

# Voluntary Leave Bank Program – Pilot Version

Originating Office: Region 5, Division of Human Resources

**7.1 Purpose.** This chapter establishes policy and procedures for the administration of a Voluntary Leave Bank Program (VLBP) of the U.S. Fish and Wildlife Service's, Region 5 (Region), under which one full pay period of unused, accrued annual leave of an employee is donated into a Voluntary Leave Bank to obtain membership in the program. Employees in the VLBP may be granted leave from the Voluntary Leave Bank due to a medical emergency or a family member's medical emergency.

**7.2 Authorities.** This chapter is issued in accordance with the following authorities:

- A. **Public Law 103-103, October 8, 1993** - The Federal Employees Leave Bank Amendments Act of 1993.
- B. **5 U.S.C. 63** - Leave
- C. **5 CFR Part 630** - Absence and Leave

**7.3 Scope.** The provisions of this chapter apply to all Region 5 employees except those who do not have a regularly scheduled tour of duty (intermittent employees).

**7.4 Policy.** This chapter provides guidance for the consistent administration of the program within the Region. The objective of this program is to provide an orderly process and the opportunity for employees to donate annual leave into a Voluntary Leave Bank and become members. Voluntary Leave Bank members who suffer their own medical emergency, or are required to care for a family member who suffers a medical emergency, may become leave recipients.

**7.5 Definitions.**

- A. **Available Paid Leave.** Includes an employee's accrued, accumulated, recredited, and restored annual or sick leave. It does not include advanced annual or sick leave, any annual or sick leave in an employee's set aside leave accounts which has not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (i.e. credit hours under flexible work schedules, compensatory time off, or religious compensatory time off).
- B. **Employee.** The meaning given in 5 U.S.C. 6301(2). Such definition includes all full-time and part-time employees with scheduled tours of duty in all pay systems. Employees with intermittent tours of duty are excluded from participation in this program.
- C. **Family Member.** The definition of family member covers a wide range of relationships, including spouse; parents; parents-in-law; sons; daughters; brothers; sisters; grandparents; grandchildren; step parents; step son or daughter; foster parents; foster son or daughter; guardianship relationships; same sex and opposite sex domestic partners; and spouses or domestic partners of the aforementioned, as applicable. It also includes any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. The list of family members for whom an employee may request leave under the VLBP (as well as important associated definitions for the terms *son or daughter, parent, domestic partner, and committed relationship*) may be found in the

OPM Fact Sheet on Definitions Related to Family Member and Immediate Relative for Leave Purposes.

- D. Leave Bank.** A pooled fund of donated annual leave established in accordance with 5 CFR 630 Subpart J and administered by the Leave Bank Board.
- E. Leave Bank Member.** A leave contributor who has contributed in an open enrollment period (or individual enrollment period, as applicable) of the current year, at least the minimum amount of annual leave required by the Leave Bank Board.
- F. Leave Bank Board (LBB).** A participating agency must establish one or more Leave Bank Boards to administer its Leave Bank program. The Region 5 Board consists of three members, at least one of which must represent a labor organization or employee group. The LBB operates the Voluntary Leave Bank and determines how much donated annual leave an employee may receive from the Leave Bank.
- G. Leave Contributor.** An employee who contributes accrued annual leave to a Leave Bank under 5 CFR 630 Subpart J.
- H. Leave Recipient.** A Leave Bank member whose application to receive contributions of annual leave from a Leave Bank has been approved under 5 CFR 630 Subpart J.
- I. Medical Certificate.** A written statement signed by a registered practicing physician or other expert certifying to the incapacitation, examination, or treatment of an employee or qualified family member or to the period of disability while the employee or qualified family member was receiving professional treatment.
- J. Medical Emergency.** A medical condition of an employee or an employee's family member that is 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 for a minimum of 24 hours.
- K. Paid Leave Status.** The administrative status of an employee while the employee is using accrued or accumulated annual or sick leave.
- L. Shared Leave Status.** The administrative status of an employee while the employee is using donated annual leave under the VLBP or the Service's Leave Sharing Program.

