

QUICK REFERENCE LEAVE GUIDE



The Office of Management and Budget/Human Resource Management
June 2005
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MERIT EMPLOYEE LEAVE SYNOPSIS

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Preface and disclaimer

This synopsis is designed to:

- Provide an quick basic reference guide of leaves available to merit employees;
- Serve as a first source of information as questions arise.

We encourage you to keep the synopsis handy and refer to it often.

Disclaimer

This synopsis does not confer rights or privileges upon employees. It is not designed to be all encompassing, nor does it provide procedures or practices on how to apply the leaves. Except where express terms or collective bargaining agreements apply, the State of Delaware policies and procedures, rules, orders, directives and orders shall be controlling in regard to eligibility for employee benefits. The State's rules, policies and procedures, orders and directives may be change from time to time and at the sole discretion of the State of Delaware.

In the case of any discrepancy between this synopsis and any State law, regulation, policy, rule, order, directive or collective bargaining agreement, the latter will prevail.

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| MERIT EMPLOYEE LEAVE BENEFITS WITH PAY | | Merit Rule (MR) Chapter 5 |
| HOLIDAYS | | MR #5.1 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Ten (10) Legal Holidays/year plus Election Day & Return's Day during Election year:* | |
| | 10 Legal Holidays | Election Year Holidays |
| | New Year's Day | Labor Day |
| | Martin Luther King's Day | Veteran's Day |
| | Good Friday | Thanksgiving Day |
| | Memorial Day | Friday following Thanksgiving |
| | Independence Day | Christmas Day |
| | | Election Day |
| | | Return's Day (2 nd day after general election) 3.75 hours/ 4.0 hours NOTE: Only those employees who either work or live in Sussex County are eligible |
| SPECIAL RULES | And any other day the Governor may designate. | |
| | * Must be in a paid status the scheduled day prior and the scheduled day following the holiday to qualify for the holiday. | |
| FLOATING HOLIDAYS | | Epilogue Section 56, FY 2010 Budget Act |
| ELIGIBILITY | New hires from July through October receive for the current Fiscal Year 2 Floating Holidays New hires from November through February receive for the current Fiscal Year 1 Floating Holiday New hires from March through June receive for the current Fiscal Year no Floating Holidays Upon the start of a new fiscal year each would receive two floating holidays | |
| BENEFIT | Two floating holidays to be taken during each fiscal year at employee's request.* | |
| SPECIAL RULES | * Floating holidays must be requested in advance using the same procedures as for annual leave and require supervisory approval. | |
| | Floating holidays do not accrue and must be taken prior to the expiration of the fiscal year. | |
| | Floating holidays may not be carried over from year to year. | |
| | Unused floating holidays are forfeited upon separation from employment. | |
| | Floating holidays are transferable from Merit Agency to Merit Agency. | |

| ANNUAL LEAVE | | MR #5.2 | |
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| ELIGIBILITY | Accrued at the end of each month of service. First month of employment prorated as appropriate. Normally not granted before 6 months of service. Not eligible for use until the 1 st day of the month following the month for which the leave was accrued. | | |
| BENEFIT | Paid Annual Leave accrues as follows:* | | |
| | | 37.5 hour/week | 40.0 hour/week |
| | Less than 10 years: | 9.5 hours/month | 10.0 hours/month |
| | at least 10 > 15 years: | 11.25 hours/month | 12.0 hours/month |
| | at least 15 | 13.25 hours/month | 14.0 hours/month |
| SPECIAL RULES | * Grandfathered employees may have accrual rates varying from those stated above. Check with your Human Resources Office. | | |
| | <ul style="list-style-type: none"> Agency aides and Exempt Employees Accrue 13.25 hours/month | Del Code Title 29, Chapter 5905 | |
| | <ul style="list-style-type: none"> Maximum carryover into new calendar year is 318 hours (37.5 hour schedule) or 336 hours (40 hour schedule).** | | |
| | <ul style="list-style-type: none"> Accrual rate and maximum carryover into new calendar year is prorated for part-time Merit employees. | | |
| | <ul style="list-style-type: none"> Accrual of annual leave stops in cases of absence without pay in excess of 30 days | | |
| | <ul style="list-style-type: none"> ** Grandfathered employees may have maximum carryover into new calendar year varying from those stated above. Check with your Human Resources Office. | | |
| SICK LEAVE | | MR #5.3 | |
| ELIGIBILITY | Accrued at the end of each month of service and may be used upon accrual. Sick leave must be requested in advance whenever possible. Not eligible for use until the 1 st day of the month following the month for which the leave was accrued. | | |
| BENEFIT | *Accrues at the rate of 9.5 hours/month (37.5 hour schedule) 10.0 hours/month (40 hour schedule) Prorated accrual for part-time merit employees. | | |
| SPECIAL RULES | <ul style="list-style-type: none"> No maximum accrual or carryover into new calendar year. | | |
| | <ul style="list-style-type: none"> Accrual continues during unpaid absences of less than 30 days. | | |
| | <ul style="list-style-type: none"> Upon Retirement or when laid off sick leave shall be paid out at the rate of 1 hour for every two hours accrued to the maximum payout of 337.5 hours (37.5 hour schedule) or 360 (40 hour schedule). | | |
| | <ul style="list-style-type: none"> Upon death sick leave shall be paid out at the rate of 1 hour for every hour accrued to the | | |

