

# **NIH Leave Bank Program Policies and Procedures**

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# National Institutes of Health Leave Bank Program Policies and Procedures

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# National Institutes of Health Leave Bank Program Policies and Procedures

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The National Institutes of Health (NIH) Leave Bank Program (Leave Bank) offers income protection and peace of mind to eligible NIH employees who have exhausted all of their leave and are affected by a medical emergency. NIH Federal civilian employees may become members of the NIH Leave Bank and apply for leave during a personal or family medical emergency. All Federal civilian employees who are subject to the leave provisions imposed by [Subchapter J of Chapter 63 of Title 5, United States Code, Part 630 \(5 U.S.C. §630.1001 through §630.1016\)](#) may donate accrued annual leave and restored annual leave to the NIH Leave Bank at any time. "Use or lose" donations must be donated no later than the [end of the leave year](#).

## **Establishing the NIH Leave Bank**

1. The NIH shall have no more than one Leave Bank Board and one LeaveBank Office;
2. The NIH, Office of the Director, Office of Human Resources, Workforce Relations Division, Leave, Payroll and Workforce Support Branch (LPW) is responsible for establishing the Leave Bank Board and Leave Bank Office;
3. The Leave Bank Board will consist of three members and at least three alternate members. The number of alternate members will be decided by Board vote. Board members and alternates will be selected to serve three-year terms, not to exceed two consecutive terms;
4. One member of the Leave Bank Board shall represent a labor organization or employee group;
5. The Leave Bank Office will consist of at least two Case Managers; and
6. The Leave Bank is subject to all of the conditions and requirements imposed by 5 U.S.C. §630.1001 through §630.1016.

## **Roles and Responsibilities**

### **The Leave Bank Board shall:**

1. Establish internal decision-making procedures;

2. Review and approve or disapprove each application to become a Leave Recipient based on an internal medical review of the applicant provided medical documentation or the recommendation of the Medical Consultant and the Leave Bank balance;
3. Monitor the status of each Leave Recipient's medical emergency;
4. Monitor the amount of leave in the Leave Bank and the number of applications to become Leave Recipients;
5. Maintain an adequate amount of leave in the Leave Bank to the greatest extent practicable; and
6. Perform other functions as necessary.

**The Case Manager shall:**

1. Process member and recipient applications;
2. Monitor the status of medical emergencies and report changes in medical emergencies to the Leave Bank Board as necessary;
3. Explain general Leave Bank processes;
4. Review each application to become a Leave Recipient;
5. Verify the medical emergency;
6. Determine the projected or actual start and end date, duration, and number of leave hours for which the potential Leave Recipient's application is medically supported;
7. Update and maintain Leave Recipient case files as necessary;
8. Provide reports and/or documentation as deemed necessary by the Office of Personnel Management (OPM) or LPW;
9. Keep necessary staff (Leave Bank Coordinators, timekeepers, Payroll Liaisons, etc.) informed of changes in requested and/or approved dates and durations;
10. Maintain records concerning the administration of the NIH Leave Bank;
11. Evaluate the effectiveness of the program;
12. Close Leave Bank recipient cases. After verifying the Leave Bank leave was

used appropriately, ensuring the set aside account was established at DFAS and determining the amount of leave that should be returned to the Leave Bank and donors, the Leave Bank Case Manager shall close the recipient account in ITAS and submit ticket to DFAS; and

13. Perform other functions as necessary.

**The Medical Consultant shall (when used):**

1. Review application to become a Leave Recipient;
2. Verify the medical emergency; and
3. Determine the projected or actual start and end date, duration, and number of leave hours for which the potential Leave Recipient's application is medically supported;

**The Executive Officer for each participating IC shall:**

1. Designate the Leave Bank Coordinator(s) for the IC; and
2. Assist the NIH Leave Bank Office in communicating enrollment periods. This may include distribution of posters, mass e-mail notifications and organization of employee briefings.

**The Leave Bank Coordinator(s) shall:**

1. Obtain necessary training to complete Leave Bank tasks including:
  - a. NIH Basic Time ITAS for Timekeepers (00219711);
  - b. Attend the Leave Bank Coordinator Training as offered; and
  - c. Any IC specific training requiring timekeeping and administrative access.
2. Keep abreast of NIH and OPM Leave Bank policies and procedures;
3. Assist the NIH Leave Bank Office in communicating enrollment periods. This may include distribution of posters, mass e-mail notifications and organization of employee briefings;
4. Maintain records documenting the various stages of the Leave Bank application process for employees;
5. Conduct Leave Bank Kick Off meetings with the approved Leave Bank recipient,

Leave Approving Official (LAO), timekeeper, and any other necessary staff. The purpose of this meeting will be to provide general information about leave options including Leave Bank processes and the Family and Medical Leave Act (FMLA) processes (if applicable). Responsibilities will be outlined and any other information that may be relevant to the case will be reviewed;

6. Serve as timekeeper for the Leave Bank recipient while employee is in the program;
7. Notify the NIH Leave Bank Case Manager when an employee has returned to work, if leave is not being used as indicated in approval e-mail, and/or if the employee requires additional leave to ensure the employee continues to be in paid status during the approved timeframe/duration; and
8. Perform other functions as necessary.

