salary changes that affected all other Virginia ABC employees who occupy positions in the employees' Roles (such as Re-Banding, general salary increases, or Role Changes) must be applied to the returning

	<p>employees. (Refer to Policy 3.1, Compensation.)</p> <ul style="list-style-type: none"> • Performance increases are to be applied as if employees' service continued uninterrupted during the period of military leave. (Refer to Policy 3.1 Compensation) <p>When employees return to positions other than those held prior to taking military leave, their salaries will be determined by the applicable policies.</p>
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Employee Responsibilities

Regular full- and part-time employees will provide to the Virginia ABC Human Resources division or their supervisor and Division Director copies of orders documenting dates and types of required military training, physical examination, or active duty from appropriate military officials, including discharge documentation. Employees may be required to provide other required documentation as requested by Virginia ABC. For example, an employee on military leave without pay must submit a Leave and Earnings statement (LES) to receive the Active Military Supplement.

Employees must request military leave, indicating the type of military leave for which they are applying. For example, they must indicate leave with or without pay. If leave with pay, they should designate the type of leave, including whether and how any accrued leave is to be applied. See Military Leave Worksheet, Attachment A.

Employees requesting to use Military Bank leave must certify that they were eligible to accrue Military Bank leave by their membership in the National Guard or the Military Reserves.

In case of emergency orders to military service, employees must notify supervisors as soon as possible, and complete leave request forms when feasible, or upon return.

Employees seeking reinstatement to Virginia ABC employment after a period of active military duty must make their requests in accordance with Uniformed Services Employment and Reemployment Rights Act (USERRA) and other requirements given in this policy.

Virginia ABC Responsibilities

Virginia ABC will inform employees who are called to active military service of their rights, status, and obligations to the Authority during and after their period of active duty.

Virginia ABC has established guidelines for employees to follow for submitting requests for military leaves of absence and for monitoring such leaves to ensure that no more than 15 work days (1/260 of an employee's regular scheduled work hours during federal fiscal year) with pay are granted for military training and active duty in a federal fiscal year. Virginia ABC will also need to collect and maintain information related to employees' military status, earnings, or other data. For example, Virginia ABC must verify an employee's eligibility for the Active Military Supplement and calculate the amount of supplement due by reviewing the employee's military Leave and Earnings Statement.

Virginia ABC will update employee records in the Personnel Management Information System (PMIS) to reflect:

- Membership in the National Guard (NG) or Military Reserves (MR)
- Leave with or leave without pay-military status;
- Receipt of the military supplement; or
- Reinstatement or separation.

Virginia ABC has developed appropriate forms and procedures for recording the employee's request to carry over excess PTO as Military Bank leave, must verify the employee's eligibility for Military Bank

leave, and must ensure that correct leave records are maintained.

Termination from Military Leave

The termination report of an employee on paid Military Leave who resigns or is terminated from Virginia ABC service will show the last day of paid leave as the separation date. If an employee on Military Leave Without Pay resigns or is terminated, the termination report will show the separation date as the date the notification of resignation is received, or the date of the termination action.

4.10 Public Health Emergency Leave

The purpose of this policy is to protect the health of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) employees and the public, and to provide continuity of services to the citizens of the Commonwealth during times of pandemic illness.

It is the policy of Virginia ABC to permit or require employees to attend to the medical needs of self and immediate family members by providing up to 80 hours⁽¹⁾ of paid leave per leave year when Communicable Disease of Public Health Threat conditions as defined in Section §32.1-48.06, *et. seq Code of Virginia*, have been declared by the State Health Commissioner and Governor.

Use of this policy is intended for illness directly related to the declared communicable disease threat. This policy can be partially or fully implemented upon declaration of a Communicable Disease of Public Health Threat, in anticipation of Exceptional Circumstances, or in response to a specific incident.

Upon guidance from the State Health Commissioner and Governor, the Director of Human Resources for Virginia ABC, or designee, has the authority to implement all or select provisions of this policy and to grant exceptions in order to ensure use in the intended manner and to meet the unique operational requirements of Virginia ABC in any situation. The decision to close any Virginia ABC facility or location follows the same process as in the Policy 1.7 Emergency Closings.

NOTE:

- (1) 80 hours of paid leave is consistent with paid leave available to eligible employees under Policy 4.3, Emergency/Disaster Leave and with the recognized duration of communicable diseases anticipated by this policy.
- (2) An employee is subject to a maximum of 80 hours of paid leave per leave year between this Public Health Emergency Leave policy and Policy 4.3 Emergency/Disaster Leave.

4.11 Traditional Sick Leave

**This policy will only be utilized if it is determined that Virginia ABC cannot convert these individuals over new the new Authority Leave Plan.*

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to provide guidelines for the Traditional Sick Leave policy and employee eligibility based on date of hire or rehire.

This policy permits Virginia ABC to provide eligible employees, hired or rehired prior to January 1, 1999, with paid leave from work for reasons related to their own health or that of certain family members, and for family related absences covered by the Family and Medical Leave Act (FMLA). Employees who participate in the Traditional Sick Leave program will continue to participate in the [DHRM Policy 4.10 Annual Leave](#) program and are ineligible to participate in the Virginia ABC Paid Time Off policy.

Accrual of Sick Leave

Timing and Rate of Accrual	Sick leave accrues at the end of the day on the 9 th and the 24 th of the month, the end of the pay period. It is credited to the employee and
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	<p>available for use on the first day of the next pay period. An employee must have worked or have been on paid leave for the entire pay period in order to accrue sick leave.</p> <p>Regular full-time employees in this program who work 40 hours per week will accrue five hours of traditional sick leave per completed semi-monthly period of service (i.e., pay period with no occurrence of leave without pay).</p> <p>Regular part-time employees in this program who work 20-39.9 hours (50%—99.99% of a 40-hour schedule) per week will accrue traditional sick leave at a rate proportionate to their work schedules.</p> <p>For example: A regular part-time employee who works 30 hours (75% of a 40-hour schedule) will accrue 3.75 hours of sick leave per completed semi-monthly period of service.</p>
No Maximum Accruals	There is no limit on the amount of traditional sick leave employees can carry over from one year to the next.
When Sick Leave Does Not Accrue	<p>Sick leave does NOT accrue in the following situations:</p> <ul style="list-style-type: none"> • During any semi-monthly pay period when (a) the employee is on leave without pay, including leave sharing, or (b) no work is performed by the employee; • After 90 consecutive <i>calendar</i> days of leave with pay, regardless of the type of leave to which the absence is charged. A return to work for a complete pay period will interrupt the count of 90 consecutive calendar days of leave with pay. A new 90-day period will begin if the employee again returns to a leave with pay status and the employee will continue or resume leave accrual; • When an employee is suspended with or without pay pending the results of an official investigation or court action or during any pay period when an employee is on disciplinary suspension (Refer to Policy 1.1, Standards of Conduct) except: <ul style="list-style-type: none"> If a suspension extends into a second pay period, accrual of sick leave shall resume in the second pay period If a suspension extends into a third pay period, accrual of sick leave will resume in the third pay period; and • When an employee is on Temporary Work Force Reduction non-working status.

Use of Traditional Sick Leave

Personal	<p>Employees may use their accrued traditional sick leave to take leave from work for the following reasons:</p> <ul style="list-style-type: none"> • Medical necessity during the employee's temporary incapacity due to illness or injury, including incapacity related to pregnancy or childbirth; • Infection with or exposure to a contagious disease such that his or her presence on the job might jeopardize the health of others; and • The employee's medical appointments which cannot reasonably be scheduled during non-work hours.
Family	<p>Employees may use accrued traditional sick leave to take time off from work for the illness or death of an immediate family member. Immediate family members include the following:</p> <ul style="list-style-type: none"> • Parents, including step-parents or persons who stood in place of the parent and performed parental duties and responsibilities; • Spouse as defined in accordance with Executive Order #30, Marriage Equality In The Commonwealth of Virginia; policy amended eff. 10/7/214. • Children, including step-children, foster children, and legal wards;

	<ul style="list-style-type: none"> • Siblings, including step-siblings; and • Any relatives, either by blood or marriage, living in the employee's household. <p>The maximum amount of family sick leave under this policy an employee may use for minor or brief periods of disability, or following the death of certain family members, is limited to a total of 48 work hours in a leave year.</p>
Family and Medical Leave (FMLA)	<p>Employees may use up to 33% of their available traditional sick leave balances for family illnesses/injuries which qualify under the Family and Medical Leave Act and for which the leave has been designated as FMLA leave. (Refer to Policy 4.4 Family and Medical Leave) The calculation of 33% is made at the beginning of the FMLA leave period. Employees are permitted to use 33% of their sick leave balances to cover FMLA absences for the following reasons:</p> <ul style="list-style-type: none"> • The birth of the employee's child, and to care for the newborn child within 12 months of the birth. • The placement of a child with the employee for adoption or foster care, and to care for the newly placed child within 12 months of the placement; • To care for a child under 18 years of age, or a dependent son or daughter over 18 years of age who is incapable of self-care because of mental or physical disability; or • To care for the employee's spouse or parent with a serious health condition. <p>NOTE: FMLA leave may run concurrently with traditional sick or family sick leave if the employee is FMLA eligible and the need for leave meets FMLA guidelines. Virginia ABC will designate leave as FMLA when these criteria are met. (Refer to Policy 4.4 Family and Medical Leave Act)</p>
Workers' Compensation	<p>Employees with an approved Workers' Compensation claim will receive the Workers' Compensation benefit (66 2/3% of average weekly wage) and the Virginia ABC supplement for a period of 92 calendar days. When the Virginia ABC supplement ends, employees may use accrued traditional sick leave or other accrued leave to supplement the Workers' Compensation benefit to receive 100% pay. (Refer to Policy 4.13 Workers' Compensation Leave Supplement)</p>
Extended Period of Sick Leave	<p>There are options available if an employee of Virginia ABC becomes mentally or physically incapable of performing his or her job, and has been determined to be permanently disabled by the treating physician. Virginia ABC will determine if there is any reasonable accommodation, including transfer or demotion to another position which will enable the employee to perform the job. If not, the Authority may require the employee to apply for disability or early retirement.</p> <p>If an employee declines disability or early retirement, Virginia ABC may apply Policy 1.1 Standards of Conduct, to address unsatisfactory performance. (Refer to Policy 1.10 Termination/Separation from State Service)</p>

Verification of Employee's Need for Traditional Sick Leave

Virginia ABC has developed internal procedures for verification of employees' needs for sick leave.

Right to Require Verification	<p>An employee who wishes to use traditional sick leave must comply with management's request for verification of the appropriateness of using traditional sick leave.</p> <p>An employee's use of paid traditional sick leave may be denied if the employee fails to comply with a reasonable management request for verification of the need for sick leave, or if the verification provided is</p>
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	inadequate.
Schedule Adjusting	<p>An employee taking approved traditional sick leave may be asked to work additional hours on his or her day off. With the approval of the employee, Virginia ABC can substitute the additional hours worked for the traditional sick leave hours, thus reducing or eliminating the need to use the employee's sick leave.</p> <p>The intent of this provision is to give mutually beneficial flexibility to the employee and Virginia ABC. It is not intended to prevent employees' appropriate use of sick leave</p>
When Verification May be Required	<p>An employee who anticipates being disabled from work due to a medical condition, including but not limited to elective surgery, pregnancy, and childbirth, should submit a physician's certification of disability as far in advance as possible to assist management in planning for the employee's absence. For leave under the Family and Medical Leave Act (FMLA), 30 days' notice is required for events which are foreseeable, such as birth, adoption, or planned medical treatment.</p> <p>For an employee to request or continue to use traditional sick leave due to temporary disability or to care for a sick family member, the employee may be required to submit a physician's certification of disability.</p> <p>If the employee's traditional sick leave is designated as Family and Medical Leave under FMLA, documentation from the treating physician of the employee or family member, as appropriate, may be required. Normally, documentation sufficient under FMLA will meet Virginia ABC's needs for verifying the employee's use of traditional sick leave.</p>
Acceptable Forms of Verification	<p>Forms of verification employees may provide include:</p> <ul style="list-style-type: none"> • Certification from the treating physician that the employee is temporarily disabled from work. This should indicate the extent of the employee's disability and the anticipated duration of the disability. Virginia ABC may send a copy of the employee's job description for the physician to use in determining which duties the employee is able to perform. • Certification from the employee's physician that the employee currently has or has been exposed to a contagious disease such that his or her presence on the job might endanger the health of others; or • Evidence that the employee has a medical appointment which could not reasonably have been scheduled during the employee's non-work hours. <p>Certification or verification of incapacity for family members or of FMLA-qualifying conditions must meet the requirements for family sick leave or FMLA, as applicable.</p>
Abuse of Traditional Sick Leave	Employees who knowingly misrepresent the need to use sick leave are subject to disciplinary action under Policy 1.1 Standards of Conduct.

Treatment of Traditional Sick Leave Upon Change of Status

Payment for Sick Leave Balance - General	Employees with five or more years of continuous regular full- or part-time service (salaried) with Virginia ABC and state service may be eligible to receive payment for 25% of their unused traditional sick leave balances up to a maximum payment amount of \$5,000 in situations defined below. Employees with less than five years of continuous salaried Virginia ABC or state service do not receive payment for any part of their accrued sick leave.
Transferring from One Classified Position to Another	The traditional sick leave balance transfers when the employee moves from one regular full- or part-time position to another regular full- or part-time position. The sick leave balance may not be paid off at that time.
Moving from Regular Full or Part-Time to Wage Position	Normally, Virginia ABC will pay an eligible employee for the maximum payable amount of accrued traditional sick leave balance when the

	employee transfers from a regular full- or part-time position to a wage position.
Moving from Non- Classified to Classified Position	<p>An employee entering a regular full- or part-time position from a non-classified position may not transfer any accrued traditional sick leave unless:</p> <ul style="list-style-type: none"> • The employee chose to stay in the Traditional Sick Leave program during the VSDP enrollment periods of 1999 and 2002, and • The employee has been accruing sick leave at the same or lower rate as a classified employee in the Traditional Sick Leave program, and • Virginia ABC elects to accept all or part of the accrued sick leave.
Changing Retirement Plans	<p>Eligible employees who elect to transition from the Virginia Retirement System Plan 1 to the Hybrid Retirement Plan may no longer participate in the traditional sick leave program. They must enter the Virginia Sickness and Disability Program.</p> <p>For employees entering the Hybrid Retirement Plan on July 1, 2014, traditional sick leave accruals will end as of June 24, 2014, and VSDP leave (family/personal and sick leave) will be allocated on June 25, 2014 based on service time as defined for current employees.</p> <p>Eligible employees may elect one of two options for their traditional sick leave balances. They may:</p> <ol style="list-style-type: none"> 1. Be paid for the maximum payable amount of unused, accrued sick leave (<i>see Payment for Sick Leave Balance - General, above</i>) 2. Retain their unused, accrued sick leave balance intact to be payable (<i>subject to the limits in Payment for Sick Leave Balance – General, above</i>) upon their separation from state service or other qualifying status change. <ol style="list-style-type: none"> a. Should this option be selected, the balance will be banked and inaccessible for use during the remainder of the employee's Virginia ABC or state service. <p>Traditional sick leave may not be converted into disability credits.</p> <p>Upon separation from Virginia ABC service, all or part of the payout received for regular full- and part-time employees for unused traditional sick leave may be used to purchase retirement service credit. Employees should contact the Virginia Retirement System for detailed eligibility and procedure information.</p>
Reducing Work Hours	Current leave balances will be retained when an employee reduces work hours and retains regular full- or part-time status.
Leaving Virginia ABC/State Service	<p>Eligible employees will be paid for the maximum payable amount of accrued sick leave (see <i>Payment for Sick Leave Balance - General, above</i>) when separating from Virginia ABC or state service by resignation, layoff, retirement, termination, or death.</p> <p>Payment at an eligible employee's death will be made to the Administrator or Executor of the employee's estate. If there is no Administrator or Executor, payment will be made in accordance with Va. Code § 64.1-123.</p> <p>All or part of the payout received by regular full- and part-time employees for unused traditional sick leave may be used to purchase retirement service credit. Employees should contact the Virginia Retirement System for detailed eligibility and procedure information.</p>
Rescinding Resignation	Virginia ABC may choose to accept an employee's request to rescind his or her resignation within 30 calendar days of separation. If Virginia ABC accepts the request to rescind the resignation the PMIS transaction should be changed to reflect a leave without pay for the period of separation; thus the employee will not experience a break in service. Upon Virginia ABC approval an employee may use appropriate accrued leave to cover the absence.

	<p>If the employee received payment for traditional sick leave, he or she may recover the accrued balance (25% paid out and 75% lost at separation) by reimbursing Virginia ABC the amount of payment received at separation. Balances will not be restored until full payment has been made. (Partial buy back is not permitted.)</p>
Returning to State Employment	<p>When an employee who was in the Traditional Sick Leave program returns to Virginia ABC or state employment after a break in service, he or she will be treated as a re-hire. This employee will be enrolled in the Virginia Sickness and Disability Program and will not have the option to return to the Traditional Sick Leave program.</p>
Reinstatement After a Grievance	<p>When an employee in the Traditional Sick Leave program has been reinstated to Virginia ABC service as a result of a grievance determination, the employee may have his or her sick leave balance restored by re-paying the amount Virginia ABC paid him or her for sick leave.</p> <ul style="list-style-type: none"> • Balances will not be restored until the full payment has been made. • If the employee is awarded reinstatement back to the date of termination or suspension, the employee will receive any traditional sick leave accruals he or she may have received during that time period and the timeframe will not result in a break in service.
Military Leave	<p>An employee with less than five years of continuous salaried Virginia ABC or state service at the start of military leave without pay retains his or her traditional sick leave balance, which will be reactivated upon return to Virginia ABC or state service.</p> <p>An employee with five or more years of continuous salaried Virginia ABC or state service at the start of military leave without pay may retain the entire traditional sick leave balance (to be reactivated upon return to Virginia ABC or state service), or may be paid for 25% of the accrued balance up to \$5,000. If the employee chooses the payment option, the remaining 75% of the balance lapses and may not be restored upon the employee's reinstatement to Virginia ABC or state service.</p> <p>An employee who returns from military leave to Virginia ABC or state service within 180 days may buy back any sick leave for which he or she was paid by reimbursing the full amount received to the paying agency or authority. The remaining 75% which could not be paid will be restored when the purchase is complete.</p> <p>An employee does not accrue traditional sick leave while on military Leave Without Pay status, but time on military leave is counted towards the five-year period for payment of sick leave. (Refer to Policy 4.9 Military Leave)</p>
Layoff	<p>An employee with <u>less than five years</u> of continuous state service may not receive payment for his or her accrued traditional sick leave.</p> <p>An employee with <u>five or more years</u> of continuous state service may receive payment of 25% of the balance up to \$5,000.</p>
Other Instances of Retaining Sick Leave	<p>An employee retains his or her accrued traditional sick leave and may NOT receive a lump sum payment when placed on conditional or unconditional Leave Without Pay. (Refer to Policy 4.8 Leave Without Pay – Conditional/Unconditional)</p>
Leave as Financial Obligation of the Virginia ABC	<p>Payment for leave of absence is an expenditure of Virginia ABC funds. Therefore, records related to employee leaves of absence are subject to audit by the Auditor of Public Accounts, the State Internal Auditor, and the Authority's internal auditor.</p>
Sick Leave Records	<p>Virginia ABC must maintain accurate and up-to-date leave records in sufficient detail so that they can be evaluated during an audit by appropriate officials.</p>

Reporting Absences	Virginia ABC will record in the Personnel Management Information System (PMIS) paid and unpaid leaves of absence which are greater than 14 calendar days. Use PSE003 to record absences.
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4.12 Virginia Sickness & Disability Program (VSDP)

It is the policy of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) to provide income replacement benefits to eligible employees due to non-occupational and occupational illnesses and injuries, as well as to care for family members.

This policy provides eligible employees of Virginia ABC supplemental replacement income during periods of partial or total disability for both non-occupational and occupational disabilities. It encourages rehabilitation with the ultimate goal to return employees back to gainful employment when medically able.

NOTE: Virginia ABC employees eligible for Policy 4.2 Paid Time Off (PTO) are ineligible for sick and family/personal leave available under the DHRM Policy 4.57 Sickness and Disability Leave Program. Sick and family/personal leave are accounted for in the PTO accrual and may be used as defined in this Virginia ABC policy.