## 7.6 Responsibilities.

- A. The Regional Director** is responsible for administering a Voluntary Leave Bank Program for their respective Region in accordance with the policy and procedures provided in this chapter and other applicable laws and regulations.
- B. The Regional Human Resources Officer** is responsible for developing, implementing, and publicizing Region-wide policy and procedures relating to the administration and operation of the Voluntary Leave Bank Program. Additionally, the HRO is responsible for providing technical assistance to management and informing employees of entitlements, benefits, and obligations under the program, and processing Leave Bank member enrollment applications and general contributions.
- C. Leave Bank Board** is responsible for establishing its internal decision-making procedures; reviewing and approving or disapproving each application of members to become a leave recipient; monitoring the status of each leave recipient's medical emergency; monitoring the amount of leave in the Leave Bank and the number of applications to become a leave recipient; determining how much donated annual leave an approved leave recipient will receive from the Leave Bank; and maintaining an adequate amount of annual leave in the Leave Bank.

- D. Supervisors** are responsible for being knowledgeable of the basic concepts governing the Voluntary Leave Bank Program, complying with Region's policy and procedures relating to the VLBP, and recommending approval or disapproval of leave recipient applications on [USFWS Form 3-2467](#), Application to Become a Leave Recipient under the VLBP.
- E. Timekeepers** are responsible for accurately annotating Time and Attendance Report, to reflect usage of leave under the Voluntary Leave Bank Program.
- F. Employees** are responsible for completing [USFWS Form 3-2466](#), Leave Bank Election Form, to enroll as a member of the Leave Bank. When eligible, members are also responsible for completing [USFWS Form 3-2467](#), Application to Become a Leave Recipient under the VLBP, informing their timekeeper of their status in the VLBP, and informing their servicing human resources office (SHRO) of the termination of their participation in the VLBP when their medical emergency or that of a family member has ended.

### **7.7 Leave Bank Membership.**

- A.** To become a Leave Bank member, an employee must fill out [USFWS Form 3-2466](#), Leave Bank Election Form, and contribute a minimum amount of annual leave to the Leave Bank. Once enrolled, the Service will automatically deduct one pay period accrual of annual leave. The employee makes this donation to establish Leave Bank membership during: 1) an annual open enrollment period; 2) within 30 days of the employee's appointment to the Service; or 3) upon return from extended absence. The Service shall continue to automatically deduct one pay period accrual of annual leave each leave year (typically in the first pay period of the new leave year) unless the employee terminates his or her membership during an open enrollment period by submitting a [USFWS Form 3-2466](#).
- B.** A Leave Bank member may contribute additional annual leave at any time and may also request that annual leave be donated to a specific Leave Bank member (other than his or her immediate supervisor). An employee who is not a Leave Bank member may also apply to contribute leave at any time. A Leave Bank member who transfers from a different agency or to a different Leave Bank is subject to the policies and procedures of the new Leave Bank, including its minimum contribution requirements.
- C.** The minimum contribution required to become a Leave Bank member cannot be less than the amount of annual leave he or she normally accrues in a pay period (i.e., four (4), six (6), eight (8) hours, or prorated for part time employees). In any leave year, an employee may donate not more than one-half of the amount of annual leave he or she would accrue during the leave year.

### **7.8 Application to Become a Leave Recipient.**

- A.** In order to receive donated annual leave, a Leave Bank member who is affected by a personal or family medical emergency must make written application to his or her SHRO using [USFWS Form 3-2467](#). If the member is not capable of making written application, a personal representative may make the application on behalf of the member.
- B.** Each application should include:
  - (1) The name, position title, and grade or pay level of the Leave Bank member;
  - (2) The reasons transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring one, the approximate frequency of the medical emergency affecting the

Leave Bank member. The description must be clearly articulated and provide sufficient information to allow reviewing officials to make a determination concerning the merits of the request;

