

NAWCWDINST 12630.1
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NAWCWD INSTRUCTION 12630.1

From: Commander, Naval Air Warfare Center Weapons Division

Subj: VOLUNTARY LEAVE TRANSFER PROGRAM

Ref: (a) OCPMINST 12630.2A
(b) FPM Bulletin 630-53
(c) FPM Letter 630-33
(d) FPM Bulletin 630-57
(e) FPM Bulletin 630-35

1. Purpose. To issue procedures for administering the Voluntary Leave Transfer Program, according to references (a) through (e), at the Naval Air Warfare Center Weapons Division (NAWCWD) and the Naval Air Weapons Station (NAWS). This revision reflects changes according to Public Law 103-103, and the treatment of maternity situations.
2. Cancellation. NAWCWPNINST 12630.1A.
3. Scope. This instruction applies to all civilian employees (as applicable) serving at NAWCWD, NAWS.
4. Background. On 31 January 1989, the Office of Personnel Management (OPM) established a voluntary leave transfer program authorized by Public Law 100-566 of 31 October 1988. Reference (b) provides guidance on implementation of that law. The OPM established interim regulations on 31 January 1989 under which agencies administered the voluntary Leave Transfer Program (references (b) and (c)). Final regulations were issued in the 28 December 1989 Federal Register (reference (d)). On 8 October 1993, the OPM established Public Law 103-103, the Federal Employees Leave Sharing Amendments Act of 1993, that established a permanent leave-sharing program for Federal employees.
5. Definitions
 - a. Leave donor is an employee whose voluntary written request was approved for transferring his/her annual leave to the annual leave account of an approved leave recipient.
 - b. Leave recipient is a current employee affected by a medical emergency for whom the leave transfer approving official has approved an application to receive annual leave from the annual leave account of one or more leave donors.

c. Leave transfer is the voluntary transfer of annual leave from one employee to another for a medical emergency.

d. Leave transfer approving official is the department head who will make the determination to approve or deny the request to receive a leave transfer. For technical advice, the approving official should contact his/her Employee/Labor Relations Team.

e. Medical Emergency

(1) A medical or family emergency situation that is likely to require an employee's absence from duty (i.e., paid status) for at least 24 hours for a full-time employee and is expected to result in a substantial loss of income to the employee because of non available paid leave. The medical emergency must be a situation that is beyond the employee's control. An emergency is a sudden occurrence requiring immediate action. Therefore, a medical emergency that ended 60 days ago is not normally considered an emergency.

(2) A maternity situation (i.e., childbirth) qualifies as a "medical emergency" under this program per reference (e). In many cases doctors have defined 6 weeks as a normal recuperation period after childbirth. If additional time off is requested for personal reasons such as bonding with the infant or adjusting to a new family member, use of annual leave or leave without pay is required.

(3) A physician must document all medical emergencies, including the diagnosis, prognosis, duration of illness, and date of release back to work.

6. Responsibilities

a. The leave recipient's immediate supervisor will review the request to become a leave recipient and recommend approval or disapproval to the approving official. The supervisor is responsible for monitoring the status of the leave recipient to ensure the medical emergency still exists.

b. The approving official will review the request to become a leave recipient and will approve or disapprove the request.

c. The Human Resources Department will maintain reports as required by references (a) through (e), and will be responsible for providing overall guidance and policy regarding this program.

d. Servicing Payroll Office will:

(1) Transfer leave between the accounts of leave donors and recipients.

(2) Convert annual leave that is transferred or restored to or from employees on uncommon tours of duty.

(3) Compute the amount of unused transferred annual leave to be restored to each leave donor on terminated participation in the Leave Transfer Program following reference (b), and will notify the Human Resources Department in writing of this information.

(4) Notify the donor in writing of the options available for his/her restored annual leave per reference (b).

