

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE  
**ATTENDANCE AND LEAVE MANUAL**  
ADVISORY MEMORANDUM 2010-02

Appendix H

February 2010

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TO: Manual Recipients  
FROM: Blaine Ryan-Lynch, Director of Staffing Services  
SUBJECT: Leave Donation Program for Employees Represented by the United University Professions (UUP)

The Governor's Office of Employee Relations has requested that we issue the following information regarding participation of employees in the State University Professional Services Negotiating Unit (PSNU) represented by the United University Professions (UUP) in the Leave Donation Program.

In order to be eligible to donate leave credits, employees in the PSNU must be calendar year or college year employees eligible to accrue vacation leave credits pursuant to Article 23.2 of the State/UUP Agreement. However, in order to receive donated leave credits employees in this unit must be a calendar year, college year or academic year employee eligible to earn leave credits. In other words, donors must be eligible to earn vacation credits; vacation credits are the only accruals which may be donated. Recipients must be eligible to earn leave credits, not necessarily vacation credits. For example, academic year employees who meet certain eligibility requirements described in Article 23.4 of the State/UUP Agreement earn sick leave but not vacation credits. These employees are therefore eligible to receive leave donations but cannot donate leave. Other Leave Donation Program eligibility provisions for employees in this Unit remain unchanged.

Under the terms of the 2007-2011 State/UUP Agreement, provisions authorizing donation of leave credits across agency lines by employees other than family members are no longer a pilot program. Donations made across agency lines must be used prior to donations made within the State University.

See Appendix A-45 of the 2007-2011 State/UUP Agreement for a full description of the Leave Donation Program provisions for employees in this Unit.

Questions should be addressed to the Attendance and Leave Unit of this Department at (518) 457-2295.


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TO: Manual Holders

FROM: Robert W. DuBois, Director   
Employee Benefits Division

SUBJECT: Leave Donation Program Guidelines

The purpose of this Policy Bulletin is to set forth guidelines for the administration of the Leave Donation Program. This document replaces Advisory Memorandum No. 93-04, Leave Donation Pilot Program Guidelines dated November 22, 1993, Advisory Memorandum No. 96-03, Leave Donation Program, dated May 28, 1996, and Policy Bulletin No. 93-03, M/C Leave Donation Program, dated April 1, 1993. If you have any questions concerning this memorandum, contact the Attendance and Leave Unit of this Department at (518) 457-2295.

**Intent**

The intent of the Leave Donation Program is to provide a means to assist employees who, because of long term personal illness, have exhausted their leave benefits and would otherwise be subject to a severe loss of income during a continuing absence from work.

**Time Limits**

The Leave Donation Program is now a permanent program for all participating units.

**Applicability**

The Leave Donation Program is now available to employees represented by CSEA, PEF, DC 37, UUP, Council 82 and NYSCOPBA as well as to those employees designated M/C. SUNY unclassified managerial/confidential employees should be treated in the same manner as employees represented by UUP. Both donor and recipient employees must be covered by valid leave donation agreements or the M/C Attendance Rules. Under these Rules and agreements, employees in participating units may donate to eligible employees in other participating units, as well as to employees in the same unit.

With one exception, both donor and recipient must be employed in the same agency or department though they need not be employed in the same location or facility. Credits may be donated across agency lines where donor and recipient are family members employed in different agencies or departments and are covered by leave donation agreements authorizing donations to family members in different agencies or departments. Credits donated across

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agency lines must be used prior to donations from employees in the same agency. Moreover, unused credits donated across agency lines are not returned to the donor.

The definition of family for this purpose is the definition under the Attendance Rules --any relative or relative-in-law regardless of place of residence, or any person with whom the employee makes his or her home.

