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Approved for Release
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Date

DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT

HUMAN RESOURCES (HR) BULLETIN #239, FY21

SUBJECT: Emergency Leave Transfer Program

EFFECTIVE DATE: Upon release

EXPIRATION DATE: Effective until cancelled or superseded

PURPOSE: To provide guidance to Department of Commerce (DOC) employees on Emergency Leave Transfer Programs (ELTPs) as authorized by Title 5, Code of Federal Regulations (CFR), Part 630, Subpart K—Emergency Leave Transfer Program, and Title 5, United States Code (U.S.C.) § 6391.

COVERAGE AND EXCLUSIONS: The bulletin applies to any individual who is defined as an “employee” in 5 U.S.C. § 2105.

BACKGROUND: An ELTP is established by the Office of Personnel Management (OPM) when the President declares an event to be a major disaster or emergency if the event results in severe adverse effects to a substantial number of employees, and the President directs OPM to establish an ELTP. (See 5 U.S.C. § 6391.) Under such a program, an employee may donate unused annual leave for transfer to employees of their agency (the DOC), or to employees in other agencies (outside of the DOC), who are adversely affected by such disaster or emergency.

DEFINITIONS:

- Annual leave – Accumulated annual leave and restored annual leave. For the purpose of an ELTP, annual leave does not include annual leave advanced to an employee, annual leave donated to an employee under an ELTP or the Voluntary Leave Transfer Program (VLTP), or annual leave accrued while on donated annual leave under an ELTP or VLTP.
- Department of Commerce Leave Administrator – The individual in the Office of Human Resources Management designated as the ELTP leave administrator, responsible for administering the ELTP in the DOC. (See Responsibilities.)

- Bureau/Operating Unit (OU) Leave Transfer Program Coordinator (LTPC) – The individual in the bureau/OU designated as the ELTP coordinator, responsible for administering the ELTP in that bureau/OU. (See Responsibilities.)
- Disaster or Emergency – A major disaster or emergency (e.g., floods, hurricanes, earthquakes, bombings, etc.) as declared by the President, that results in severe adverse effects for a substantial number of employees (e.g., loss of life or property, serious injury, or mental illness as a result of a direct threat to life or health).
- Emergency Leave Donor – A current Federal employee who has made a voluntary written request to transfer their annual leave to the ELTP.
- Emergency Leave Recipient – A current Federal employee whose application to receive donated annual leave under the ELTP has been approved by the bureau/OU.
- Family Member – Covers a wide range of relationships, including spouse; parents; parents-in-law; children; brothers; sisters; grandparents; grandchildren; stepparents; stepchildren; foster parents; foster children; guardianship relationships; same sex and opposite sex domestic partners; and spouses or domestic partners of the aforementioned, as applicable. The list of family members for whom an employee may request donated annual leave under the ELTP may be found in the OPM fact sheet on Definitions Related to Family Member and Immediate Relative for Leave Purposes.

ELIGIBILITY: To be eligible for the ELTP, an employee or an employee’s family member must be adversely affected by a major disaster or emergency that causes severe hardship to the employee or the employee’s family member to such a degree that the employee’s absence from work is required.

An eligible ELTP recipient may use donated annual leave to assist an affected family member only when the family member has no reasonable access to other forms of assistance (Title 5, CFR § 630.1105(b)).

POLICY:

Authorization to Establish an ELTP – Once notified by OPM of the establishment of an ELTP, the Office of Human Resources Management (OHRM) is authorized to establish an ELTP for the DOC if there is a determined need.

Bureau/Operating Unit Authority – Upon the establishment of a DOC ELTP, each bureau/OU affected by the disaster or emergency is authorized to do the following:

- Determine whether, and how much, donated annual leave is needed by affected employees;
- Approve emergency leave donors and/or emergency leave recipients in the bureau/OU, as appropriate; and
- Facilitate the distribution of donated annual leave from approved emergency leave donors to approved emergency leave recipients in the bureau/OU.

Prohibitions – Donated annual leave may not be:

- Received for any period covered by unemployment benefits or workers' compensation;
- Transferred to a specific ELTP recipient;
- Included in a lump sum payment;
- Recredited to a former employee who has been reemployed by a Federal agency; or
- Used to establish initial eligibility for immediate retirement or to acquire eligibility to continue health benefits into retirement.

Use of Donated Annual Leave – An employee must use donated annual leave for the purposes related to the major disaster or emergency for which the recipient was approved.

Donated annual leave may be used on a current basis, or applied retroactively for any period of leave without pay used because of the disaster or emergency, or used to liquidate an indebtedness for advanced annual leave or sick leave used because of the disaster or emergency. When using donated annual leave on a current basis, it must be applied to the employee's annual leave account and not their sick leave account.

Supervisory Approval – Use of donated annual leave must have supervisory approval (as with any other form of leave) and is subject to the same conditions and requirements as regularly accrued annual leave.

Advanced Annual or Sick Leave – The leave approving official may advance annual or sick leave to an approved ELTP recipient, even if the employee has available annual and sick leave, so they are not forced to use their accrued leave or take leave without pay before the donated annual leave becomes available.