7. Processing an Application to Become a Leave Recipient

a. To apply to become a leave recipient use Optional Form (OF) 630 (6-89), Leave Recipient Application Under the Voluntary Leave Transfer Program. The OF 630 contains instructions on how to complete the form and lists what information to include with the request. If assistance is needed in completing the form, contact the Employee/Labor Relations Team. Incomplete forms are returned to the originator.

b. Submit the request through the supervisory chain to the approving official.

c. The approving official will review the application and decide whether or not to approve the employee's participation in the program. Should the approving official decide to disapprove the request, he/she should consult with his/her Personnel Management Advisor regarding the decision. In deciding whether or not to approve the request, the approving official can take into account circumstances such as:

(1) Whether or not the emergency was foreseeable.

(2) The extent to which the emergency requires the personal attention of the potential leave recipient.

(3) Whether there are reasonable alternatives to being away from the job.

d. The approving official forwards the application to the Employee/Labor Relations Team. Within 10 working days of receiving the request to become a leave recipient, the Employee/Labor Relations Division will notify the employee of the approval or disapproval of the request. A copy of the written notification of approval will be sent to the servicing Payroll Office. In the case of denial, the written notification will state the reason for the denial.

8. Leave Recipient Requirements. The leave recipient must comply with the following requirements:

a. The recipient must keep his/her immediate supervisor and his/her Employee/Labor Relations Team informed in writing, at least monthly, as to the recipient's status while participating in the program. The status report will include statements regarding prognosis for

returning to work and will be supported by copies of any pertinent medical statements. Failure to keep the supervisor and the Employee/Labor Relations Team informed, as described above, will result in the leave recipient being terminated from the program.

b. The recipient will notify his/her immediate supervisor and the Employee/Labor Relations Team when the medical emergency has ended.

9. Notification of a Need for Leave Donors. The Employee/Labor Relations Team will publicize the leave recipient's need for leave donations, as requested by the recipient, in available sources.

10. Limitations on Donation of Leave. The following limitations regarding the donation of leave apply:

a. Only annual leave can be donated.

b. Only half of the amount of annual leave accrued each year can be donated.

c. If use or lose annual leave is being donated, no more can be donated than the number of hours the donor is scheduled to work and receive pay for, during the remainder of the year.

d. The minimum amount of annual leave that can be donated is one hour.

e. The leave donor cannot donate annual leave to his/her supervisor.

f. An employee who has unusual circumstances that make the limitations discussed above inappropriate can request a waiver by submitting a written request to the Head, Human Resources Department, Code 730000D. Explain the nature of the unusual circumstances and how it makes the above limitations inappropriate.

11. Process for Donating Leave

a. To donate leave to an approved leave recipient use OF 630-A (6-89), Request to Donate Annual Leave to Leave Recipient (Within Agency) Under the Leave Transfer Program. Submit OF 630-A to the Employee/Labor Relations Team. The Employee/Labor Relations Team will forward the request to the servicing Payroll Office.

b. To donate leave to an approved recipient employed outside of the Department of the Navy use OF 630-B (6-89), Request to Donate Annual Leave to Leave Recipient (Outside Agency) Under the Leave Transfer Program.

c. If the leave donor's request is disapproved, the donor is notified in writing with the reason for disapproval.

d. When it is known that a leave recipient has applied for or is contemplating applying for retirement, he/she should be counseled by his/her Employee/Labor Relations Team about the possible effect substituting transferred leave can have on retirement benefits. Ordinarily, the starting date of an immediate annuity based on an approved disability retirement is based on the last day of an employee's pay status. When transferred leave is substituted at a date other than the beginning of the leave without pay (LWOP) period just before the employee's separation for retirement purposes, the employee will not receive annuity for any period of LWOP before the period for which the transferred leave is substituted.

12. Use of Donated Annual Leave

a. Before donated leave is used, the recipient must exhaust any annual or sick leave (disregarding any advanced leave) accrued or accumulated before the date the application to become a leave recipient was approved and available for use during the medical emergency.

b. Leave recipients must submit a request to use donated leave in the same manner as if it were their own.

c. The recipient can substitute transferred annual leave retroactively for periods of LWOP or used to liquidate an indebtedness for advance annual or sick leave used for the immediate medical emergency.

13. Grievance Rights. Bargaining unit employees, whose request to receive or donate annual leave was denied, can seek redress under the terms of the appropriate bargaining unit negotiated contract. Non-bargaining employees can grieve the decision using the procedures outlined in their grievance and appeals instruction.