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| | <p>maximum payout of 675 hours (37.5 hour schedule) or 720 hours (40 hour schedule).</p> <ul style="list-style-type: none"> Grandfathered employees may have accrual and payout rates varying from that stated above. Check with your Human Resources Office. Accrual of sick leave stops in cases of absence without pay in excess of 30 days Borrowing ahead --Generally employees may not take sick leave in excess of hours accrued, however in extreme circumstances agencies may allow employees with more than 5 years service to borrow ahead up to 112.5 hours (37.5 hour schedule) or 120 hours (40 hour schedule). |
| ADOPTION TRAVEL LEAVE (REVISION ADDED 08/30/05) | |
| | Del. Code Title 29, Chapter 5116 |
| ELIGIBILITY | Continuously employed on a full time basis for one year at the time of application for the leave. |
| BENEFIT | May use accumulated paid sick leave to travel outside the United States for the purpose of adopting a child from a foreign country. The employee shall be granted reinstatement in same position held at the time the leave was granted. |
| SPECIAL RULES | <ul style="list-style-type: none"> Prior to granting the leave, the employee must provide documentation that: <ol style="list-style-type: none"> They have applied for the adoption; Travel is required for adoption to be approved. Regardless of the employee's pay status no sick or annual leave will accrue during this leave. Upon approval of the adoption (i.e. placement of the child) employee's leave will be pursuant the Family Medical Leave Act. |
| BIRTH AND ADOPTION LEAVE | |
| | Del. Code Title 29, Chapter 5120 |
| ELIGIBILITY | One year aggregate State employment and have been paid a minimum of 1250 hours during the twelve consecutive months preceding the qualifying event. |
| BENEFIT | May use up to 12 weeks accumulated paid sick leave within the 12 months following: <ol style="list-style-type: none"> The birth of a child of the employee or the employee's spouse; or The adoption by the employee of a pre-kindergarten age child. |
| SPECIAL RULES | Leave shall be used in accordance with FMLA MR-#5.7 |
| COMPASSIONATE LEAVE | |
| | MR #5.4 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | 22.5 hours (37.5 hour schedule) or 24 hours (40.0 hour schedule) off on consecutive days for death of immediate family. |
| | 7.5 hours (37.5 hour schedule) or 8 hours (40.0 hour schedule) off to attend memorial services or related activity of a near relative. |

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| SPECIAL RULES | IMMEDIATE FAMILY* | NEAR RELATIVE |
| | Spouse or domestic partner | Aunt, uncle, niece or nephew of the employee |
| | Parent, stepparent or child of employee, spouse or domestic partner | Brother/sister in-law and grandparent in-law |
| | Employee's grandparent, grandchild or sibling | Any other relative or friend living in the employee's household |
| | Spouse of employee's child | |
| | Any minor child for whom the employee has assumed and carried out parental responsibilities | |
| | Should more than one immediate family member die concurrently the employee is entitled to 22.5 hours per individual otherwise qualified | |
| | *Employees may request agency approval for a person not specified as immediate family. | |
| | Compassionate leave is to be used within one year of the date of death of the family member. | |
| MILITARY LEAVE | | MR #5.5.1.1 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | 112.5 hours (37.5 hour schedule) or 120 hours (40.0 hour schedule) per calendar year for National Guard/Reserve Duty.* | |
| | Leave without pay for duty which exceeds 15 work days.** | |
| SPECIAL RULES | An employee whose active duty spans two or more calendar years is to receive 15 days paid at the start of each new year without consideration of holidays and without consideration of leave accrual until such time as the individual's aggregate absence from work reaches 5 years.*** | |
| | *Prorated for part-time merit employee | |
| | **Total cumulative leave protected by The Uniformed Service Employment and Reemployment Rights Act (USERRA) of 1994 is a maximum of five years. | |
| | ***When an individual's aggregate absence from work due to Military service reaches 5 years the records must be reviewed and submitted to the Director for approval prior to the payment of additional Military Leave and granting of reinstatement rights. | |
| MILITARY SERIOUS ILLNESS/INJURY LEAVE | | M.R #5.5.1.6 |
| ELIGIBILITY | Employee* who suffers a serious illness or injury in the line of duty** that is caused or contributed to by war or act of war (declared or not), who is a member of the United States Military or National Guard. | |
| BENEFIT | An employee may be granted up to six months paid time off from work for medical procedures or operations required as a result of the serious illness or injury without using sick or annual leave | |