General Provisions

VRS Coverage – Dual Employment	<p>All regular full-and part-time employees hired or rehired after January 1, 1999 must participate in the VSDP. An employee can be covered by only one VRS employer.</p> <p>An employee who is employed in more than one position that provides coverage under VRS must elect, in writing to VRS, one position on which coverage will be based by completing an “Election of Reporting Employer for Dual Employment” Form (VRS-9 Form).</p>
Status Upon Transfer	<ol style="list-style-type: none"> 1. Covered employees (who chose to stay in the Traditional Sick Leave Program (Refer to Policy 4.11 Traditional Sick Leave) will continue in that program when transferring to another covered position. 2. Employees transferring from non-covered positions to covered positions who elected not to enroll in VSDP during the open enrollment period will be: <ol style="list-style-type: none"> a. Enrolled in the Traditional Sick Leave Program if the SL program of the transferring agency is the same as the SL Program outlined in Policy 4.11 Traditional Sick Leave; or b. Enrolled in VSDP if the Sick Leave program of the transferring agency is different than the Sick Leave Program outlined in Policy 4.11 Traditional Sick Leave.
Family Medical Leave Act (FMLA)	<p>FMLA and the VSDP leave run concurrently if:</p> <ul style="list-style-type: none"> • The disability is determined by Third-Party Administrator to be FMLA qualified, and • Virginia ABC determines that the employee is FMLA eligible. <p>Virginia ABC must provide eligible employees with FMLA notification and must track FMLA hours. During periods of FMLA the provisions of Policy 4.4 Family Medical Leave Act, also applies and Virginia ABC payment of healthcare premium continues.</p>

<p>Family FMLA</p> <p>FMLA Leave Year</p> <p>Recording FMLA Hours</p>	<p>Eligible employees may use 33% of their available Paid Time Off for an FMLA absence for an immediate family member as defined by FMLA. (Refer to Policy 4.4 Family and Medical Leave Act)</p> <p>Virginia ABC defines the leave year as the 12-month period measured forward from the first date an employee takes FMLA leave and expires 12 months later. (Refer to Policy 4.4 Family and Medical Leave Act)</p> <p>During periods of STD and LTD-W, the hours not worked are recorded as FMLA Leave. Example: If an employee is in STD working status with restrictions working 5 hours a day, the non-work hours (3 hours) are recorded as FMLA.</p>
<p>Holiday Leave</p>	<p>During periods of STD employees are credited with holiday leave based on the percentage of disability benefit (100%, 80% or 60%) they are receiving. To receive 100% income replacement when STD decreases to 80% or 60%, employees must use accrued PTO to supplement VSDP benefits. Holidays count towards the 7 calendar day waiting period.</p> <p>Employees on LTD-W receive holiday pay based on the percentage of work hours scheduled. Disability benefits for the holiday are based on the percentage of disability benefit (60%) the employee is receiving. To receive 100% income replacement employees must use accrued leave to supplement VSDP benefits.</p>
<p>Performance Evaluations and Increases</p>	<p>Supervisors may consider the length of time that employees perform in their jobs during the performance cycle, along with how well they perform, in arriving at employees' overall ratings.</p> <p>Absences for STD or LTD-W status under the VSDP program must not be used to negatively impact the employee's overall performance rating or his or her performance increase.</p> <p>Performance increases are applied to employees' STD benefits if the evaluation on file is current and the employee has received a performance rating of at least "Contributor." Employees are eligible for retroactive performance increases upon completion of performance evaluations in the event the evaluations are not current. Salary increases will be applied to the employee's salary while on STD and LTD-W and the VSDP benefit for employees on STD, but not LTD-W or LTD disability benefits.</p>
<p>Employee Compliance</p>	<p>Employees who fail to comply with VSDP program requirements such as contacting the TPA regarding an illness or injury, compliance with return to work arrangements, or completing and returning LTD information to the TPA may have their benefit reduced or terminated and/or may be subject to disciplinary action up to and including termination of employment. (Refer to Policy 1.1 – Standards of Conduct)</p>
<p>Retroactive Actions- 14 Day Look Back</p>	<p>VSDP will adjust benefits retroactively for only 14 calendar days from the date a claim is initiated by an employee. The employee still must serve a 7 calendar day waiting period following the initiation of a claim with the TPA; however, the disability date will be designated as the first date of illness/disability, not the date the claim is reported.</p>
<p>Workday</p>	<p>When a full-time employee is on disability leave, it is assumed</p>

	<p>that his or her work schedule is a standard 8-hour day. This includes those pay periods in which the employee starts STD or returns to work following STD, as well as in cases of intermittent and or major chronic disabilities where the employee works a part of a pay period.</p> <p>NOTE: VSDP requires that employees working alternate schedules must revert back to the standard 5-day/40 hour schedule when they are approved to receive STD benefits and remain in this status until released to return to work full-time/full duty without restrictions.</p>
Workers Compensation	<p>Workers' Compensation benefits are primary and VSDP supplements the benefit up to the income replacement level. Employees must contact both the TPA and immediately notify their supervisor of any workers' compensation injury or illness. There are statutory timeframes within which to collect benefits for lost time. The employee may need to file a claim for benefits with the VWCC to preserve their right to benefits.</p>
Lump Sum Settlement	<p>In the event an employee receives a lump-sum settlement under the Workers' Compensation, the amount of the settlement allocated to indemnity in the VWCC award will be prorated over the period that LTD benefits are received. (Payments made under the Workers' Compensation Act for permanent partial disabilities and medical, legal or rehabilitation expenses are not included in determining the prorated amount.)</p> <p>Workers' Compensation and VSDP supplements are non-taxable.</p>

Use of Paid Time Off With VSDP Leave

<p>Sick Leave</p> <p>Verification</p> <p>Personal Reasons</p> <p>FMLA Family Reasons</p> <p>Prior Approval</p> <p>Abuse of Sick Leave</p>	<p>PTO may be used by employees to continue their pay during absences for personal illness and they may use up to 33% of their available PTO for FMLA family reasons as described below.</p> <p>An employee who uses PTO must comply with management's request for verification of the appropriateness of using PTO.</p> <p>An employee's use of PTO may be denied if the employee fails to comply with a reasonable management request for verification of the need for PTO, or if the verification provided is inadequate.</p> <p>Employees may use PTO for absences due to personal illnesses or injuries, pregnancy and preventive or wellness physician visits, and to cover the 7 calendar day waiting period.</p> <p>PTO can be used during the initial 7 calendar day waiting period and may also be used to supplement periods of STD or LTD-W. PTO can be used to cover absences during scheduled work hours when the employee is working in STD or LTD-W status.</p> <p>Eligible employees may use 33% of accrued PTO for family purposes in accordance with Policy 4.4 Family and Medical Leave Act.</p> <p>Employees should request PTO, when feasible, prior to its use in accordance with Virginia ABC procedures.</p> <p>Employees who misrepresent or misuse PTO are subject to disciplinary action under Policy 1.1 Standards of Conduct.</p>
<p>Family and Personal (F/P) Leave</p> <p>Prior Approval</p>	<p>Employees may use available PTO for absences due to family reasons, personal illnesses or injuries, or other personal reasons.</p> <p>PTO can be used to supplement STD and LTD-W disability benefits to receive 100% pay during periods of 80% and 60% disability.</p> <p>Employees should request the use of PTO in accordance with Virginia ABC procedures prior to its use. Supervisors should approve the leave unless Authority work demands require the employee to work during the requested time.</p>
<p>Disability Credits (DC)</p> <p>Carry-over / Payment</p> <p>LTD</p>	<p>Employees who previously had SL hours which were converted to DCs may use these to supplement periods of 80% and 60% STD to receive 100% pre-disability income. Eight DCs are required for any portion of a day. Eight DCs equal one day of 100% income replacement when receiving 80% or 60% STD or LTD-W disability benefit. Use of DCs during STD is voluntary, use in LTD is mandatory.</p> <p>Unused DCs are carried over from one year to the next. If eligible, 25% of any unused DCs will be paid, up to a maximum of \$5,000, when the employee retires or separates from Virginia ABC or state service, provided the employee has 5 consecutive years of Virginia ABC or state service</p> <p>Employees also may convert DC's to retirement credits (173 hours = 1 month of service) upon termination or retirement.</p> <p>Unused DCs are transferred to the TPA in 8-hour increments</p>

	when the employee transitions to LTD. The TPA uses DC's in 8-hour increments to supplement the 60% LTD disability benefit in order to provide the employee with 100% of his or her pre-disability salary (80% for catastrophic). The remaining fractional (less than 8 hours) DCs are not transferred to TPA, but are paid out according to policy (25% up to \$5,000.).
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Disability Benefits

Short-Term Disability (STD)	<p>VSDP provides eligible employees with STD income for up to 125 workdays when the employee is unable to work due to an illness or injury which has been qualified by the TPA. STD benefits also cover medical absences due to pregnancy. STD payments will be made during periods of absences approved by the TPA for total disability, partial disability, maternity leave or periodic absences due to a major chronic condition at 100%, 80%, or 60%. Employees will receive a minimum of 80% income replacement for illnesses/injuries designated as catastrophic by the TPA.</p> <p>NOTE: A 7 calendar day waiting period must be served unless the condition has been deemed to be a major chronic or catastrophic illness/injury by the TPA, and then no waiting period is required. Employees may use PTO, or compensatory leave, during the waiting period. The waiting period does not count towards the 125 workdays of STD, but does count towards the LTD waiting period.</p>																												
Compensation for VSDP - Non-Work Related (employees hired prior to 7/1/2009)	<p>Employees' days of income replacement are based on months of service at the time of disability.</p> <table border="1"> <thead> <tr> <th colspan="4">Days of Income Replacement</th> </tr> <tr> <th>Months of Service</th> <th>Work Days 100%</th> <th>Work Days 80%</th> <th>Work Days 60%</th> </tr> </thead> <tbody> <tr> <td>Less than 60</td> <td>5</td> <td>20</td> <td>100</td> </tr> <tr> <td>60 to 119</td> <td>25</td> <td>25</td> <td>75</td> </tr> <tr> <td>120 – 179</td> <td>25</td> <td>50</td> <td>50</td> </tr> <tr> <td>180 or more</td> <td>25</td> <td>75</td> <td>25</td> </tr> </tbody> </table>	Days of Income Replacement				Months of Service	Work Days 100%	Work Days 80%	Work Days 60%	Less than 60	5	20	100	60 to 119	25	25	75	120 – 179	25	50	50	180 or more	25	75	25				
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Short-term Disability (Work Related)	<p>VSDP participants who suffer work-related injuries and illnesses who receive an award for indemnity benefits from the VWCC will be provided primary benefits according to terms of the Workers' Compensation Act. Upon receipt of an action report the VSDP STD provides secondary benefits. VSDP supplements the benefit provided under Workers' Compensation, up to the income replacement level.</p> <p>A 7 calendar day waiting period must be served to be eligible to receive STD benefits. Employees can use PTO or compensatory leave, overtime leave, F/P leave to cover waiting period hours. There is no waiting period if the disability is determined to be major</p>																												

	<p>chronic or catastrophic. If the employee's approved absence is over 21 days, Virginia ABC will reinstate the employee's leave used during the waiting period up to the value of the workers' compensation payment covering the waiting period. The leave amount is calculated by using the amount of the workers' compensation benefit payment received for the waiting period divided by the employee's hourly rate of pay. The employee must use appropriate leave to receive 100% pay during the waiting period or be placed on LWOP.</p> <p>Workers' Compensation payments and VSDP supplements for workers' compensation claims are non-taxable.</p> <p>NOTE: In order for employees to receive the full VSDP and WC benefits, employees must contact both the VSDP TPA and file a claim for Workers' Compensation benefits. If a WC claim is not filed or VSDP is not notified the employee may not be entitled to any benefits and will have to use appropriate leave to supplement and receive 100% income replacement.</p>																				
<p>Compensation for Work- related VSDP (employees hired prior to 7/1/2009)</p>	<p>Employees' days of income replacement for work-related injury/illness are based on months of service at the time of injury/illness.</p> <table border="1" data-bbox="537 825 1338 1031"> <thead> <tr> <th colspan="4">Days of Income Replacement</th> </tr> <tr> <th>Months of Service</th> <th>Work Days 100%</th> <th>Work Days 80%</th> <th>Work Days 60%</th> </tr> </thead> <tbody> <tr> <td>Less than 60</td> <td>65</td> <td>25</td> <td>35</td> </tr> <tr> <td>60 to 119</td> <td>85</td> <td>25</td> <td>15</td> </tr> <tr> <td>120 – or more</td> <td>85</td> <td>40</td> <td>0</td> </tr> </tbody> </table>	Days of Income Replacement				Months of Service	Work Days 100%	Work Days 80%	Work Days 60%	Less than 60	65	25	35	60 to 119	85	25	15	120 – or more	85	40	0
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<p>Use of Leave while on STD</p>	<p>Employees on STD can use the following leave to supplement VSDP benefits to receive 100% pay during periods of 80% or 60% disability;</p> <ul style="list-style-type: none"> • PTO, compensatory or holiday, on an hour for hour basis or partial hours; • DCs in 8-hour increments for any portion of the day if available. <p>Employees may use PTO or other accrued leave to cover the waiting period.</p>																				
<p>Leave Accruals Paid Time Off</p>	<p>PTO continues to accrue for 90 consecutive calendar days while employees are on STD. Employees on STD are in a Leave With Pay status (LWP).</p> <p>When employees return to work, including periods of working while in STD, accruals begin at the pre-disability rate. A return to work for a complete pay period will interrupt the count of 90 calendar days of</p>																				

	<p>leave with pay. A new 90 calendar day period will begin if the employee again returns to a STD non-working (LWP) status and the employee will continue or resume leave accrual. (Refer to Policy 4.2 Paid Time Off)</p> <p>Employees continuing to work while in STD accrue PTO at the employee's pre-disability rate.</p> <p>Employees returning to work full time/full duty or with modifications or restrictions while in STD or LTD-W will receive leave credit based on employees regular full-time or part-time status and months of Virginia ABC and state service if:</p> <ul style="list-style-type: none"> • Leave has not been received for the year, and • The employee status meets the definition of "active employment"
<p>Successive Periods of Short-term Disability (claims filed prior to 7/1/2009)</p>	<p>Employees released to return to their pre-disability positions on a full-duty basis who again become disabled due to the same condition will be considered to be in a continuation of the prior disability if:</p> <ul style="list-style-type: none"> • The employee works fewer than 14 consecutive calendar days (defined as scheduled work days and rest days, e.g., weekends) and the absence is related to the same non-major chronic condition; or • The employee works fewer than 28 consecutive calendar days, (defined as scheduled work days and rest days e.g., weekends) and the absence is related to the same major chronic condition as determined by the Third-Party Administrator. <p>Approved absences due to leaves for other reasons, e.g., PTO, have no effect in the counting of the 14 or 28 consecutive calendar days. Days worked or on leave count towards the transition into LTD.</p>
<p>Successive Periods of Short-term Disability (claims filed on 7/1/2009 or after)</p>	<p>Employees released to return to their pre-disability positions on a full-duty basis who again become disabled due to the same condition will be considered to be in a continuation of the prior disability if the employee works fewer than 45 consecutive calendar days (defined as scheduled work days and rest days, e.g., weekends) and the absence is related to the same major chronic or non-major chronic condition.</p> <p>Approved absences due to leaves for other reasons, e.g., PTO, have no effect in the counting of the 45 or 28 consecutive calendar days. Days worked or on leave do not count towards the transition into LTD.</p>
<p>When A Claim Becomes a New Period of STD (claims filed prior to 7/1/2009)</p>	<p>A new period of STD begins when employees:</p> <ul style="list-style-type: none"> • Return to work full-time/full duty for 14 or more consecutive calendar days after a non-chronic condition, but cannot continue to work, or • Return to work full time/full duty for 28 or more consecutive days for a major chronic condition, but cannot continue to work, or • Experience a new disability or illness during the 45 calendar day period or 28 calendar day period, unrelated to the first condition. <p>Employees must satisfy a new 7 calendar day waiting period for</p>

	non-chronic conditions. Income replacement begins again at 100% of pre-disability income.
When A Claim Becomes a New Period of STD (claims filed on or after 7/1/2009)	<p>A new period of STD begins when employees:</p> <ul style="list-style-type: none"> • Return to work full-time/full duty for 45 or more consecutive calendar days after a major chronic or non-chronic condition, but cannot continue to work, or • Experience a new disability or illness during the 45 calendar day period unrelated to the first condition. <p>Employees must satisfy a new 7 calendar day waiting period for non-chronic conditions. Income replacement begins again at 100% of pre-disability income or at 60% for employees hired or rehired on or after 7/1/2009 with less than 60 months of continuous Virginia ABC or state service.</p>
Work Arranged Through Vocational, Rehabilitation, or Return-to-Work Program	Work arranged through a vocational, rehabilitation, or return-to-work program, where the employee has not been released by his or her physician full-time/full-duty, does not count towards days worked when determining if a new disability exists. The employee is still considered disabled and on STD. However, all days worked or not worked count towards the transition into LTD.
Intermittent Disability	
Non-chronic Condition – Non-work-related	Absences for doctor, physical therapy, or for other medical appointments are not covered by VSDP. Employees must use PTO or other appropriate accrued leave to cover the absence.
Non-chronic Condition – Work-related	These absences may or may not be covered by Workers' Compensation. (Refer to Policy 4.13 Workers' Compensation Leave Supplement) If the absence is accepted as compensable and the employee is eligible to receive indemnity benefits for the period under a Workers' Compensation VWCC, award time will be reinstated to the employee based on the amount paid under the VWCC award. Employee may use PTO or other appropriate accrued leave to receive 100% pay. Absence should not be designated as Workers' Compensation until approved and employees must use accrued leave to cover the absence until approved by Workers' Compensation.
Major Chronic Condition – Non-Work-related or Work-related	Conditions may exist where future periods of disability will be covered regardless of whether the disability is continuous. Employees approved for intermittent major chronic STD will have periods of approved absence counted towards STD. Each period of absence for the original STD claim counts towards the transition into LTD. Absences can be in periods of a day, days or weeks. Virginia ABC will track intermittent days and the LTD waiting period. Appropriate forms should be submitted for approved Workers' Compensation claims. Absence should not be designated as Workers' Compensation until approved and employees must use accrued leave to cover the absence until approved by Workers' Compensation.

Adjustments to Short-Term Disability Payments

Employees must notify Virginia ABC of any other wages, disability payments or other benefits received for an illness or injury which is covered by VSDP.

STD payments will be adjusted by any income from the following sources:

- Wages or salary employees receive from any employment. Wages and salary include income reported on W-2 forms and income from self-employment. The amount of the adjustment is 100%, 80%, or 60% of that income, depending on the income replacement level the employee is receiving under VSDP.
- Disability payments from the Social Security Administration or other governmental disability program benefits the employee (or family) receives for the same disability for which the employee is receiving VSDP benefits.
- Benefits received from any other state agency or Virginia ABC sponsored group insurance contract for the purpose of providing income replacement for the same condition (does not include any disability insurance purchased directly by the employee).
- Benefits paid by any compulsory benefits law, such as Workers' Compensation, severance, or unemployment insurance.

NOTE: Cost-of-living increases received from any of the above sources are not considered in the offset of the VSDP benefit. Employees are responsible to provide Virginia ABC with information about additional earned income using the "Outside Earned Income Form", provided by the TPA. Any overpayments of disability benefits will be required to be repaid, with interest.

Benefits for Short-Term Disability

Health Care Insurance	Coverage continues with Virginia ABC paying the employer share of the premium during STD periods. Employees must continue to pay their portion of the health insurance premium.
Life Insurance	Employee Basic Group Life Insurance continues during periods of STD.
Optional Group Life Insurance	Employee's Optional Group Life Insurance continues during periods of STD, as long as the employee pays the premium.
Job Protection	Employees' positions are held during periods of STD. However, if the situation warrants, Policy 1.1 Standards of Conduct may be used while employees are on STD.
ADA	Employees may be covered by the ADA. Contact the Virginia ABC Department of Human Resources for assistance.
FMLA	Employees may be covered by FMLA. (Refer to Policy 4.4 Family and Medical Leave Act.) Virginia ABC must notify employees of FMLA designation. Medical certification is not required by Virginia ABC for an employee's personal illness when the employee is receiving benefits from VSDP. The TPA is responsible for requesting necessary medical information from the employee's LTP.
Leave Anniversary Date	The leave anniversary date is not affected since the employee is in a leave with pay (LWP) status.
VRS Service and Contributions	Full VRS contributions are reported to VRS and service credit is accrued while employees are receiving STD benefits. Once vested, employees retain their eligibility for retirement benefits when they reach normal retirement age.
State Health Insurance Credit	Time spent on STD counts towards the service requirement for eligibility for the State Health Insurance Credit.
Long Term Care	Employees unable to perform at least two of the ADL's and who are receiving STD benefits may be eligible to receive a daily benefit to assist with the cost of long term care. (Contact VRS for additional information).

Cessation of Short-Term Disability Benefits

STD benefits end when the employee:

- Is able to perform the essential functions of his or her pre-disability job on a full-time basis

- Begins receiving LTD benefits
- Begins receiving a VRS service retirement benefit
- Fails to cooperate or comply with the requirements of the VSDP
- Takes a refund of VRS contributions and interest
- Leaves state employment, voluntarily or involuntarily
- Dies

Long-Term Disability (LTD)

LTD benefits, which include LTD-W and LTD (work-related and non-work-related), commence upon the expiration of the maximum period for which the employee is eligible to receive STD benefits. LTD benefits provide employees with income replacement if they become disabled and are unable to perform the full duties of the job without any restrictions.

Unless the absence is covered by Family Medical Leave, return to employees’ pre-disability positions are not guaranteed after beginning LTD and Virginia ABC may recruit and fill their pre- disability position.

Employees approved for LTD receive income replacement of 60% of their pre-disability income, including any salary increases applied during STD. If the disability is designated as catastrophic, employees receive income replacement of 80% of their pre-disability income, including any salary increases applied during STD.

NOTE: VSDP participants who suffer work-related injuries and illnesses, which are approved by WC will be provided primary benefits according to terms of the award by the VWCC and the Workers’ Compensation Act. The VSDP LTD benefit is secondary. VSDP supplements the benefit provided under Workers’ Compensation up to the income replacement level. (Refer to Policy 4.13 Workers’ Compensation Leave Supplement).

Long-Term Disability – Working (LTD-W)

<p>Long Term Disability Working (LTD-W)</p>	<p>LTD Working status is in effect when:</p> <ul style="list-style-type: none"> • Employees working during STD (modified schedule or with restrictions) continue to work for Virginia ABC from STD working status into LTD for 20 hours or more per workweek in their own full-time position. • Qualified part-time employees working during STD (modified schedule or with restrictions) continue to work for Virginia ABC into LTD for 20 or more hours per workweek in their own part-time. <p>NOTE: Virginia ABC is responsible for reporting to the TPA earnings the employee receives while working for Virginia ABC. The employee is responsible for reporting to the TPA any earnings for work performed outside Virginia ABC.</p>
<p>Conditions of Employment LTD-W</p>	<p>Employees in LTD-W are considered employees of Virginia ABC. Virginia ABC will review this status every month to determine if the Authority can continue to accommodate the restrictions based on business needs. Virginia ABC will also review for compliance with ADA.</p> <ul style="list-style-type: none"> • Employees must continue to work 20 hours or more per week to maintain LTD-W status. • LTD-W is intended to be a short-term transitional work situation where the employee is working towards full return to work with no restrictions. <p>NOTE: Employees who move to LTD cannot return to a LTD-W status.</p>

Leave – Long-Term Disability-Working

Paid Time Off LTD-W	PTO is accrued based on an employee's percentage of full-time employment (scheduled work hours) and total years of state service. (Refer to Policy 4.2, Paid Time Off) Accrued PTO is not paid out when an employee transitions to LTD-W status. Employees can use PTO and other appropriate leave to supplement the difference in pay between the benefit received under LTD-W and their pre-disability income.
Using Leave to Supplement Benefits LTD-W	PTO can be used to supplement the difference in pay between the LTD disability benefit received from the TPA and the employee's pre-disability income using whole hours or partial hours.
Disability Credits Leave LTD-W	Employees with DCs have the option to use credits in 8-hour increments to maintain 100% income during periods of LTD-W. Virginia ABC is responsible for paying disability credits.
Compensatory Leave LTD-W	Compensatory leave can be used to supplement the difference in pay between the LTD disability benefit received and pre-disability income. Compensatory leave balances are not paid out until the employee goes into LTD.
Anniversary Date Leave LTD-W	Time spent in LTD-W does not affect an employee's leave anniversary date.
VSDP Months of Service LTD-W	Time spent on LTD-W counts towards an employee's months of service for VSDP leave credits and VSDP benefit entitlement.

