

DONATED LEAVE POLICY AND PROCEDURE FREQUENTLY ASKED QUESTIONS (FAQs)

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The content in these Frequently Asked Questions (FAQs) applies to State of Delaware (State) Executive Branch cabinet agency employees. Other employers of State personnel may choose to adopt the [Donated Leave Policy and Procedures](#) as well as the provisions in this FAQs. Non-cabinet agency personnel should contact their supervisor to determine whether their employer has adopted these provisions. Employees should direct questions or concerns to their supervisor or Human Resources representative.

1. What are the eligibility rules for Donated Leave?

For Merit and Merit comparable employees, the employee must be in a benefit-eligible position, must have six (6) months aggregate service with the State, and the absence must exceed five (5) calendar weeks either consecutive or in cumulative periods of at least 7 consecutive calendar days.

2. Does an employee have to be on approved FMLA or STD to receive Donated Leave?

In accordance with 29 Del. C.59 §5956, donated leave is to run concurrently with any leave available under the Family and Medical Leave Act (FMLA). Per the Disability Insurance Program Rules and Regulations, donated leave is not to continue following the calendar day elimination period until the employee’s STD claim has been approved and the employee continues to be in an STD approved status.

3. Do I have to be out for greater than five (5) weeks before I request Donated Leave due to my own catastrophic illness/injury?

An eligible employee may request donated leave as soon as their treating physician completes the appropriate form and certifies that it is medically necessary for them to be absent for greater than five (5) calendar weeks. The DL-1 Form needs to be completed by the employee or designee and their treating physician.

4. If an employee goes out on leave due to a catastrophic illness/injury before 6 months of employment with the State, are they eligible for Donated Leave once the 6-month anniversary date has been reached?

To be eligible for Donated Leave, an employee must have completed at least 6 months of employment before the start of absence.

5. If I have already provided an FMLA Medical Certification and am now requesting Donated Leave, do I need to have my physician complete the DL-1 Form?

The FMLA Medical Certification form is used for the approval of an FMLA Leave. The Donated Leave DL-1 form is to request approval for donated leave and the criteria for each approval differs.

6. Can an employee use Donated Leave for the same relatives that they can use for sick leave as defined in the Merit Rules? Can I have donated leave to care for a sibling?

29 Del. C. 59 §5956 (c) defines family member as: “an employee’s spouse, son, daughter or parent who resides with the employee and who requires the personal attendance of the employee during the family member’s catastrophic illness.

7. Can a merit employee with less than full-time hours who accrues annual and sick leave receive donated leave?

An employee may be eligible to request Donated Leave for the time missed for their less than full-time schedule, provided the employee meets the six (6) month state service eligibility rule and their absence meets the Donated Leave eligibility criteria.

8. What happens if the Donated Leave received is more than the amount needed by the recipient?

Any unused donation is to be returned to the donor or Donated Leave Bank, provided the donor continues to be in a benefit eligible position with the State. If the donor has left state employment; retired; or is no longer in a benefit-eligible position, the unused leave is to be sent to the Donated Leave Bank.

9. Would a state employee be able to receive donated leave from the Dover Police Department?

The Donated Leave Program established by 29 Del. C.59 § 5956 does not include city workers, county workers, or schools. Executive Branch agencies cannot accept leave from other employers.

10. Can a Merit employee donate leave to a School District employee?

The Donated Leave Program for school districts fall under Title 14 of the Delaware Code and have different parameters than the Donated Leave Program for Merit and Merit Comparable employees, which fall under Title 29 of the Delaware Code.

11. Can employees covered under a collective bargaining agreement participate in the donated leave program if they meet program eligibility?

An employee covered by a collective bargaining agreement who is eligible for donated leave can donate leave to, or receive donated leave from, an employee or officer who is covered or not covered by a collective bargaining agreement.

12. I am retiring within six months, can I still donate leave?

An employee retiring within six months may make a donation prior to retirement from State employment.

ADDITIONAL RESOURCES:

- [Donated Leave Policy and Procedures](#)
- [Family and Medical Leave Act \(FMLA\) Policy and Procedures](#)
- [Disability Insurance Program \(DIP\) Rules and Regulations](#)