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| SPECIAL RULES | Employee must return to active State employment for a period of not less than thirty (30) consecutive calendar-days. |
| | Line of Duty does not include training or educational periods. Training and educational periods include but are not limited to the weekend National Guard training and two week training periods in the summer. |
| | Regardless of the employee's pay status no sick or annual leave will accrue during this leave. |
| | Time must be taken within the first year of active State employment following return from active military service. |
| | Maximum time allowed is six months (182 calendar days) |
| | FMLA is to run concurrent |
| | Necessary certifications must be completed and updated as requested. |
| VETERANS FUNERAL DETAIL | Del Code Title 29, Chapter 5121 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | Paid Leave to serve on one Veteran Funeral detail per calendar year. |
| SPECIAL RULES | Must be a Veteran or a National Guard Reserve Member |
| WORKERS' COMP | MR #5.3.8 Del Code Title 29, Chapter 5933 MR #5.3.6.4 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | <ol style="list-style-type: none"> 1. Paid Leave to the completion of the workday on the day of an on-the-job injury 2. Paid Supplement of Workers' Comp payments to make the employee whole (not to exceed 3 months for all employees with the exception of employees in positions receiving Hazardous Duty Pay who are not exceed one year) 3. Paid Supplement of Worker's Comp payments is a one time supplement per injury and any recurrence or aggravation of that injury. 4. Upon completion of the Paid Supplement of not longer than 3 months or 12 months the ability to supplement Workers' Comp payments with pro-rated sick and/or annual leave. |
| SPECIAL RULES | Must be approved for Workers' Compensation |
| | Paid supplement is the difference, if any, between the total of: (1) The amount of such compensation, (2) any disability benefits received under the Federal Social Security Act, and (3) any other employer supported disability program, and the amount of wages to which the officer or employee is entitled on the date such compensation begins. |
| | The supplement is paid provided the injury or disease for which such compensation is paid is not the |

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| | direct result of such officer or employee's misconduct and occurs during a period of employment for which the employee is entitled to receive wages. |
| | <p>Hazardous duty assignments shall include, but not be limited to:</p> <ol style="list-style-type: none"> (1) Employees otherwise qualified who are employed by the Department of Corrections; (2) Employees otherwise qualified who are employed by the Delaware Psychiatric Center who are assigned to programs for the criminally insane; (3) Employees otherwise qualified who are employed by the Division of Youth Rehabilitation; (4) State law-enforcement officers in the performance of their duties; provided, however, no law-enforcement officer shall be covered under this section while said officer is performing a function or duty that is considered administrative in nature; (5) State employees serving in response to the imminent danger of hazardous waste material, including but not limited to the SERT Team. |
| US OLYMPIC TEAM COMPETITION | MR #5.5.1.2 Del Code, Title 29, Chapter 5113 |
| ELIGIBILITY* | Immediately upon employment |
| BENEFIT | Maximum of 90 days paid leave to train and participate as a member of the US Olympic Team in any competition sanctioned by the US Olympic Committee. |
| SPECIAL RULES | <p>Employee is required to return to work within a reasonable period of time following the conclusion of their participation in training/competition.</p> <p>* “(b) For purposes ... of this section the term "employee" includes all those individuals who are employed by the State and receive a paycheck from the State for such work as they normally do for the State.”</p> |
| SUBPOENA TO TESTIFY | MR #5.5.2.1 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | To appear under subpoena to testify, unless they are one of the parties in the proceeding or the subpoena arises from other employment or volunteer activity.* |