**Records must include the following:**

1. The number of Leave Bank Members for each leave year;
2. The number of applications approved for medical emergencies affecting employees and the number of applications approved for medical emergencies affecting employee family members.
3. The grade or pay level of each Leave Donator and the total amount of leave he/she donated to the Leave Bank;
4. The grade or pay level and gender of each Leave Recipient;
5. The total amount of leave requested, supported by the medical emergency, approved, and used by each applicant; and
6. Any additional information requested by OPM or LPW.

**Membership**

1. NIH Federal employees who are subject to the leave provisions imposed by 5 U.S.C. 630 may become Members of the NIH Leave Bank.
2. All eligible employees who wish to join the NIH Leave Bank must apply through the Integrated Time and Attendance System (ITAS). If unable to access ITAS, a paper form (NIH 2937) may be requested.
3. For an eligible employee to complete the application process, he/she will select the "Leave Bank Membership" menu item from the left-hand navigation bar in

ITAS. Upon selecting the "I want to become a Leave Bank member" along with the radio button for the membership year and clicking "Ok," a confirmation screen will be populated where the employee must select "Agree" to authorize the transfer of one pay period's worth of accrued annual leave to the Leave Bank. A selection of "Disagree" will cause the system to cancel all action.

4. Employee agreement to transfer one pay period's worth of accrued annual leave will enroll him/her as a member of the NIH Leave Bank.
5. Employees who do not have sufficient leave to make full membership contribution and/or current recipients of one or more leave sharing program will automatically be fully waived of the membership contribution requirement.

These individuals will still be required to take action as instructed under number 3 in order to become a member of the NIH Leave Bank.

6. All Leave Bank members will automatically have their membership renewed and one pay period's worth of accrued annual leave transferred to the Leave Bank each leave year. Employees can opt out of automatic renewal during a Leave Bank open enrollment by selecting the "Opt Out" checkbox shown in ITAS under the "Leave Bank Membership" menu. Opt-outs will not be granted outside of an open enrollment period.
7. Leave Bank members cannot receive leave from the Leave Bank to cover a period before his/her membership is effective.

## **Open Enrollment**

1. The open enrollment period for NIH Leave Bank membership will begin on a date in November, designated by PLW, and will last at least at least 30 calendar days. Employees who request to become members during the open enrollment period will have their leave withheld in the first leave period of the next leave.
2. An Individual Enrollment Period will be offered to all new Federal civilian employees who enter the NIH. Beginning on the Enter on Duty (EOD) date, an NIH Federal civilian employee:
  - a. Will become subject to the policies and procedures of the NIH Leave Bank;
  - b. May become a Leave Bank Member.
3. ITAS will display the "I want to become a Leave Bank member" radio button for all eligible NIH employees during the open enrollment period. ITAS will display the "I want to become a Leave Bank member" radio button for new NIH employees for 60 days following their EOD date.

4. The Leave Bank Board and administrative community shall take appropriate action to inform employees of the open enrollment period(s). Employees are responsible for taking action to ensure they are aware of the enrollment dates, their current membership status, and policies and procedures.
5. If extenuating circumstances prevent an employee from having an opportunity to become a Leave Bank Member during the open enrollment period, the employee may submit a belated enrollment request in writing to the NIH Leave Bank Office. In this request, evidence should demonstrate that the circumstances that prevented the employee from meeting the open enrollment period deadline were essentially out of the applicant's control. Acceptable circumstances include, but are not limited to:

- a. The applicant had a documented medical emergency during a portion of the Open Enrollment Period, including the last day of the Open Enrollment period that precluded them from enrolling, and the applicant notified the Leave Bank Office within 30 calendar days of return. Medical documentation supporting the medical emergency dates must be provided;
- a. The Leave Bank Office failed to communicate the start and end date of the open enrollment period to the applicant; or
- b. The application was submitted in a timely manner; the applicant was denied membership in error; and the applicant notified the Leave Bank Office regarding this error within 10 business days of being denied.