- (3) A properly signed and dated written medical certification from one or more licensed physicians or other appropriate experts with respect to the medical emergency on his or her letterhead or DOL Form WH-380-E or WH-380-F;
  - i. The certification/medical documentation must include:
    1. The date the serious health condition began;
    2. The probable duration of the serious health condition (leave requested should fall within this timeframe);
    3. The appropriate medical facts including a general statement as to the incapacitation, examination, or treatment that may be required;
    4. A statement from the health care provider that the patient is unable to perform the essential functions of his or her position; and,
    5. For a family member, the medical certification/documentation must state that the employee's family member requires psychological comfort, and/or physical care, (i.e. needs assistance for basic medical, hygienic, nutritional, safety, or transSHROrtation needs), and would benefit from the employee's care and presence. It should also provide an estimate of the amount of time the employee will be required to provide the care.

(4) Any additional information required by the Leave Bank Board.

- C. When an employee requests leave under the VLBP, the Service may require the employee to document his or her relationship to a family member and reserve the authority to request additional information in cases of suspected leave abuse.

#### **7.9 Approval of an Application to Become a Leave Recipient.**

- A. The potential leave recipient's SHRO will review the leave recipient application to ensure the employee meets the eligibility criteria and that the medical documentation supports the request. The SHRO cannot act on a request until the medical documentation is received.
- B. If all criteria are met, the application is forwarded to the Leave Bank Board. The Leave Bank Board must determine that the absence from duty without available paid leave because of the medical emergency is (or is expected to be) at least 24 hours (or, in the case of a part-time employee, at least 30 percent of the average number of hours in the employee's biweekly scheduled tour of duty). In making such a determination, the amount of available paid leave is determined without regard to any advanced sick or annual leave available to the potential recipient.
- C. If the application is approved, the Leave Bank Board will notify the leave recipient (or personal representative who made application on behalf of the leave recipient) in writing within 10 calendar days after the date the application was received that:
  - (1) The application has been approved.
- D. If the application is not approved, the Leave Bank Board will notify the applicant (or the personal representative who made application on behalf of the potential leave recipient) in writing within 10 calendar days after the date the application was received that:
  - (1) The application has not been approved; and
  - (2) The reasons for the disapproval.

## **7.10 Use of Transferred Annual Leave.**

- A.** A leave recipient may use annual leave transferred to his or her annual leave account under the provisions of this chapter only for the purpose of a medical emergency for which the leave recipient received approval.
- B.** Except as provided in [7.11A](#), during each pay period that a leave recipient is affected by a medical emergency, he or she will use any accrued annual leave (and sick leave, if applicable) before using transferred leave.
- C.** A leave recipient may be eligible to receive up to the paid leave hour cap, as described in 7.14, within a membership period for either a personal medical emergency or to care for a qualified family member experiencing a medical emergency.
- D.** Transferred annual leave may be substituted retroactively for any period of leave without pay or used to liquidate indebtedness for any period of advanced leave that began on or after the date fixed as the beginning of the medical emergency.
- E.** Donated annual leave may not be:
  - (1)** Transferred to another leave recipient under this chapter except as provided in [7.14D\(3\)](#);
  - (2)** Any annual leave remaining must be transferred back into the Leave Bank at the end of the medical leave status, as described in [7.13B](#);
  - (3)** Included in a lump-sum payment under 5 U.S.C. 5551 or 5552; or
  - (4)** Made available for recredit under 5 U.S.C. 6306 upon reemployment by a Federal agency.

