

3 FAM 3360

EMERGENCY LEAVE TRANSFER PROGRAM

(CT:PER-521; 03-23-2005)
(Office of Origin: HR/ER/EP)

3 FAM 3361 AUTHORITY

(CT:PER-521; 03-23-2005)
(State only)
(Applies to Foreign Service & Civil Service Employees)

The following authorities apply to this subchapter:

- (1) *5 CFR 630.1100 et seq;* and
- (2) 5 U.S.C. 6391.

3 FAM 3362 PURPOSE

(TL:PER-407; 07-06-2001)
(State only)
(Applies to Foreign Service & Civil Service Employees)

The purpose of this policy is to permit Federal employees to transfer their accrued annual leave to Federal employees who are adversely affected by a disaster or emergency, as declared by the President.

3 FAM 3363 GENERAL GUIDELINES

(TL:PER-407; 07-06-2001)
(State only)
(Applies to Foreign Service & Civil Service Employees)

a. When directed by the President:

- (1) The Office of Personnel Management (OPM) will notify agencies of the establishment of an emergency leave transfer program for a specific disaster or emergency, as declared by the President;
- (2) The emergency leave transfer program is in addition to the

voluntary leave transfer program;

- (3) An emergency leave recipient may use donated annual leave without having to exhaust his or her accrued annual and sick leave; and
 - (4) Emergency leave may be used by a recipient to provide care for a family member who has been affected by an emergency or disaster, provided such family member has no reasonable access to other forms of assistance.
- b. In contrast to the voluntary leave transfer program, the intent of the emergency leave transfer program is to provide mass transfers of annual leave to employees adversely affected by disasters or emergencies. If an employee wishes to donate annual leave directly to an individual who has been adversely affected by an emergency or disaster as declared by the President, he or she should do so through the voluntary leave transfer program. (See 3 FAM 3340.)
- c. The Bureau of Human Resources, Office of Employee Relations (HR/ER) will coordinate with OPM on the transfer of leave to/from other agencies in accordance with 5 CFR 630.1107.

3 FAM 3364 DEFINITIONS

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

The following definitions apply to this subchapter.

Disaster or emergency—a major disaster or emergency, 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 employee whose voluntary written request for transfer of annual leave to an emergency leave transfer program is approved by his or her employing agency (OPM Form 1638, Request to Donate Annual Leave Under the Emergency Leave Transfer Program).

Emergency leave recipient—a current employee for whom the employing agency has approved an application to receive annual leave from an emergency leave transfer program (OPM Form 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program).

Employee—as stated in 5 U.S.C. 6331(1), which refers to 5 U.S.C. 6301(2).

Family member—the following relatives of the employee are:

- Spouse, and parents thereof;
- Children, including adopted children, and spouses thereof;
- Parents;
- Brothers and sisters, and spouses thereof; and
- Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Paid leave status—the administrative status of an employee while the employee is using annual or sick leave accrued or accumulated under subchapter I of chapter 63, of Title 5 U.S.C.

3 FAM 3365 ESTABLISHMENT OF AN EMERGENCY LEAVE TRANSFER PROGRAM

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

a. When the President declares a specific disaster or emergency and directs the Office of Personnel Management (OPM) to establish such, OPM will establish an emergency leave transfer program. Once notified by OPM, the Department is authorized to do the following:

- (1) *Determine whether affected employees need donated annual leave, and, if so, how much;*
- (2) Approve leave donors and/or recipients, as appropriate;
- (3) Facilitate the distribution of donated annual leave from approved leave donors to approved leave recipients; and
- (4) Determine the period of time for which donated annual leave may be accepted for transfer to approved leave recipients.

b. Unless the circumstances of the specific disaster or emergency provide otherwise, the Department of State will follow the procedures and guidelines set forth in 3 FAM 3360 and 3 FAH-1 H-3360 in administering its emergency leave transfer program.

3 FAM 3366 RESPONSIBILITIES

3 FAM 3366.1 Bureau of Human Resources, Office of Casualty Assistance (HR/OCA)

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

HR/OCA coordinates the Emergency Leave Transfer Program and has responsibility to:

- (1) Approve or deny employee applications to be designated emergency leave recipients, submitted on OPM Form 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program;
- (2) Publicize the needs and benefits of the emergency leave transfer program; and
- (3) Submit a final report to the Bureau of *Resource* Management (*RM*) and/or the Office of Payroll when the disaster or emergency of an employee no longer exists in accordance with 3 FAM 3368.5. The final report would include the date the disaster or emergency terminated, the number of recipients approved for the program, the number of hours given to each recipient, the number of hours donated and the number of hours of unused leave to be returned to donors.

3 FAM 3366.2 Bureau Executive Directors and Post Human Resources and/or Administrative Officers

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

The Bureau Executive Directors and Post Human Resources and/or Administrative Officers have responsibility to:

- (1) Approve or disapprove leave **donations** (OPM Form 1638 Request to Donate Annual Leave Under the Emergency Leave Transfer Program) and submit the form to the payroll office for processing; and
- (2) Request the Payroll Office (*RM/GFS/C/APP*) to effect transfer of

annual leave through this program and maintain records of all transactions.

3 FAM 3366.3 The Senior Deputy Assistant Secretary (DAS), Bureau of Human Resources

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

The Senior DAS in the Bureau of Human Resources will review denials of an emergency leave recipient's application upon the request of the employee.

3 FAM 3366.4 The Bureau of Human Resources, Office of Employee Relations (HR/ER)

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. When advised by HR/OCA that there is insufficient donated leave for the emergency leave recipients, HR/ER will request assistance from OPM in obtaining additional annual leave from other agencies (OPM Form 1639, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program).
- b. When notified by OPM of the need for leave donations for other agencies, HR/ER will solicit donations from Department of State employees in accordance with 5 CFR 630.1107.