The Leave Donation Program provision authorizing leave donations across agency lines to eligible family members became effective on the following dates:

ASU, ISU, OSU, DMNA	April 27, 2000
RRSU	May 9, 2000
SUNY PSNU	August 1, 2000
M/C	August 4, 2000
PS&T	August 11, 2000
SspU	December 5, 2000
SSU	December 12, 2000

**Eligibility to Donate**

In order to donate vacation credits, an employee must meet all the following eligibility criteria:

- must be employed in the ASU, ISU, OSU, DMNA, RRSU, PSNU, PS&T, SspU, or SSU, or be designated M/C.
- must be employed in the same agency or department as the employee to whom donations are made, though not necessarily at the same facility or location, OR be a family member of an eligible recipient employed in a different agency than the donor (See above for effective dates).
- must have a minimum vacation balance of at least ten days after making the donation.

There is no maximum number of days which can be donated to an individual employee so long as the individual donor has a vacation balance of at least ten days after making the donation. The ten-day minimum is based on the donor employee's individual work schedule. For example, a full-time 40-hour a week employee must have 80 hours of vacation remaining; a 50 percent employee whose work schedule is normally 18.75 hours per week must have 37.5 hours remaining. There is also no maximum number of times a donor may make donations to an eligible recipient.

Donations must be made in full day (7.5 or 8 hour) units, regardless of the work schedule or percentage of employment of the donor or the recipient. For example, both the employee on a compressed workweek schedule of four 10-hour days and the 50 percent employee who works

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five 4-hour days per week must donate in eight-hour day units. The work schedule or employment percentage of the intended recipient is not a factor in determining the minimum units of donation. Days of 7.5 hours convert to 8-hour days and vice versa when the donor employee and the recipient employee are on different workweeks (37.5 or 40).

The identity of donors may not be disclosed by agency management.

Employees may not donate vacation credits which would otherwise have been forfeited. An employee who has submitted his/her resignation or retirement or who has received notice of termination of employment can only donate credits for which he/she can receive a lump sum payment upon separation. For example, an employee with a balance of 40 days who submits his/her resignation can only donate from the 30-day balance for which a lump sum payment will be made. If this employee donates five days, his/her lump sum payment will be 25 days.

An employee may not donate credits in excess of 40 days which he/she would otherwise forfeit. Such employees cannot donate days over 40 which exceed the number of days they could have used between the date of donation and the date on which credits in excess of 40 days are forfeited under the Attendance Rules and negotiated agreements. For example, an M/C employee with a vacation balance of 45 days who, as of the day of donation, has three remaining workdays prior to January 1 cannot donate more than three days under this program until January 1.

### Eligibility to Receive Donations

In order to receive donated leave credits, an employee (other than one represented by UUP) must meet the following eligibility criteria:

- be employed in the ASU, ISU, OSU, DMNA, RRSU, PS&T, SspU or SSU Units, or be designated M/C.
- be subject to the Attendance Rules or otherwise eligible to earn leave credits.
- be absent due to a non-occupational personal illness or disability for which medical documentation satisfactory to management is submitted as required.
- have exhausted all leave credits (Leave credits are deemed to be exhausted if the employee has a balance of less than the number of hours in the employee's normal workday.)
- be expected to continue to be absent for at least two biweekly payroll periods (28 consecutive calendar days) following exhaustion of leave credits or sick leave at half-pay.

**This does not mean that the use of donated credits should be delayed for two payroll periods following exhaustion of credits; eligible employees may begin use of donated credits immediately following exhaustion of credits or sick leave at half-pay so long as the disability/illness is expected to last for at least two biweekly pay periods following exhaustion of credits or sick leave at half-pay.**

- must not have had any disciplinary actions or unsatisfactory performance evaluations within

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the employee's last three years of State employment.

- be employed in the same department or agency as the donor OR be a family member of an eligible donor in another agency. (See effective dates on page two.)

For UUP-represented employees to be eligible to receive leave donations, they must:

- be calendar year or college year employees eligible to accrue vacation leave credits pursuant to Section 23.2 of the 1999-2003 Agreement between the State and UUP.
- be absent due to a non-occupational, personal illness or disability for which they have submitted (and continue to submit as requested) medical documentation satisfactory to management.
- have exhausted all leave benefits as provided in Sections 23.2 through 23.5 of the 1999-2003 Agreement between the State and UUP.
- be expected to be absent for at least two biweekly payroll periods following exhaustion of all leave benefits as provided in Sections 23.2 through 23.5 of the 1999-2003 Agreement between the State and UUP.
- must not have had any disciplinary actions, or unsatisfactory performance evaluations within their last three years of State employment.
- be employed in the same agency as the donor or be a family member of an eligible donor employed in another agency. (See effective dates on page two.)