Benefits – Long-Term Disability-Working

Health Care Insurance LTD-W	Virginia ABC continues to pay employer portion of health care premium and employee is responsible for his or her portion of the premium.
State Health Insurance Credit LTD-W	Time spent on LTD-W counts towards the service requirement for the State Health Insurance Credit when employees retire. LTD-W employees do not receive the health insurance credit.
Group Life Insurance LTD-W	Employee continues to be covered by group life insurance. No premiums are paid by Virginia ABC.
Optional Life Insurance LTD-W	Optional Life Insurance coverage continues as long as the employee continues to pay the premium.
VRS Retirement Service LTD-W	Employee continues to receive service credit towards retirement benefits during time spent on LTD-W. No employer contributions are reported to VRS by Virginia ABC.
Long Term Care LTD-W	Employees may be eligible to receive a daily benefit of \$75 if approved. To be eligible employee must be unable to perform two of the six ADL's or have a severe cognitive impairment.
ADA LTD-W	Employee may be covered by the Americans with Disabilities Act. Contact DHRM Office of Equal Employment for additional information.
FMLA LTD-W	Employees who have not exhausted the 12 week period of FMLA time will continue to be covered by FMLA for the remaining period of eligibility when placed in LTD-W.
Extended Coverage LTD-W	Extended coverage eligibility for health care runs concurrently with LTD-W.

Long-Term Disability (LTD)

Long-Term Disability	LTD status is in effect when: <ul style="list-style-type: none"> Employee has received the maximum STD benefit and is unable to return to work (RTW); Employees are working any schedule outside Virginia ABC.
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	<ul style="list-style-type: none"> Employees are unable to continue working 20 hours a week in LTD-W. <p>NOTE: Employees must continue to be medically approved for LTD benefits.</p>
Effects of LTD on Status LTD	<p>The following are the effects of LTD and conditions that must be met to receive the benefit.</p> <ul style="list-style-type: none"> Employees in LTD are considered to be inactive employees of Virginia ABC. Return to pre-disability position is not guaranteed. Once in LTD, employees cannot return to LTD- W. Employees must apply for social security disability income benefits immediately upon going into LTD unless otherwise instructed by the TPA. Within 60 days of being placed in LTD, the TPA must receive notification that application for Social Security Disability Insurance Benefits (SSDIB) has been made or VSDP benefits will be terminated. Employees are separated in PMIS (PSE139) when they are released by their Licensed Treatment Professional to return to full-time/full-duty without restrictions and their pre-disability positions are no longer available.
Successive Periods of Disability LTD	<p>An employee in LTD who returns to a position full-time/full duty for less than 125 work days will be considered to be in the same LTD disability status if:</p> <ul style="list-style-type: none"> The disability is related to the same cause(s) for which the original LTD benefits were paid. <p>An illness or disability will be considered a new disability if:</p> <ul style="list-style-type: none"> The disability is considered by the TPA to be non-related to the original disability; or The employee returns to a position full-time/full-duty for 125 work days or more and then goes out on another disability leave for the same or different disability from the original disability. <p>A new 7 calendar day waiting period must be satisfied (unless the condition is deemed major chronic or catastrophic) and if approved, the employee will begin receiving STD benefits again at the 100% income replacement level, provided he or she is employed in an eligible position covered by VSDP.</p>

Leave – Long-Term Disability (LTD)

Paid Time Off LTD	Employees are paid for the balance of accrued PTO up to the maximum payout amount allowed (Refer to Policy 4.2 Paid Time Off). If employees return to regular full- or part-time positions within 180 calendar days of the beginning of LTD, they can buy back the PTO for which they were paid by reimbursing the full amount.
Leave Anniversary Date LTD	An employee's leave anniversary date is adjusted for periods of LTD.
Compensatory Leave LTD	Employees are paid for any balance of compensatory leave.
Disability Credits LTD	DCs are automatically transferred to the TPA. DCs are required to be used in 8-hour increments to supplement disability payment to receive 100% pay. The fractional amount (less than 8 hours) is

	paid out per policy.
VSDP Months of Service LTD	Time spent on LTD does not count towards an employee's months of service for VSDP leave credits or calculation of the disability benefit.

Benefits – Long Term Disability (LTD)

Health Care Insurance LTD	Employees must enroll in the VRS group healthcare plan within 31 days of going into LTD. Employees are responsible for paying the full health care insurance premium. VRS maintains health care insurance coverage for employees in LTD. The employee is billed directly by the insurance carrier.
Health Insurance Credits LTD	Employees are eligible for the maximum health insurance credit, up to the cost for single coverage, regardless of the number of years of VRS service credit at the time of LTD. Time spent on LTD will count toward the service requirement for the State Health Insurance Credit at retirement. Employees not in the state group healthcare must submit a Request for Reimbursement form (VRS-45) to the TPA.
Life Insurance LTD	Employees continue to be covered by group life insurance. No premiums are paid by Virginia ABC.
Optional Life Insurance LTD	Optional Life insurance coverage continues as long as the employee continues to pay the premium. Employees are billed directly by the vendor.
Long Term Care LTD	Employees may be eligible to receive a daily benefit if approved. To be eligible, employees must be unable to perform two of the six ADL's or have a severe cognitive impairment.
Service Retirement LTD	Employees receive service credit for their time on LTD status towards retirement benefits. No employer contributions are reported by Virginia ABC.
Americans with Disabilities Act LTD	Employees' may be covered by the Americans with Disabilities Act in accordance with law (Contact the Office of Equal Employment Services for additional information).
FMLA LTD	Employees on LTD normally are not eligible for FMLA coverage. However, if an employee is eligible for FMLA coverage near the transition from STD to LTD, the FMLA coverage will continue when the employee moves into LTD. Employees continue to receive employer paid healthcare premiums and job protection for the duration of FMLA eligibility. Virginia ABC will contact DHRM's Office of Health Benefits regarding management of employee benefits.
Extended Coverage LTD	Extended coverage eligibility for health care runs concurrently with LTD.

Adjustments to Long-term Disability Payments (work-related and non-work-related)

Employees are responsible for reporting to the VSDP TPA (and if involved the WC Claims Administrator) any income or benefits received. Virginia ABC is responsible for reporting wages or salaries for employees in LTD who are working at Virginia ABC (LTD-W and hourly). Virginia ABC is also responsible for reporting lost time during LTD working to the WC Claims Administrator. LTD benefit payments will be adjusted by any income from the following:

- During the first six months of LTD. Wages or salary received from any employment in a percentage amount equal to the income replacement level received under VSDP. Wages and salary include income reported on W-2 forms and income from self-employment.
- After the first six months of LTD, an amount equal to 70% of the employees' wages and salary from any employment;

- Disability benefit payments from the Social Security Administration or other similar governmental disability program benefits received by the employee or his or her family as a result of the same condition;
- Benefits paid under any other governmental disability program, including primary military disability benefits, local government disability benefits, and federal civil service benefits which are paid for the same disabling condition;
- Benefits received from Virginia ABC or any other state agency-sponsored group insurance contract for the purpose of providing income replacement for the same disabling condition (does not include any disability insurance purchased directly by employees.)
- Benefits paid under any compulsory benefits law, such as Workers' Compensation, severance, or unemployment compensation.

Any cost-of-living increases received from any of the above sources are not considered in the adjustment of the VSDP benefit.

The TPA may require the employee provide copies of year-end tax statements and/or state and federal tax filings annually to certify income from gainful employment as part of the administration of statutory offsets under the program.

Cessation of Long-Term Disability Benefits

LTD benefits end on the earliest of the following:

- During the first 24 months of disability, if the employee is able to perform the full duties of his pre-disability position on a full time basis without any restrictions.
- After 24 months of disability, if the employee is able to perform the full duties of any job for which he is reasonably qualified, based on his training and experience, on a full-time basis without any restrictions and is earning 80% or more of his pre-disability income.
- A refund of VRS contributions and interest;
- Failure to cooperate or comply with the requirements of VSDP;
- Receipt of a VRS service retirement benefit; or
- Death.

Exclusion of Short-Term Disability and Long-Term Disability Benefits

Disability benefits are not payable to participating employees when:

- Disability results from employees' commission of a felony or during a period while employees are incarcerated.
- Disability results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any controlled substance, unless employees are actively receiving treatment, and in the view of the TPA, are fully complying with their treatment plan and making substantial progress toward rehabilitation.
- The TPA is no longer able to certify employees' illness or injury.
- Employees do not seek treatment from a licensed treating professional and do not participate in their proper care and treatment programs during their disability.
- Any independent medical examiner determines that employees are able to RTW before LTD begins.
- The decision to pay or not pay the disability benefit is based solely on objective medical evidence, notwithstanding a treating professional's request.
- Payments under Workers' Compensation are adjusted or terminated for refusal to work or to comply with the requirements of the Code of Virginia Section 65.2-603. The disability benefits payable under the VSDP will be computed as if employees were receiving the payments under the Act to which employees would otherwise be entitled.
- Employees fail to comply or cooperate with the requirements of the TPA for administering VSDP.

VSDP Effects on Leaves With and Without Pay

VSDP affects various leaves as indicated below:

Family Medical Leave	FMLA leave runs concurrently with VSDP for eligible employees and FMLA eligible illnesses/disabilities. The TPA is responsible for certifying the disability as FMLA eligible. Virginia ABC is responsible for determining employee eligibility, notifying employees of FMLA rights and tracking FMLA. Virginia ABC must notify employees of the designation of leave as FMLA at the time employers are informed of the VSDP claim. (Refer to Policy 4.4 Family Medical Leave Act)
Educational Leave Without Pay	Employees on educational leave without pay who become ill or injured during the leave without pay period are not entitled to use available leave to cover their period of illness or injury. Employees who are reinstated to their pre-leave employment status may they use their PTO and other leave balances and be covered by VSDP.
Military Leave With Pay	Employees on military leave with pay who become ill or injured are entitled to use any of their available PTO to cover their period of illness or injury. If certified, they also are eligible for STD and LTD benefits.
Military Leave Without Pay	Employees on military leave without pay who become ill or injured are not entitled to use their available PTO to cover periods of illness or injury. Only if these employees are reinstated to their pre-leave employment status may they use their PTO and be covered by VSDP.
Unconditional Leave Without Pay	Employees on unconditional leave without pay (position held) who become ill or injured are not entitled to use their available PTO to cover their period of illness or injury. Only if these employees are reinstated to their pre-leave employment status and their disability continues may they use PTO and be covered by VSDP.
Conditional Leave Without Pay	Employees on conditional LWOP (position not held) who become ill or injured are not entitled to use their available PTO to cover their period of illness or injury. Only if these employees are reinstated to their pre-leave employment status and their disability continues may they use PTO and be covered by VSDP.
Severance	VSDP benefits will be offset by severance benefits. Employees who are still disabled at the end of severance or leave without pay-layoff will continue to receive VSDP benefits as long as the illness/disability continues to be clinically and administratively approved. (Refer to Policy 1.11 Layoff and Policy 1.13 Severance Benefits) Workers' Compensation benefits are not offset by severance benefits; however, the VSDP portion received by the employee is offset by severance.
Temporary Work Force Reduction (TWFR)	Active employees (STD & LTD-W) who incur an injury or illness that makes them eligible for VSDP benefits will receive those benefits even if subsequently placed on TWFR. Applicants notified of TWFR who move into LTD before TWFR begins will be eligible to receive LTD benefits only. (Refer to Policy 1.12 Temporary Work Force Reduction)
Suspensions	Employees placed on suspension pending investigation or outcome of employment related court action or disciplinary suspension through Policy 1.1 Standards of Conduct, are not eligible to receive VSDP benefits during the period of suspension and depending upon case facts may not be eligible for Workers' Compensation benefits. If these employees are reinstated to

	employment in a covered position they will be covered by VSDP and if eligible may receive VSDP benefits.
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Responsibilities

A. Virginia ABC Human Resources division

- Comply with VSDP Program.
- Include overview in employee orientation and ensure that employees have access to the handbook online.
- Submit Employers Accident Reports, supplementary reports of lost time and any other required documentation or forms to workers' compensation immediately.
- Coordinate disability claim and benefits with the TPA, employee, and employee's supervisor.
- Coordinate VSDP Work-related disability claims with Workers' Compensation benefit coordinator and VSDP coordinator.
- Ensure employee receives appropriate communication regarding VSDP and FMLA.
- Communicate with employee during absence if employee is physically able.
- Provide FMLA notification and track FMLA hours if appropriate.
- Keep records for employees covered by VSDP and furnish information as required under VSDP.
- Report to the TPA any Virginia ABC wages earned for employees in LTD (working hourly for the Authority) and LTD-W status.
- Ensure that employee information is updated in PMIS in a timely manner.
- Respond to the TPA in a timely manner regarding requests for job modifications.
- Consider employees in STD for RTW with job modifications or restrictions based on physician guidance and Virginia ABC's Leave of Absence & Return to Work Policy.

B. Employee

- Understand the program features of VSDP and his or her role and responsibilities of participating in the program.
- Cooperate and comply with VSDP requirements.
- Complete leave slips using leave until time off is authorized by VSDP. If work-related illness or injury, monitor leave balances to assure credits are made for approved periods of disability under Workers' Compensation and/or VSDP. To preserve VWCC statute of limitations for indemnity benefits, file a claim for benefits with the VWCC if awards are not entered for workers' compensation lost time.
- Carefully read the VSDP handbook and the VWCC Workers' Compensation booklet in order to understand benefits, personal responsibilities and remedies.
- Understand the requirement for notifying your supervisor and the TPA of absence and ensuring that medical information is provided to the TPA in a timely manner.
- Understand the requirement for immediately notifying your supervisor of any workers' compensation injury/illness.
- Contact the TPA regarding illness/disability as soon as possible or within 14 days of disability in order to receive full retro payment if approved.
- Ensure that a family member or other person knows to contact the TPA in the event the employee is unable to do to disability/illness.
- Ensure the supervisor is kept informed regarding disability claim and any changes that occur to return to work date; and restrictions.
- Report any outside wages or income earned to the Department of Human Resources (STD), Workers' Compensation Claims Adjuster if work-related, and the TPA (LTD and LTD-W) so that disability payment may be adjusted.
- Apply for Social Security Disability Insurance Benefits and pursue all levels of appeal, as deemed appropriate by the TPA, and provide proof of filing to the TPA when requested.

- Provide the LTP and the TPA with a signed copy of the Claimant's Authorization form.
- Report any change in disability to the TPA.

Return to Work (RTW) Provisions

Return to Work Full- Time/Full-Duty With No Restrictions	Virginia ABC may allow employees to RTW full-time/full-duty, no restrictions, if they present a doctor's note with full RTW indicated. The Department of Human Resources will fax the note to the TPA and call the TPA to confirm release. Virginia ABC does not have to wait until receipt of the Determination Notice to allow the employee to RTW.
Return to Work With Authorization From LTP With Restrictions	<p>Virginia ABC may allow employees to RTW with restrictions if the employee presents a doctor's note with RTW indicated and restrictions designated. The Department of Human Resources will fax the note to the TPA or if work-related to the Workers' Compensation Claims Administrator and call to confirm release. If the doctor's note indicates restrictions, Virginia ABC must review the request and determine if the restrictions can be accommodated. If clarification is needed regarding restrictions, Human Resources Benefits Administrators will contact the TPA or if work-related the Workers' Compensation Claims Administrator for assistance. The employee should be sent home until the restrictions are coordinated with the TPA.</p> <p>If the restrictions are clear and the TPA or if work-related the Workers' Compensation Claims Administrator confirms that the doctor's note is from the LTP (or Workers' Compensation Panel Physician) who designated the employee as disabled under VSDP, and if Virginia ABC can accommodate the restrictions, then the employee may immediately RTW.</p> <p>Virginia ABC should receive information on the Request For Job Modification Form. If Virginia ABC cannot accommodate restrictions, the TPA or if work-related the Workers' Compensation Claims Administrator should be notified so that the claim can be approved for no modified duty.</p>

Appeal Process

Employees have access to an Appeals Process for VSDP claims. Refer to the [VSDP Employee Handbook](#) for details.

4.13 Worker's Compensation Leave Supplement

**This policy will only be utilized if it is determined that Virginia ABC cannot convert Traditional Sick Leave Program participants over new the new Authority Leave Plan.*

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to describe the supplemental benefits to workers' compensation provided to employees participating in the Traditional Sick Leave Program (Refer to Policy 4.11 Traditional Sick Leave)

It is the policy of Virginia ABC that all employees receive benefits provided by the Virginia Workers' Compensation Act (WCA) if they suffer a work-related injury or disease, and that covered employees participating in the Traditional Sick Leave Program who are entitled to benefits under the WCA also are eligible for supplemental benefits provided by the Commonwealth of Virginia.

Supplemental benefits for employees participating in the Virginia Sickness and Disability Program are described in Policy 4.11 Virginia Sickness and Disability Program.

Benefits to Which Employees are Entitled Upon Positive Determination of Claims

All Employees	All employees who suffer injuries or occupational diseases are entitled to benefits required by the WCA.
Covered Employees in the Traditional Sick Leave Program	Covered employees participating in the Traditional Sick Leave Program, who suffer injuries or occupational diseases also, are entitled to supplemental benefits provided by the Virginia ABC, as described in the section below.

Supplemental Benefits for Covered Employees Participating in the Traditional Sick Leave Program

In addition to payments for lost wages which are required by the WCA, covered employees who are on workers' compensation leave are eligible to receive payments for lost wages as described below.

During the First Seven Calendar Days of Absence	During the first seven calendar days of employees' absences on workers' compensation leave, the Commonwealth pays their regular salaries. If the absences continue for more than 21 calendar days, Virginia ABC will be reimbursed for the first seven calendar days of employees' absences on workers' compensation leave.
For the Next 85 Calendar Days of Absence	Employees who are absent from work on workers' compensation leave for more than seven calendar days will receive supplements in the form of the difference between payments required by the WCA and their regular salaries, for a period of up to 92 calendar days from the beginning of their absences from work on workers' compensation leave.
Supplements Payable When Employees Receive Payments for Permanent Loss	When employees receive payments as required by the WCA for permanent losses to their bodies, they also are entitled to receive the Commonwealth-provided supplements described above, such that they will receive the permanent loss payments as well as their regular salaries.
Use of Accumulated Leave to Receive Regular Salary	<p>After payment of the Commonwealth-provided supplement described above, employees may use accumulated traditional sick, Paid Time Off, and/or compensatory leave, to receive, along with payments for lost wages required by the WCA, their regular salaries.</p> <p>Employees' accumulated leave may be used to supplement payments for lost wages required by the WCA only up to the amount necessary to pay their regular salaries, except employees may receive more than their regular salaries if the excess amount is a result of payments for permanent losses to their bodies.</p>

Section 5: Management Development & Training

5.1 Employee Training & Development

The purpose of this policy is to define the process for the submittal and approval of internal and external training and development requests for employees of the Virginia Alcoholic Beverage Control Authority (Virginia ABC).

It is the policy of Virginia ABC to provide job-related training and development opportunities for all regular full- and part-time employees without regard to race, sex, color, national origin, political affiliation, religion, age, sexual orientation, veteran status, disability or any other protected status under federal, state and local laws. In addition, wage employees who have worked for Virginia ABC for at least one (1) year may be provided training if it is deemed beneficial to Authority operations or by Division Director approval for special circumstances. The training and development program is designed to meet: 1) statutory, regulatory and policy requirements; 2) to enhance job performance; 3) to address developmental needs of technical, professional and managerial competencies; 4) to promote career development; 5) to obtain professional certifications; and 6) to maintain professional certifications.

This policy covers both internal and external training programs and initiatives, with the exception of tuition assistance, which is covered by Policy 5.2 Tuition Reimbursement. The Virginia ABC Human Resources division will be responsible for identifying and providing to employees information on a variety of training and development sources. Sources include in-house Human Resources sponsored training, other state or Authority training, private sector organizations, professional conferences, workshops, and certification programs, other than those which must be completed by employees before they can perform the duties of a position. Examples are certification courses required before an employee can fully perform jobs, such as a Virginia ABC Law Enforcement Officer.

After appropriate approval, the Human Resources division will coordinate registration, transportation and lodging as needed for internal and external training.

Authorization for Training and Travel

All authorizations under this policy will comply with the Virginia State Travel Regulations.

A. Travel:

- Each employee must complete a Virginia ABC Employee Training Request Form and submit the form to his or her supervisor and/or Division Director for approval. Once approved at this level, the form must then be forwarded to the Virginia ABC Human Resources Training Office. The Human Resource Training Manager or designee will review all requests and make a final determination regarding work-relatedness and Authority benefit.

B. Additional Authorization:

- When three or more employees plan to attend the same conference or event, the CEO must approve the Travel Request Form, prior to submittal to the Human Resources Training Office. If all employees attending the conference report to the same Division, the respective C-level to whom the Division reports has the authority to approve such requests.
- When training is essential to staff development for five or more employees, the Division Director or designee will investigate the option of bringing the trainer on site prior to authorizing employees to travel to an off-site location.
- Out of state travel must be approved by the CFO.

Training and Travel Costs and Reimbursement

- A. Employees approved to attend a training activity will be reimbursed for approved travel and expenses according to Virginia State Travel Regulations.
- B. The Division Director or designee has the discretion as to whether to pay for overnight travel accommodations the night before or after the training/conference/workshop considering start/end times, travel distance and geographical location of such training/conference/workshop.
- C. After employees obtain approval for training and travel, direct billing must be arranged through the Human Resources Training Office for training registration, hotel accommodations, and reservations for airfare, car rental, or train tickets.
- D. For travel reimbursement, upon completion of travel, an employee must complete a [Travel Expense Voucher](#) for any expenses not direct billed by the Human Resource Training Office.

Human Resources Division Responsibility for Employee Training

The Human Resources division will provide and fund the necessary training and development for employees to fulfill their job requirements and to assist the division in achieving its mission and accomplishing their goals.

The Human Resources division is also responsible for ensuring that training mandated by the Code of Virginia is made available to Authority employees. The funding necessary for Authority mandated training programs is included in the Human Resources division training budget, such as new hire orientation, cyber security awareness, blood borne pathogens, and preventing workplace violence. All other training to include: workshops, seminars, certifications, and conferences will be funded through individual Division budgets.

The following training programs are mandatory:

- A. New Employee Orientation:
 - The Human Resources division requires all newly hired, regular full- and part-time employees to attend a two-day orientation program within the first 30 days of employment. The orientation program covers workplace harassment, Policies & Procedures, benefits and Time Attendance & Leave (TAL).
- B. Retail Operations Management Professional Development Track:
 - All newly hired or promoted regular full- or part-time employees with supervisory responsibility must receive management training within the first four months of employment.
 - The training covers topics such as human resource policies, diversity and the grievance procedure.
 - Retail Operation Store Managers and Assistant Managers will complete the On-the-Job Management Training (OJT) Program within the first two months of employment or promotion.
- C. Retail Operations Employee Track:
 - All new store employees will complete the Retail 101 Program within the first two months of employment.
- D. Optional Training for all Virginia ABC Personnel:
 - Training calendars will be provided in EmployeeConnect to all Virginia ABC employees listing open enrollment classes covering a wide variety of topics. The Human Resources division encourages employees to attend training and for supervisors to permit employees a reasonable amount of time away from work with pay for training.