3 FAM 3366.5 The Bureau of Resource Management (RM)

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. The Bureau of *Resource* Management (*RM/GFS/C/APP*) will:
 - (1) Receive donors' applications from executive directors and transfer donated leave to approved emergency leave recipients; and
 - (2) Restore unused donated leave. When a disaster or emergency affecting an emergency leave recipient is terminated, any annual

leave donated to an emergency leave transfer program that is not used by an approved emergency leave recipient must be returned to emergency leave donors. The amount of remaining annual leave to be returned to each donor must be proportional to the amount of annual leave donated by the employee for the specific disaster or emergency.

- b. At the election of the emergency leave donor, unused transferred annual leave restored to the donor may be restored by:
 - (1) Crediting the restored annual leave to the emergency leave donor's annual leave account in the current leave year; or
 - (2) Crediting the restored annual leave to the emergency leave donor's annual leave account effective as of the first day of the following leave year. FMP/F/DFS/OCP/CAPD will determine the amount of annual leave to be restored to each of the emergency leave donors who, on the date leave restoration is made, is an employee.
- c. Annual leave donated to an emergency leave transfer program for a specific disaster or emergency may not be transferred to another emergency leave transfer program established for a different disaster.

3 FAM 3367 RETROACTIVE SUBSTITUTION

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. After approval of an application (OPM Form 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program), annual leave donations for the emergency leave transfer program may be:
 - (1) Substituted retroactively for any period of leave without pay (LWOP) used because of the adverse effects of the disaster or emergency; or
 - (2) Used to liquidate an indebtedness incurred by the emergency leave recipient for advance annual or sick leave used due to the adverse effects of the disaster or emergency.
- b. An emergency leave recipient may be advanced annual or sick leave, as appropriate (even if the employee has available annual and sick leave), so that the emergency leave recipient is not forced to use his or her accrued leave before donated annual leave becomes available.

3 FAM 3368 LIMITATION ON DONATED ANNUAL LEAVE

3 FAM 3368.1 Emergency Leave Transfer Recipients

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. An emergency leave recipient may receive a minimum of 1 hour and a maximum of 240 hours of donated annual leave from an emergency leave transfer program for each disaster or emergency.
- b. Each emergency leave recipient must use the donated annual leave for purposes related to the disaster or emergency for which the emergency leave recipient was approved. An employee must provide notification to his or her supervisor as soon as he or she is no longer affected by the disaster or emergency. Failure to provide appropriate notification may result in disciplinary action in accordance with 3 FAM 4300 and 3 FAM 4500.

3 FAM 3368.2 Emergency Leave Transfer Donors

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

As explained in 5 CFR 630.1106:

- (1) An emergency leave donor may not donate annual leave for transfer to a specific emergency leave recipient;
- (2) An emergency leave donor may not contribute less than 1 hour or more than 104 hours of annual leave in a leave year; and
- (3) Waiver of the 104-hour donation limit may be granted by HR/OCA. Waivers may be considered when there is a significant shortfall in the number of donations needed by approved recipients because of an extreme nature of the emergency or disaster.

3 FAM 3368.3 Accrual of Annual and Sick Leave

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. While an emergency leave recipient is using donated annual leave from an emergency leave transfer program, annual and sick leave will accrue to the credit of the employee at the same rate as if the employee were in a paid leave status.
- b. Accrued *annual and sick* leave are also subject to the limitations imposed by 3 FAM 3410 and 3 FAM 3420, *respectively*, at the end of the leave year in which the transferred annual leave is received.
- c. Annual leave transferred under the emergency leave transfer program may not be included as follows:
 - (1) In a lump-sum payment under 5 U.S.C. 5551 or 5552;
 - (2) Made available for recredit under 5 U.S.C. 6306 upon reemployment by a Federal agency; or
 - (3) Used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement under 5 U.S.C. 6302 (g).

3 FAM 3368.4 Termination of Disaster or Emergency

(CT:PER-521; 03-23-2005)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. An emergency leave recipient's disaster or emergency *should* terminate:
 - (1) When the Department or OPM determines that the disaster or emergency has terminated;
 - (2) When the emergency leave recipient's Federal service terminated;
 - (3) At the end of the biweekly pay period in which the emergency leave recipient, or personal representative, notifies the employee's respective supervisor that the employee is no longer affected by the disaster or emergency;
 - (4) At the end of the biweekly pay period in which the employee's respective supervisor or the Department determined, after written notice from the Department and an opportunity for the emergency

leave recipient or his or her personal representative to answer orally or in writing, that the emergency leave recipient is no longer affected by such disaster or emergency; or

- (5) At the end of the biweekly pay period in which the Department receives notification that OPM has approved an application for disability retirement for the emergency leave recipient under the Civil Service Retirement System (CSRS) or the Federal Employee's Retirement System (FERS).

- b. When a disaster or emergency affecting an emergency leave recipient is terminated, no further requests for transfer of annual leave may be granted. Any unused transferred annual leave remaining to the emergency leave recipient's credit will be restored to the emergency leave donor(s). (See 3 FAM 3366.5.)

3 FAM 3368.5 Documentation and/or Investigation and Confidentiality

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

- a. Officials adjudicating an emergency leave recipient application may request that the applicant provide additional documentation or information.
- b. The confidentiality of information concerning individual emergency leave recipients and donors is protected under the Privacy Act.

3 FAM 3369 PROHIBITION OF COERCION

(TL:PER-407; 07-06-2001)

(State only)

(Applies to Foreign Service & Civil Service Employees)

Under 5 CFR 630.1109, an employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee with respect to donating, receiving or using annual leave. Violations of this prohibition could result in disciplinary action. The term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as appointment, promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion or compensation.)