There is no maximum number of days which a recipient employee may accept, provided however, that donated credits cannot be used to extend employment beyond the point it would otherwise end by operation of law, rule or regulation. Similarly, there is no maximum number of donors from whom an eligible employee may accept donations.

An employee's continuing eligibility to participate in this program must be reviewed by the agency personnel office at least every 30 days and more frequently if appropriate. Current standards as to what constitutes medical documentation satisfactory to management for purposes of determining medical disability continue to apply.

Leave donations continue to be available only for personal illness. However, in cases of catastrophic family illness, employees who provide a written explanation of the catastrophic situation and submit satisfactory medical documentation supporting personal disability associated with the family member's illness and who have exhausted all leave credits including sick leave may receive leave donations if otherwise eligible. (This policy applies to an employee's use of his/her sick leave credits and use of other credits as sick leave, as well as to eligibility for leave donations.)

#### **Use of Donated Credits**

Donated credits may be used either after exhaustion of leave credits and prior to sick leave at

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half-pay or after exhaustion of sick leave at half-pay, at the recipient's option.

In the event an employee continues to receive leave donations after the employee begins sick leave at half-pay, an agency may, at its discretion, interrupt sick leave at half-pay and allow the use of donated credits. When the sole reason the employee began sick leave at half-pay was that leave donations were not available at that time, agencies are encouraged to interrupt sick leave at half-pay to permit an employee to use donated leave received after the sick leave at half-pay commenced.

When the employee requests to use donated credits after exhaustion of leave credits and prior to sick leave at half-pay the donated credit must be used in full day units based on his/her work schedule. For example, the full-time employee who works five 8-hour days per week and receives 25 days (200 hours) of donated credit is paid for 25 eight-hour days. The full-time compressed workweek employee who works four 10-hour days per week and receives 25 days (200 hours) of donated credits is paid for 20 ten-hour days. The 50 percent employee who works five 4-hour days per week and receives 25 days (200 hours) of donated credits is paid for fifty 4-hour days.

When the employee requests to use donated credits after exhaustion of both leave accruals and sick leave at half-pay, the employee may elect to use such donated credits in either full or half-day units, based on his/her work schedule. For example, the full-time 40-hour per week employee who receives 25 days (200 hours) of donated credits is paid for either 25 full days or 50 half-days; the full-time compressed workweek employee who works four 10-hour days per week and receives 25 days (200 hours) of donated credits is paid for twenty 10-hour days or forty 5-hour days; the 50 percent employee who works five half-days per week who receives 25 days (200 hours) is paid for 50 four-hour days or 100 two-hour days.

An employee who opts to use donated credits prior to sick leave at half-pay is permitted to again participate in this program following exhaustion of sick leave at half-pay.

Employees who are ineligible for sick leave at half-pay (i.e., provisionals and probationers with no permanent hold items) may elect to use donated credits in either full or half-day units, based on their work schedule, after exhaustion of leave credits.

M/C employees enrolled in the Income Protection Plan may use donated credits only after all leave credits (not just sick leave credits) have been exhausted and prior to receiving IPP benefits. Such donated credits must be used in full-day units.

For UUP employees, donations can be used in full-day units upon exhaustion of all leave benefits as provided in Sections 23.2 through 23.5 of the 1999-2003 Agreement between the State and UUP and prior to attaining eligibility to receive disability benefits under the

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University's Group Disability Insurance Program as specified in Section 23.8 of the 1999-2003 Agreement. After attaining eligibility to receive disability benefits in accordance with Section 23.8 of the 1999-2003 Agreement, but prior to receipt of such benefits, donated credits may be used in full-day units only. Once an eligible employee begins receiving disability benefits under the University's Disability Insurance Program, donated credits may no longer be used.

