

TO: MCC Staff

FROM: Office of the President

SUBJECT: Donated Leave Program (DLP)

DATE: August 4, 2021

PURPOSE: To establish standards and protocols designed to provide a means for employees to assist other employees who have exhausted available accrued leave time during the course of his/her own illness or injury, or the illness or injury of an immediate family member requiring the employee's presence to provide care.

SCOPE: This procedures memorandum applies to all full- and part-time regular employees employed at Metropolitan Community College.

1. General Principles

The demographics of the workforce continue to change, and one such change is the increasing trend toward families with all available caregivers employed, resulting in a greater number of circumstances in which an unexpected personal or family crisis necessitates an employee's absence from the workplace and leads to possible economic difficulty for the employee.

Metropolitan Community College recognizes that employees may need special consideration and assistance for time off from work to deal with prolonged personal or familial health concerns. To provide a measure of assistance to College employees who may experience such circumstances, a donated leave program is hereby established.

Nothing in this Procedures Memorandum or the Donated Leave Program creates or extends any expectation of or right to continued employment beyond those rights that are created by state or federal law, contract or collective bargaining agreement, as may be applicable. Approval of utilization of donated leave is not and shall not be construed as a guarantee of continued employment through the exhaustion of said leave eligibility.

2. Definitions

- A. Donated Leave Program – a program that allows employees to donate accrued leave hours (annual or personal as applicable) to be used by eligible employees who have exhausted all of their own accrued annual/personal and sick leave.
- B. Serious medical hardship, illness or injury – a severe condition or combination of conditions affecting the mental or physical health of an individual. For employees, the medical hardship, injury or illness must result in the employee’s temporary or permanent inability to perform his/her essential job functions for a prolonged period of time and may require the continuing services of a physician, psychologist or other health care provider. In the case of a family member's serious medical hardship, illness or injury, the employee's absence from work for a prolonged period of time must be required to provide care for the family member.

The serious medical hardship, illness or injury must be an eligible condition under the Family and Medical Leave Act (FMLA). Any donated time the recipient uses from the donated leave bank will count as FMLA leave unless the employee utilizing the donated time has already exhausted his/her FMLA leave eligibility, or he/she is otherwise ineligible for benefits under the FMLA.

Examples of serious medical hardships, illness or injury include, but are not limited to, pregnancies with complications and life-threatening conditions and illnesses such as major surgery, AIDS, cancer, heart disease, multiple sclerosis, stroke, muscular dystrophy, organ transplants, hospice care, serious accident, etc. Lesser illnesses, such as uncomplicated colds and flu, seasonal allergies, headaches, etc., are generally not applicable.

Maternity leave in excess of six weeks associated with an uncomplicated pregnancy is not considered to be a serious medical hardship, illness or injury.

The Human Resources office will evaluate the application of FMLA for any absence resulting from a work-related injury that exceeds three, full consecutive days with continuing medical treatment, or that results in inpatient care.

- C. Prolonged period of time – a continuous period of time whereby a serious medical hardship, illness or injury prevents the employee from performing the employee’s duties.
- D. Family member – parent, spouse, child or other qualifying relative as defined by the FMLA. As of the effective date of this PM the following definitions apply, but they are subject to change based on amendment or reinterpretation of the FLMA:
 - 1) The term 'parent' means the biological parent of an employee or an individual who stood in loco parentis (had day-to-day responsibility for and provided financial support) to an employee when the employee was a minor. The term does not include an employee's parent-in-law.

- 2) The term 'spouse' means a husband or wife, as the case may be, recognized or defined as such under applicable state law.
 - 3) The term 'child' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is (a) under eighteen (18) years of age; or (b) eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability that substantially limits one or more of his or her major life activities as defined in the Americans with Disabilities Act regulations at 29 CFR, Part 1630.
3. Eligibility – Recipient – An employee will only be eligible to utilize donated time from the donated leave bank if he/she meets all of the following requirements.
- A. The employee or his/her immediate family member must be suffering from a serious medical hardship, illness or injury which necessitates the employee's absence from work for a prolonged period of time and for which the employee has no available accrued paid leave (sick, annual, and/or personal). The serious medical hardship, illness, or injury must also be an eligible condition under the FMLA. See definitions in Section 2.
 - B. Before an employee is eligible to receive donated leave, his/her health care provider must provide current certification that the employee has a serious medical hardship, illness or injury and is unable to work. In the case of an immediate family member's serious medical hardship, illness, or injury, the family member's health care provider must provide current certification that the employee's absence from work is required to provide care for the family member.
 - C. The employee must have made a minimum contribution of one day's leave to the Donated Leave Program applicable to the fiscal year in which the leave will be utilized. For faculty, a day shall be equal to seven (7) hours. For full-time regular employees other than faculty, a day shall be equal to eight (8) hours. For part-time regular employees (.70 FTE), a day shall be equal to 5.5 hours.

