

## Leave Transfer General Information

### Establishing a Leave Transfer Program

- Agencies are required to establish two separate leave transfer pools, one for sick leave and one for annual leave. In addition, agencies are required to establish a recordkeeping process to track donations, requests, and restoration of leave to the appropriate pool.
- Agencies having any donation or approved requests for leave transfer in a calendar year are required to submit information to the Division of State Human Resources (DSHR) in accordance with State Human Resources Regulations Section 19-711.02 and **S.C. Code Section 8-11-770**.

### Eligibility

- Employees who occupy FTE positions (including probationary employees) are eligible to receive and donate leave to the Leave Transfer Program. Employees in temporary grant and time-limited positions who accrue leave at the same rate as an FTE employee may donate and receive leave if all other eligibility requirements are met.
- Employees receiving Workers' Compensation benefits or who qualify for another program such as Long-Term Disability or Disability Retirement are not eligible to participate in the Leave Transfer Program. Employees who become eligible for other paid benefits for periods of absence from work will generally be considered ineligible for transfers. Examples of other paid benefits include but are not limited to workers' compensation, long term disability, and disability retirement benefits.

### Leave Donation

- An employee donating sick or annual leave must do so prior to the end of the calendar year. The donation is documented by completing the agency's donation request form and submitting it to the appropriate individual within the agency.
- An employee may not donate more than one-half of the sick or annual leave he earns within a calendar year to the appropriate leave pool. However, an employee who donates sick leave must retain a minimum of 15 days sick leave.
- Once leave is transferred to a leave pool, the leave cannot be returned to the donor.

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- Section 117.122 of the 2018-2019 Appropriation Act allows a state employee to make a written request to donate sick and/or annual leave directly to another state employee in the event of a medical emergency, subject to the approval of the agency director. Leave transferred directly from one employee to another may only occur within the same agency.

## Leave Requests

- Requests for leave from the leave transfer pool are documented by completing the agency's recipient request form and submitting it to the appropriate individual within the agency.
- An employee with a personal emergency may request leave from the sick or annual leave pool established by their agency.
- A personal emergency means a catastrophic and debilitating medical situation, severely complicated disabilities, severe accident cases, family medical emergencies or other hardship situations that are likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.
- Generally, a prolonged period of time is a minimum of 30 working days. To meet this requirement, an employee must have been in leave without pay status for at least 30 working days or provide documentation which indicates a medical emergency will result in an employee being in leave without pay for 30 working days.
- If the personal emergency extends beyond 30 working days, additional requests for leave may be made unless the employee becomes eligible for other benefits.
- Employees must have used all earned sick and/or annual leave (as appropriate) before using approved transferred leave.
- Leave requests for maternity reasons may be approved if the reasons constitute a personal emergency. For example, expectant mothers who must be on bed rest per a physician for a period of at least 30 workdays before delivery could qualify for leave from the leave transfer pool. However, eligibility would end upon the birth of the child unless a catastrophic, debilitating, or life-threatening situation arises for the employee or the child as a result of the birth.
- Generally, routine or scheduled surgery is not a basis for approval of sick leave transfer. However, exceptions may be made based upon hardship or other extenuating circumstances.
- Leave received from the leave transfer pool will run concurrently with benefits under the Family Medical Leave Act (FMLA).
- Leave transferred under Section 117.137 of the 2016–2017 Appropriation Act is limited to a medical emergency, defined under IRS Revenue Ruling 90-29 as a medical condition of the employee or a family member that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available apart from the leave-sharing plan.

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## Leave Approvals

- In accordance with established guidelines, requests for leave from the sick and annual leave pools are approved by the agency head or designee.
- Generally, approval of annual leave from the transfer pool is based on the need for the employee to care for a member of their immediate family who has a personal emergency which requires the employee's presence. A doctor's statement should accompany the request indicating the need for the employee to care for the family member.
- Generally, all the employee's sick or annual leave must be used before transfer of leave from the pool.
- Employees can retain their sick leave balance when approved for annual leave from the leave transfer pool to care for a member of his immediate family. The maximum number of days of family sick leave should be used prior to requesting annual leave from the leave transfer pool.
- Sick or annual leave transferred under this program may be substituted retroactively for periods of leave without pay or used to pay back advanced sick leave.

## Leave Request Denials

- If a request for leave from the leave transfer pool is denied, the decision of the agency head or designee is final and there is no administrative or judicial appeal of the decision.

## Termination of Personal / Medical Emergency

- When the emergency terminates, any transferred sick or annual leave remaining must be restored to the appropriate leave pool account. Agencies should document this action by using a Leave Restoration Form.

## Separation from Employment

- When an employee leaves state employment, any transferred sick or annual leave remaining must be restored to the appropriate leave pool account. Agencies should document this action by using a Leave Restoration Form.

## Leave Accrual

- Because employees on leave using leave from the leave transfer program are considered to be in a leave with pay status, sick and annual leave are earned. Prior to subsequent approvals from the leave transfer pool, any sick and annual leave earned must also be used.