### **Intermittent Absences**

Normally, donated credits are only available for periods of continuous absence which are expected to continue for at least two biweekly payroll periods following exhaustion of leave accruals or of sick leave at half-pay. However, in certain cases of intermittent absence in connection with catastrophic illness, the agency may waive the two biweekly payroll period continuous absence requirement. (This might be appropriate, for example, in the case of an employee undergoing a series of chemotherapy treatments necessitating frequent short-term absences from work.) In no event may an exception be granted to the requirement that all leave credits be exhausted.

Where the need for continued intermittent absences is anticipated at the time the employee returns to work, it is appropriate for the employee to be permitted to retain previously donated leave credits unused during the period of continuous absence including those donated across agency lines by family members. Where no further absences are anticipated and credits are returned to eligible donors, employees who are again absent must requalify to solicit new donations including meeting the two biweekly payroll period continuous absence requirement. However, in cases of catastrophic illness the agency may waive the two biweekly payroll period continuous absence requirement as described above.

An employee using donated leave in either full or half-day units is in leave donation status for the entire day. An employee electing to use leave donations in half day units may not work or charge any available leave accruals for the balance of that day.

### **Status of Recipients**

Recipient employees are deemed to be in leave without pay status for attendance and leave purposes while charging donated leave credits.

They do not earn biweekly leave accruals or observe holidays nor do they receive personal leave or vacation bonus days if their anniversary dates fall while they are using donated leave credits. In such cases, the personal leave anniversary date changes to the date of return to work or placement on sick leave at half-pay and personal leave is granted on the adjusted anniversary date. The vacation anniversary date is adjusted if the period of continuous absence on donated leave/leave without pay exceeds six continuous months. If such period is less than six months,

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the employee retains the same vacation anniversary date and is credited with vacation bonus days upon return to work or placement on sick leave at half-pay.

Time charged to donated leave credits does not count as service for earning additional eligibility for sick leave at half-pay.

In some cases, donations may be received on an intermittent basis. For example, in the first payroll period of participation in the program, the employee may receive donations of four days, in the second payroll period, two days and so on. Credits which have been donated must be used each pay period prior to placing the employee on leave without pay for the balance of the pay period (See Use of Donated Credits above.)

Employees who exhaust currently available leave donations and request to be placed on sick leave at half-pay or who began sick leave at half-pay because no donations were initially received, may, upon request and at agency discretion, be permitted to interrupt sick leave at half-pay to use donated leave that became available after the sick leave at half-pay commenced. (See Use of Donated Credits above.)

While charging donated credits the employee continues to have health insurance premiums, retirement contributions and other payroll deductions withheld from his or her paycheck so long as the paycheck is of an amount to cover these deductions.

Employees using donated leave continue to receive retirement service credit for days in pay status.

**Solicitations**

Donations may be solicited by the recipient employee, on his or her behalf by coworkers, or by local union representatives, if applicable. The employing agency may not solicit donations on the employee's behalf. While the agency is expected to cooperate with those soliciting on an employee's behalf with respect to responding to inquiries concerning an employee's eligibility to participate in the program, the agency may not release any medical information.

In the case of family donations across agency lines, where possible, the recipient should verify his/her eligibility to receive donations before soliciting donations from family members.

Recipients are not required to solicit donations from employees in their agency in order to solicit, receive and use donations from family members in other agencies.

**Processing Donations**



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Agency personnel offices are responsible for reviewing eligibility of recipient and donor employees. (See "Eligibility to Donate" and "Eligibility to Receive Donations" above.)

Agencies should not automatically assume that an employee wishes to receive leave donations. Employees must indicate their wish to participate in this program to the agency personnel office. Employees who wish to participate must also advise the personnel office whether they wish to use donated credits in full day units after exhausting all leave credits and prior to sick leave at half-pay or in either full or half day units following exhaustion of sick leave at half-pay. (See Use of Donated Credits above.) Employees are not required to solicit donations from employees in their agency as a condition of soliciting, receiving and using donations from family members. In other words, employees may choose to solicit donations from family members only.