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| SPECIAL RULES | Employees are required to return to work within a reasonable period of time following the conclusion of their obligation. |
| | Shift changes are to be made, if possible, to accommodate non day shift employees for their involvement. |
| | *When a minor child is a party in the proceeding the parent is considered a party in the proceeding. |
| JURY DUTY | |
| | MR #5.5.2.2 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | To report to serve on a jury. |
| SPECIAL RULES | Employees are required to return to work within a reasonable period of time following the conclusion of their obligation. |
| | Shift changes are to be made, if possible, to accommodate non day shift employees for their involvement. |
| MERB HEARING | |
| | MR #5.5.2.3 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | Paid leave to appear on employee's own behalf before a hearing officer or the Merit Employee Relations Board in a Merit system grievance. |
| SPECIAL RULES | Employees are required to return to work within a reasonable period of time following the conclusion of their participation in the hearing. |
| | Excusal from work with pay is not authorized for preparation of a grievance or consultation with employee representatives. |
| | Shift changes are to be made, if possible, to accommodate non day shift employees. |
| EXAM & INTERVIEW FOR A CLASSIFIED POSITION WITH THE STATE | |
| | MR #5.5.2.4 |
| ELIGIBILITY | Immediately upon employment |
| BENEFIT | Paid leave to attend an interview or take an exam for a classified position within the State. |
| SPECIAL RULES | Employees are required to return to work within a reasonable period of time following the conclusion of the interview or completion of the exam. |
| | Shift changes are to be made, if possible, to accommodate non day shift employees for their involvement. |
| DONATED LEAVE | |
| | Delaware Code (Del Code) Title 29, Chapter 5956 http://www.delawarepersonnel.com/benefits/donated_leave/documents/2005/amended_leave_program.pdf |
| ELIGIBILITY | Upon completion of 6 months aggregate service. |

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| BENEFIT | Direct donation and leave bank for catastrophic illness of self or employee's immediate family member | |
| SPECIAL RULES | Requires certificate of disability exceeding 5 weeks. (Separate periods of disability lasting 7 calendar days or more each, resulting from the same or a related medical condition and occurring within any 12-consecutive-month period, shall be considered the same period of disability.) | |
| | Immediate Family -- employee's spouse, son, daughter or parent who resides with the employee | |
| | Prior to receipt of the time donated employee must have used all of his or her sick days and half of his or her annual leave | |
| | When the donated leave time is for the catastrophic illness of a family member, the employee must have used all of his or her sick days and annual leave. | |
| | Must establish medical justification and renew medical justification every 30 days. | |
| BONE MARROW DONATION | | Del. Code Title 29, Chapter 5122 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Maximum of 7 day paid leave per calendar year to serve as a donor. | |
| ORGAN DONATION | | Del. Code Title 29, Chapter 5122 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Maximum of 30 days paid leave per calendar year to serve as donor. | |
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| GRANTING OF LEAVE IS AT AGENCY'S DISCRETION WITH PAY | | MR #5.5.3 |
| UNION CONVENTIONS/ EMPLOYEE ORGANIZATIONS/ JOB RELATED ACTIVITIES | | MR #5.5.3.1 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Paid Leave up to 37.5 hours (37.5 hour schedule) or 40.0 hours (40.0 hour schedule) per calendar year to: | |
| | <ul style="list-style-type: none"> • Serve as a delegate to union conventions; | |
| | <ul style="list-style-type: none"> • Serve as a delegate to employee organizations; or | |
| | <ul style="list-style-type: none"> • Engage in similar job-related activities. | |
| SPECIAL RULES | Granting of time off is at agency's discretion. | |

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| VOLUNTEERISM | | MR #5.5.3.2 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Paid Leave to volunteer on an advisory body or commission or similar group sponsored by local or State government or statewide organization to programs benefiting diverse segments of Delaware citizens | |
| SPECIAL RULES | Granting of time off is at agency's discretion. | |
| VOLUNTEER EMERGENCY FIRE DUTY | | MR #5.5.3.3 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Paid Leave to respond to emergency fire duty. | |
| SPECIAL RULES | Must be active firefighter or auxiliary member. | |
| | Granting of time off is at agency's discretion. | |
| DISASTER RELIEF | | MR #5.5.3.4 Del. Code Title 29, Chapter 6003 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Up to 15 days Paid Leave/calendar year to respond to disaster relief. | |
| SPECIAL RULES | Must be a Certified Disaster Service Volunteer of the American Red Cross. | |
| | Granting of time off is at agency's discretion. | |
| EMPLOYEE RECOGNITION PROGRAM | | MR #5.5.3.5 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Recognition of employees with awards per Employee Recognition Plan pre-approved by the Director | |
| SPECIAL RULES | Granting of time off is at agency's discretion. | |
| LEAVE BENEFITS WITHOUT PAY | | MR #5.6 |
| TOUR OF ACTIVE MILITARY DUTY | | MR #5.6.1 |
| ELIGIBILITY | Immediately upon employment | |
| BENEFIT | Leave of absence without pay to serve a tour of active duty plus 90 calendar days beyond the completion | |