### **Leave Bank Membership Contribution Requirements**

1. The yearly minimum contribution required to become a Leave Bank Member for one leave year shall be equal to one pay period of annual leave accrual based on the member's leave category. One pay period of annual leave accrual is equal to:
  - a. 4 hours of annual leave for an employee who has fewer than 3 years of service at the time he/she submits an application to contribute annual leave;
  - b. 6 hours of annual leave for an employee who has at least 3 but fewer than 15 years of service at the time he/she submits an application to contribute annual leave; or
  - c. 8 hours of annual leave for an employee who has 15 or more years of service at the time he/she submits an application to contribute annual leave.(Note: The above minimum contribution requirement also applies to part-time employees. A part-time employee's annual leave accrual category is based on his/her years of service.)

2. The Leave Bank Board may:
  - a. Decrease the minimum contribution when the Leave Bank Board determines that there is a surplus of leave in the bank; or
  - b. Increase the minimum contribution when the Leave Bank Board determines that such action is necessary to maintain an adequate balance of annual leave in the Leave Bank.
3. All increases and/or decreases must be based upon Leave Bank balance data and must be made in multiples (whole or fractions) of the accruals.

An applicant's membership contribution requirement will be waived if he/she does not have sufficient available accrued annual leave to his/her credit to make the full minimum contribution or if he/she is a current Leave Bank or VLTP Recipient. Waiver requests will be automatically processed for employees who meet the criteria.

4. An employee who is transferring from another agency with a Leave Bank may be granted a waiver if he/she provides a written request to the NIH Leave Bank prior to initiating the membership request in ITAS and provides evidence that he/she had a membership contribution withheld for the year he/she entered into the program.
5. Membership contributions must go to the NIH Leave Bank and cannot be designated for a specific NIH Leave Bank Recipient. Only additional donations may be designated for a specific NIH Leave Bank Recipient.
6. The Leave Bank Board may not return a membership contribution of annual leave to a Leave Contributor after deposit in the Leave Bank, unless the NIH Leave Bank closes (see Termination of the NIH Leave Bank).

## **Donating Leave to the Bank**

1. All Federal civilian employees, including those from other agencies, may apply to donate annual leave and/or restored annual leave to the NIH Leave Bank.
  - a. NIH Federal civilian employees may apply to donate annual leave to the NIH Leave Bank through ITAS. If the employee is unable to access ITAS, a paper form (NIH 2937) may be requested. The Leave Donator shall specify the number of hours of annual leave to be donated and any other information the Leave Bank Board may reasonably require;
  - b. Federal civilian employees outside of the NIH who wish to apply to donate

annual leave to the NIH Leave Bank should complete the NIH 2937 and submit it to the NIH Leave Bank Office.

2. To submit a donation to the NIH Leave Bank within ITAS, an employee should select the "Donate to Leave Bank" tab in the left-hand navigation. The employee should then select the type of hours, amount of hours, and complete the comment field (if applicable), then select "Ok." The leave transfer will display once the request is completed and approved.
3. The Leave Bank Board may not return a donation of annual leave to a Leave Donator after deposit in the Leave Bank, unless the NIH Leave Bank closes (see Termination of the NIH Leave Bank).
4. "Use or lose" donations must be donated no later than the [end of the leave year](#).
5. An NIH Federal employee's LAO may approve or disapprove the request to donate leave.
6. A Leave Donator may specify that he/she would like his/her leave donation to be applied to a specific Leave Bank Recipient. Employees who wish to designate an NIH Leave Bank Recipient should indicate the Recipient's name in the "Comments" field when completing the donation request.
  - a. If the specified employee is a current leave recipient or submits an application within 30 calendar days of receipt of the donation, the donation amount of leave will be set aside for the specified employee. However, the hours will not be added to the designated amount appropriate to the medical emergency.
7. The Leave Bank Board has final authority on determining the amount of leave for each Leave Recipient. The Leave Bank Board may approve up to the maximum leave amount required by the medical emergency, as determined by the medical emergency.
  - a. If the Leave Recipient's medical emergency is terminated before exhausting all of the donated leave, the leave will be returned to the Leave Bank, not to the Leave Donator.
  - b. If the employee specified on the application is not an approved Leave Recipient, the leave will remain in the Leave Bank. To ensure recipient confidentiality, the Leave Donator will not be notified.
  - c. A donator may not designate him/herself or his/her immediate supervisor as the recipient.