Agencies should develop a form for use by employees who wish to donate vacation credits. A sample form for agency consideration is attached (Attachment A). At a minimum the form should include the date, name, grade, title, negotiating unit, item number, agency (if different from that of the recipient), work location of the donor employee, the name of the intended recipient, relationship if any, and his/her title, salary grade, negotiating unit, agency, work location, the number of days donated, and a specific authorization to be signed by the donor employee for the agency to adjust the donor employee's vacation balance to reflect the donations, as well as a donor agency certification that the donor meets the eligibility criteria, and that the agency has subtracted the appropriate number of vacation credits from the donor's time record.

Donation forms should be date stamped upon receipt in the agency personnel office. Agencies should verify donor eligibility upon receipt and deduct days donated from donors' time records (with the notation "LDP" for Leave Donation Program). Where several employees submit donation forms, donating various numbers of days, the intent is that one day from each donor be used, then a second day from those who donated more than one day, then a third day from those who donated more than two days and so on until all donations are exhausted.

Donations from eligible family members in other agencies should be date stamped and used before donations from agency employees. If agency donations have been used prior to the receipt of donations from eligible family members in other agencies, at the point that donations from those family members are received, the use of in-house donations should be interrupted and donations from family members in other agencies used before resuming the use of donations from agency employees. In the event that donations are received from more than one family member in other agencies, the credits should be used from family members in the order received, that is, all days donated by family member A should be used prior to the use of all days donated by family member B. In the event that donations are received from family members of employees who have been deemed ineligible for donations, the leave donation

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forms should be returned to the donor's personnel office with a notation that the recipient is not eligible for the Leave Donation Program and the donated days returned to the donor. Donations between family members in the same agency are treated as any other in-house donations.

Donation activity should be recorded on the Leave Donation Log. (See Attachment B for a suggested form for agency use and Attachment C for instructions and an example.) Days donated are entered in full day units with both 7.5 and 8 hours equaling one full day. Employees must use donated days in either full or half-day units, and entries on the Leave Donation Log must be made in full day units or fractions thereof, based on both a 7.5 and an 8-hour day equaling one day. For example, a full-time employee with a workday of 7.5 or 8 hours uses donated days in units of 1.0 or .50. A full-time employee on a compressed workweek of four 10-hour days uses donated days in units of 1.25 days (10 hours) or .625 days (5 hours). A part-time employee who works five half-days per week uses donated days in units of .50 or .25.

When an employee does not have enough donated credits to cover the full payroll period, the employee is placed on leave without pay status for the balance of the payroll period. Where donations are received on a sporadic basis, i.e., a few days each payroll period, the employee may have a series of payroll periods where some days in the pay period are covered by donated credits and the remainder are leave without pay. (See "Status of Recipients" above.)

**Return of Donated Credits**

If the recipient employee is separated from State service or returns to work and no additional absences are anticipated, agencies should, at that point, return unused days to any donor whose donation was not fully utilized. Notification of returned credits should be in writing. If the recipient employee then has a subsequent unanticipated period of absence and is again eligible to receive donated credits, new donations must be solicited for the new absence.

Employees who receive donated leave during an absence from work and who have unused leave donations at the time of return to work, but who are not fully recovered and will have intermittent absences from work, may retain unused leave donations for a period of time that the agency deems to be reasonable based on the circumstances. When such employees exhaust accrued leave credits they may access these retained donated credits for absences related to the original disability. It is not appropriate for such credits to be charged to cover unrelated sick leave absences.

Credits donated across agency lines to eligible family members which remain unused and are no longer available to the recipient are not returned to the donor. However, credits donated by family members to family members in the same agency are returned to the donor. Credits donated across agency lines expire at the point that in-house donations would be returned.

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**Other Administrative Issues**

This program is not subject to the grievance procedures contained in negotiated agreements.

Participation in this program as a recipient of donated leave credits does not serve to extend employment beyond the point it would otherwise have ended by operation of law, rule or regulation. For example, the fact that an employee has received donated leave credits which would carry him/her beyond one continuous year of absence does not preclude the agency from terminating the employee under Civil Service Law Section 73 once the employee has been absent for one continuous year. Other examples include layoff and termination of temporary employment. (For UUP employees, examples include retrenchment, non-renewal, termination of temporary employment, and termination under Article XIV, Title C of the policies of the Board of Trustees.)