FLSA Impact

For nonexempt employees, who are covered by the overtime provisions of the Fair Labor Standards Act (FLSA), training and development time under this policy is considered hours of work for computing any overtime liability.

5.2 Tuition Reimbursement

The purpose of this policy is to support employees' voluntary pursuit of formal higher education through an accredited college or university program, which will enhance the employees' current job performance, and increase their future opportunities for advancement within the Virginia Alcoholic Beverage Control Authority (Virginia ABC).

It is the policy of Virginia ABC to establish a program through which eligible employees are encouraged to continue their formal college education through accredited institutions to the mutual benefit of the employee and the Authority. Such personal growth is fulfilling to the employee and can lead to increased responsibility, more interesting and important assignments, and greater long-term compensation.

Courses covered by this Policy must be accredited by a college or university and part of a degree program, related to an employee's job and/or one he or she could aspire to and will benefit Virginia ABC. This policy is not intended to include training and development programs or certification courses, including those which must be completed by employees before they can perform the duties of a position. Examples are certification courses required before an employee can fully perform jobs, such as a Virginia ABC Law Enforcement Officer. (Refer to Policy 5.1 Training and Development)

Employee Eligibility

Virginia ABC's criterion for employee eligibility is nondiscriminatory and uniformly administered in accordance with Policy 2.1 Equal Employment Opportunity Policy. Eligible employees may submit requests for tuition assistance reimbursement after completing six (6) months of regular full- or part-time employment with the Virginia ABC

An employee may forfeit tuition reimbursement benefits for unsatisfactory job performance under Policy 1.8 Performance Planning and Evaluation, or disciplinary action Policy 1.1 Standards of Conduct.

Tuition Reimbursement

Tuition reimbursement is limited per employee per fiscal year to a maximum of \$3,000 for undergraduate and \$4,200 for graduate studies. In the event it is determined that superseding the reimbursement limits has tangible value for Virginia ABC, the limits may be exceeded only with CAO approval and providing that supplemental funding from the requesting division's operating budget is available.

Under this policy, tuition reimbursement will be limited to tuition only. Expenses not covered under this policy include:

- Tuition for audited courses
- Books
- Lab fees
- Late registration fees
- Add/drop fees
- Placement testing
- Entrance exams
- Graduation fees
- Living expenses incurred while attending classes
- Travel costs
- Any other associated fees

Courses must be taken for a grade, rather than Pass/Fail, if an option.

Advance payment for college tuition is not permitted.

If a course is subsidized by another source (e.g., veteran's educational payments, scholarships, and grant-in-aid), tuition reimbursement under this policy is limited to those costs not covered by the other source.

Course Eligibility

Virginia ABC may provide tuition reimbursement when the courses or employees' degree program meet one or more of the following criteria:

- Relate to current job duties;
- Provide new knowledge and skills to enhance job performance and/or support the Authority's mission;
- Are required for a job-related degree program;
- Enhance the Authority's ability to respond to current and future needs; or
- Support the documented "employee development plan" section of the employee's employee work profile (EWP)

There is no limit to the number of credit hours eligible for educational assistance per semester. Employees are encouraged to be prudent in the selection of the number of courses attempted each semester to ensure job performance is not impacted.

Work Schedule Options

College courses should be selected which are offered outside of an employee's regular work hours. In the event a course must be taken during regular work hours, it must not affect normal business operations. Employees will be required to use approved flextime scheduling and/or appropriate approved leave time to accommodate classes taken during regular business hours.

Pre-Approval Required

Requests for Tuition Reimbursement Assistance must be approved before registration for courses and any applicable work schedule changes. The employee must complete the Virginia ABC Tuition Reimbursement Form, attach the course description, registration information, agree to the terms of the Virginia ABC Tenure Agreement and obtain approval for reimbursement prior to beginning a course.

Upon Course Completion

After completing the course, the employee must submit to the Virginia ABC Human Resource Training Office, evidence of tuition payment and a copy of the grade report. This documentation must be provided within the fiscal year (July 1 – June 30) in which the course was completed.

The employee must achieve a grade of "C" or higher for an undergraduate course or "B" or higher for a graduate course in order to receive reimbursement for tuition. Courses that are graded on a Pass/Fail basis must be completed with a "pass".

FLSA Impact

For nonexempt employees, who are covered by the overtime provisions of the Fair Labor Standards Act (FLSA), time off under this policy, such as adjusting work hours or the use of personal leave, to attend educational courses during regular work hours, is not considered hours of work for computing any overtime liability, if:

- The employee's attendance is voluntary (employee-requested) and
- The employee performs no productive work for Virginia ABC during such attendance.

Generally time outside normal work hours for continuing formal education covered by this policy is not considered hours of work for computing overtime for the above reasons.

Separation of Employment from Virginia ABC

Any employee who separates from Virginia ABC within six months of the course end date will be responsible for repaying 100% course tuition costs incurred by the Authority as stipulated in the Tenure Agreement. If an employee who separates from Virginia ABC after 6 months, but less than one year from reimbursement, the employee is responsible for repaying 50% course tuition costs. If the employee transfers to another state agency, they will be precluded from this stipulation.

- A. Employees who submit a request for tuition reimbursement must acknowledge agreement with the terms and conditions of the Tenure Agreement by clicking the designated check box on the Training Request Form.
- B. Enforcement of the tenure provision rests with the Human Resource Training Office, who at the time of an employee's separation will determine if the employee is responsible for re-payment based on the six-month tenure stipulation.

Personal Income Taxes

In some circumstances, tuition reimbursement may be considered taxable income under Internal Revenue Code Regulations. Generally, tuition reimbursement for job-related under graduate courses is not counted as taxable income. Assistance for graduate courses is generally considered taxable income. Employees are responsible for any personal tax liability due as a result of receiving benefits under this policy.

Section Six: Records Management

6.1 Personnel Records Disclosure

The purpose of this Virginia Alcoholic Beverage Control Authority (Virginia ABC) policy is to ensure compliance with the Government Data Collection and Dissemination Practices Act in the disclosure of personnel records and the Freedom of Information Acts.

It is the policy of Virginia ABC to establish guidelines for access to and release of personal information on employees which is maintained by Virginia ABC. This policy establishes procedures for the disclosure of information to third parties, general requests for information, court ordered requests, review and copying of personnel files, and the responsibilities of Virginia ABC to accurately and securely maintain such information.

Disclosure of Information to Third Parties

Certain personal information must be disclosed to third parties upon request and may be disclosed without the knowledge and consent of the subject employee. This information includes:

- Employee's position title;
- Employee's job classification title;
- Dates of employment; and
- Annual salary, official salary or rate of pay, if such pay exceeds \$10,000 per year.

Other personal information may not be disclosed to third parties without the written consent of the subject employee or court ordered subpoena. This information includes, but may not be limited to:

- Performance evaluations;
- Mental and medical records;
- Credit or payroll deduction information;
- Applications for employment;
- Records of suspension or removal including disciplinary actions under Policy 1.1 Standards of Conduct;
- Records concerning grievances or complaints;
- Scholastic records;
- Records of arrests, convictions, or investigations;
- Material relating to Workers' Compensation claims;
- Material relating to Unemployment Compensation claims;
- Retirement records;
- Confidential letters of reference or recommendation;
- Results of pre-employment tests; and
- Personal information including, but not limited to race, sex, age, home address, home telephone number, marital status, dependents' names, insurance coverage, or social security number.

The following parties may have access to employee records without the consent of the subject employee. It should be noted that this access is not extended to the employee's medical records, unless having access is a specific requirement of the job. This list is not all inclusive.

- The employee's supervisor and, with justification, higher level managers in the employee's supervisory chain.
- The CEO of Virginia ABC or designee and representatives of the Human Resources division, as necessary to carry out the performance of the division's duties.
- Other employees of Virginia ABC who have a need to access employee information and as approved by Division Directors or the respective C-level, and the Director of Human Resources, in order to budget salary increases or access salary information for hiring purposes.
- Specific private entities which provide services to Virginia ABC through contractual agreements (such as health benefits, life insurance, Workers' Compensation, etc.) in order to provide such services.

Requests for Information - General

All requests for information about employees by third parties should be directed to the Virginia ABC Human Resources division. It is not necessary for these requests to be in writing.

- Requests for information which do not make specific reference to the Virginia Freedom of Information Act should be treated under the requirements of that Act.
- Requests under the Virginia Freedom Information Act must be answered by the custodian of the record within five workdays of their receipt. The response must:
 - Provide the requested information; or
 - If the records are exempt from disclosure under the Virginia Personnel Act, explain why they cannot be provided (in this case, the specific Code section which exempts the records must be referenced) ; or
 - If portions of the records are exempt and others are not, provide the portions of the information which are not exempt and delete those portions which are, referencing the appropriate section of the Code of Virginia which addresses the exemptions.
- Virginia ABC is not required to provide information when the request is not reasonably specific. The Authority should ask for clarification of such requests.
- Virginia ABC is not required to provide information which does not already exist or to convert a record from one format to another in order to comply with requests.
- Virginia ABC is not required to interpret official records or to supply additional information which is not part of the records.
- Virginia ABC is not required to entertain requests for future records or for continuing records.
- If the Authority determines that it is impossible to provide the information requested pursuant to the Freedom of Information Act, Virginia ABC must notify the requestor within five workdays.
- If the Authority finds that they are unable to determine if the records are available within the five workday period, Virginia ABC must notify the requestor within this time. Virginia ABC then has seven additional days to provide a response as indicated in this policy.
- If Virginia ABC is contacted in error for information, the Authority must, within five workdays, advise the requesting party and, if known, inform the requesting party where to obtain the information. NOTE: Refer to the Virginia Freedom of Information Act for further information regarding the disclosure of records.

Employment references should be provided by the Human Resources division. Supervisors and other employees of Virginia ABC are unauthorized to do so.

- Virginia ABC is under no obligation to provide employment references on current or past employees to prospective employers including other state agencies.
- If employment references are provided, the information given should be accurate, verifiable and should be limited to employment- related information. Opinion based information or conclusions drawn by management should never be provided.

Before releasing employment references (refer to the definition of personal information), written authorization from the subject employee should be received. Employee information needed to affect transfer, rehire, etc., may be released to other state agencies by telephone.

Requests for Information - Court Orders

Virginia ABC must comply with subpoenas ordering employee records to be turned over to the court. Virginia ABC may inform subject employees of such subpoenas, but are not required to do so.

When the court requests but does not order employees' files, copies of the requests and files should be forwarded immediately to the Attorney General's Office. That office will respond to the request.

Reviewing Personnel Files

Employees have access to information retained in all personnel files of which they are the subject, in accordance with law with the exception of when employees' physicians have requested in writing that

employees' medical and/or mental health records remain confidential, their request will be honored and employees will be denied access to those records.

Individuals seeking access to their personnel files should arrange an appointment with the Virginia ABC Human Resources division.

- Employees are not required to obtain their supervisors' approval prior to reviewing their official personnel file. However, they must provide adequate notice to supervisors when they wish to obtain releases from work to review their files.
- The Human Resources division may designate the location in which personnel files may be reviewed.
- The Human Resources division must remove medical and/or mental health records and may remove confidential letters of reference from the files before they are reviewed.
 - Medical and/or mental health records must NOT be kept in the personnel file and must be retained separately. The subject of these records has access to them UNLESS the physician has requested the records not be shared with the subject.
- A representative of the Human Resources division normally should be present during the review of personnel files. Supervisors are not required to be present while employees review their personnel files.
- Employees will not be charged for reasonable time away from work to review their files.
- Releases from work to review files will be granted based on Virginia ABC needs.

Copying Records

Virginia ABC may charge fees for providing information to requestors. These charges may not exceed the actual cost of providing the information. Charges may include the actual copying costs plus the costs for labor involved in locating and copying the information.

Virginia ABC Responsibilities

Virginia ABC must take every reasonable precaution to ensure the security of employees' personnel files regardless of format.

Virginia ABC is responsible for reviewing information which is maintained to ensure it is accurate and has a process by which inaccurate information can be corrected. Subject employees will be informed of the process to correct information in their files. If information is changed or purged, subject employees should be notified.

Virginia ABC should record names of those third party entities that have had access to personal information in employees' files over the last three years.

The Human Resources division is responsible for notifying employees regarding appropriate handling of confidential personal information as well as disciplinary actions which may be taken for violations of confidentiality or this policy.

The Human Resources division is responsible for establishing procedures for employees to follow when responding to requests for work references. Such procedures should be communicated to all employees.

6.2 Personnel Records Management

It is the policy of Virginia Alcoholic Beverage Control Authority (Virginia ABC) to maintain complete and accurate records regarding each employee and position, to comply with legal requirements regarding retention, and to preserve the confidentiality of personnel records.

It is the policy of Virginia ABC to set forth the requirements for the safeguarding, retention and transfer of employees' personnel records, and the reporting of employee and position changes within Virginia ABC in accordance with federal and state regulations. The release of personnel information is covered under Policy 6.1 Personnel Records Disclosure.

Collection of Information

Only information which is necessary for the effective and efficient operation of Virginia ABC should be collected regarding employees.

Employees' social security numbers (SSN) will be collected by Virginia ABC, under the authority of 26 U.S.C., Section 6011, and Treasury regulation Codes, Section §31.6011(b)-2(b). This information will be used to:

- A. Comply with federal, state, and local reporting requirements;
- B. Administer and evaluate Virginia ABC and state benefits programs;
- C. Effect personnel transactions related to employment status changes; and
- D. Comply with the Virginia Freedom of Information Act; and
- E. Establish and maintain the employee records necessary to accomplish Authority business.

Maintenance of Records

Employees' personnel records are to be maintained in a secure location. Personnel records are confidential in nature and, therefore, access to the information in them is to be limited. (Refer to Policy 6.1 Personnel Records Disclosure.)

Contents of Personnel Records

A. File Requirements

Virginia ABC must maintain a confidential personnel file for each employee. The personnel file for regular full-and part-time employee should contain, at a minimum, the following information:

1. Completed Commonwealth of Virginia Application for Employment form(s).
2. Any letters offering/accepting employment.
3. Originals of the Report of Appointment or Change of Status and Personal and Miscellaneous forms. Additionally, the verification for general salary adjustments, re-grades and other changes which were initiated or specifically approved by the Human Resources division.
4. Electronic versions of "Introductory Progress Review" forms.
5. Electronic version of performance evaluation forms.
6. The original personnel copy of Written Notices under Policy 1.1 Standards of Conduct.
7. Information regarding Workers' Compensation claims.
8. Medical and/or mental health records kept in a separate confidential file.
9. Authorizations for exceptional salary actions.
10. Electronic copies Employment Eligibility Verification (I-9).
11. Electronic copies of employees' position descriptions and performance standards.
12. Original personnel forms used to initiate personnel transactions.
13. Signed, original or electronic acknowledgement of Virginia ABC's Policy on Alcohol and Other Drugs policy.

NOTE: Wage employees' status changes and other records are not maintained in PMIS.

B. Master File Options

Other records may be included in the master file. Optional records, if not maintained in separate files, include:

1. Copies of state and federal withholding forms.
2. Copies of health insurance enrollment forms, and Virginia Retirement System and Life Insurance beneficiary designation forms.
3. Verification ("turn-around") copies of the Report of Appointment or Change of Status (P-3) and Personal and Miscellaneous forms showing transactions entered into the personnel system.
4. Electronic copies of employees' position descriptions and performance standards.
5. Electronic copies of training certificates and/or other training or scholastic records including records related to tuition reimbursement and training and development.

C. Supervisors' Files

If supervisors maintain employment-related files on employees, the files are strictly limited to documents used to develop and write employees' performance evaluations. All other documentation must be forwarded to the Human Resources division for maintenance in the master personnel files.

D. Other Files

Other personnel records which are to be maintained as separate files and not as part of the personnel file may include:

1. Grievance records.
2. Discrimination complaint case files.
3. Records of arrests, convictions, investigations, or security clearance information.
4. Recruitment and selection records. (Refer to Policy 2.3 Hiring)
5. Letters of recommendation for employment and/or references on applicants.
6. Original copies of the Employment Eligibility Verification (I-9) forms if not maintained in the master personnel file.
 - a. Virginia ABC must maintain the original copies of the I-9 in accordance with the "Personnel Records Retention and Disposition Schedule," provided by the Virginia State Library and Archives.
 - b. Should employees transfer to other state agencies, a new I-9 must be completed.
7. Medical and/or mental records
8. Information regarding Workers' Compensation claims.
9. Exit interviews.
10. Unemployment Compensation material.

Recording Changes in Status

Changes in status must be recorded in employees' personnel files. These must be signed by the appropriate manager or designee to indicate approval, including a review by the Human Resources division and Payroll unit.

EXCEPTION: Information on separations and/or returns from leave without pay should be entered within one week after the effective dates.

Disposition of Employees' Personnel Files on Transfer, Separation, or Re-employment

Employees of Virginia ABC who transfer to Executive Branch agencies will ensure that the new agency is in receipt of the personnel files no more than 15 days after the effective date of the personnel action.

- A. Virginia ABC has adopted procedures which ensure file confidentiality, security, and integrity during transfer. Transferred employees must not be allowed to carry their personnel files to their new agency.
- B. Transferred files must contain, at a minimum, the following information:
 1. Original Commonwealth of Virginia Application(s) for Employment with original signature(s).
 2. All original status change forms.
 - a. NOTE: Prior to transfer, copies of status change forms affecting salary changes for the preceding two years should be created. These copies are to be retained by Virginia ABC. They will serve as a supplemental file for audit purposes and should be disposed of after an audit or five years from the date of transfer, whichever is longer. All status change forms, or the official Authority substitute forms, must be sent in the employee's file.
 - b. Should the original documentation be needed for an Authority audit, auditors can be directed to the employee's last known place of state employment.
 3. Original performance evaluations.
 4. Original Written Notice forms.
 5. Applications for Workers' Compensation leave approval.
 6. Authorizations for exceptional salary actions.
 7. Interim performance evaluations for employees who are laterally transferring.
 8. Other documents from the personnel file which may benefit the receiving agency.

Personnel records for employees separating from Virginia ABC and state service are to be retained by the separating Authority for five years. (Refer to the Records Management Section of the Virginia State Library and Archives concerning medical records.)

Records of personnel re-employed within five years of their separation date must be requested from the separating agency by Virginia ABC.

- A. Such requests should be made in writing.
- B. The separating agency should provide the information listed in (2) above.
- C. Files of re-employed employees are to be forwarded in the same manner as those of transferred employees.

Disposition of Supervisors' Files on Transfer or Separation

Supervisors' records are considered working files and documentation related to employee performance should be destroyed once it has been used by the supervisor to write an employee's annual performance evaluation.

EXCEPTION: If these records contain information related to grievances or other legal cause of action which requires maintaining certain records related to the employee's employment with the Authority, the information must be transmitted to the Virginia ABC Human Resources division for appropriate retention.

Interim evaluations performed to provide input for the evaluation of employees who are transferring laterally, or to provide information to new supervisors (when supervisors transfer) should be forwarded to the Virginia ABC Human Resources division for proper transmittal.

Disposal of Personnel Records

The Records Management Section of the Virginia State Library and Archives must be contacted before any records are destroyed.

Personnel records must be disposed of in a manner which prevents accidental disclosure of personal information. Examples of such information include:

- A. Home addresses and/or telephone numbers;
- B. Social security numbers;
- C. Marital status;
- D. Medical reports;
- E. Performance evaluation scores;
- F. Disciplinary actions, grievance or complaint information;
- G. Payroll deductions; and
- H. Health benefit or insurance information.

If in doubt about whether a record is considered to contain personal information, the Office of the Attorney General should be consulted.

Responsibilities of the Virginia State Library and Archives

As necessary, the Records Management Section of the Virginia State Library and Archives will provide guidance and assistance to Virginia ABC regarding the management, retention, safeguarding and disposition of personnel records according to established policy and procedures.

Virginia ABC Responsibilities

The CEO and Director of Human Resources are responsible for the consistent application of this policy within the Authority or facility.

The CEO and Director of Human Resources are responsible for establishing confidentiality requirements which apply to the handling of personnel records within the Authority or facility. The Director of Human Resources will

ensure that Authority actions or changes affecting employees' employment or payroll status, or data relating to positions or employees, are entered into the personnel system.

If the CEO has provided signatory authority to designees, up-to-date records identifying those designations should be maintained.

The CEO or designees are responsible for ensuring that records are available at any time during the required retention period for inspection by the Director of Human Resources and/or the Auditor of Public Accounts.

DRAFT

Virginia Alcoholic Beverage Authority

Procurement Policy Manual

Version 1.0
Effective July 1, 2018

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The enclosed policies and procedures represent Virginia Alcoholic Beverage Control Authority's (Virginia ABC) adherence to prudent business practices when purchasing goods and services. All purchasing will be done to support the mission of Virginia ABC and will be in the best interest of Virginia ABC and the Commonwealth of Virginia. Virginia ABC Director of Procurement and Contract Officer Representatives (COR) will continue to consider the benefits of established State contracts to procure certain goods and services. Virginia ABC Director of Procurement and COR's are responsible for determining the appropriate and most desirable method for each procurement utilizing their professional judgement and training, as well as input from Virginia ABC business units.

Virginia ABC is an Authority of the Commonwealth and is exempt from the provisions of the Virginia Public Procurement Act (VPPA) pursuant to § 4.1-101.010 of the Code of Virginia. As a result, the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this title. These policies and procedures are designed to ensure fairness and competitiveness in Virginia ABC's procurement of goods and services and have been reviewed and adopted by Virginia ABC's Board of Directors. Subsequent changes to the manual will also be reviewed, approved and adopted by the Board of Directors. All procurement policies and procedures are under the direction of Virginia ABC Director of Procurement.

Specifically, this Procurement and Surplus Property Policies and Procedures Manual is intended to guide all Virginia ABC procurements and ensure that Virginia ABC:

- Obtains high quality goods and services at best value to meet the needs of its diverse business units.
- Conducts all procurements in a fair and impartial manner, avoiding any impropriety or appearance of impropriety.
- Seeks competition, consistent with the business needs of Virginia ABC.
- Allows flexibility in fashioning details of such competition.
- Provides clear rules, in advance of competition, governing contract awards.
- Director of Procurement and Contract Officer Representatives (COR's) may freely exchange information between purchasers and vendors, inasmuch as such exchange does not negatively affect the business objectives of Virginia ABC, or violate associated confidentiality requirements.
- Does not arbitrarily or capriciously exclude any qualified vendors and that all vendors have access to public business.

