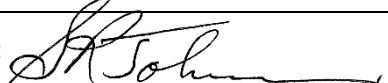




**State of Delaware
Department of Human Resources**

COVID-19 BORROW-AHEAD LEAVE PROCEDURE	
Policy #: To be assigned	Authority: Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat
Effective Date: April 5, 2020	Supersedes: Merit Rule 5.3.7
Application: Executive Branch Agencies	Signature: 

1. PROCEDURE PURPOSE STATEMENT

This statement sets forth State of Delaware’s procedures for the use of Borrowed Leave during the COVID-19 crisis. The State recognizes the importance of maintaining a healthy workforce and economic stability for employees during these unprecedented times. To accommodate the needs of employees during this situation, the ability to borrow leave is expanded under the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat. Employees may be permitted to borrow against the annual and/or sick leave expected to accrue over the course of the 2020 calendar year after sick leave, annual leave, compensatory time, and floating holidays are exhausted. The amount of time borrowed must be paid back through available leave or accrued leave prior to December 31, 2020.

2. SCOPE

This procedure applies to eligible full (standard work week of 37.5 or 40.0 hours per the Merit Rules) and part-time employees (employees assigned to work less than full time who are benefit eligible) who per the Families First Coronavirus Response Act (FFCRA) are unable to work or unable to telecommute for the following reasons:

- Employee is unable to work and unable to telecommute because the employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- Employee is unable to work and unable to telecommute and has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Employee is unable to work and unable to telecommute and needs to care for an immediate family member subject to Federal, State, or local quarantine or isolation order related to COVID-19.
- Employee is unable to work and unable to telecommute and needs to care for an immediate family member advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- Employee is unable to work and unable to telecommute and needs to care for the employee's child under 18 years old whose school or place of care is closed or whose

child care provider is unavailable, due to COVID-19 related reasons. Special circumstances may apply.

3. DEFINITIONS AND ACROYNMS

Eligible employee – Any full-time or part-time employee who is employed continuously by the State for one year or more, is in good standing, and earns and has exhausted all sick and annual leave, used all compensatory time and floating holidays, where applicable.

Employee in good standing – State employee that receives at least a “meets expectations” on their latest performance review, is not on a Performance Improvement Plan (PIP), has not abused sick leave, and has no current disciplines.

Families First Coronavirus Response Act (FFCRA) – Federal law provides eligible employees to take paid and unpaid leave for specified reasons related to COVID-19.

Full-time employee – An employee who works a 37.5- or 40.0-hour work week, other State full-time status or other equivalent allowed under the Federal Labor Standards Act and approved by the State.

Part-time employee – An employee who works less than a 37.5- or 40.0-hour work week.

4. PROCEDURES FOR COVID-19 BORROW-AHEAD LEAVE

a. To apply employee shall:

- 1) Submit a completed **COVID-19 Borrow-Ahead Leave Agreement Form** for Supervisory and Human Resource Representative approval. The form documents the employee’s understanding that they may borrow ahead a combination of sick and annual leave up to 75 hours (37.5-hour work week) or 80 hours (40-hour work week). An employee must have one year of continuous employment and have exhausted all other accrued leave taken all compensatory time and floating holidays, if applicable, to borrow leave ahead of accrual. All borrowed leave must be paid back using available leave accrual by December 31, 2020.
- 2) Any leave borrowed will be taken from future available leave accruals until fully repaid before any leave accruals will be allocated for employee use.
- 3) If the employee leaves State employment, the State will withhold the salary equivalent amount of used but unaccrued hours from the employee’s final pay check in accordance with the wage overpayment procedures. If the employee does not have enough salary dollars in their final pay it would be treated as an overpayment in full or in payments made over a specified time.
- 4) Forward the completed and approved form to the Agency human resources representative who verifies eligibility for borrowed leave.
- 5) Failure to comply with the procedures listed in this section may result in delay or denial of Borrow-Ahead Leave.

b. Agency human resources representative shall:

- 1) Communicate available leave options with employees.
- 2) Provide the requesting employee acknowledgement of the Borrow-Ahead Lead agreement and approval from the employee’s supervisor and human resources

representative within five (5) business days of receipt.

- 3) Keep employee's supervisor apprised of any revisions in the request.

5. EXCLUSIONS OR EXCEPTIONS

Under the FFCRA the following exceptions apply:

- a. A health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.
- b. An emergency responder is anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
- c. Casual Seasonal employees.

6. DATA REQUIREMENTS/REPORTING

The Borrow-Ahead Leave Tracking spreadsheet may be used to track leave borrowed by employees. Note that the Borrow Ahead Maximum and Borrow Ahead Minimum are drop down menus to select either 80 hours for 40.0-hour employees or 75 hours for 37.5-hour employees. As the number of hours is entered the spreadsheet will automatically subtract and display the remaining balance.