In addition to maintaining records for internal timekeeping and payroll purposes, agencies must maintain the Leave Donation Log Form for each recipient employee for collection and analysis by the Department of Civil Service and the Governor's Office of Employee Relations as part of their evaluation of the program.

Attachments

## INFORMATION ABOUT DONOR

Name Title Salary Grade Negotiating Unit

Work Phone Number

Agency

Work Location

Item No.

Relationship to Recipient (check one)

Relative \_\_\_\_\_

Relative-In-Law \_\_\_\_\_ Person with whom I reside \_\_\_\_\_

## INFORMATION ABOUT RECIPIENT

Name Title Salary Grade Negotiating Unit

Agency

Work Location

## DONATION INFORMATION

Number of Vacation Days Donated \_\_\_\_\_

**Authorization**

I hereby authorize the Personnel/Payroll Office to deduct from my vacation balance the number of days indicated above to be used as sick leave by the recipient named above. I certify that the days donated are not days I would otherwise forfeit and that this donation does not cause me to drop below a balance of ten days of vacation as of the date this donation is submitted.

Date \_\_\_\_\_ Signature of Donor \_\_\_\_\_

**Certification by Agency Personnel/Payroll Office** (when donations are made to eligible family members in other agencies)

I certify that the donor is eligible to donate and that the above number of vacation days donated has been subtracted from the donor's vacation balance.

Name \_\_\_\_\_ Signature \_\_\_\_\_

Date \_\_\_\_\_ Title \_\_\_\_\_

Phone Number \_\_\_\_\_

Mail or fax this form to personnel/payroll office of recipient and retain a copy for donor's agency files.

## Attachment B

## LEAVE DONATION LOG SAMPLE

[illegible]

## Attachment C INSTRUCTIONS FOR LEAVE DONATION LOG AND EXAMPLE

1. Complete information on recipient employee.
2. List names, salary grades, negotiating units, agencies (if other than that of the recipient employee) of all donor employees in left-hand column.
3. Enter date donation is made (use date received by office responsible for keeping track of forms) and number of days donated by employee.
4. As days are used, enter the date and amount used in days and fractions of days in appropriate column. (For example, the employee whose normal workday is 8 hours uses either 1.0 for one whole day of 8 hours or .5 for one half-day of 4 hours. The employee with an alternative work schedule of 10 hours per day uses 1.25 days for a 10-hour day.) Draw donated days from column 1, taking one day from each employee. when column 1 is exhausted move to column 2 and so on. When donations are received from eligible family members in other State agencies interrupt the use of donations from agency employees. Use all donations from one family member before using any donations from the next family member. When donations from family members in other State agencies are exhausted return to the use of in-house donations as described above.
5. Notify donors within agency of credits returned to them, if any, and adjust time records once the recipient employee no longer needs to use the remaining donated days.
6. Donated credits received from family members in other agencies are not returned.

Name of Recipient Employee	Item No.	Agency										
Recipient A	77777	Civil Service										
Name of Donor (include Agency if different than that of Recipient)	Neg. Unit	Sal. Gra	Date of Donation	Total Days Donat	Usage Record- Date Used	1	2	3	4	5	6	7
Donor A	06	09	8/2/00	5	2-Aug	4-Aug	21-Aug	22-Aug	23-Aug			
					1	1	1	1	1			
Donor B	02	14	8/2/00	2	3-Aug	15-Aug						
					1	1						
Donor-Relative 1 Labor	02	18	8/7/00	3	7-Aug	8-Aug	9-Aug					
					1	1	1					
Donor-Relative 2 Corrections	03	09	8/8/00	2	10-Aug	11-Aug						
					1	1						
Donor C	06	14	8/9/00	2	14-Aug	16-Aug						
					1	1						
Donor-Relative 3 OMRDD	05	11	8/17/00	2	17-Aug	18-Aug						
					1	1						