## **Donation Limitations**

1. In any leave year, a Leave Donator may donate no more than a total of one-half of the amount of annual leave he/she would be entitled to accrue during the leave year in which the donation is made.
2. In the case of a Leave Donator 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 shall be the lesser of:
  - a. One-half of the amount of annual leave he/she would be entitled to accrue during the leave year in which the donation is made; or
  - b. The number of hours remaining in the leave year (as of the date of the donation) for which the Leave Donator is scheduled to work and receive pay.
3. Limitations 1 and 2 may be waived by the employee's LAO in ITAS if:
  - a. The employee does not have leave planned that would conflict with the request; and
  - b. The employee agrees that he/she understands that his/her request exceeds the lesser of the above limitations and he/she would still like to donate his/her annual leave.
4. These limitations shall apply to the total amount of annual leave donated or donated during the leave year.

## **Leave Recipient Application - Responsibilities and Information**

### **Recipient Application Submission**

Download and read all of the instructions within the NIH Leave Bank Recipient Application Package (Appendix B). The package includes the NIH 2941, NIH Leave Bank Fax Cover Sheet; NIH 2940, Leave Bank Recipient Application Form; NIH 2923, Authorization for Disclosure of Information; and the Confidential Medical Documentation Request or other primary medical documentation.

1. If the patient and/or medical provider are located outside of the United States, contact the Leave Bank Office.
2. To initiate the Leave Recipient process, the Leave Bank Member must complete

NIH 2940, Section A, and submit it to his/her LAO. All Recipient applicants are encouraged to contact the NIH Leave Bank Office prior to application submission to review the paperwork and processes.

3. To maintain confidentiality, the applicant does not need to disclose his/her medical emergency or provide the LAO with the NIH 2923 or any medical documentation.
4. The LAO should review NIH 2940, complete Section B, and return the application to the applicant or Leave Bank Office within five business days of receipt. If the supervisor and the LAO are not the same person, the LAO must consult with the supervisor prior to determination.
5. LAOs are encouraged to contact the NIH Leave Bank Office or the servicing Leave Bank Coordinator for information about Leave Bank processes and/or an Employee Relations Specialist for information about FMLA.
6. The LAO will consider the length of time the office can afford to have the employee out when making the determination to approve or disapprove.
  - a. LAO Disapproves – The LAO will consult with the servicing Employee Relations Specialist (Appendix B) for leave policies prior to disapproval. Upon disapproval, the LAO will select "No" and provide the reason for the disapproval.
  - b. LAO Approves a portion of the time – The LAO may only be able to afford the employee to be out of the office for a portion of the time requested. In this circumstance, he/she will select "Some" and either indicate the dates that are approved or select the box that approves all FMLA entitled leave.
  - c. LAO Approves –The LAO may approve all of the leave indicated on the application by selecting "Yes." This indicates that the LAO plans to approve the employee's absence in the event the request is approved by the Leave Bank Board.
7. The LAO should indicate the level of physical exertion required by the position for all personal cases.
8. LAO approval does not entitle the employee to use leave granted by the Leave Bank Board (unless the employee is eligible for and has invoked FMLA). As with any leave, the LAO makes the final determination as to the scheduling and the amount of leave granted.
9. The Leave Bank Member should complete NIH 2923. The member should also

request that his/her medical provider complete the Confidential Medical Documentation Request or provide primary medical documentation.

10. If a Leave Bank member is not satisfied with the decision, he/she may contact the NIH Office of the Ombudsman, Center for Cooperative Resolution.
11. If the Leave Bank Member invokes FMLA he/she may be granted up to a total of 12 administrative work weeks of leave without pay (LWOP) and may elect to substitute available paid leave, including leave transferred from the Leave Bank as allowed by law or regulation during any 12-month period.
12. The LAO must approve the application if the applicant indicates that he/she wishes to invoke FMLA, unless the LAO has reason to believe the applicant would not meet [FMLA eligibility](#).
13. Although the employee may invoke FMLA for purposes other than qualifying medical emergencies, the NIH Leave Bank Office will only process FMLA requests in conjunction with an NIH Leave Bank recipient request for the timeframe and duration of the serious health condition indicated within the NIH Leave Bank Recipient request. All other FMLA requests will need to be processed by the employee's IC. More information about FMLA may be obtained at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/family-and-medical-leave/>.
14. The Leave Bank Member must submit a completed NIH Leave Bank Recipient Application Package (Appendix B) to the Leave Bank Office no later than 30 calendar days following the termination of the medical emergency. Members are encouraged to submit the NIH Leave Bank Recipient Application Package as soon as they are aware of the serious health condition, so that a non-pay status may be prevented.

If a Leave Bank Member is not capable of submitting the application, a personal representative may submit a written application on his/her behalf. The NIH 2923 must be signed by the patient, patient's guardian, or someone holding the employee's power of attorney.