4. Other Information

- A. The maximum number of hours that an employee may receive from the bank in a fiscal year is as follows: faculty – 210 hours, full-time regular employees other than faculty – 240 hours, and part-time regular employees – 165 hours. The number of hours received is dependent on availability of donated leave hours and the employee meeting the eligibility criteria.

Regardless of the amount of donated leave approved, hours will only be encumbered one week at a time. The amount of pay received will be based on the current hourly base rate (non-exempt employees) or current daily rate (exempt employees) of the employee utilizing the donated time. All monies received will incur appropriate taxes and other required deductions.

- B. While an employee is using donated leave, he/she will receive the same employee benefits uniformly provided to active regular employees or, where applicable, in that employee's bargaining unit, such as the College's contribution to insurance and retirement and leave accrual as applicable.
- C. Participation in the donated leave program will cease upon the termination of employment, death of the employee or eligible family member, or failure to donate the annual required minimum hours in a year that donations are required for eligibility.
- D. Employees approved for intermittent FMLA, reduced work hours, and those receiving workers' compensation (WC) benefits may utilize donated leave only in such an amount as will make them whole; that is, restore the employee to full pay for the work time involved.

5. Guidelines – Donors

- A. Participation in the donated leave program is available to any regular employee with an FTE status of 0.70 or greater. Employees who wish to participate in the program must complete a donated leave bank enrollment form during the period from May 15 to June 15 for the upcoming fiscal year starting July 1. Failure to make a minimum contribution of one day (defined in paragraph B. below) will make the employee ineligible to utilize donated leave during the next fiscal year.
- B. All donors, except faculty, may contribute unlimited accrued annual leave per fiscal year to the DLP. Faculty may contribute accrued personal leave up to two days per fiscal year to the DLP. For faculty, a day shall be equal to seven (7) hours. For full-time regular employees other than faculty, a day shall be equal to eight (8) hours. For part-time regular employees (.70 FTE), a day shall be equal to 5.5 hours.

Once donated, the leave will not be restored to the donating employee.

6. Administrative Processes

- A. Procedure for requesting donated leave
 - 1) Before an employee is eligible to receive donated leave, his/her health care provider must provide current certification that the employee has a serious medical hardship, illness or injury and is unable to work. Before an employee is eligible to receive donated leave to care for an immediate family member who is experiencing a continuing serious medical hardship, illness or injury, the family member's health care provider must provide current certification indicating that the employee is needed to provide care for the family member.

- 2) Employee requests to utilize donated leave will be determined by mutual agreement of the Associate Vice President of Human Resources and the Associate Vice President for Compliance and General Counsel, in consultation with such College personnel as may be necessary. No individual employee may utilize more than the maximum hours as defined in Section 4.A.

Denial of a request to utilize donated leave is not subject to the College grievance procedure or any grievance provision(s) of an extant College collective bargaining agreement.

- 3) Donated leave hours will be converted into an equivalent number of recipient sick leave hours, regardless of differences between participants' pay rates.
- 4) The identity of the donors and recipients will be kept confidential except as required to administer the program or as may be required by law.
- 5) Human Resources will manage the donated leave program and communicate to Payroll the number of hours to be paid to the employee. Payroll will administer the donated time and pay the recipient based on the College's payroll schedule depending on when the forms are approved and sent to Payroll.

B. Maintenance of the donated leave program

- 1) To remain eligible for donated leave, the employee must complete a donated leave program enrollment form each year during the period from May 15 to June 15 for the upcoming fiscal year starting July 1 for any year leave donations are required. Human Resources will facilitate completion of enrollment documents for employees who are absent during the enrollment period due to their own or a qualifying relative's serious medical hardship, illness or injury.
- 2) Hours remaining in the DLP bank at the end of a fiscal year will be carried over to the next fiscal year.
- 3) Requests for donated leave hours are subject to availability. The College is not responsible for filling requests from the DLP bank if no hours, or insufficient hours, are available.
- 4) The College can amend or terminate the program at any time. Upon amendment or termination of the program, days remaining in the DLP bank will not be returned to donating employees.

Adopted 5/15/16; Amended 5/15/17; 8/4/21