14. Termination of Participation in the Leave Transfer Program

a. The leave recipient will keep his/her Employee/Labor Relations Team advised of the status of the medical emergency and will notify his/her Employee/Labor Relations Team when the emergency has ended. The Employee/Labor Relations Team will notify the leave recipient and the Payroll Office in writing that the medical emergency has been terminated. Termination from the program is effective the end of the pay period following written notification of such action.

b. The medical emergency affecting a leave recipient will terminate:

- (1) When the leave recipient's Federal service is terminated.
- (2) When the leave recipient is no longer affected by a medical emergency.
- (3) When the recipient fails to provide an updated status report.

(4) When the recipient has been back to work for a period of 60 days. The Employee/Labor Relations Team can deem a medical emergency to continue beyond the normal 60-day period when a leave recipient provides supporting medical documentation of a continuing emergency need of an intermittent nature (e.g., chemotherapy, kidney dialysis). The Employee/Labor Relations Team can also authorize an extension of consideration for those situations where an administrative error has resulted in an employee not receiving full consideration for entry into the Leave Transfer Program or for being erroneously or prematurely terminated from the program.

(5) When the recipient has received sufficient donated annual leave.

(6) When the Employee/Labor Relations Team receives notification that the leave recipient's application for disability retirement under the Civil Service Retirement System or the Federal Employees' Retirement System was approved.

c. When the leave recipient terminates from the program, no further requests for transfer of annual leave to the leave recipient can be granted, and any unused transferred annual leave remaining to the credit of the leave recipient is restored to the leave donors.

15. Restoration of Transferred Annual Leave

a. Any transferred annual leave unused by the recipient when the medical emergency is terminated will be restored, to the extent administratively feasible, to leave donors employed by a Federal agency and subject to Chapter 63 of Title 5, U.S.C. on the date the medical emergency terminates.

b. Transferred leave is restored only when the total number of hours of unused annual leave equals or exceeds the number of eligible leave donors. A leave donor cannot have more leave restored than the amount he/she transferred to the leave recipient.

c. The servicing Payroll Office will compute the amount of hours of unused transferred leave to be restored to each donor.

16. Records Maintenance. Records are maintained by the Employee/Labor Relations Team to evaluate the desirability, feasibility, and cost of the Leave Transfer Program.

17. Federal Income Tax Implications for Leave Donors and Recipients

a. Internal Revenue Service Ruling 90-29 was published in the Internal Revenue Bulletin of 9 April 1990 and provides for treating the income received from the use of donated annual leave as taxable to the leave recipient. The ruling also concludes that a leave donor does not incur a deductible expense or loss on the surrender of the leave or its use by a leave recipient.

b. Internal Revenue Service Ruling 90-29 states:

"The amounts paid by the employer to leave recipient pursuant to the plan are includible in the gross income of the recipient under Section 61 of the Code as compensation for services provided by that recipient to the employer. These amounts are considered "wages" for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, the Railroad Retirement Tax Act, the Railroad Unemployment Repayment Tax, and income tax withholding, unless excluded therefrom under a specific provision of the Code. An employee who surrenders leave to the employer. . . does not realize any income and incurs no deductible expense or loss. . . upon surrender. . .of the leave or its use by the recipient. The holding and underlying rationale of this ruling apply only to bona fide employer-sponsored leave-sharing arrangements."

18. Action. The Leave Transfer Program is administered according to the procedures outlined in this instruction. Obtain interpretation of the procedures and general guidance on the subject of leave from your Employee/Labor Relations Team.

19. Forms. OF 630, Leave Recipient Application Under the Voluntary Leave Transfer Program; OF 630-A, Request to Donate Annual Leave to Leave Recipient (Within Agency) Under the Leave Transfer Program; and OF 630-B, Request to Donate Annual Leave to Leave Recipient (Outside Agency) Under the Leave Transfer Program are available from the Human Resources Department Code, 730000D, and electronically on the NAWCWD Web Page at: <http://mailfilerrecords.nawcwd.navy.mil>.

20. Directive Responsibility. The Head, Human Resources Department, Code 730000D, is responsible for keeping this instruction current.

/s/
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