15. Cases that would not require primary medical documentation included with the NIH Leave Bank Recipient Package are:
  - a. Appeals
  - b. Psychological/Psychiatric conditions

16. All other cases must include medical documentation. Medical documentation can consist of the Confidential Medical Documentation Request or copies of clinical office records, test results and/or hospital records. If records are submitted, they must be current and include:

- a. The nature of the medical emergency as it relates to the serious health condition;
- b. The anticipated duration (start and end dates) of the medical emergency;
- c. The treating physician's clinical impression;
- d. The treatment provided; and
- e. Whether the medical emergency is continuous or intermittent (and if intermittent, frequency).

### **Leave Recipient Application Process**

1. Upon receipt, the Case Manager will review the recipient application to ensure that:

- a. All of the documentation is included and complete;
- b. The applicant is an NIH Leave Bank Member;
- c. 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 or an employee with an uncommon tour of duty, at least 30 percent of the average number of hours in the employee's biweekly scheduled tour of duty); and
- d. The application was submitted to the NIH Leave Bank Office no later than 30 calendar days following the termination of the medical emergency.

2. After review, the employee will receive notification from OHR SharePoint that indicates that the new case has been received and that a decision on the application will be provided within ten business days of receipt of a completed application package including medical documentation, if applicable. Please note, the decision may take longer than 10 business days if the case is sent to the Medical Consultant for review.

- a. If the applicant is ineligible, he/she will receive a notification e-mail

from OHR SharePoint indicating the reason for the closure and comments.

- b. If the application is incomplete, the applicant will receive a notification email from OHR SharePoint indicating what information/additional documentation is needed for a completed application in the comments. If an applicant does not respond with a status update on their request within 10 business days of notification, the case may be closed. The applicant may resubmit the application when complete if still within 30 days of the termination of the medical emergency or within the 30 day appeal timeframe (see appeals process below)
3. The Case Manager will review the medical documentation and the request to determine if the case should go to the Medical Consultant for medical review or if the case should be processed using the medical documentation and MDGuidelines. The following types of cases will be automatically forwarded to the Medical Consultant for medical review:
  - a. All requests that exceed the maximum amount of leave, as indicated in MDGuidelines;
  - b. Appeals;
  - c. Psychological/Psychiatric conditions; or
  - d. Any cases in which there has been an allegation of falsification of medical documentation.
4. If the case is sent to medical review, the Medical Consultant shall:
  - a. Review the documentation;
  - b. Verify the medical emergency by contacting the applicant's health care provider and obtaining primary medical documentation;
  - c. Determine the number of leave hours and timeframe for which it is medically supported; and
  - d. Provide the Case Manager with a letter indicating the number of leave hours medically supported, the projected medical emergency start date, end date and duration, and any other relevant information.
5. In evaluating the request, the Medical Consultant or Case Manager may take into account, for the purposes of determining how many hours of leave for which the applicant shall be approved, the type of medical emergency, the

activity level of required job duties (sedentary, light work, etc.), reasonable accommodations and any other relevant information.

6. The NIH Leave Bank Office cannot process for reasonable alternatives or suggest reasonable alternatives. In the event that the employee would like to request a reasonable accommodation, he/she should follow the process outlined in the [NIH Policy Manual, 2204, Reasonable Accommodations](#).
7. The Leave Bank Board will use the amount of leave medically supported, which will not include any personally identifiable information, to approve or disapprove a leave request in whole or part and forward the determination to the Case Manager. In evaluating the request, the Leave Bank Board may take into consideration the Leave Bank balance, anticipated leave requests, and the number of leave hours for which this Leave Recipient has been approved for the calendar year.
8. Approved Leave recipients may receive up to 480 leave hours from the Leave Bank for personal medical emergencies and up to 480 leave hours from the Leave Bank for family medical emergencies during each leave year. The total amount of Leave Bank leave used each leave year by a Leave Recipient may not exceed 960 hours. These caps will be in effect beginning the 2024 membership year.
9. The Leave Bank Board may exercise the option to increase or decrease the number of hours a Leave Bank Recipient may receive from the Leave Bank depending on the available leave balance per year. This determination will be made prior to February of each calendar year and the Leave Bank Board shall take appropriate action to inform employees if a change in the maximum eligible leave hours has occurred.
10. The Case Manager shall provide written notification, through SharePoint to the applicant within 10 business days of receiving a complete application stating the action taken on the application. This notification will include the status of the request (approved, disapproved or more information required). Please note, notification may take longer than 10 business days if the case is sent to the Medical Consultant for review.
  - a. Approved - The notification will indicate the number of hours for which the Leave Recipient is approved. If less than 100% of the requested amount is approved, the applicant will be provided the reason and information about the appeal process. The number of hours approved can be increased or decreased based on the follow-up reports from the recipient or the recipient's physician.