Maximum Amount of Received Annual Leave for Recipients – An ELTP recipient may not receive more than 240 hours of donated annual leave at any one time from an ELTP for each disaster or emergency. Heads of bureaus/OU's or designees have the authority to allow an employee to receive additional disbursements based on the employee's continuing need, but only after consulting with the Department Leave Administrator, as the amount of donated annual leave available to all approved ELTP recipients, and their individual needs, must be taken into consideration.

Minimum and Maximum Amount of Annual Leave for Donors – A leave donor may not contribute less than 1 hour or more than 104 hours of annual leave in a leave year to an ELTP. Annual leave donated to an ELTP may not be applied against the limitations on the donation of annual leave under the VLTP.

Unused Annual Leave – In most situations, unused donated annual leave must be restored to the annual leave accounts of all ELTP donors. The restored annual leave must be proportional to the amount of annual leave donated by the employee to the ELTP. (See Restoration of Donated Annual Leave.)

Termination of Major Disaster or Emergency – An ELTP recipient’s status ends under the following conditions, whichever occurs first:

- When the Department Leave Administrator determines the major disaster or emergency has terminated;
- At the end of the biweekly pay period in which the LTPC has notified the Servicing Human Resources Office (SHRO)/Enterprise Services (ES) that either the recipient or their personal representative, as applicable, has notified them in writing that the recipient is no longer affected by the major disaster or emergency;
- At the end of the biweekly pay period in which the bureau/OU determines, after giving the recipient or their personal representative, as applicable, written notice and an opportunity to answer orally or in writing, that the recipient is no longer affected by the major disaster or emergency;
- At the end of the biweekly pay period in which the DOC is notified of OPM’s approval of the ELTP recipient’s application for disability retirement; or
- When the ELTP recipient’s Federal service terminates.

Restoration of Donated Annual Leave – Any donated annual leave remaining to the credit of an ELTP recipient when the major disaster or emergency ends, must be restored to the annual leave accounts of **ALL** ELTP leave donors unless specified below.

The amount of unused donated annual leave to be restored to each ELTP leave donor must be proportional to the amount of annual leave donated by the employee to the ELTP. **In no case can the amount of annual leave restored to an ELTP donor exceed the amount of leave donated by the individual.**

The amount will be determined as follows:

- Divide the remaining number of hours of unused transferred annual leave by the total number of hours of annual leave transferred to the ELTP from all Departmental donors;
- Multiply the result by the number of hours of annual leave transferred by each donor; and
- Round up or down as appropriate based on the fractional amount after the decimal point (i.e., 0.55 or greater, round up, or 0.54 or less, round down), and restore this amount of leave to the nearest hour to the ELTP donors.

All unused donated annual leave must be restored to ELTP donors, through the above process. The unused donated annual leave may not be held in abeyance for another ELTP or transferred to a different currently established ELTP.

Note: Annual leave restored to an ELTP donor may not exceed the donor’s maximum annual leave carryover amount for that individual.

The donor may choose to have their unused donated annual leave restored by crediting the restored annual leave to their annual leave account in either the current leave year or on the first pay period of the following leave year.

If the ELTP donor retires from Federal service, dies, or is otherwise separated from Federal service before the date when unused donated annual leave can be restored, no leave will be restored to that donor, nor will the donor be included in the above distribution computation.

APPLICATION PROCESS:

To Be a Leave Recipient: To apply, the employee must complete OPM Form 1637, “Application to Become a Leave Recipient Under the Emergency Leave Transfer Program,” and submit it to their bureau/OU LTPC.

https://www.opm.gov/forms/pdf_fill/opm1637

The application must contain:

1. The name, position title, pay plan, and grade/band of the employee;
2. A statement describing the employee’s need for participation in the program;
3. A written waiver from the 240-hour limitation, if applicable, from the appropriate head of bureau/OU or designee; and
4. The major disaster or emergency declared by the President and the nature and severity of the major disaster or emergency as it relates to the applicant.

A personal representative of the employee may submit a completed written application on the employee’s behalf, if the employee is not capable of doing so themselves. The written application must indicate the relationship of the signer to the potential recipient.

Consistent with responsibility for leave approval, supervisors are responsible for reviewing an employee’s ELTP application to ensure all information on the application is correct and true to the best of their knowledge, and that the employee or employee’s family member is adversely affected by the disaster or emergency.

To be considered for approval, the application must be submitted by the employee or personal representative **within 30 calendar days** of the establishment of the ELTP by the Department, unless timely submission is prevented by circumstances related to the major disaster or emergency of the ELTP.

The applicant’s LTPC must review the application to determine that:

- The individual’s application is complete, signed, and dated;
- The individual’s statement describing the need is supportable; and
- The correct major disaster or emergency declared by the President is referenced.

The applicant or their personal representative, as applicable, and the applicant’s leave-approving official will be notified in writing by their LTPC of the decision on the application **within 10 calendar days** (excluding Saturdays, Sundays, and legal public holidays) after the complete application is received (Title 5, CFR § 630.1107). If the application is disapproved, the LTPC must provide a written explanation (email is suitable) for the reason(s) for the denial.

