

State of Delaware  
Return to Work Policy  
Merit Employees on Long Term Disability

PURPOSE

The purpose of this policy is to establish and apply consistent standards in accordance with 29 Del.C. Section 5257 as it relates to placing former Merit employees into vacant positions consistent with a release to return to work from Long Term Disability.

POLICY

Placement for individuals who are released to return to work following Long Term Disability will initiate at the agency with whom they were employed prior to their Long Term Disability.

Upon receipt of a return to work authorization, the Return to Work Coordinator will contact the prior employing agency to determine whether there are any vacant positions available, and to request the agency complete a Performance/Conduct Recommendation. The prior employing agency shall submit the completed Performance/Conduct Recommendation to the Return to Work Coordinator. If the Performance/Conduct Recommendation reveals documented performance or conduct deficiencies, the prior employing agency may request that the individual not be rehired.

If the Office of Management and Budget determines that the individual's performance or conduct deficiencies make it inappropriate for the individual to be rehired, the individual will be informed of this in writing by the Return to Work Coordinator and provided the reasons for this determination.

If the Office of Management and Budget determines that it is appropriate for the individual to be rehired, the Return to Work Coordinator along with the employee will receive full cooperation from the prior employing agency to determine if there are any vacant positions for which the individual qualifies.

If there are no vacancies in the prior employing agency, the Return to Work Coordinator will research other vacant Merit positions for which the individual may apply, qualify and be placed in accordance with Title 29, Section 5257(b)(1).

STATUTORY AUTHORITY

Title 29, Chapter 52A, Section 5257 provides:

(a) Once an employee has been determined to have the ability to return to employment by the Committee, the employee will receive the following assistance:

(1) Merit employees may be placed in any vacant merit position, for which they qualify, by the Office of Management and Budget.

(2) Nonmerit state employees, and employees from nonstate employers will be placed by that employer into a vacant position within their respective agency for which the employee qualifies.

(b) Once an individual has been determined to have the ability to return to employment by the committee, the individual will receive the following assistance:

(1) Former merit employees enrolled in and previously deemed eligible for the Long-Term Disability Program may, when available and appropriate, be placed by the Office of Management and Budget in any merit position, for which they qualify without a certification list, as long as the paygrade does not exceed their paygrade at the time of their acceptance into and eligibility for the Short-Term Disability Program. Exceptions to the paygrade limitation may be made for vacancies for which a documented shortage of qualified applicants exists.

(2) Former nonmerit employees enrolled in and previously deemed eligible for the Long-Term Disability Program will be placed by their previous employer into a vacant position within their respective agency for which they qualify.