- b. Case Closed – In the event the employee is disapproved, his/her notification, will indicate the reason the case was not approved and information about the appeal process. If the case is closed due to an incomplete application packet the notification will include what additional information/documentation is required. Applicants who have a case closure due to lack of a complete application packet may resubmit within 30 calendar days following the termination of the medical condition.
11. The Leave Recipient should check his/her Leave and Earnings Statement to ensure that the leave was transferred. If there are any leave issues or delays, he/she should contact the Leave Bank Office immediately.
  12. The timeframe and/or duration of the initially approved leave may be increased or decreased if the Leave Recipient's medical condition changes (i.e. speedy recovery, complications); the Leave Recipient changes his/her Health Care Provider; or the Leave Recipient stops treatment.
  13. Due to the NIH 2923 expiration after 6 months from the date of signature, the NIH Leave Bank Office will not process any cases for longer than a 6 month timeframe. The employee will need to submit an extension one month prior to the end date with a new NIH 2940, NIH 2923, and medical documentation.
  14. Approved recipients who return to duty prior to their anticipated return dates must submit a medical release to their LAO and the NIH Leave Bank Office prior to returning to work.
  15. Leave BankBoard Members, Case Managers, and Medical Consultants may not process an application for themselves or a family member.

## **Extensions**

1. If there has been a change in the medical emergency and it has continued past the anticipated end date, has begun earlier than anticipated or the duration has been altered, a Leave Recipient may apply for an extension by completing and submitting a NIH Leave Bank Recipient Application (Appendix B) Package to the Leave Bank Office no later than 60 calendar days following the termination of their case's original approved end date or 60 days following their original approval date, whichever is greater, if the medical emergency is ongoing. The Leave Recipient must follow the instructions outlined in the Leave Recipient Application section. If your medical emergency has ended and you have returned to work, you must submit your application within 30 calendar days from the termination of the medical emergency

2. If extenuating circumstances prevent an employee from filing an extension application within the deadline outlined in number 1 of this section, the employee may submit a belated extension request in writing to the NIH Leave Bank Office. In this request, evidence should demonstrate that the circumstances that prevented the employee from meeting the submission deadline were essentially out of the employee's control.

Acceptable circumstances include, but are not limited to:

- a. The employee had a continuous medical emergency that resulted in his or her inability to contact the Leave Bank Office to request an extension and the employee notified the Leave Bank Office within 10 calendar days of return;
  - b. The Leave Bank Office failed to communicate the deadline in number 1 of this section to file an extension to the applicant; or
  - c. The extension request was submitted in a timely manner; the employee was denied an extension in error; and the employee notified the Leave Bank Office regarding this error within 10 business days of being denied.
3. Upon receipt, the Leave Bank Office will process extensions as if they are new applications, except the Case Manager will additionally provide the Leave Bank Board with the number of hours that were previously granted and indicate if the application is an extension.

## Appeals

1. If a Leave Bank Recipient Application is disapproved or is partially approved for only a portion of the requested timeframe, for a medically-related reason, a Leave Bank Member may appeal the original determination by providing a written request to the Case Manager with the reason for the appeal.
2. Upon receipt of an appeal application, the Case Manager will review the documentation to determine the reason the application was disapproved or partially approved. If the application was disapproved or partially approved:
  - a. In order to maintain an adequate amount of leave in the Leave Bank, the applicant will be provided written notification reminding the applicant that he/she may not submit an application for a medical emergency more than once unless he/she meets the criteria for an extension or an appeal.
  - b. Due to a medical reason, the Leave Recipient applicant will be contacted by the Case Manager. Appeals will be considered individually and additional documentation may be required. The Leave Bank Office will make every effort to process all appeal applications within 10

business days, but additional time may be necessary.

3. The Leave Bank Office will process accepted appeal requests as if they are new applications, except a different medical consultant will review the case and, upon final determination, the applicant will receive the greater of the two determinations, unless new information is revealed during the appeal that would deem the initial determination invalid.
4. Appeals can only be submitted once per medical emergency.
5. Appeals must be submitted within 30 calendar days of the case closure or partial approval notification.
6. If the Leave Bank Member feels that he/she has been discriminated against or treated unfairly, he/she should file a complaint with the Office of Equity, Diversity, and Inclusion. More information about this process is provided at <https://www.edi.nih.gov>