This manual provides information to all employees of Virginia ABC as they identify and pursue the procurement of goods and services to fulfill the business needs of Virginia ABC. However, as indicated herein, specific responsibilities and authorities have been defined for purchasing goods and services on behalf of Virginia ABC. All employees are therefore directed to the Virginia ABC Procurement Division prior to pursuing any procurement.

Certain procedures and forms referenced in this manual are subject to change. In cases where this manual appears to contradict instructions on forms or other materials, the policies and procedures documented herein will take precedence.

The Director of Procurement, and his/her staff in Virginia ABC Procurement Department, is available to assist in any purchasing activity, and to interpret and apply these policies and procedures.

The purchase of distilled spirits and the purchase or lease of real property is excluded from adherence of these policies and procedures.

Section One: Ethical Standards of Conduct

1.1 Ethics in Procurement

It is the policy and intent of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) that all personnel having official responsibility for procurement transactions shall be knowledgeable about the provisions of this policy entitled "Ethics in Procurement" and conduct themselves accordingly to ensure the public's trust. It is up to each individual to ensure they do not violate the spirit of procurement ethics.

Virginia ABC employees having official responsibility for a procurement transaction shall avoid any conduct that constitutes, or could be construed to constitute, a conflict of interest, inappropriate conduct with vendors or corruption. It is important that Virginia ABC employees conducting procurements on behalf of Virginia ABC ensure the public's trust by avoiding improprieties, as well as the appearance of such improprieties. The integrity and credibility of the procurement program requires Virginia ABC employees to be impartial, fair and free of any relationships that may cause them to be unduly partial to any vendor or product. The procurement of goods and services will be limited to those necessary to the operation and mission of Virginia ABC and its business interests.

1. Proscribed participation by Virginia ABC employees in procurement transactions:
No employee of the Virginia ABC having official responsibility for a procurement transaction shall participate in transaction on behalf of Virginia ABC when the employee knows that:
 - a. The employee is employed by an offeror or contractor involved in the procurement transaction.
 - b. The employee, the employee's spouse or partner, or any member of the employee's immediate family holds a position with an offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;
 - c. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
 - d. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with an offeror or contractor.
2. Disclosure of Subsequent Employment:
No Virginia ABC employee having official responsibility for procurement transactions shall discuss employment with any offeror or contractor with whom the employee has dealt in an official capacity during the course of the procurement transaction. Vendor may be subject to debarment if determined that discussions have taken place.
3. Prohibition on solicitation or acceptance of gifts; gifts by offerors, contractors or subcontractors prohibited.
 - a. No Virginia ABC employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from an offeror, contractor or subcontractor any payment, kickback, loan, subscription, advance, deposit of money, services or anything of value present or promised.
 - b. No offeror, contractor or subcontractor shall confer upon any Virginia ABC employee having official responsibility for a procurement transaction any payment, kickback, loan, subscription, advance, deposit of money, gifts, services or anything of value. Vendor may be subject to debarment if determined that a violation of this policy has taken place.
4. Participation in RFP preparation; limitation on submitting for the same procurement:
No person who, for compensation, prepares a request for proposal for or on behalf of Virginia ABC shall (i) submit a proposal for that procurement or any portion thereof or (ii) disclose to any offeror information concerning the procurement that is not available to the public. However, Virginia ABC may permit such person to submit a proposal for that procurement or any portion thereof if the Virginia ABC determines that the exclusion of the person would limit the number of potential qualified offerors in a manner contrary to the best interests of the Virginia ABC.

5. Purchase of building materials, etc., from architect or engineer prohibited.
 - a. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall be sold by or purchased from any person employed as an independent contractor by the public body to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in § 2.2-3101.
 - b. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in the building or structure to the independent contractor employed by the public body to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101.

6. Misrepresentations prohibited

No Virginia ABC employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

7. Insufficient Authorization

No employee shall obligate Virginia ABC without having received prior written authorization in accordance with Virginia ABC's Procurement Authority Policy. Doing so is a misrepresentation of authority.

The willful violation of any of the above provisions may lead to disciplinary and/or legal actions. An annual certification of ethics compliance will be required for all employees who have official procurement responsibilities.

Procedures:

1. Employees of Virginia ABC that are assigned to a pre-selection and/or proposal evaluation panel shall complete and sign a nondisclosure statement concerning conflict of interest.
2. The Virginia ABC requires its employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this policy.

Any questions regarding the above or other procurement ethics issues, or the interpretation thereof, should be directed to the Virginia ABC Director of Procurement or Chief Financial Officer.

Violations of Virginia ABC's Code of Ethics policy may also be confidentially reported to the Virginia Office of the Inspector General via the State Fraud Waste & Abuse hotline at: (800)723-1615 (toll-free, anonymous, no caller ID).

Section Two: Overview of Procurement Policies

2.1 Procurement Responsibility & Authority

The purpose of the Virginia ABC Procurement policy is to define the authorizations necessary for the Contracting Officer Representatives (CORs) and Director of Procurement to execute the purchase of goods and services for Virginia ABC Authority.

The Chief Executive Officer (CEO) has the ultimate responsibility to ensure that the acquisition of goods and services does not violate or circumvent state law, executive orders, appropriations, regulations, or the provisions of this manual. At his/her discretion, the CEO reserves the right to review, approve, disapprove, authorize and sign procurement documents regardless of the dollar amount. The CEO has delegated the individual responsibility for the day to day management of the procurement function and the authority to bind the agency in making contractual commitments to the Director of Procurement, as the Chief Procurement Officer, as outlined in the Virginia ABC Procurement Policies and Procedures. The Director of Procurement has overall responsibility and authority to procure items on behalf of Virginia ABC and for developing, interpreting and enforcing all Virginia ABC procurement policies and procedures. The Director of Procurement authorizes Contracting Officer Representatives (CORs) to procure items on behalf of Virginia ABC, review, interpret and approve contracts and other procurement documents relating to Virginia ABC as outlined in the Virginia ABC Procurement Policies and Procedures. The Procurement Director authorizes designated employees to procure items on behalf of Virginia ABC using an Authority small purchase charge card in accordance with the Virginia ABC Small Purchase Charge Card Policy (Virginia ABC SPCC). Approval from the COR's will be required prior to pursuing the purchase of goods and services on behalf of Virginia ABC for all other purchases.

Purchase Level Authority

Purchase Requisitions and Purchase Orders

1. Annual departmental budgets will be established by Finance in accordance with budgetary processes. The requestor will obtain budget approval PRIOR to the submission of any requisition, issuance of any contract or purchase order for goods or services by any employee of Virginia ABC to ensure adequate funding is available.
2. Procurement will execute budgeted procurements through approval of Requisitions.
 - a. CORs will approve all Requisitions submitted into the Procurement system and will have final approval authority for procurements less than \$10,000.
 - b. Requisitions exceeding \$10,000 will require secondary approval by the Business Director or Designee and oversight (watcher review) by a Budgeting Representative
 - c. Requisitions exceeding \$100,000 will require tertiary approval from the Budget Representative.
 - d. Requisitions exceeding \$150,000 will require quaternary approval from the Contract Supervisor.
 - e. Requisitions exceeding \$1,000,000 will require quinary approval from the Director of Procurement.

Requisition to Purchase Order Approval Process

LEGEND

E= Entry

A = Approval

OS =
Oversight

	Requisition Writer	CORs	Business Director or Designee	Budget Representative	Contract Supervisor	Director of Procurement
0 - 10K	E	A		OS		
> \$10,000	E	A	A	OS		
> \$100,000	E	A	A	A		
>\$150,000	E	A	A	A	A	
>250,000	E	A	A	A	A	OS
>500K	E	A	A	A	A	OS
>1 M	E	A	A	A	A	A

Signatory Authority for Contractual Documents

The following delineates the requirements and practices for the delegation of authority to make commitments to spend the Authority's funds.

The Director of Procurement is Virginia ABC's Chief Procurement Officer and will have overall responsibility for the review, interpretation and approval of all contracts and other procurement documents relating to Virginia ABC. All contracts, contract modifications, Statements of Work (SOW), purchase orders, purchase order changes or other documents relating to contracts for goods and services including, but not limited to construction and information technology contracts that commit Virginia ABC to a procurement will be signed by the approved Signatory Authority.

- CORs employed as Procurement Officer I shall have signature authority up to \$250,000
- CORs employed as Procurement Officer II shall have signature authority up to \$500,000
- The Contract Supervisor shall have signature authority up to \$1,000,000
- The Director of Procurement shall have signature authority between \$1,000,000 and \$1,500,000.
- The Chief Financial Officer (CFO) shall have signature authority between \$1,500,000 and \$2,000,000.
- The Chief Executive Officer (CEO) shall have signature authority for anything greater than \$2,000,000 and, at his/her discretion, may choose to sign procurement documents at any dollar amount.

Signatory Authority to commit Virginia ABC to a Procurement

	Procurement Officer I	Procurement Officer II	Contract Supervisor	Director of Procurement	CFO	CEO
Up to \$250,000	A					
Up to \$500,000		A				
Up to \$1,000,000			A			
Between \$1,000,000 and \$1,500,000				A		
Between \$1,500,000 and \$2,000,000					A	
Greater than \$2,000,000						A

LEGEND

A= Approval

There are some procurement situations that require stricter approval authority. The documents below have a different signature authority level:

Contract modifications exceeding 25% of the original contract price require written approval by Chief Executive Officer or Designee.

Sole Source Procurements over \$10,000 require a Procurement Supervisor's signature
Sole Source Procurements over \$150,000 require the Director of Procurement's signature
Emergency Procurements over \$10,000 require a Procurement Supervisor's signature.
Emergency Procurements over \$150,000 require the Director of Procurement's signature

General Procurement

1. The Director of Procurement will maintain the Procurement Policies and Procedures Manual, issuing updates or amendments as necessary and approved by the CEO, and will notify Department Directors and other parties of changes as appropriate and necessary.
2. The Director of Procurement will maintain guidelines regarding the utilization of Small, Women-Owned, and Minority-Owned (SWAM) contractors, the SWAM Purchasing Plan, a supplement to the Procurement Policies and Procedures Manual, issuing updates or amendments as necessary and approved by the CEO, and will notify Department Directors and other parties of changes as appropriate and necessary.
3. The Virginia ABC Procurement Division will provide and/or coordinate training to Department Directors and staff members as necessary to ensure continued compliance with Virginia ABC policies and adherence to sound procurement practices. At a minimum, **the following initial and recurring annual training is mandated for employees in the roles indicated below:**
 - Contract Administrators
 - Small Purchase Charge Cardholders and Approvers
 - E-Procurement System Users
 - Violations by employees of Virginia ABC procurement policies may result in removal from the designated role as determined by the Director of Procurement. In addition, depending on the severity of the infraction, disciplinary action may also be taken up to and including termination.
4. Order Splitting: The placement of multiple orders within other than a reasonable time period to one or more vendors for the same, like or related goods and services in order to avoid using the appropriate method of procurement, or to remain within the delegated purchasing authority, is prohibited.
5. The Director of Procurement shall coordinate all vendor disputes, appeals and resolutions. The CEO shall be advised of all vendor disputes, appeals and resolutions.

2.2 Exceptions to Competitive Requirements

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Exceptions to Competitive Requirements Policy is to enable the Procurement division and other employees or work units within their delegated procurement authority, to procure goods and services without obtaining competition based on the policy exceptions.

Virginia ABC has determined that competition normally is either not practicable or available for purchases of the following goods or services; however one quote must be obtained and documented.

1. Purchases up to \$10,000
2. The following selected categories of goods and services up to and including \$50,000:
 - a. Books, preprinted materials, reprints and subscriptions (e.g., print or electronic), prerecorded media, slide presentations, etc., when only available from the publisher/producer
 - b. Academic/research consulting services
 - c. Purchases of used equipment including used equipment purchased at a public or online auction
 - d. Honoraria, entertainment (speakers, lecturers, musicians, performing artists)
 - e. Training that is specialized, proprietary, or not typically available to the general public for which competition is generally unavailable
 - f. Royalties and film rentals when only available from the producer or protected distributors
 - g. Professional Organizational Membership dues
 - h. Writers

- i. Artists (does not include graphic artists); original works of art; and original, or authentic antique period art frames (does not include newly created replacement or reproduction frames)
 - j. Photographers other than for graduations and yearbooks, e.g., for official photographs/portraits
 - k. Contributions and donations made by a university
 - l. Advertisements such as in newspapers, magazines, journals, radio, television, etc.
 - m. Utility charges
 - n. Conference facilities (to include conference support and related lodging and meals) only when the use of a specific facility is directed by an outside donor, sponsor, or organization
 - o. Accreditation fees and academic testing services
 - p. Exhibition Rental Fees for exhibitions of historical artifacts or original works of art. (The rental fee may include charges other than the rental of the exhibition, such as transportation costs.)
 - q. Rare and historic manuscript, printed and photographic materials (e.g. books, ephemera, maps, manuscripts, photographs, and prints) that are one of a kind or exist in very limited supply
 - r. Purchases for testing or evaluation (limited to purchases of quantities considered necessary for complete and adequate testing)
3. Government-to-Government Purchases. The purchase of goods and services from Commonwealth of Virginia agencies and authorities, institutions, localities and public bodies, the federal government, other states and their agencies or institutions, localities, and public bodies. Care must be exercised to be certain that the price is fair and reasonable.

Section 3: General Procurement Guidelines & Methods of Procurement

3.1 Guidelines & Planning

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Procurement Guidelines & Planning Policy is to provide general guidelines and suggestions when procuring goods and services, and to promote a greater understanding of expectations between Procurement and the business unit. Their intent is to assist business units in following generally acceptable procurement principles, yet provide maximum interpretive latitude in their application.

Planning / Identification of Need – Procurement planning consists primarily of anticipating future needs. This planning process must allow sufficient lead-time to process the request in accordance with Virginia ABC policies and procedures. The initial step for the business unit is to determine what is needed, the quantity and date required. A request for purchase must convey, in a clear, concise and logical sequence, the information necessary to answer the basic questions of who, what, why, where, when and how. Procurement is available to assist business units and should be consulted as soon as a need is identified that (1) exceeds the single quote dollar limit, (2) includes complex specifications, or (3) may affect other business units.

Lead-Time - Administrative lead-time is that period of time from initiation of the requirement by the business unit to issuance of an award. For routine procurements where informal written solicitations are used, the minimum time required to prepare, solicit, evaluate, and make an award may take from three (3) days up to thirty (30) days depending on the complexity. When a sealed solicitation is used, the time required by Procurement will generally be longer. This time period should be included in procurement planning.

Order/Ship Time (OST) - Order/Ship Time is the time after award required by vendors to fill an order and ship by designated means (truck, rail, or air) to the delivery point. These times vary widely by industry. Consideration should be given to market conditions which will affect delivery. Except for the most routine of expendable supplies, e.g., off-the-shelf items, a range of 30-90 days should be estimated in determining the OST. Custom made and complex items of equipment (e.g. vehicles, forklifts) normally take longer to obtain. This time period should be considered by the business unit when determining when a request should be submitted in order to receive the goods when needed.

Procurement is available to assist the business unit in determining the proper amount of lead time and OST to ensure goods and services are received in the timeframe needed by the business unit.

Selection of Procurement Method

It is important to select the proper procurement method. Virginia ABC Director of Procurement and Contract Officer Representatives (COR) are responsible for determining the appropriate and most desirable method for each procurement utilizing their professional judgement and training, as well as input from Virginia ABC business units. The estimated or anticipated value/lifecycle cost of the contract is determined first, unless the purchase is an emergency. The anticipated value of the contract includes the dollar value for the initial period of the contract, and includes all possible renewal periods. When determining the total value of a contract, include all cost elements such as travel related expenses (e.g., travel, lodging, and meals) and direct bill expenses (e.g. postage, shipping and handling costs, etc.).

Lifecycle cost is the sum of the initial one-time cost plus any recurring cost for the lifespan of the contract (e.g. purchase price, installation cost, operating cost, maintenance and upgrade cost, etc.). The guidelines below will be used in determining the proper procurement method. Additional detail is provided in the Summary of Procurement Thresholds attached to this policy.

- Purchases up to \$10,000 follow Single Quote Policy (insert link)
- Purchases > \$10,000 - \$150,000 follow Informal Solicitation Policy (insert link)
- Purchases > \$150,000 follow Sealed Request for Proposals (RFP) Policy (insert link)

- Emergency (if applicable) follow Emergency Policy (insert link)
- Sole Source (if applicable) follow Sole Source Policy (insert link)

Departures from these guidelines must have the approval of the Director of Procurement unless otherwise specifically identified within the Policies & Procedures Manual. See the individual sections of the Policies & Procedures Manual for more specific details of each type of purchase.

Services

Professional services will be procured in accordance with the Professional Services Policy, and include, but are not limited to, work which must be performed by an entity licensed in the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacology, or professional engineering.

Non-professional services include all services not specifically listed as a professional service.

Selecting the method for contracting for professional and nonprofessional services will be in accordance with Virginia ABC Procurement Policies and Procedures based on the estimated value of the service (e.g. Informal Solicitation, Sealed RFP, etc.).

When contracting for services to be performed on Virginia ABC property, the vendor may be required to be properly registered and licensed, or hold a permit, prior to performing specific types of services. Virginia ABC Vendor Insurance, Performance Bonds and Bid Bonds Policy and Contractor License Requirements Policy should be reviewed for details prior to contracting for services.

Approvals Required - Approval for certain services is required as follows:

- Insurance – Department of Treasury/Division of Risk Management
- Banking and Bank - Related Cash Management Services - Department of the Treasury, Division of Cash Management and Investments

Virginia ABC is responsible for assuring that the use and control of the services of private consultants is properly justified in terms of the mission, programs, priorities, and funding. As required by §4-5.02(c) of the Appropriations Act each year, Use Of Consulting Services, a determination of “return on investment” shall be made as part of the criteria for awarding or using contracts for consulting service.

Specifications

Specifications describe the item or type of service you need and can either enhance or inhibit competition. It is Virginia ABC’s policy to ensure competitiveness and fairness in its procurements. This can be accomplished by describing goods or services in a manner which meets the Virginia ABC’s needs and encourages competition.

Order Splitting Prohibition

The placement of multiple orders within other than a reasonable time period to one or more vendors for the same, like or related goods and services in order to avoid using the appropriate method of procurement, or to remain within the delegated purchasing authority, is prohibited. Order splitting results in higher cost to Virginia ABC. It is a highly inefficient practice. Requirements should be combined when practical to obtain quantity discounts and other efficiencies. Term contracts (annual or multi-year) should be considered where the anticipated cumulative annual costs for goods or services are over \$25,000 and a fixed price type contract or a unit priced requirements type contract can be awarded. In some instances, even though the annual amount is less than \$25,000, it may be advantageous to enter into a term contract and this should also be considered. Procurement, in collaboration with the business unit, will determine when it is in the best interest of Virginia ABC to develop a term contract.

3.2 Sources of Supply

The purpose of the policy to identify the sources of supply available to the Virginia Alcoholic Beverage Control Authority (Virginia ABC).

The Procurement Division will establish term contracts for goods and services as needed for use by Virginia ABC. Term contracts are intended to secure more favorable prices through volume purchasing and to reduce lead-time and administrative cost and effort. Business units may not purchase the same or similar goods or services that are currently available using an established term contract without the approval of the Director of Procurement.

Supply and Equipment Warehouse

The Supply and Equipment Warehouse Supervisor will maintain a Supply Warehouse which contains an adequate supply of materials and items commonly used or critical to maintain business operations in which departments and retail stores may utilize for Virginia ABC business purposes. The Supply Warehouse should be considered the first source for such items.

Procedures:

1. The COR will establish a Supply Catalog of materials and items to be maintained, and the target stock levels for each item to be stored in the Supply Warehouse.
2. The COR will procure supplies to maintain adequate stock levels in accordance with the procurement guidelines for such items.
3. Virginia ABC staff and retail stores are encouraged to check the Supply Catalog when commonly used items and materials are needed in their department, and to utilize such items if available.
4. If required items are not stocked, or are out-of-stock, Virginia ABC staff and retail stores should notify the COR before procuring the items through other methods.
5. Requests for new frequently ordered or critical items to be added to the supply and equipment warehouse stock inventory should be sent to the COR.

State Contracts and Catalogs

Although not considered mandatory, Virginia ABC encourages the use of State contracts and catalogs when required goods or services can be readily obtained through the contracts and/or catalogs in a cost effective, timely and efficient manner.

Procedures:

1. Goods and services are obtained by the business unit completing a purchase requisition in the electronic procurement system and obtaining required signature authorizations. Goods and services may be purchased with a Virginia ABC small purchase charge card (SPCC) in accordance with the Virginia ABC SPCC Policy. Orders for goods and services over the SPCC limit require a Purchase Order to be issued or a request for a temporary charge card limit increase may be made to the Virginia ABC SPCC Program Administrator.
2. If not using the small purchase charge card, the Contracting Officer Representative (COR) will complete the Purchase Order which will be sent to the vendor electronically. State contracts and catalogs available on the eVA website may be used by the COR when, in the COR's judgement, it is in the best interest of Virginia ABC.
3. Cost comparisons may be conducted to ensure the agency is receiving competitive pricing. When using the electronic procurement system is not beneficial to the mission of the agency or the requested good/service is not available, the COR may contact the vendor directly to place the requested order.

Other Sources of Supply

Sources of supply can be identified through a variety of methods. Some methods include eVA (Virginia's electronic procurement portal), trade journals, trade shows and exhibitions, Yellow Pages, Thomas Register, and through networking with other purchasing offices. Other State agencies and organizations such as the Department of Small Business and Vendor Diversity (DSBSD, 800-223-0671), Virginia Minority Vendor Development Council (VMSDC) and local Chambers of Commerce are also possible vendor information

sources. The Internet provides a good source of possible vendor and product information. Search on “business” or particular industries or products. Sites such as www.virginiabusiness.com or www.wiznet.net may offer information on sources of supply. National purchasing organizations such as the National Institute of Governmental Purchasing (NIGP) at www.nigp.org or the Institute for Supply Management (ISM) at www.ism.ws also provide resource information.

3.3 Responsible Bidder Offeror

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Responsible and Responsive Offeror Policy is to define the use and compliance requirements in validating responsible and responsive vendor compliance when Virginia ABC is procuring goods and services.