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| | of active duty. | |
| SPECIAL RULES | Must notify agency of intent to return to work. | |
| | Must provide evidence of honorable release from military service. | |
| | Will be returned to position in same or comparable class for which they qualify. | |
| | ***When an individual's aggregate absence from work due to Military service reaches 5 years the records must be reviewed and submitted to the Director for approval prior to granting of reinstatement rights. | |
| PERSONAL LEAVE | | MR #5.6.2 |
| ELIGIBILITY | Upon completion of probationary period.* | |
| BENEFIT | An agency may grant an employee a personal leave of absence without pay of up to one year. | |
| SPECIAL RULES | Under exceptional circumstances, additional leave without pay may be granted in 6 months increments. | |
| | A maximum of two years continuous leave may be granted. | |
| | * Under exceptional circumstances an agency may grant personal leave during the probationary period. | |
| FMLA (MAY BE WITH OR WITHOUT PAID DEPENDING ON AVAILABLE ACCRUED LEAVE TIME) http://www.delawarepersonnel.com/labor/fmla/index.shtml | | MR #5.7 |
| ELIGIBILITY | One year aggregate State employment and have been paid a minimum of 1250 hours during the twelve consecutive months preceding the qualifying event. | |
| BENEFIT | Up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons and qualified "Exigency Leave": | |
| MEDICAL REASONS | <ul style="list-style-type: none"> • to care for the employee's child after birth, or placement for adoption or foster care; • to care for the employee's spouse, son or daughter, or parent who has a serious health condition; or • for a serious health condition that makes the employee unable to perform the employee's job. <ul style="list-style-type: none"> • A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either— <ul style="list-style-type: none"> ○ An overnight stay in a medical care facility ○ Or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or | |

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| | prevents the qualified family member from participating in school or other daily activities. |
| EXIGENCY REASONS | <p>Non-medical activity directly related to the covered military member's active duty or call to active duty status:</p> <ol style="list-style-type: none"> 1. Short-notice deployment; 2. Military events and related activities; 3. Childcare arrangement and school activities; 4. Financial and legal arrangements; 5. Counseling by non-medical counselor; 6. Rest and recuperation; 7. Post-deployment military activities. |
| | Up to 26 weeks of unpaid, job-protected leave to "eligible" employees to care for a qualified military member as immediate family or specified next of kin. |
| SPECIAL RULES | The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances. |
| | The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable." |
| | A medical certification is required to support a request for leave because of a serious health condition. |
| | <p>Medical certificate for a serious health condition may be requested:</p> <ul style="list-style-type: none"> • Every 6 months in all cases of absence for a medical condition; • If an extension of the leave is requested; • If circumstances in the last certification have changed; • If information has been received casting doubt on the stated reason or continued validity. |
| | For the duration of FMLA leave, the State will continue to pay state share on the employee's health coverage, regardless of pay status. |
| | <p>Employee must use annual and sick* paid leave concurrently with the exception of one work week each.</p> <p>* Employees on Exigency Leave may only use annual leave as Exigency Leave is for non-medical reasons.</p> |
| EDUCATIONAL LEAVE (MAY BE WITH OR WITHOUT PAY) | MR #5.8 |
| ELIGIBILITY | Upon completion of initial probationary period or completion of one year. |

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| BENEFIT | Paid or unpaid leave to pursue special work or training directly related to State employment. | |
| SPECIAL RULES | At Agency's discretion, an employee may be granted educational leave without pay * | |
| | Upon agency request, the Director may approve educational leave with pay.** | |
| | * The purpose of such leave is to permit employees to pursue education or training directly related to State employment which is not available through in-service training. | |
| | **Employees shall reimburse agencies for paid education leave if they do not submit evidence of satisfactory course completion or if they leave State employment within 6 months of course completion. | |
| LEAVE OF ABSENCE FROM CLASSIFIED SERVICE | | MRs #5.9 & #4.10 Del. Code Title 29, Chapter 5903 (4), (5), (6) and (23) |
| ELIGIBILITY | Upon completion of the initial probationary period in a Classified Position | |
| BENEFIT | Leave of absence from a Classified Position to serve in any non-classified position described in Del. Code Title 29, Chapter 5903 (4), (5), (6) and (23). | |
| SPECIAL RULES | Agency should submit a request for leave of absence from Classified Service for the Director's approval. | |
| | Return to Classified Service must be done within 60 days upon the completion of the appointment to a position with a pay grade equal to or lower than the pay grade held at the time the leave was granted. Or they may also return to Classified Service via the competitive process. | |