

## **123:1-46-05 Leave donation program.**

(A) Definitions. As used in this rule:

- (1) "Immediate family" has the same meaning as set forth in rule 123:1-47-01 of the Administrative Code.
- (2) "New sick leave" means sick leave an employee has accrued pursuant to section 124.382 of the Revised Code on or after November 15, 1981.
- (3) "Paid leave" means sick leave, personal leave or vacation leave. For purposes of this rule, "paid leave" does not include compensatory time.

(B) Employees eligible to receive donated paid leave. An employee is eligible to receive donated paid leave if the employee:

- (1) Is paid by warrant of the director of budget and management;
- (2) Is employed by the same agency, board, or commission as the employee who is donating the paid leave;
- (3) Is eligible to accrue and use sick leave when in active pay status;
- (4) Has no available accrued leave;
- (5) Has a need for the paid leave due to the serious illness or injury of the employee or a member of the employee's immediate family; and
- (6) Has applied for and not yet been approved for any state-paid leave, workers' compensation, or benefits program which is available to the employee. If the employee is not eligible for any such program, then this requirement is not applicable and does not impact the employee's eligibility to receive donated paid leave. An employee who has applied for these programs may use donated paid leave to satisfy the waiting period for any such benefits, if applicable. After the waiting period, donated paid leave may be used up to an amount equal to the benefit for which the employee has applied (e.g., sixty-seven per cent for disability benefits) while the employee's application is pending approval. If the employee's application for any state-paid leave is approved, the employee shall not use donated leave to supplement the approved state-paid leave.

(C) Employees eligible to donate paid leave. An employee is eligible to donate paid leave if the donating employee:

- (1) Is paid by warrant of the director of budget and management;
- (2) Is employed by the same agency, board, or commission as the employee receiving the donated paid leave;
- (3) Voluntarily elects to donate paid leave and does so with the understanding that the donated paid leave will not be returned;
- (4) Donates a minimum of eight hours of paid leave;
- (5) Retains a combined leave balance of at least eighty hours after the donated paid leave is deducted from the donating employee's leave balances;
- (6) Donates new sick leave, if the employee is donating sick leave; and
- (7) Certifies, in writing, the following:
  - (a) The name of the eligible employee for whom the donated paid leave is intended;
  - (b) The pay period(s) to which the offer to donate leave is applicable;

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(B) Employees eligible to receive donated paid leave. An employee is eligible to receive donated paid leave if the employee:

- (1) Is paid by warrant of the director of budget and management;
- (2) Is employed by the same agency, board, or commission as the employee who is donating the paid leave;
- (3) Is eligible to accrue and use sick leave when in active pay status;
- (4) Has no available accrued leave;
- (5) Has a need for the paid leave due to the serious illness or injury of the employee or a member of the employee's immediate family; and
- (6) Has applied for and not yet been approved for any state-paid leave, workers' compensation, or benefits program which is available to the employee. If the employee is not eligible for any such program, then this requirement is not applicable and does not impact the employee's eligibility to receive donated paid leave. An employee who has applied for these programs may use donated paid leave to satisfy the waiting period for any such benefits, if applicable. After the waiting period, donated paid leave may be used up to an amount equal to the benefit for which the employee has applied (e.g., sixty-seven per cent for disability benefits) while the employee's application is pending approval. If the employee's application for any state-paid leave is approved, the employee shall not use donated leave to supplement the approved state-paid leave.

(C) Employees eligible to donate paid leave. An employee is eligible to donate paid leave if the donating employee:

- (1) Is paid by warrant of the director of budget and management;
- (2) Is employed by the same agency, board, or commission as the employee receiving the donated paid leave;
- (3) Voluntarily elects to donate paid leave and does so with the understanding that the donated paid leave will not be returned;
- (4) Donates a minimum of eight hours of paid leave;
- (5) Retains a combined leave balance of at least eighty hours after the donated paid leave is deducted from the donating employee's leave balances;
- (6) Donates new sick leave, if the employee is donating sick leave; and
- (7) Certifies, in writing, the following:
  - (a) The name of the eligible employee for whom the donated paid leave is intended;
  - (b) The pay period(s) to which the offer to donate leave is applicable;

- (c) The type of paid leave and the number of hours to be donated, with the minimum number of such hours being eight;
- (d) That the donating employee will retain a minimum combined leave balance of at least eighty hours after the donated paid leave hours have been deducted from the donating employee's balances; and
- (e) That the leave is being donated by the employee voluntarily and that the employee understands that the donated paid leave will not be returned.

(D) General principles.

- (1) Donated paid leave shall be administered on a pay period by pay period basis. Appointing authorities shall only deduct the maximum amount specified by the donating employee from the donating employee's leave balance, but under no circumstance shall an appointing authority deduct more from the donating employee's leave balance than the amount of leave that is necessary to bring the receiving employee up to the maximum number of hours the receiving employee is scheduled to work in the pay period. Banking of donated leave is not allowed. Leave accrued by an employee while using donated paid leave shall be used, if necessary, as soon as it is available before additional donated paid leave may be received and used by the employee.
- (2) If an appointing authority receives more than one offer to donate leave to a qualifying employee for any pay period, the appointing authority shall process the requests in the order they are received.
- (3) An eligible employee shall receive no more than 800 hours of donated leave from all sources combined in any calendar year period.
- (4) Appointing authorities shall ensure that no employees are forced or coerced into donating paid leave. Leave donations are to be entirely voluntary on the part of the donating employee.
- (5) Appointing authorities shall respect an employee's right to privacy. However, appointing authorities may, with the permission of the employee who is in need of donated paid leave, inform its employees of an employee's critical need for leave. Appointing authorities shall not directly solicit donated paid leave from its employees.
- (6) Employees using donated paid leave are in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Donated paid leave shall never be converted to a cash benefit.
- (7) Donated paid leave shall not count toward the probationary period of an employee who receives donated paid leave during the employee's probationary period.

Effective: 1/24/2016

Five Year Review (FYR) Dates: 11/04/2015 and 09/15/2020

Promulgated Under: 119.03

Statutory Authority: 124.09

Rule Amplifies: 124.391

Prior Effective Dates: 10/25/95 (Emer>), 01/23/96, 11/10/96, 09/28/97, 12/1/06, 04/06/14

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