Responsible Offeror

In determining a responsible offeror, a number of factors, including but not limited to the following, are considered. The vendor should:

- be a regular dealer, vendor, or when required in the solicitation an authorized dealer of the goods or services offered
- have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments
- have a satisfactory record of performance
- have a satisfactory record of integrity and
- have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the purchase order or contract

Responsive Offeror

To be considered for an award, an offer must comply in all material respects with the Formal or Informal Solicitation. Responsiveness relates to compliance with the provisions of the solicitation, including specifications and terms and conditions. Failure to comply with the requirements set forth in the solicitation may result in an offer being declared nonresponsive, (e.g., failure to sign the proposal, failure to return the required offer documents, substitution of vendor’s terms, deletion of terms and conditions stated in the solicitation, failure to offer a product or service that meets the requirements of the solicitation, etc.) An offeror who fails to provide prices for all categories of labor in the pricing schedule of a time and materials service contract may be considered nonresponsive. This is true whether the price was left blank or the offeror entered a figure of \$0. Offerors who provide multiple prices for performing a service where a single price was solicited may also be considered nonresponsive.

3.4 Single Quote

The purpose of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) Single Quote policy is to define the conditions for use and processes to be used by Contracting Officer Representatives (CORs) and Business Units in obtaining a single quote in the procurement of goods and services for Virginia ABC.

A single quote may be obtained for the solicitation of goods or services with an estimated value/lifecycle cost not to exceed \$10,000 that are currently not available in a Virginia ABC contract or in the Supply Warehouse. Lifecycle cost is the sum of the initial one-time cost plus any recurring cost for the lifespan of the contract (e.g. purchase price, installation cost, operating cost, maintenance and upgrade cost, etc.). The anticipated value of the contract includes the dollar value for the initial period of the contract, and includes all possible renewal periods. A single quote is likely the quickest way to obtain goods and services that are readily definable and available, but cannot be utilized in every case.

Occasionally, goods or services available in a Virginia ABC contract or in the Supply Warehouse cannot be delivered within the timeframe the good or service is required by the business unit. In these rare cases, a single quote is allowed.

Procedures:

1. Requisitioners with delegated procurement authority define the goods or services in sufficient detail to be able to communicate the need to the COR or vendor.
2. Requisitioner or Contract Officer Representative (COR) obtains one (1) written quote (e.g. email, fax, etc.), telephone (oral) quote, Quick Quote (use by requisitioner requires approval by the Director of Procurement) or use catalogs in the electronic procurement system. Business units and CORs are required to include SWaM vendors, if available and it is determined that the SWaM vendor would be a comparable fit and value to other non-SWaM vendors. If the price quoted is not considered fair and reasonable, the Requisitioner or COR should obtain a quote from another vendor.
3. Business unit completes an electronic requisition for the selected vendor.
4. The requisition is converted to a purchase order after approvals are completed and the purchase order is sent electronically to the vendor.

3.5 Small Purchase Charge Card

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Purchasing Charge Card Policy is to establish guidelines for use of an alternate method for procuring goods and services and simplifying the payment process. The Small Purchase Charge Card (SPCC) program reduces the number of accounts payable transactions and administrative costs by consolidating multiple vendor invoices into one monthly invoice from the charge card vendor.

It shall be the policy of Virginia ABC to utilize the Bank of America (BOA) VISA Charge Card managed by the Department of Accounts.

A Contract Officer Representative (COR) will act as Virginia ABC's SPCC Program Administrator. The Program Administrator is the liaison between Virginia ABC, the Department of Accounts, and the charge card vendor. The Program Administrator is responsible for card issuances, card cancellations, management reports, and communicating with the charge card vendor. Virginia ABC Financial Management Services (FMS) Division is responsible for the monthly review of charges, coding and payment of the invoice from the charge card vendor.

Uses of Purchasing Card

1. The purchasing card will be used to purchase low dollar, non-stock, goods and services for agency operations, maintenance and repairs.
 - a. Goods and services **not** purchased using a Virginia ABC approved contract (i.e. state contract, Virginia ABC term contract, etc.) have a per transaction limit of \$10,000. The cardholder's Division Director may choose to use a lower limit and may elect to place restrictions on the purchasing card, such as, dollar limits per transaction, or dollar limits per cardholder.
 - b. Division Directors may request approval from the Director of Procurement to have a designated employee's per transaction limit increased above \$10,000 for goods and services to be purchased using an established Virginia ABC approved contract (i.e. state contract, Virginia ABC term contract, etc.) The Procurement Director will consult with FMS and information provided will be taken into consideration in the approval/disapproval of the request. Requests will generally be approved as long as the employee has completed required procurement training, recent audit reviews have been satisfactory, and there are no concerns identified by FMS.
2. Purchasing cards must be used for official Virginia ABC purchases and not to circumvent the purchasing procedures.
3. Cardholders must comply with all requirements contained in Virginia ABC's Procurement Policies including requirements relating to the solicitation of small, small women-owned and small minority-owned businesses for purchases. (Refer to ABC SWaM Purchasing Plan)
4. The following items **cannot** be purchased with the Purchasing Charge Card.
 1. New furniture (only used furniture may be purchased with the SPCC)
 2. Computer hardware/software (except Purchasing staff and Information Technology Services staff, unless prior approval is received from the COR)
 3. Cash advances

4. Cellular phones (except Purchasing staff and authorized Information Technology staff)
5. Gasoline/oil
6. Car rentals (unless authorized by the Program Administrator)
7. Restaurant meals (*unless authorized by the Program Administrator for business meals only within established Virginia ABC guidelines*)
8. Personal items
9. Payment of past due notices (cardholders should contact Program Administrator to proceed with payment – the Program Administrator will consult with FMS before approving the request)

Purchasing Card Issuance, Suspensions and Cancellations

1. Purchasing cards will be issued to individuals upon the request of their Division Director or designee with designated purchasing authority. The card will be issued in the name of the designated employee and should be received within 7 days after request.
2. The cardholder must sign an Employee Agreement form before obtaining the purchasing card. A new Employee Agreement must be signed when the card is renewed.
3. Upon receipt of the card the employee will be instructed to register the card and sign up at the Bank of America website. Contact the Virginia ABC SPCC Program Administrator for changes to issued purchasing cards. When new purchasing cards are required, replacement cards will be received within 7 business days.
4. The supervisor is responsible for immediately requesting the Virginia ABC SPCC Program Administrator to suspend card activity when the below actions occur:
 - a. An employee is suspended from his or her job duties for any reason
 - b. An employee is on an extended period of leave such as disability, medical, etc.
5. When an employee is terminated from employment for any reason, the supervisor must immediately confiscate the card and notify the Virginia ABC SPCC Program Administrator, who will then cancel and destroy the card accordingly.

Security

1. Authorized use of the purchasing card is limited to the employee whose name appears on the face of the card. The purchasing card or card number shall not be loaned to another person. If a cardholder is absent from work for an extended period of time, their card will be suspended and a new card may be issued to another person with procurement authority for the duration of the absence.
2. The purchasing card and all related documentation must be kept in a secure location. The account number on the purchasing card should not be posted or left in a conspicuous place. Never make a photocopy of the card.
3. If a purchasing card is lost or stolen, the cardholder must immediately notify both the Bank of America VISA Card Account Administrator at (888) 449-2273, and the Virginia ABC SPCC Program Administrator.
4. Virginia ABC is liable for the use of the purchasing card by authorized users, provided that use is within the designated spending limits. Virginia ABC does not accept liability for the following:
 - a. Unauthorized use of the purchasing card
 - b. Account numbers that are fraudulently used
 - c. Purchases made with stolen or lost cards that are beyond the maximum limit of \$50.00 and the maximum length of liability of 24 hours after discovery and reporting of card loss or theft.
5. If loss of a purchasing card is due to employee negligence, the employee may be held personally liable.

Cardholder Purchase Guidelines

1. In order to make a purchase with the SPCC, the cardholder must follow the below steps:
 - a. Check Virginia ABC's supply catalog for goods that may be stocked items.
 - b. If the item is not in stock, identify the vendor that sells the needed goods and services via electronic vendor catalogs available through the electronic procurement system, by phone or in person, Procurement is available to assist cardholders in locating a suitable vendor.

- c. Contact purchasing staff to determine if the items to be purchased are on state contract, agency contract or when assistance is needed locating SWaM vendors.
2. For purchases less than \$10,000 including over the counter purchases, cardholders are required to use SWaM vendors, if available, when the SWaM vendor is a comparable fit and value to other vendors. The cardholder will document why a SWaM vendor **is not** used.
 - a. The statement “This was an over-the-counter purchase” **is not** sufficient documentation.
 - b. The statement “No SWaM vendor available-checked Department of Minority Business Enterprise (DMBE) website” or “No SWaM vendor available-contacted purchasing staff” **is** sufficient documentation.
 - c. The statement: “The price provided by “XXX” SWaM vendor was not considered reasonable” **is** sufficient documentation. The actual prices obtained by the SWaM and non-SWaM vendors should be maintained in the cardholder’s file.
3. Other than over-the-counter purchases, a quote or estimate from at least one vendor must be documented and filed prior to making a purchase. If the price is not considered reasonable, a second quote must be obtained. The contract number or purchase order number of such payments is annotated on the automated purchasing log by the cardholder. VISA payments made on a contract are exempt from having a written quote/estimate on file.
4. The cardholder shall provide the vendor with the purchasing card account number and expiration date, however, account numbers shall not be provided by facsimile nor should the cardholder authorize a vendor to keep their card number on file.
5. The cardholder must ensure that the vendor exempts all purchases from the state sales tax. State sales tax exemption forms may be obtained from Procurement or Accounts Payable
6. The cardholder enters an electronic requisition with purchase information into the electronic procurement system within 5 days of the purchase and the order (or confirming order) is sent to the vendor.
7. The cardholder must retain *all* documentation pertaining to the purchase to include: a documented quote/estimate, sales receipt and/or packing slips, and approvals required by other policies (e.g. training forms, business meals, etc.)
8. All equipment purchases shall be reported to the Fixed Asset Coordinator for identification and/or tracking purposes. Contact the SPCC Program Administrator or purchasing staff with any questions and guidance in this area.

Program Administrator Responsibilities

1. Provide a copy of the Purchasing Charge Card Policy to the employee receiving the charge card.
2. Advise the employee and the employee’s supervisor of the uses and restrictions for the card.
3. Monitor agency cardholders’ activity through the BOA WORKS Reporting System for inappropriate purchases. Annually audit cardholders’ records to ensure compliance with program guidelines.
4. Report infractions immediately to the Director of Procurement.
5. Ensure all new cardholders take the new cardholder’s online training and existing cardholders take the annual refresher online training.
6. Complete the Annual Cardholder Review Certification for Virginia ABC small purchase charge cards.
7. Obtain a signed Employee Agreement from the cardholder when a new card is issued and each time a card is renewed or every two years.
8. Report annually by June 30th, as required, certification that all cardholders have completed training.
9. Review updates to the Bank of America contract to ensure Virginia ABC is in compliance.
10. Participate in all applicable Bank of America Works training webinars.

Cardholder and Supervisor Responsibilities

1. Monthly Invoice Reconciliation:
 - a. The cardholder shall reconcile credit card receipts to the automated monthly statement within established deadline.
 - b. The Division Director or cardholder’s supervisor must review the cardholder’s supporting documentation and approve the automated monthly reconciliation log.

2. Cardholders will retain the only copy of the receipts and must maintain them in a secure location. Periodic audits will be conducted to ensure compliance.

Internal Control and Monitoring

1. Supervisors must review cardholder activity and spending limits annually and document the analysis on the form Virginia [ABC Charge Card Review](#). The form must be completed by June 1st, each fiscal year and submitted to the SPCC Program Administrator. It is recommended that supervisors review the monthly automated log sheets in order to complete this analysis.
2. Virginia ABC's SPCC Program Administrator is responsible for reviewing a select sample of cardholder's charges and supporting documentation at least annually for policy compliance and unusual transactions (see Program Administrator's Responsibilities above). The Program Administrator's review will entail checking the cardholders file for compliance with the requirements of Procurement Policies and Procedures In addition, questionable or unusual purchases, split purchases, use of small businesses, prices reasonableness and evidence of documented quotes shall also be reviewed.
3. Any improper use of the purchasing card, such as: habitually omitting receipts, non-compliance with the Virginia ABC's procurement policies, failure to submit reconciliation to Accounts Payable as required or are consistently late, misuse, unauthorized and or fraudulent use of the card will be documented and reported to the Procurement Director, Contract Supervisor, the employee's supervisor, division director and Internal Audit Director. Employees who misuse the purchasing card may be subject to corrective action as outlined in Virginia ABC's Human Resources Standards of Conduct Policy.
4. Purchase card records are subject to audit by the Virginia ABC's Procurement staff, the Director of FMS or designee, the Director of Internal Audit or designee, and the Auditor of Public Accounts.

Training

1. Cardholders and supervisors must participate in an annual online training.
2. Training must be completed by June 1st of each year.
3. Virginia ABC's SPCC Program Administrator will inform all cardholders and supervisors on the training and notification process.

3.6 Informal Solicitations/Quick Quotes & Unsealed RFPs

The purpose of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) Informal Solicitations policy is to define the conditions and processes Contracting Officer Representatives (CORs) will use for informal solicitations in the procurement of goods and services for Virginia ABC.

Informal solicitations are an efficient method for introducing limited competition into the procurement process. Informal solicitations may use either the Quick Quote or Unsealed RFP method for the solicitation of goods or services with an estimated lifecycle cost between \$10,000 - \$150,000, and are currently not available in a Virginia ABC contract. These solicitations are likely the quickest way to obtain goods and services competitively, but cannot be utilized in every case.

Procedures:

1. Requisitioners define the goods or services in sufficient detail to be able to communicate the need to potential vendors through an approved electronic workflow.
2. COR's will collaborate with Requisitioners to prepare specifications for informal solicitation method. COR's to determine appropriate evaluation criteria taking into consideration input from the Requisitioner (e.g. Low Bid, Best Value, etc.)
3. Informal solicitations that have a negotiations component will be awarded based on evaluation criteria scoring and negotiation.
4. Business to review solicitation documentation before posting.
5. Using the e-procurement system solicit as many vendors as possible and no fewer than three (3) potential vendors, if available. Provide all vendors a reasonable and identical period of time to provide a response.

6. Evaluate and document vendor responses, and negotiate as applicable.
7. Business to review documentation prior to Award.
8. Obtain authorizing signatures, as applicable.
9. Complete an electronic Purchase Order for the selected vendor.
10. Procurement to conduct Contract Kick-off meeting with Contract Administrator and Vendor, as applicable.
11. Procurement & Contract Administrator to monitor Vendor Performance for life of contract.

3.7 Sealed Request for Proposals (RFPs)

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Formal Solicitation Request for Proposal Policy (RFP) is to define the conditions and processes under which Contract Officer Representatives (COR's) will use sealed RFPs in the procurement of goods and services for Virginia ABC.

Sealed RFPs are formal solicitations that are typically used for larger purchases with highly detailed requirements or for complex purchases and/or situations where the solution is unknown or detailed requirements are lacking. Depending on the size and complexity of the purchase, negotiations must include discussion of price, schedule, technical requirements, and the type of contract to be used.

Procedures:

1. COR receives a request to procure and collaborates with the Requisitioner to ensure that all procurement requirements are adequately defined and determines panel members to participate in the solicitation responses from vendors
2. COR and Business collaboratively develop a sealed RFP containing all of the information and instructions necessary for vendors to prepare their proposals
3. Business reviews solicitation documents prior to posting.
4. COR posts reviewed RFP to the e-procurement system, giving the maximum amount of potential vendors an opportunity while providing the same information about the need and same deadline for proposals due.
5. Upon receipt of the RFP Packages, they are to remain sealed and secured in the office of COR until the predefined date/time arrives for RFP's to be opened
6. The COR reviews the proposals in collaboration with the Requisitioner or Business representative and selects 2 -5 solicitations deemed competitive enough to continue in the negotiation process based on pre-determined evaluation criteria.
7. The COR, Requisitioner and Panel review and score the preselected 2 – 5 proposals based on pre-determined evaluation criteria to determine the vendors to participate further in negotiations.
8. COR leads and coordinates all vendor negotiations. During negotiations, selected vendor may be asked to submit revisions to their proposals, taking into account any issues or concerns raised during negotiations. Any revised proposal(s) will be reviewed and scored again based on pre-determined criteria by the COR and Evaluation Panel to determine the proposal that provides the best value to Virginia ABC.
9. Before an Award can be made the COR must determine viability of the potential vendor(s) in regards to capabilities, facilities, quality-assurance processes, financial backing, etc.
10. Business to review documentation prior to Award.
11. COR obtains authorizing signatures, as applicable.
12. Upon a final negotiated agreement and favorable vendor viability, an Award is made.
13. Complete an electronic Purchase Order for the selected vendor
14. Procurement to conduct Contract Kick-off meeting with Contract Administrator and Vendor.
15. Procurement & Contract Administrator to monitor Vendor Performance for life of contract.

3.8 Emergency & Urgent Purchases

The purpose of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) Emergency and Urgent Procurement policy is to enable the purchase of goods and services in an emergency or urgent situation.

Virginia ABC, when faced with an occurrence of an unexpected, sudden, serious or urgent nature that demands immediate action, may use the Emergency and Urgent Procurement procedures to purchase what is necessary to meet the needs of the emergency. The existence of such conditions creates an immediate and serious need for supplies or services that cannot be met through normal procurement methods and schedules. Further, the lack of these supplies or services could seriously threaten government functioning, property preservation and/or the protection, health or safety of any person or cause non-performance of any duty or obligation of the Virginia ABC imposed by law or contract. Emergency procurements shall be limited to those supplies, services or items necessary to meet the emergency.

Protect Personal Safety and Property

For an emergency purchase required to protect personal safety or property, Virginia ABC's priority will be directed to finding a source and directing the contractor to proceed; however, such procurement will be made as competitively as is practicable under the circumstances. The situation does not relieve Virginia ABC from negotiating a fair and reasonable price and subsequently documenting the procurement action.

The Contract Officer Representatives (COR's) are required to obtain the following documentation within a reasonable amount of time, **following the emergency**:

- Details of the Urgency or Emergency
- Details of Award:
 - Name of Vendor(s)
 - Detailed Description of goods/services
 - Date goods/services needed and provided
 - Pricing
 - Confirmation of Delivery
 - Documentation of negotiations conducted
- Prices obtained from other vendors as applicable.
- Confirmation from Business Director acknowledging the Urgency/Emergency.
- Approved Requisition and confirming Purchase Order.

Operational Urgent or Emergency Situations

For Operational Urgencies and/or Emergencies, Virginia ABC will seek competition to the maximum extent practicable. This situation does not relieve Virginia ABC from obtaining a fair and reasonable price.

The COR's are required to obtain the following documentation **prior to Award**:

- Details of the Urgency or Emergency
- Details of Impending Award:
 - Name of Vendor(s)
 - Detailed Description of goods/services
 - Date goods/services needed and provided
 - Pricing
 - Documentation of negotiations conducted
- Prices obtained from other vendors as applicable.
- Confirmation from Business Director acknowledging the Urgency/Emergency.
- Approved Requisition and Purchase Order.

Emergency Procurements over \$10,000 require a Procurement Supervisor's signature.

Emergency Procurements over \$150,000 require *the* Director of Procurement's signature and public posting in the e-Procurement System (eVA). The CEO will be consulted prior to approval of emergency procurements over \$150,000.

Procedures:

Types of Emergency/Urgent Procurements: The nature of the urgency or emergency will determine what pre-award action will be taken.

3.9 Sole Source Purchases

The purpose of the Virginia Alcoholic Beverage Control Authority (Virginia ABC) Sole Source policy is to define the conditions and processes Contracting Officer Representatives (CORs) will use for sole sourcing in the procurement of goods and services for Virginia ABC.

Virginia ABC will exempt procurements of goods and services for competition when it is determined there is only one source practically available for the goods or services required. Competition is not available in a sole source situation; thus distinguishing it from a proprietary purchase where the product required is restricted to a specific brand, make or model, but is sold through distributors, resellers, and dealers and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining sole source procurement.

NOTE: For sole source requirements exceeding \$10,000, a written quotation must be obtained from the vendor.

Sole source purchases require a justification of the factors leading to the determination of sole source. Authorization of a sole source indicates that in management's judgement; no other viable sources are practicably available who can supply the required good or service in the required timeframe. It is the responsibility of the CORs to verify the validity of sole source justification provided by the user. A completed sole source justification in memorandum format must accompany the user's request, which addresses the following points:

- Explain why this is the only product or service that can meet the needs of the Virginia ABC.
- Explain why this vendor is the only practicably available source from which to obtain this product or service.
- Sole Source Procurements over \$10,000 require a Procurement Supervisor's signature.
- Sole Source Procurements over \$150,000 require the Director of Procurement's signature and public posting in the e-Procurement System (eVA). The CEO will be consulted prior to approval of sole source procurements over \$150,000.

Procedures:

1. If a sole source is deemed necessary, the business unit provides the completed sole source justification in memorandum format (for purchases of \$10,000 or more).
2. Business unit obtains required authorizing signatures and submits an electronic requisition.
3. COR negotiates with the sole source provider and documents negotiations and price reasonableness.
4. Upon a final negotiated agreement and favorable vendor viability, an Award is made by the COR.
5. COR completes an electronic Purchase Order for the selected vendor.
6. Procurement to conduct Contract Kick-off meeting with Contract Administrator and Vendor, if applicable.
7. Procurement & Contract Administrator to monitor Vendor Performance for life of contract.

Section Four: Special Authorizations & Rules

4.1 Procurement of Professional Services

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Procurement of Professional Services Policy is to provide a framework and methodology to solicit offers for professional services required to support the needs of Virginia ABC.

Professional services include, but are not limited to, work which must be performed by an entity licensed in the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacology, or professional engineering. The following specifies the procedures for the procurement of Professional Services.

It should be noted that all legal services must be provided by the Office of the Attorney General; Virginia ABC is precluded by statute from obtaining other legal representation without prior approval of the Attorney General's office.

For construction, Virginia ABC will follow the guidance of the Construction and Professional Services Manual issued by the Department of General Services, Bureau of Capital Outlay Management.

Soliciting professional services differs from other services, in that cost and man-hour estimates are not normally obtained during the initial solicitation.

For Procurement of Professional Services which are less than \$10,000:

1. Select a firm or professional from a list of firms/professionals who are qualified to render the required service. Purchasing from Small, Woman and Minority (SWaM) vendors, if available, is required, when the SWaM vendor is a comparable fit and value to other vendors.
2. As needed, the business owner may conduct a telephone or personal interview with the firm/professional to determine availability and capability for the required service.
3. Negotiate ensuring the fee for service is reasonable and in the best interest of Virginia ABC.