## **Use of Leave Withdrawn from a Leave Bank**

1. A Leave Recipient may use leave withdrawn from a Leave Bank only for the purpose of the medical emergency, time frame, and duration for which the Leave Recipient was approved.
2. During each biweekly pay period that a Leave Recipient is affected by a medical emergency, he/she shall use any accrued annual leave (and sick leave, if applicable) before using leave withdrawn from a Leave Bank, except as prescribed by set-aside account guidelines.
3. The approval and use of leave withdrawn from a Leave Bank shall be subject to all of the conditions and requirements imposed by 5 U.S.C. 6361, and the agency on the approval and use of leave accrued under 5 U.S.C. 6303, except that annual leave granted by the Leave Bank is not subject accumulate without regard to any limitation imposed by 5 U.S.C. 6304(a).
4. Leave withdrawn from the Leave Bank may be substituted retroactively for any period of leave without pay or used to liquidate indebtedness for any period of advanced sick leave that falls within the approved timeframe and duration.
5. Leave withdrawn from a Leave Bank may not be –
  - a. Included in a lump-sum payment; or
  - b. Made available for re-credit upon reemployment by a Federal agency.

6. Employees who earn and use annual leave on the basis of an uncommon tour of duty should meet with a Case Manager and/or their ITAS Coordinator to discuss procedures for administering the contribution and the withdrawal of annual leave.
7. A recipient must request and receive approval through ITAS from his/her LAO for each day he/she intends to be absent from work.
  - a. If the employee is incapable of entering the leave his/herself, he/she must
  - b. submit an [SF 71, Leave Request Form or other documentation \(memo, e-mail\)](#) to his/her LAO.
  - c. AWOL should be charged when an employee is absent without permission or has not notified and received approval from his/her LAO. The LAO may later determine that an AWOL charge may be changed to an appropriate type of leave. Additional information regarding leave and excused absence is available at <https://hr.od.nih.gov/benefits/leave/default.htm>
8. Employees awaiting a determination on a disability retirement application should consult with their servicing Benefits Specialist before substituting transferred leave for a retroactive period of LWOP since the last date of pay status determines the commencing date of disability retirement (if the employee meets the service requirements as of that date).
9. While an employee is in a shared leave status, the Leave Bank Board shall ensure that annual and sick leave shall accrue to the credit of the employee in a separate set-aside account at the same rate as if the employee were then in a paid leave status in accordance with 5 U.S.C. 630.
  - a. The maximum amount of annual leave that may be accrued in the set-aside account by a Leave Recipient while in a shared leave status in connection with any particular medical emergency may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours in the employee's weekly scheduled tour of duty); and
  - b. The maximum amount of sick leave that may be accrued by a Leave Recipient while in a shared leave status in connection with any particular medical emergency may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours in the employee's weekly scheduled tour of duty).

## **Participation in the Voluntary Leave Transfer Program and the NIH Leave Bank**

### 1. Dual Leave Sharing Programs –

- a. A covered employee may also participate in the Voluntary Leave Transfer Program (VLTP);
- b. Except as described in paragraphs 2 and 3 of this section, any annual leave previously transferred to an employee under the VLTP shall remain to the credit of the employee who later becomes a Leave Recipient under the Leave Bank and shall become subject to all NIH Leave Bank Policies and Procedures; and
- c. The Leave Bank Board shall establish policies and procedures governing the use of donated or transferred leave for any Leave Recipient who receives leave under both the VLTP and the NIH Leave Bank for the same medical emergency.

2. Leave Bank leave must be used prior to the use of donated leave received through VLTP. Any leave donated to the Leave Bank Recipient through the VLTP is included as available paid leave and will be considered when determining the amount of Leave Bank donation hours the recipient can receive.
3. Upon termination of a Leave Recipient's medical emergency, any annual leave previously transferred under the Leave Bank and remaining to the credit of a Leave Recipient shall be restored to the Leave Bank.
4. Transferred annual leave restored to the account of a VLTP leave donor under paragraph 2 of this section shall be subject to the limitation imposed by 5 U.S.C. 6304(a) at the end of the leave year in which the annual leave is restored.
5. Timekeepers and Administrative Officers are responsible for monitoring shared leave balances in ITAS.
6. In the event that the Leave Bank Board disapproves an application in whole or part because of an inadequate amount of leave in the Leave Bank, the employee will be referred to the VLTP Coordinator to discuss VLTP processes.

