

**VIRGINIA DEPARTMENT FOR THE AGING
TITLE V PARTICIPANT FEDERAL HOLIDAY POLICY
REVISED**

EFFECTIVE DATE: March 16, 2011

Scope:

This policy is applicable to area agencies on aging (AAAs) and any other organizations (Title V contractors) which contract with the Virginia Department for the Aging (VDA) to deliver Senior Community Service Employment Program (SCSEP) services, under Title V of the Older Americans Act (OAA), in designated jurisdictions within the Commonwealth.

Purpose:

To revise VDA's Title V Participant Federal Holiday policy to comply with DOL's final regulations, effective October 1, 2010, that clarify changes in the 2006 OAA amendments, to comply with DOL's requirement for grantees to have a written Federal holiday policy, and to provide direction to VDA's Title V contractors.

Background:

Section 502 (c) (6) (A) (i) of the 2006 Amendments of the OAA sets forth required and allowed fringe benefits for Title V participants. These benefits include providing paid Federal holidays under certain conditions. The law permits grant funds to be used for "compensation for scheduled work hours during which an employer's business is closed for a Federal holiday." The law is unclear regarding whether compensation for Federal holidays is required or optional and if there is flexibility in the definition of compensation. In the absence of clarifying regulations, DOL left to the discretion of grantees, the development of a reasonable policy and decisions on how to comply. VDA developed an initial policy based on DOL guidance and added an assurance to its contracts with agencies operating Title V programs, which states that subprojects must have "established policies relating to compensation for scheduled work hours during which an applicant or subrecipient's business is closed for Federal holidays."

20 CFR Section 641.565 (b) (1) (v) of DOL's final regulations clarified that compensation must be provided to participants for scheduled work hours during which a host agency's business is closed for a Federal holiday. DOL broadly interprets the word "compensation". The required Federal holiday benefits need not be paid in cash but must be provided in some fashion. The regulations clearly indicate that Federal holiday leave "may be paid or in the form of rescheduled work time."

Policy:

Subprojects are required to provide compensation to participants for scheduled work hours during which a host agency's business is closed for a Federal holiday. The Federal holidays are New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Subprojects may provide Federal holiday leave benefits to participants either in the form of rescheduled work time to make up for scheduled hours missed on a Federal holiday or in the form of cash for scheduled hours missed on a Federal holiday. **Subprojects must select one of these options and apply it consistently.**

Each subproject must choose and apply one of the following two options to include in its Federal Holiday leave policy:

- a.) Provide Federal holiday leave benefits in cash by paying participants for hours scheduled to work on a Federal holiday when the host agency is closed.
- b.) Provide Federal holiday leave benefits to participants in the form of rescheduled work time to make up for scheduled hours missed on a Federal holiday when the host agency is closed. Hours should be made up within a reasonable period of time following the Federal holiday.

Subprojects must have a written participant Federal holiday policy and must provide a copy of the policy to all participants. The policy must be applied uniformly to all participants within a subproject. Documentation of the policy in the subproject's participant handbook is acceptable.