For Procurement of Professional Services which are between \$10,000 and \$150,000:

1. Contract Officer Representative (COR) communicates needs to at least three (3) potential firms/professionals who are qualified to render the required service including Small, Woman and Minority (SWaM) vendors, if available. Provide a reasonable and identical period of time to respond.
2. Rank based on qualifications, experience and alignment to the requirements of Virginia ABC.
3. Negotiate with firm/professional whose service offering best meets the needs of Virginia ABC's business to establish a fee. If unable to reach agreement, the Virginia ABC may proceed to negotiate with each subsequent ranked firm/professional until a satisfactory agreement is reached.

For Procurement of Professional Services which are over \$150,000

1. COR posts the project on the e-procurement system.
2. Issue an RFP to those firms/professionals selected as qualified which indicates in general terms the nature of the project and services sought; however, the RFP will not normally call for Offerors to furnish estimates of man-hours, labor rates, or other costs for services.
3. Interview the top-ranked firms/professionals who are deemed to be fully qualified, responsible, and suitable on the basis of their responses
4. Rank based on qualifications, experience and alignment to the requirements of Virginia ABC.
5. Negotiate with the firm/professional, whose service offering best meets the needs of Virginia ABC's business, to establish a fee. If the parties cannot reach agreement, the negotiations may be terminated. Virginia ABC may then proceed to negotiate with each subsequent ranked firm/professional until a satisfactory agreement is reached.
6. Solicitations may include a requirement for Small Business Subcontracting Plan.

4.2 Real Estate & Construction

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Real Estate and Construction Policy is to define the responsible parties to manage Real Estate and Construction contracts on behalf of Virginia ABC.

Virginia Alcoholic Beverage Control (Virginia ABC) Director of Real Estate and Facilities Management is responsible for the contracting of leased property.

Virginia ABC Director of Procurement is responsible for contracting of construction services. For construction contracts, Virginia ABC will generally follow the guidance of the Construction and Professional Services Manual issued by the Department of General Services, Bureau of Capital Outlay Management.

4.3 Vendor Insurance, Performance Bonds, Bid Bonds

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Vendor Insurance, Performance Bonds, Bid Bonds Policy is to establish insurance and bond requirements for Virginia ABC contracted goods and services vendors

Insurance

For service contracts under \$50,000, the need for vendors to maintain insurance coverage will be determined by the Director of Procurement on a case-by-case basis.

For service contracts over \$50,000, the vendor (and all subcontractors) must agree to maintain insurance coverage during the entire term of the contract.

Whenever work is to be performed on Virginia ABC owned or leased property or facilities, the contractor shall be required to have Workers' Compensation, Employer's Liability, Commercial General Liability and Automobile Liability, and in certain types of programs Professional Liability/Errors and Omissions insurance coverage. Requirements for the various Professional Liability/Errors and Omissions coverages are included in the Terms and Conditions. The Virginia ABC Authority must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage. In some cases, Workers' Compensation Insurance and Employer's Liability Insurance may not be required. Workers' Compensation insurance is required when the contractor has three (3) or more employees. If work is performed by a sole proprietor, the person does not need Workers' Compensation insurance, as they do not have employees. Employer's Liability is required if an employer has employees who are paid a wage or salary. Employer's Liability is not required for persons in business together, e.g., husband and wife, siblings or parents and children, as these persons would be considered owners not employees. For construction contracts, Virginia ABC will follow the guidance of the Construction and Professional Services Manual issued by the Department of General Services, Bureau of Capital Outlay Management. Stipulated insurance must be obtained prior to commencing work and be maintained during the entire term of the contract.

Performance Bonds, Bid Bonds

The Contracts Supervisor in consultation with the Director of Procurement, on a case by case basis, will determine if a performance bond or bid bond will be requested prior to issuing the solicitation documents and, if such bonds will be maintained once the proposals are received.

Procedures:

1. The CORs will secure copies of all required certificates of insurance, performance bonds and / or Bid Bonds based on coverage requirements.
2. The CORs will file, update and maintain certificates of insurance, performance bonds and / or Bid Bonds as applicable.

4.4 Contractor License Requirements

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Contractor Licensing Requirements Policy is to define instances where a contractor must be properly registered, licensed or holding a permit and the type of license required.

Contractor Licensing and Registration

State statutes and regulatory agencies require that some contractors be properly registered and licensed, or hold a permit, prior to performing specific types of services. Those services include but are not limited to the following:

<u>Service</u>	<u>Regulatory Agency</u>
Construction-Type	Department of Professional & Occupational Regulation
Pesticide Application Fertilizer Application	Department of Agriculture & Consumer Services
Asbestos Service, Fire Alarm System Installation	Department of Professional & Occupational Regulation
Private Security Services Locksmith Services Security Alarm System Installation	Department of Criminal Justice Services
Treatment, Storage, Handling, Transportation, or Disposal of Hazardous Waste or Hazardous Radioactive Material	Department of Environmental Quality

It is the contractor's responsibility to comply with the rules and regulations issued by state regulatory agencies. The Contractor Officer Representative (COR) or business unit will ensure the contracted firm/individual is properly licensed by requiring the vendor to provide the license number and type as certification.

Construction, Removal, Repair or Improvement.

If a procurement of \$1,000 or more involves construction, removal, repair or improvement of any building or structure permanently annexed to real property or any other improvement to such real property, the contractor must possess one of the following licenses issued by the State Board for Contractors for the type of work involved (*Code of Virginia*, §§ 54.1-1103 and 54.1-1115):

- **Contractor License A** - If the contract is \$120,000 or more or if the contractor does \$750,000 or more business within a 12-month period.
- **Contractor License B** - \$10,000 or more, but less than \$120,000 or if the contractor does \$150,000 or more, but less than \$750,000 in business within a 12-month period.
- **Contractor License C** – Over \$1,000, but less than \$10,000 or if the contractor does less than \$150,000 in business in a 12-month period. Note: The Board shall require a master tradesmen license as a condition of licensure for electrical, plumbing and heating, ventilation and air conditioning contractors.

An unlicensed vendor submitting a bid or proposal where such license is required is nonresponsive and is in violation of state law. Any COR or business unit who knowingly receives or considers a response from an unlicensed vendor when a license is required is in violation of state law (*Code of Virginia*, § 54.1-1115). Contractors must be licensed in the proper classification and specialty to perform the work required by the

solicitation. If there is any question as to whether a licensed contractor is required for a specific procurement, the business unit should consult with the COR who will contact the State Board for Contractors at 804-367-8511 for policy interpretation, if needed.

Private Security Services

All solicitations for the installation, service, maintenance, or design of security equipment, security officer service, central station alarm condition monitoring service, and/or private investigator service, require that the successful bidder or offeror or approved subcontractor to have a Private Security Services Business License issued by the Department of Criminal Justice Services (see *Code of Virginia*, § 9.1-139). This applies regardless of the dollar value of the resulting contract. Assistance may be obtained from the Department of Criminal Justice Services at 804-786-0460.

4.5 Preferences

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Preferences Policy is to define when preferences may be allowed.

Reciprocal Preferences

Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, Virginia ABC may allow a like preference to the lowest responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest bidder is a resident contractor of another state that allows a price-matching preference, a like preference may be allowed to bidders who are residents of Virginia. If the lowest bidder is a resident contractor of another state with an absolute preference, Virginia ABC may elect to not consider the bid. An absolute preference is one in which a state will only consider bids from resident contractors residing within that state. Department of General Services/Division of Purchases and Supply will post and maintain a listing of preference laws provided by other states on the eVA website.

Virginia Vendors and Products

Virginia ABC will allow preference to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations, only in the event of a tie bid after other tie breaker considerations have been exhausted.

Section Five: Internal Controls & Record Keeping

5.1 Procurement Documentation

The purpose of Virginia Alcoholic Beverage Control (Virginia ABC) Procurement Documentation Policy is to maintain internal controls governing the documentation and maintenance of procurement records when procuring on behalf of Virginia ABC.

Producing and maintaining adequate documentation of all procurement activity is another essential element of internal controls within Virginia ABC. The documentation prescribed by this manual will be maintained in all instances. Chapters entitled Standard Procurement Methods and Specific Authorizations and Rules specify the documentation to be produced, depending on the type of goods or services being procured, the level of the expenditure, and the procurement method utilized. A complete file should be maintained in one place for each procurement transaction, containing all the information necessary to understand the why, who, what, when, where and how of the transaction.

Small purchase charge card holders are responsible for maintaining documentation for all procurements made via the small purchase charge card. Designated employees authorized by the Director of Procurement or Contract Officer Representative (COR) to procure goods and services on behalf of Virginia ABC are responsible for maintaining adequate documentation for such procurements. The Contract Officer Representative will maintain documentation for all other types of procurement.

Pursuant to the Code of Virginia §59.1-485, 490, 491, 495, 496 procurement documentation referenced herein may be produced, submitted, approved and retained in electronic format.

5.2 Purchase Orders

The purpose of Virginia Alcoholic Beverage Control (Virginia ABC) Purchase Order Policy is to define the purchase order process and exceptions from the use of a purchase order when procuring on behalf of Virginia ABC.

Purchase Orders (POs) will be prepared for nearly all purchasing transactions with the exception of small purchase charge card over the counter purchases, and contracts awarded at no cost to Virginia ABC. The Director of Procurement may also approve other exceptions when a purchase order is deemed unnecessary.

Changes to purchase orders must obtain approvals as if originally submitted.

Procedures:

1. Business unit completes a requisition in the electronic procurement system for the desired goods or services
2. The requisition is electronically routed through the approval path based on the approvals required (reference Procurement Responsibility and Authority Policy).
3. Upon final approval, the requisition is automatically converted to a purchase order and the order is electronically sent to the vendor.

5.3 Contracts

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Contracts Policy is to define the circumstances when a multi-party contract will be established and the components which are to be included as part of the contract.

A contract between Virginia ABC and a vendor (two party contract) will be established for all procurements resulting from competitive negotiations and is required for most procurements exceeding \$150,000. A contract may be established for procurements with a total value less than \$150,000 if determined by the Contract Officer Representative (COR) to be in Virginia ABC's best interest. Purchases from established contracts (e.g. State contracts, cooperative contracts, term contracts for specific goods or services previously solicited and awarded by Virginia, etc.) do not require a separate contract to be established by Virginia ABC.

The contract will include Terms and Conditions as a basis, and will include all specifications, RFPs, vendor proposals and the like, as attachments where appropriate. The actual expenditure of funds against the contract will be authorized by the issuance of related vendor purchase orders, invoices and properly authorized receiving information.

Procedures:

1. Contact the Director of Procurement to communicate the business unit's need.
2. If the Director of Procurement determines a contract will be required, the COR will discuss the procurement process with the business unit including the necessary information and steps.
3. If the Director of Procurement determines a contract is not necessary (i.e. only a purchase order will be issued), he/she or the COR will contact the business unit to discuss the decision.
4. Contract Modification:
 - a. If it is determined there is a need to revise the Contract after it has been established, the revisions shall be made via Contract Modification.
 - b. The business unit provides the necessary documentation to the COR, and obtains required authorizing signatures
 - c. The COR will ensure the Modification process is completed

5.4 Procurement Advertising/Award Notification

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Procurement Advertising/Award Notification Policy is to define when and where procurement solicitations are advertised.

Virginia ABC will advertise procurement solicitations which exceed \$150,000 on eVA. Notice of award decisions that exceed \$150,000 will also be publicly posted.

Procurement will also maintain a list of all such procurements and awards, and will provide the list (for review) to interested parties.

Regardless of whether Virginia ABC places such notices, the solicitation and award of business using public funds, regardless of the level of expenditure or type of good and service, is subject to the Freedom of Information Act (FOIA) in accordance with the Virginia ABC FOIA Policy.

5.5 Freedom of Information Act (FOIA)

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Procurement Freedom of Information Act Policy is to delineate how the Freedom of Information Act applies to Procurement data and information.

Under the Virginia Freedom of Information Act (FOIA), Code Section §2.2-3700, information relating to the procurement of goods and services which are funded, in whole or in part, by public monies is available for inspection by the public. The latter includes any citizen or interested person, firm, corporation, research organization, or other public entity. Such information will be made available to the public only after the award of

the contract. Any inspection of procurement records shall be subject to reasonable restrictions to ensure the security and integrity of the records.

While Virginia ABC will fully comply with valid FOIA requests, certain information is exempt from disclosure. This typically includes:

- proprietary information, trade secrets, and the like, submitted by vendors as part of their bids/proposals,
- cost estimates relating to a proposed procurement transaction prepared for Virginia ABC
- information obtained as a result of a Request for Information (RFI)

A request for the release of information relating to any previous or ongoing Virginia ABC procurement made under FOIA or otherwise will be handled in accordance with the FOIA rules under §2.2-3700. The request should be immediately referred to the Virginia ABC employee designated to log FOIA requests and the CEO will be notified. It will be the policy of Virginia ABC to collect the cost of preparing a response to a request for information as allowed under FOIA. The CEO will make the final determination in connection with the release of any information.

5.6 E-Procurement

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) E-Procurement Policy is to establish when and how electronic purchases are to be submitted.

Purchases, except for those listed below as optional, are to be placed through the Electronic Procurement System, in accordance with Virginia ABC's policies and procedures. Virginia ABC utilizes the electronic procurement system as a tool for source selection, requisitioning, approval flows, soliciting and receiving formal and informal proposals, tabulation and evaluation, electronic ordering, public posting, electronic receiving, electronic data record keeping and various reporting capabilities. The procurement tool is used when purchasing services, supplies and equipment, information systems equipment and supplies, or any other product that can be obtained in a cost effective, timely, and efficient manner.

Competitive Requirements

Solicitations that are expected to exceed \$10,000 will be posted in the electronic procurement system in accordance with the Virginia ABC Informal Solicitation and Request for Proposals policies.

Electronic Files

Electronic files created in the electronic procurement system and any attached from other sources are acceptable as documentation to support the why, who, what, when, where and how of purchase transactions and receiving information. If the order is against a contract (Virginia ABC term contract, state contract, etc.) then the contract number shall be included on the order. Paper documents need not be printed and maintained. Reports are available in the electronic procurement system to provide sufficient detail to support the basis and history of each purchase. Any transaction that cannot be fully documented electronically should contain a cross-reference (what and where) to any other documents, such as large drawings or other files maintained as a hard copy.

Optional Use of Electronic Procurement System - Non-procurement (payment) transactions and the following excluded procurement transactions are not required to be processed through the electronic procurement system, however, they may be processed through the electronic procurement system at the option of the business unit. The resulting benefit will allow for Virginia ABC to have one source to enter all transactions (excluded and non-excluded purchase orders as well as payment transactions). This will also give Virginia ABC the ability to report, track, and analyze all their transactions in one place.

1. Real estate leases

2. Advertisements such as in newspapers, magazines, journals, radio, television, etc.
3. Professional organizational membership dues and training classes sponsored by the professional organization when payment is made directly to the professional organization sponsoring the training class.
4. Conference registrations
5. Petty cash purchases
6. Honoraria
7. Entertainment (speakers, lecturers, musicians, performing artists)
8. Accreditation fees and academic testing services
9. Exhibition rental fees
10. Award of grants by Virginia ABC to public bodies or tax exempt non-profit charitable organizations. This exception does not apply to the expenditure of grant funds for the purchase of goods and/or services.
11. Public Utilities (electric, natural gas, water, sewer)
12. Purchases made for items for resale (e.g. alcohol)
13. Purchases for Express Delivery Services.
14. Over the counter charge card purchases that are made at the site of the sale and picked up by the individual card holder (i.e., SPCC, Voyager).
15. Revenue contracts, e.g., scrap, recycling or contracts with \$0 payment made by the Commonwealth (e.g. Spirited Virginia magazine, vending operations).
16. Purchases from public auctions (non-electronic)
17. Surplus property
18. (a) Individual travel and lodging
19. Financing when goods/services procured from one source are being financed by another (i.e., third party) source.

Section Six: Contract Administration & Vendor Management

6.1 Receipt of Goods & Services

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Receipt of Goods & Services Policy is to establish the responsibility and process for receipt of goods and services.

The procurement process does not end when the purchase order or contract is issued. The division or business unit that purchases any goods or services is responsible for ensuring that such goods and services are received in a timely manner, and in good order, relative to the procurement specifications and contracts.

Finally, payment (other than charge card) for all items ordered and received will be made by the Financial Management Services Division only, based in part, on their receipt of all necessary procurement documentation and authorizing signatures.

Procedures:

Receipt of Goods

1. Goods delivered directly to the using division/business unit will be inspected by the business unit immediately upon delivery and compared to the procurement specifications. For goods delivered to the Supply and Equipment Warehouse, the receiving area will inspect immediately upon delivery, and compare them to the procurement specifications.
2. If discrepancies are found, the receiver (the business unit or Supply and Equipment Warehouse) notifies the vendor immediately, describes the problem in detail, and advises the COR of the issue.
3. If the discrepancy goes uncorrected for five (5) days, notify the COR, this time in writing, attaching any specifications or other documentation that clarifies the problem. This notification is an informal notification of discrepancy, which should be so stated in the correspondence.
4. The Procurement Division is responsible for all subsequent actions, including processing of official vendor complaints, potential vendor appeals, disputes, resolutions, and defaults.
5. Once goods are received in good order, the receiving information will be entered into the electronic procurement system. The individual who actually receives and inspects the delivered goods enters the receiving information.

Receipt of Services

1. The business unit, or contract administrator if designated, is responsible for receipt of services. The receiver will compare the services received to the procurement specifications ensuring compliance with the contract documents (e.g. service meets acceptance criteria/milestone, etc.) immediately upon delivery.
2. If discrepancies are found, the receiver notifies the vendor immediately, describes the problem in detail and advises the COR of the issue.
3. If the discrepancy goes uncorrected past the specified time for correction as agreed by the business unit and the vendor and approved by the COR (typically five (5) days), notify the COR, this time in writing, attaching any specifications or other documentation that clarifies the problem. This notification is an informal notification of discrepancy, which should be so stated in the correspondence.
4. The Procurement Division is responsible for all subsequent actions, including processing of official vendor complaints, potential vendor appeals, disputes, resolutions, and defaults.
5. Once services are received in good order, the business unit enters the receiving information into the electronic procurement system.

6.2 Contract Administration

The purpose of Virginia Alcoholic Beverage Control (Virginia ABC) contract administration policy is to ensure that the contractor's and agency's total performance is in accordance with the terms and conditions of the contractual agreement. Contract administration begins after award of the contract. The integrity of the Virginia ABC's purchasing process depends on effective contract creation, goods or services being furnished, received, invoiced and paid as specified in the contract. Planning and proactive management of a contract are crucial to effective contract administration and will minimize risk and maximize value for Virginia ABC.

Standardize Workflow and Collaborative Negotiations

The Director of Procurement will establish standard workflows with set protocols and procedures to create, amend and approve contracts. CORs and all process partners will be trained on the processes and their responsibilities to ensure process effectiveness. The collaborative processes will include, but are not limited to:

- Vendor selection
- Vendor and contract deliverables
- Vendor contract negotiations and concessions

Formalized workflows will be developed to provide visibility to the stage gate status of the process component. The workflow will generate notifications of tasks to be completed and will escalate awareness of uncompleted task to approver's manager. Workflow notifications will include processes for

- Contract approval
- Contract renewal
- Vendor contract audit
- Others as applicable

Contract, Terms and Conditions Control

The Director of Procurement or designee will insure that contracts are standardized based on the goods and services contract type, category or business function. An annual review of contract variations will be conducted to determine if opportunity exists to further standardize contract verbiage and increase efficiency in contract administration.

The Director of Procurement will define a repository location for all contracts, including standardized templates, active and closed contracts. Closed contracts will be maintained in accordance with Virginia ABC record retention policy.

The Director of Procurement will ensure that a Terms and Conditions (T&C) catalog / database will be established. With assistance from Virginia ABC Legal, the T&C clauses will be grouped according to contract type for ease of identifying essential T&Cs and will be identified as mandatory, optional, not applicable based on the type of contract. CORs will be responsible for managing the T&C catalog / database with direction from the Director of Procurement and in alignment with Virginia ABC risk management policy.

Indices and Cost Savings

Procurement will identify repositories of indices that enable pricing comparison of procured goods and services relative to applicable market indices. Terms and conditions of contracts shall contain escalation and de-escalation clauses to regularly review contract pricing against index market pricing during vendor reviews. The Director of Procurement will establish a protocol for each Contract Officer Representative (COR) to utilize index and market benchmark pricing data for the negotiation of contracted goods and services. Examples of applicable goods and services include freight / transportation, labor rates per region, and commodities like paper and fuel.

Procurement will ensure that all cost savings and avoidances are captured by the CORs and reported (e.g. quarterly, annually, etc.). Actual savings for the current period and year to date cost savings and cost avoidances will be tracked and benchmarked against previous years as data is accumulated.

Contract Metrics

The Director of Procurement will collaborate with CORs, contract administrators and goods and services users to define the critical deliverables and establish metrics for procured contracts or services, as applicable depending on the complexity. The CORs will clearly communicate the metrics to the contracted vendor to ensure transparency for contract compliance. The written communication will include a description of each metric, method of measurement and any data or documentation required from the vendor to support the measure. Metrics may include, but are not limited to:

- Compliance with pricing, terms and conditions
- On time delivery
- Other parameters that best align with the contract performance intent.

Virginia ABC envisions the use of a scorecard to capture actual vendor performance against required service level and to determine contract risks to Virginia ABC. Once implemented, the scorecard results will be shared with each measured vendor within a specified period of time (e.g. 10 business days) following the end of established period (monthly, quarterly, etc.). Face to face vendor reviews may be scheduled with selected vendors by the Director of Procurement or designated COR.

When evaluating risk to Virginia ABC, the COR will consider:

- The contractor's past performance (and past performance of similar contractors)
- The dollar amount of the contract
- Variance between expected and actual performance
- Significant problems with payment requests
- How experienced the contractor is with the type of work to be performed
- Criticality of goods/services provided by the contractor
- Availability of the goods/services in the market (very few or many competitors)

CORs will review contract expenditures against the total contracted value for an established period (monthly, quarterly, etc.); determine if expenditures are tracking according to plan and escalate communication of expenditures that are +/- 10% of the plan, to the contract administrator and Director of Procurement for further review and corrective action as applicable.

Contract Compliance

The procurement process does not end when the purchase order or contract is issued. Monitoring vendor performance is a critical part of the process to ensure the proposed goods and services are delivered in a timely manner, in accordance with the solicitation specifications, and without substitution or partial completion (unless allowed by the contract terms or previously approved by the COR).