## **7.11 Accrual of Annual and Sick Leave**

- A.** Except as otherwise provided in this chapter, while in a shared leave status, annual and sick leave will accrue to an employee's credit at the same rate as if the employee were in a paid leave status. However, the maximum amount of annual and sick leave that may accrue while in a shared leave status may not exceed 40 hours in each category. For a part-time employee, the maximum accrual in each category is the average number of hours of work in the employee's weekly scheduled tour of duty.
- B.** Any annual or sick leave accrued by an employee while in a shared leave status will be credited to an annual or sick leave account separate from the employee's regular annual or sick leave account and will not become available for use by the leave recipient until it is transferred to his or her regular annual or sick leave account as provided in [7.11C](#).
- C.** Any annual or sick leave accrued by a leave recipient while in a medical leave status will be transferred to his or her appropriate regular leave account and will become available for use at the beginning of the first pay period beginning on or after the date on which the leave recipient's medical emergency terminates or, in the case that the leave recipient's medical emergency has not yet terminated, when the recipient has reached the maximum annual leave cap (as determined by the Leave Bank Board).
- D.** If leave has been advanced to an employee, 40 hours of annual leave are placed in a separate leave account and made available for use by the employee as described in [7.11C](#), and the leave recipient will continue to accrue annual leave while in a medical leave status to the extent necessary for the purpose of reducing an indebtedness caused by the use of annual leave advanced at the beginning of the leave year.
- E.** If the leave recipient's medical emergency terminates as a result of the separation from Region 5 or Federal Service, no leave will be credited to him or her under this provision.

### **7.12 Limitations on Donation of Annual Leave.**

- A.** In any leave year, a leave contributor may donate no more than a total of one-half of the amount of annual leave he or she is entitled to accrue during the leave year in which the donation is made to the Leave Bank. This includes both contributions made to the Voluntary Leave Bank Program as well as the Voluntary Leave Transfer Program (Leave Sharing Program).
- B.** In the case of a leave contributor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, the maximum amount of annual leave that may be donated during the leave year is the lesser of:
  - (1)** One-half of the amount of annual leave he or she is entitled to accrue during the leave year in which the donation is made; or
  - (2)** The number of hours remaining in the leave year (as of the date of the donation) for which the leave donor is scheduled to work and receive pay.

### **7.13 Termination of Medical Emergency.**

- A.** The medical emergency affecting a leave recipient terminates:
  - (1)** When the leave recipient separates from the Region or the Federal Service;
  - (2)** At the end of the pay period in which a leave recipient provides written notice to the SHRO or LBB that he or she is no longer affected by a medical emergency;
  - (3)** At the end of the pay period in which the SHRO or LBB determines, after having provided written notice and an opportunity for the leave recipient (or, if appropriate, a personal representative of the leave recipient) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency; or
  - (4)** At the end of the pay period in which the SHRO receives notice that the Office of Personnel Management has approved an application for disability retirement for the leave recipient under the Civil Service Retirement System or the Federal Employees' Retirement System.
- B.** When the medical emergency affecting a leave recipient terminates, no further donated annual leave to the leave recipient may be granted, and any unused transferred annual leave remaining to the credit of the leave recipient will be restored back to the Leave Bank.

### **7.14 Leave Bank Caps.**

- A.** Leave Bank members may be eligible to receive up to 160 paid leave hours within one membership period for either a personal medical emergency or to care for a qualified family member experiencing a medical emergency.
- B.** The amount of leave received by the Leave Bank is contingent upon the medical emergency and the available leave in the Leave Bank. Maximum limitations may vary based on the available leave in the Leave Bank.
- C.** The Leave Bank Board reserves the right to modify cap amounts and/or how caps are applied.

### **7.15 Disposition of Transferred Annual Leave.**

- A.** Any transferred annual leave remaining to the credit of a leave recipient when the medical emergency terminates will be restored to the Leave Bank.

### **7.16 Prohibition of Coercion.**

- A. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right such employee may have with respect to contributing, receiving, or using annual leave under this chapter.
- B. For the purpose of paragraph A, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

#### **7.17 Records and Reports.**

- A. The SHRO is required to maintain records concerning the administration of the Voluntary Leave Bank Program and to report any information necessary to evaluate the effectiveness of the program. Such records will contain the following:
  - (1) A list of Leave Bank members;
  - (2) The number of leave recipients approved for personal and family medical emergencies; and
  - (3) The grade or pay level of each leave recipient and leave donor, the gender of each leave recipient, and the total amount of transferred annual leave used by each leave recipient.