To Be a Leave Donor: Employees who wish to donate a specific number of their available annual leave hours to the ELTP, must complete OPM Form 1638, “Request to Donate Annual Leave Under the Emergency Leave Transfer Program,” and submit it to their bureau/OU LTPC.

https://www.opm.gov/forms/pdf_fill/opm1638.pdf

The applicant’s LTPC must review the application to determine that:

- The individual’s application is complete, signed, and dated;
- The individual has sufficient leave to make the donation; and
- The limitations on donating leave have been observed. (See Minimum and Maximum Amount of Annual Leave for Donors.)

RESPONSIBILITIES:

The Department Leave Administrator is responsible for:

- Communicating through an email message to employees the establishment of an ELTP and the time period for which applications to be a recipient must be submitted;
- Determining and communicating through an email message to the LTPCs the termination date of an ELTP;
- Communicating through an email message to employees the need for additional donated annual leave for DOC employees or employees of other executive agencies;
- Determining the amount of donated annual leave that will be transferred to each bureau/OU with approved ELTP recipients (amounts may vary based on bureau/OU needs), and notifying the appropriate LTPCs;
- When applicable, submitting a request to OPM for donated annual leave for DOC recipients when DOC has not received sufficient amounts of donated annual leave for approved recipients, or submitting a request to transfer DOC donated annual leave to OPM via OPM Form 1639, “Transfer of Donated Annual Leave To or From the Emergency Leave Transfer Program,” https://www.opm.gov/forms/pdf_fill/opm1639.pdf;
- When applicable, coordinating the actual transfer of donated annual leave to and from other executive agencies, including OPM, in accordance with Title 5, CFR § 630.1112; and
- Coordinating the return of unused donated annual leave. (See Restoration of Donated Annual Leave.)

The bureau/OU LTPC is responsible for:

- Determining whether donated annual leave is needed for employees within their bureau/OU;
- Receiving and approving/disapproving ELTP donor and recipient applications;
- Notifying applicants of approval or disapproval of their application within 10 calendar days from the date the application was received (excluding Saturday, Sundays, and legal public holidays) and providing a written reason (email is suitable), if the application was disapproved;
- Determining how much donated annual leave is needed for the affected employees in their bureau/OU, and notifying the Department Leave Administrator;

- Submitting approved OPM Form 1638, “Request to Donate Annual Leave Under the Emergency Leave Transfer Program,” and approved OPM Form 1637, “Application to Become a Leave Recipient Under the Emergency Leave Transfer Program,” to the appropriate payroll processing staff (SHRO or ES);
- Facilitating distribution of donated annual leave from approved ELTP donors to approved ELTP recipients via employee time and attendance reports and the payroll system, by notifying the appropriate timekeeper;
- Notifying the appropriate payroll processing staff (SHRO or ES) and the Department Leave Coordinator, that a recipient or their personal representative has notified them in writing that they are no longer affected by the major disaster or emergency;
- Facilitating restoration of unused donated annual leave to the appropriate annual leave accounts of approved ELTP donors, when applicable, by notifying the appropriate payroll processing staff (SHRO or ES);
- Submitting biweekly reports to the Department Leave Administrator that provide the amount of donated annual leave received, the number of requests for donated annual leave, and the total amount of donated annual leave distributed (names of ELTP recipients and donors shall NOT be provided); and
- When applicable, determining and notifying the Department Leave Administrator of the amount of donated annual leave available for transfer to OPM for use by employees of other executive agencies.

Payroll Processing Staff (SHRO and ES, as applicable) are responsible for:

- Ensuring that applications received (OPM Form 1637, and OPM Form 1638) are complete and contain appropriate signatures prior to processing;
- Processing approved donated annual leave to designated approved recipients; and
- Restoring unused donated annual leave to the designated annual leave account of approved ELTP donors, when applicable.

EMERGENCY LEAVE TRANSFER PROGRAM FILES:

Files maintained for this program constitute a system of records under the Privacy Act. Files must be maintained in the ELTP recipient’s bureau/OU, by the LTPC, and must be kept separate from any other personnel files.

The following documents must be kept in the leave transfer file of each leave recipient:

- The ELTP leave recipient application and all supporting documentation;
- The ELTP leave donor application(s);
- Copies of the recipient’s time and attendance reports for all pay periods during the ELTP recipient’s participation in the program;
- Written notice of termination of the major disaster or emergency from the Department Leave Administrator, written notice of the ELTP recipient’s withdrawal from the ELTP due to no longer being affected by the disaster or emergency, OPM’s approval of the ELTP recipient’s application for disability retirement, or an ELTP recipient’s Federal service termination; and
- Any other records on the amount of annual leave donated (to facilitate leave restoration) and/or other correspondence associated with the ELTP case.

Case files may be destroyed 1 year following the year in which the case was closed.

REFERENCES:

- 5 CFR Part 630, Subpart K, “Emergency Leave Transfer Program”
- 5 U.S.C. § 6391

OFFICE OF POLICY AND BENEFITS: OPBservices@doc.gov