For most contracts, a contract administrator will be assigned to monitor the contract. The contract administrator has a vested interest in the procurement and will be responsible for the proper adherence to all contract specifications by the contractor. Contract administrator responsibilities include, but may not be limited to acceptance of goods or services, approval of invoices including milestone payments when acceptance criteria is met, scheduling and monitoring of project progress, coordination of the provision of Virginia ABC or other resources when part of the contract, and favorable or critical feedback to the contractor and the COR. The COR will provide the contract administrator access to the contract including service level agreement (SLA) and identify measurable expectations outlined in the contract, since the COR who performed the procurement function is not normally the contract administrator. If the contract administrator is someone other than the COR, the contract administrator must inform the COR of any problems or potential problems regarding any contract or purchase order so that action will be taken before such problem becomes critical.

Regardless of the expenditure level, if a vendor fails to deliver as specified, or fails to deliver in a timely manner, the Contract Administrator must notify the vendor immediately and give the vendor a reasonable period of time to cure the failure (cure period). Virginia ABC normally allows five (5) days after the first verbal notice and an additional ten (10) days after the written notice is provided. Deviations from the cure time must be approved by the Director of Procurement. Each incident of a vendor performance issue must be documented by the contract administrator and provided to the COR.

If the failure is not resolved within the cure time, the Director of Procurement must be notified so that additional actions can be initiated as appropriate. A vendor's failure to perform as contracted may lead to punitive actions up to vendor debarment based on the severity of the non-compliance.

Contract Audit

The Director of Procurement will establish a protocol to audit goods and services contracts to assist in ensuring contract compliance. The process will include the review of a minimum of 5 transactions, per contracted vendor, in a 12-month period. Examples of potential audit areas include, but are not limited to:

- Contracted price comparison against actual invoice price
- Invoice amounts that align with agreed upon volume discounts, tier pricing or index based pricing
- Clerical errors
- Contract administrator satisfaction
- User satisfaction
- Vendor site visit (if necessary)

Contract audit compliance will have an annual rating on the vendor scorecard. Ramification of failure to pass a contract audit will be determined by the Director of Procurement and in alignment with actions defined in contract compliance.

Contract Close Out and Renewal

The contract close out and renewal processes will be established by the Director of Procurement and executed by CORs. A database of active contracts which contains contract period, expiration, review, renewal options and extension requirements, will be used to gauge historical contract cycle time. (Contract cycle time is the number of days consumed from the request of goods or services to the execution of the contract.) As new requests for goods and services are made, actual cycle time will be measured and recorded for each process step.

Actual contract cycle time data analysis will be used to strategically manage monthly and annual procurement renewals, close outs and estimated new contract requirements. Contract renewals may include the completion of market price benchmarking and vendor performance review to be renewed. Contracts slated for close out will require the completion of a close out check list to ensure that all work has been completed, the services invoiced and all contract requirements met including close out of the purchase order.

6.3 Vendor Management

The purpose of Virginia Alcoholic Beverage Control (Virginia ABC) vendor management policy is to establish processes that enable Virginia ABC to control costs, drive service excellence and mitigate risks to gain increased value and efficiencies from their vendors throughout the service contract life cycle.

Vendor Selection

The Director of Procurement or designee, in collaboration with business units, will establish vendor selection and performance criteria for Virginia ABC's vendor management program. All vendors should be managed, but it is impractical to use a vendor management program for all vendors: therefore, the program focus will be on vendors who are strategic and critical to the efficiency and success of Virginia ABC.

The first step of the process is to strategically determine the vendors to include in the vendor management program. It is best practice to categorize vendors as:

- Strategic: vendor has an excellent alignment to Virginia ABC's business requirements and with whom Virginia ABC has a deeply embedded set of services (e.g. transportation services, Point of Sale software support and maintenance, etc.) and are identified by the size of Virginia ABC's spend with these vendors.
- Legacy: vendor services support potentially critical aspects of the business (maybe a critical, legacy software system), but the drive and commitment to continue developing the relationship and business model is waning (their attentions may lie elsewhere)
- Emerging: vendor aims to service a need in a market where competition is low
- Tactical: vendor represents a low spend relationship or provides a commodity in a market that is saturated with competitors. Vendor provides a commodity that should be easy to switch to an alternative vendor.

Relative to high, medium or low impact in the areas of:

- Existing / current contract spend with the vendor
- Anticipated future contract spend with the vendor
- Vendor strategic alignment
- Vendor dependency (critical to the mission of the business)
- Breadth of products and / or services

Initially, vendors with high rankings in the strategic category will be selected to engage in the vendor management program. As the program matures, the Procurement will re-evaluate vendors based on the business needs of Virginia ABC and expand the program to include additional vendors.

Metrics and Data Collection

Data collection and analysis that support vendor metrics and Virginia ABC strategic procurement goals will be established by Procurement. The process will identify the set of metrics that meet contract and business objectives and will define where and how the data will be collected.

Data Analysis

The Director of Procurement will establish a process for data analysis and credence that meets the vendor management strategy for Virginia ABC. Data analysis will be completed by Procurement and reported to Virginia ABC's leadership team and vendors on a predetermined basis (e.g. monthly, quarterly, etc.). Vendor communication frequency will be determined by the Director of Procurement based on business needs but one on one vendor review frequency typically will not exceed 3 months and will include the participation of the contract administrator.

Scorecard

Procurement will establish a scorecard methodology for measuring vendors, which will define the scorecard content, process owner and methods of gathering and disseminating data. The purpose of the scorecard will be to identify

- Gaps between actual vendor performance and expected vendor performance
- The impact of gaps on the business
- Risks associated with the vendor's performance

The scorecard data will drive action to

- Prioritize gaps to be managed
- Communicate the priorities of the gaps with the vendor
- Request a remediation plan
- Follow up with vendor and business owners to ensure that the plan is executed

The scorecard process will be completed on a predetermined basis (e.g. monthly, quarterly, etc.), or more frequently based on business needs, for all vendors participating in the vendor management program.

The scoring process will include a performance based point system that is primarily quantitative but includes qualitative data.

Scoring components will be created that include metrics and controls that support vendor evaluation and performance rankings in periodic reviews.

The Director of Procurement and CORs will utilize vendor performance scorecard data when strategically selecting vendors that are best for the business of Virginia ABC.

Continuous Improvement

The Director of Procurement will establish a continuous improvement process. The process will define the process owner who will continually manage, review, communicate and adjust the vendor management program as the business needs change. The vendor management process owner will conduct an annual review of the vendors participating in the program and may, at the discretion of the Director of Procurement and Virginia ABC, include a recognition program for high performing vendors as well as recommendations for vendors not performing to expected standards.

The vendor management program will be most successful when

- Vendor performance is tracked on an ongoing basis
- The vendor management program is sustainable
 - Provides a core foundation for measuring, analyzing and improving vendor performance
- Contractual relationships encourage creation of efficiencies and increased value from Virginia ABC's vendors through innovative, performance-based goals.
- Implemented using a technology platform, so it is repeatable and consistent, scalable to support growth, and change

6.4 Debarred Vendors

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Debarred Vendor Policy is to enable the Procurement Division to formally exclude vendors from participating in solicitations when the vendor is not in compliance with Virginia ABC, Commonwealth of Virginia, Federal procurement and/or ethics policies.

A vendor (individual or firm) may be debarred (not allowed to do business with Virginia ABC) for any of the following reasons:

- Breach (default) of contract
- Stating an unwillingness or inability to honor a binding bid
- Falsifying or misrepresenting their abilities relative to the procurement specifications and bids in order to appear responsive
- Conferring or offering to confer upon any Virginia ABC employee participating in a procurement (which the entity has bid on or intends to submit a bid) any gift, gratuity, favor, or advantage, present or future in order to unduly influence the employee
- Any cause indicating the entity is not a responsible vendor
- A determination by Virginia ABC's CEO that the vendor has used abusive language, threats, or other conduct deemed unprofessional or inappropriate during the conduct of business.
- Conviction of any criminal offense, antitrust law violations, or convictions indicating lack of moral or business integrity
- Debarment from doing business with the Commonwealth of Virginia agencies, authorities, institutions, and public localities/entities, or federal government.

The debarment period will be determined by the Director of Procurement based on the severity of the infraction.

Vendors considered for debarment will be notified in writing. The vendor will have the opportunity to address the Director of Procurement or his/her designee in person, or in writing, within 30 days of written notification by Virginia ABC of the potential debarment, except for those vendors already debarred by the Commonwealth of Virginia. After due consideration of the vendor's position and consultation with the CEO, the Director of Procurement or his/her designee will make the final determination as to debarment.

An individual or firm debarred by ABC can apply for reinstatement at any time by submitting, in writing, to the Director of Procurement a request for reinstatement, citing actions taken to remedy the reason for debarment or actions taken to prevent recurrence of the situation that caused the debarment. A debarment may be lifted or suspended at any time if it is in the best interest of Virginia ABC. Such determination may only be made by the Director of Procurement or his/her designee.

The Virginia ABC Procurement Division will monitor updated listings of debarred vendors on the eVA website (www.eva.virginia.gov) at least quarterly.

6.5 Vendor Appeals, Disputes and Remedies

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Vendor Appeals, Disputes, and Remedies Policy is to define the parameters and methods for vendor appeals and disputes, along with remedies for such appeals. Virginia ABC has established the following policy to preserve the integrity and confidence in Virginia ABC's procurement operations.

Protest of Award

Any offeror submitting an offer or proposal in response to a solicitation may protest the announcement of an awarded contract; however, to be considered by Virginia ABC the protest must meet the following conditions:

- the protest must be submitted in writing to the Director of Procurement no later than 5 calendar days after the announcement of the award
- the written protest submission must include either (1) a certified check or money order in the amount equal to the lower of 5% of the proposal amount or \$5,000, reduced to the lesser of 2% of the proposal amount or \$2,000 for SWaM certified vendors, or (2) evidence of an escrow payment of said amount. If the protest is upheld, the funds will be returned to the vendor.

The Protest of Award and check or Evidence of Escrow Payment must be mailed or hand delivered to:

Virginia Alcoholic Beverage Control Authority
c/o Director of Procurement
2901 Hermitage Road
Richmond, VA 23220

The protest shall include the specific basis for the protest and the relief sought. The Director of Procurement or designee will review the protest and issue a decision in writing within 5 calendar days stating the reason for the action taken. A claim that the selected offeror is not a responsible offeror will not be considered a basis for protest. An offeror may not challenge the validity of the terms or conditions of the solicitation.

Appeal of Decision Denying Protest of Award

An appeal must be initiated by the filing of a Notice of Appeal with Virginia ABC's Chief Executive Officer (CEO) within 5 calendar days after the offeror's receipt of the Director of Procurement's written decision denying the award protest. The Notice of Appeal must be in writing and state:

- That an appeal is being filed
- The decision for which the appeal is being taken

- The solicitation / contract / reference number
- The basis for the appeal
- The relief sought

The Notice of Appeal must be mailed or hand delivered to:
 Virginia Alcoholic Beverage Control Authority
 c/o Chief Executive Officer
 2901 Hermitage Road
 Richmond, VA 23220

The CEO will review the protest and the Director of Procurement's decision and issue a decision in writing within 3 business days to uphold or overturn the decision denying the protest. If the CEO overturns the Decision Denying the Protest, the relief granted shall be as follows:

- If performance has not yet begun, Virginia ABC will cancel the contract and revise the award to comply with the regulations.
- If performance has begun, Virginia ABC may in its sole discretion declare the contract void upon a finding that this action is in its best interest. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

Appeal of Denial of Request to Withdraw an Offer or Proposal

Any offeror who has been denied a request to withdraw an offer by a Contract Officer Representative (COR) must submit a written appeal to the Director of Procurement within 5 calendar days after receipt of the decision denying the request to withdraw.

The Appeal of Denial of Request to Withdraw an Offer or Proposal must be mailed or hand delivered to:
 Virginia Alcoholic Beverage Control Authority
 c/o Director of Procurement
 2901 Hermitage Road
 Richmond, VA 23220

If the COR's initial decision is overturned, the sole relief shall be allowance of offer withdrawal. The COR's initial decision is upheld, the offer or proposal may not be withdrawn.

Appeal of Non-Responsibility Determination

An offeror found non-responsible for a particular procurement by the COR will be notified of the determination and the basis therefor in writing. A written appeal of this determination must be received by the Director of Procurement within 5 calendar days after receipt of the COR's determination. The appeal must be mailed or hand delivered to:

Virginia Alcoholic Beverage Control Authority
 c/o Director of Procurement
 2901 Hermitage Road
 Richmond, VA 23220

If the Director of Procurement overturns the COR's determination, the relief shall be as follows:

- If the award has not been made and the offeror initially declared non-responsible is now the best value responsive and responsible offeror, the award shall be made to that offeror.

- If the award of the contract has been made but performance on the contract has not begun, the contract shall be canceled and awarded to the offeror initially declared non-responsible if the offeror is now the best value responsive and responsible offeror.
- Where the award of the contract has been made and the performance of the contract has begun, Virginia ABC in its sole discretion may elect to terminate the contract if termination is determined to be in the best interest of Virginia ABC. The performing contractor will be compensated for the cost of performance up to the time of termination, but will in no event be entitled to lost profits.

Virginia ABC has not established any independent administrative appeals process, such as binding arbitration. Unless negotiated otherwise in the contract with the vendor, the vendor shall retain full rights to file legal action if the Virginia ABC appeals process is not deemed satisfactory.

An appeal or dispute by a vendor shall have no effect upon any existing contracts that have been awarded and accepted in good faith, awards that must be made to ensure the continued operation of critical functions of Virginia ABC, or any other proposals that will expire.

Section Seven: Other Considerations

7.1 Surplus Property

The purpose of Virginia Alcoholic Beverage Control (Virginia ABC) Surplus Property Policy is to define 'surplus property', requirements to determine surplus status and the disposal of Virginia ABC property.

An asset is deemed "surplus" once Virginia ABC determines the property

- Has served its useful purpose and / or
- Is no longer functional, and / or
- Is not needed for use within Virginia ABC

The following approvals must be obtained before goods can be declared surplus

- Virginia ABC CIO if goods are IT related (e.g. PCs, laptops, printers)
- Division Director whose property is being surplused
- Director of Procurement
- Chief Financial Officer for capitalized fixed assets

Methods of declaring goods surplus are

- Recycling Contracts (e.g. scrap metal, electronics, printer cartridges)
- Transfer to a Commonwealth of Virginia Authority, Agency or other public entity
- Donate - \$500 Maximum value / shall not exceed 25% of Virginia ABC's surplus sales for the fiscal year
- Send goods to DGS Surplus Property Warehouse
- Auction on www.GovDeals.com (the buyer becomes responsible for pickup)
- Landfill
- Abandonment (e.g. old store shelving)

Virginia ABC will normally surplus goods following the guidelines established in the Agency Procurement and Surplus Property Manual issued by the Department of General Services; however, Virginia ABC, at its sole discretion, may amend its policies or choose on a case-by-case basis to dispose of surplus property as it deems necessary and in the best interest of Virginia ABC and the Commonwealth.

7.2 Fleet Management

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Fleet Management Policy is to establish that Virginia ABC will follow Department of General Service (DGS) policy when managing its fleet of vehicles.

Virginia ABC will follow the guidelines established by the Department of General Services (DGS), Office of Fleet Management Services (OFMS), in relation to management of Virginia ABC's agency owned and leased fleet. The following topics are included in the OFMS guidelines:

- Vehicle Deployment and Disposal (assignment criteria, request for confidential plates, leased vehicle utilization, exemption for minimum mileage criteria, etc.)
- Safety Program (driver eligibility, vehicle use, cell phone use, parking and storage of vehicle, out-of-state travel, responsibility of loss, fleet vehicle and agency owned vehicle accidents, etc.)
- Travel and Commuting (request for use of state owned vehicles for commuting, reporting of vehicles for commuting, travel planning, reserving a short-term trip vehicle, use of Enterprise Rent-a-Car instructions, short-term vehicle fuel cards, etc.)
- Maintenance and Care of Vehicles (routine maintenance, fleet vehicle servicing and repair, responsibility for cost of repair of fleet vehicles, etc.)
- Fuel Program (fuel card management, fuel card custodian, etc.)

- Mileage
- Payment of Bills

7.3 Travel Charge Card

The purpose of Virginia Alcoholic Beverage Control Authority (Virginia ABC) Travel Charge Card Policy is to establish guidelines for use of a charge card that can be used for travel related expenses while conducting official Virginia ABC business, in lieu of using a personal credit card. The type of card for use under the travel card program is the Individual Liability Travel Card, meaning all charges made using this Authority-sponsored charge card are the employee's responsibility for prompt payment.

Virginia ABC will utilize the Bank of America (BOA) Visa Travel Card contract managed by the Department of Accounts (DOA).

A Contract Officer Representative (COR) will act as Travel Program Administrator (TPA) for the BOA Visa travel card program. The TPA serves as the liaison between Virginia ABC, the Department of Accounts, and the charge card vendor. The TPA is responsible for card issuance, suspensions or cancellations, management reports, communicating with the charge card vendor and DOA, as well as promoting and enforcing compliance with this policy.

Travel Charge Card Eligibility

BOA Visa Individual Liability Travel Cards will only be issued to the following individuals based on the decision of the Division Director or designee:

1. Employees who travel overnight at least twice per year.
2. Individuals who are employed as full time, wage or P14.

Travel Charge Card Request Process

The employee/supervisor requesting a travel charge card shall do the following:

1. Obtain approval of the supervisor.
2. Cardholders must participate in an annual on-line training.
3. The supervisor will contact the TPA via email with the name of the employee that has been approved for the travel card.
4. Confirmation from the TPA will be forwarded to the employee in the form of a BOA WORKS application email. The TPA will provide a detailed guide on the application process.
5. Upon approval, BOA will issue the travel charge card directly to the employee.
6. The TPA will require the employee to complete an Employee Agreement upon receipt of the card.

Improper Uses of the Travel Charge Card Account

1. Use for personal purchases not incidental to a business purpose, such as movies, utility bill, purchase of alcohol, home and garden supplies, etc.
2. Cash advances for out-of-pocket travel expenses.
3. Failure to promptly apply reimbursements for charged business expenses to the BOA Visa account.
4. Failure to pay the bill balance in full each month by the due date, regardless if the cardholder has been reimbursed for travel expenses.

Security

1. Authorized use of the travel charge card is limited to the employee whose name appears on the face of the card. The travel charge card or card number shall not be loaned to another person.
2. The travel charge card and all related documentation must be kept in a secure location. The account number on the travel charge card should not be posted or left in a conspicuous place.
3. If a travel charge card is lost or stolen, the cardholder must immediately notify both the BOA Visa Account Administrator at 1-888-449-2273 and the Virginia ABC TPA.

4. Virginia ABC is not liable for the use of the travel charge card by authorized or unauthorized users. The cardholder assumes total liability for ensuring all charges are paid timely.
5. It shall be the responsibility of the supervisor to retrieve travel charge cards from employees at termination or card revocation. Employees must ensure that relinquished cards are promptly destroyed in their presence by the supervisor. Supervisors shall notify the TPA by e-mail that the card has been destroyed.

Travel Program Administrator's Responsibilities

1. Provide a copy of the Travel Regulations to the employee receiving the charge card.
2. Advise the employee and the employee's supervisor of the uses and payment requirement for the travel card.
3. Monitor Virginia ABC cardholders' activity every two weeks through the BOA WORKS Reporting System for delinquent payments, inactive cards and inappropriate purchases. Annually audit cardholders' records to ensure compliance with program guidelines.
4. Report infractions immediately to the Director of Procurement and Contract Supervisor.
5. Take appropriate action when the cardholder and/or cardholder's supervisor and Division Director do not take corrective action.
6. Ensure all new cardholders take the new cardholder's online training and existing cardholders take the annual refresher online training.
7. Complete the Annual Cardholder Review Certification for the Virginia ABC Travel Card.
8. Obtain a signed Employee Agreement from the cardholder when a new card is issued and each time a card is renewed or every two years.
9. Report annually, by June 30th, certification that all cardholders have completed training.

Cardholder's Responsibilities

Use the travel charge card for reimbursable travel expenses only, while conducting official Virginia ABC business.

1. Use the travel charge card for reimbursable meal expenses when conducting official state government business while not in travel status.
2. Ensure all travel expenses charged to the card comply with the current travel regulations.
3. Retain original itemized receipts for travel charge card purchases. Travel expense reimbursements will not be made from charge card statements or tissue (carbon) receipts.
4. Observe the established spending limits found in the travel policy.
5. Receive the BOA Visa travel card billing statements and pay card balances in full, including disputed items, by the statement due date, regardless of having received a reimbursement. (Any associated late fees or finance charges are the responsibility of the cardholder and is not a reimbursable expense).
6. Submit a Travel Expense Reimbursement Voucher to obtain reimbursement upon completion of travel.
7. Sign an Employee Agreement upon issuance of a BOA Visa travel charge card and every time a renewal card is issued or at least every two years.

Requirements for Reimbursement

1. In order for the cardholder to receive reimbursement for charge card expenses, they must attach all required itemized receipts to the Travel Expense Reimbursement Voucher and submit to their supervisor for review and approval.
2. The supervisor will review the itemized receipts for any inappropriate charges (see Section III of this policy). If none detected, the supervisor should approve the voucher accordingly.
3. If an inappropriate charge is discovered, the supervisor will notify the cardholder as well as the TPA for further investigation and resolution.

Training

1. Cardholders must participate in an annual on-line training.
2. Training must be completed by June 1st of each year.
3. The TPA will inform all cardholders of the training and notification process.

4. The TPA is required to complete annual online training.

Internal Controls and Monitoring

1. The TPA is responsible for reviewing all charges and supporting documentation for policy compliance and unusual transactions. The TPA will also monitor all accounts, using the WORKS Reporting System, to ensure each cardholder with monthly charges makes prompt payment.
2. If an account is not paid in full by the due date, or if payment is rejected for non-sufficient funds, written notification will be made to the cardholder, their supervisor and the Division Director for prompt payment action. If proof of payment is not provided within ten (10) calendar days of notification, the TPA will immediately suspend the account until payment of the outstanding balance can be verified.
3. Employees that frequently remit card payments late will have their Visa account suspended or revoked at the discretion of the Director of Procurement in conjunction with input from the appropriate Division Director. Frequently is defined as three times in a twelve-month period.
4. If an account carries a delinquent balance in excess of 60 days, the TPA will permanently close the account. The TPA will also notify the cardholder's Division Director, the Director of Procurement, Contract Supervisor and CFO on all accounts with a balance more than 60 days old.
5. Travel Charge Card records are subject to audit by the TPA, Virginia ABC's Internal Audit Division or the Auditor of Public Accounts.