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Applicability: All DDSN Employees

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## **I. POLICY**

It is the South Carolina Department of Disabilities and Special Needs (DDSN) objective is to provide Leave Transfer Pool guidelines to full-time (FTE) employees. DDSN's Leave Transfer Pool consists of annual and sick leave donations made by DDSN employees, and may be used by full-time employees who qualify as recipients and are approved by DDSN.

## **II. MINIMUM ELIGIBILITY REQUIREMENTS**

Employees who occupy a FTE position (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.

An employee must have been in leave without pay status (all paid leave has been exhausted) 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 use all earned sick and/or annual leave before using approved transferred leave.

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 these specific programs and other paid benefits for periods of absence from work will generally be considered ineligible for transfers.

An employee must have experienced a personal emergency or hardship. 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.

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 (10 days) should be used prior to requested annual leave from the leave transfer pool.

Leave requests for maternity reasons may be approved if the reasons constitutes a personal emergency. For example, expectant mothers who must be on bed rest per a physician for a period of a 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.

#### Leave Request Denials

If a request for leave from the leave transfer pool is denied, the decision of the DDSN State Director 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 DDSN employment, any transferred sick or annual leave remaining must be restored to the appropriate leave pool account. DDSN Regional Center Human Resource offices and the DDSN Central Office Human Resource office will document this action by using a Leave Restoration Form.

### Leave Accrual

Employees who are using leave from the leave transfer program are considered to be in leave with pay status; accordingly, sick and annual leave are earned. Therefore, prior to subsequent approvals from the leave transfer pool, any sick and annual leave earned must also be used.

### **III. Procedure for Adjudication of Requests**

An employee with a personal emergency may request sick or annual leave from the appropriate pool account by submitting the Leave Pool Request form and a medical note/certificate from a health care professional.

Upon review of the Human Resources, Benefits Administrator, the Leave Pool Request form is submitted to the Director of Human Resources. Upon additional review, the Director of Human Resources will send the requestor the decision of approval/denial in writing. If a request for leave from the leave transfer pool is denied, the decision of the DDSN State Director or designee is final and there is no administrative or judicial appeal of the decision.

Upon approval of a request, the appropriate leave will be conditionally transferred to the employee's leave account from the leave pool. The leave may then be used for the approved purpose and in the same manner as if the employee had accrued the leave, subject to the other terms of this policy.

Annual or sick leave that accrues to the account of the leave recipient must be used before using any leave from the pool. Leave usage under the Leave Transfer Program may qualify under the Family Medical Leave Act (FMLA) and, if so, will run concurrently.

If the personal emergency extends beyond 30 working days, additional requests for leave may be made unless the employee becomes eligible for other benefits.

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.

### Restoration of Transferred Leave

When the personal emergency affecting a leave recipient terminates or when employment terminates, any transferred annual or sick leave credited and remaining in the employee's account must be restored to the leave pool account. DDSN will document this action by using the Leave Restoration Form.

### Monitoring of Use

The supervisor or manager and the Human Resources office shall continually monitor the status of the personal emergency affecting the leave recipient to ensure that the leave recipient is not permitted to receive or use transferred annual or sick leave from the pool account after the personal emergency ceases to exist.

### **III. DONATION OF LEAVE**

Employees may voluntarily request that a specified number of hours of accrued annual and/or sick leave be transferred from their annual and/or sick leave account to DDSN's leave transfer pool by submitting a request in writing to Human Resources. The following are restrictions on donation of leave:

- An employee donating sick or annual leave must do so prior to the end of the calendar year (i.e., December 31 of the year for which the donation is to be made). The donation is documented by completing the Leave Pool Request form and submitting it to the Human Resources Payroll Administrator.
- An employee may not donate more than one-half of the sick or annual leave they earn 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 has been transferred to a pool account, it cannot be restored or returned to the leave donor.
- 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 DDSN State Director or designee. Leave transfer under this proviso 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. Leave transferred directly from one employee to another may only occur within DDSN.

The evaluation of transfer requests shall be conducted in such a manner as to assure consistent treatment among similarly situated employees. Decisions shall be in keeping with State Human Resources Regulations, the criteria referenced in this policy and other additional guidelines promulgated by the DSHR guidelines and applicable state and federal laws.



Susan Kreh Beck  
Associate State Director-Policy



Mary Poole  
State Director

- Attachment 1: Leave Pool Request Form  
Attachment 2: Leave Pool Donation Form

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