## **Termination of Medical Emergency**

1. The medical emergency affecting a Leave Recipient shall terminate –

- a. When the Leave Recipient's Federal service terminates;
  - b. When the Leave Recipient leaves NIH;
  - c. At the end of the biweekly pay period in which the Leave Bank Board receives written notice from the Leave Recipient or from a personal representative of the Leave Recipient that the Leave Recipient is no longer affected by a medical emergency;
  - d. At the end of the biweekly pay period in which the Leave Bank Board determines, after written notice from the Leave Bank Office 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
  - e. At the end of the biweekly pay period in which the agency receives notice that the OPM has approved an application for disability retirement for the Leave Recipient under the Civil Service Retirement System or the Federal Employees Retirement System.
2. Annual leave withdrawn from the Leave Bank and not used before the termination of a Leave Recipient's medical emergency shall be returned to the Leave Bank.
  3. The Leave Bank Board may deem a medical emergency to continue for the purpose of providing a Leave Recipient with an adequate amount of time to receive leave contributions. The Leave Recipient must provide an extension application with medical documentation justifying the increase in leave within 60 calendar days from the termination of their case's original approved end date or within 60 calendar days of his or her original approval date, whichever is greater, if the medical emergency is ongoing. If your medical emergency has ended and you have returned to work, you must submit your application within 30 calendar days from the termination of the medical emergency
  4. If a Leave Recipient elects to buy back annual leave as a result of a claim for an employment-related injury approved by the Department of Labor, Office of Workers' Compensation Programs under 20 CFR 10.202 and 10.310, the amount of annual leave withdrawn from the Leave Bank that is bought back by the Leave Recipient shall be restored to the Leave Bank.
  5. If an employee's employment with NIH ends, through transfer or termination, the Leave Bank Member will forfeit NIH Leave Bank membership.

## **Termination of the NIH Leave Bank**

1. OHR may terminate the Leave Bank only after it gives at least 30 calendar days advance written notice to current Leave Bank Members.
2. If the Leave Bank is terminated before a Leave Recipient returns from his/her medical emergency, annual leave transferred to him/her shall remain available for use.
3. The Leave Bank Board shall make provisions for the timely and equitable distribution of any leave remaining in the Leave Bank. The Leave Bank Board may allocate the leave to current Leave Recipients; re-credit the leave to the accounts of the Leave Bank Members; and/or re-credit the leave to Leave Bank donors. The Leave Bank Board may distribute the leave immediately or may delay the distribution, in whole or part, until the beginning of the following leave year.

## **Prohibition of Coercion**

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, withdrawing, or using annual leave.

## **Appendix A: NIH Leave Bank Board Delegations of Authority**

The Leave Bank Board has delegated the following authorities:

- The authority to review and approve or disapprove each application to become a Leave Contributor (under 5 U.S. C. 630) has been delegated to the applicant's Leave Approving Official. Approvals and disapprovals shall be made within the Integrated Time and Attendance System (ITAS).
- The authority to review recipient applications to determine eligibility requirements has been delegated to the Leave Bank Office.
- The authority to review recipient applications to make a determination regarding how much leave is medically necessary has been delegated to the Medical Consultant and the Leave Bank Office.
- The Leave Bank Board has provided a blanket approval to the Leave Bank Office for applicants who request leave from the Leave Bank and have met all of the eligibility requirements for the duration that is medically supported up to the Leave Bank caps. The blanket approval is void when the Leave Bank contains 10,000 hours or less.

The Leave Bank Office will maintain monthly Leave Bank data. A report will be provided to the Leave Bank Board no less than once annually. This information may be requested at any time by the Leave Bank Board. A summary of Leave Bank recipient approvals made under the blanket agreement will be provided no less than monthly. In an effort to maintain recipient confidentiality, no identifying information will be released to the Leave Bank Board through these reports.

## **Appendix B: Applications and Information**

### **Leave Bank Applications**

The NIH Leave Bank Recipient Application package is available at <https://hr.nih.gov/benefits/leave/leave-bank/resources>

### **Employee Relations Specialist**

Employee relations contacts, resources and information are available at <https://hr.nih.gov/workforce/employee-relations>

### **Leave Bank Office Contact Information**

Phone: 301-443-8393

Hearing impaired individuals may contact the NIH Leave Bank office by phoning a relay operator at 1-800-735-2258.

Fax: 301-480-2579

Email: [LeaveBank@od.nih.gov](mailto:LeaveBank@od.nih.gov)

Address:

NIH Leave Bank Office

31 Center Drive, Room B3C23

Rockville, MD 20892-2215

Leave Bank Website: <https://hr.nih.gov/benefits/leave/leave-bank>

## **Appendix C: Definitions**

### **Available Paid Leave**

Includes:

- Annual leave
- Sick leave
- Restored annual leave
- Holiday hours
- Voluntary Leave Transfer Program Donations

Does not include:

- Credit hours
- Advanced annual leave
- Advanced sick leave
- Leave Awards

Available paid leave must be exhausted prior to use of leave donations through the Leave Bank. Any available paid leave will be deducted from the total amount of leave approved by the Leave Bank Board prior to transfer (remaining balance must be 24 hours or more)

### **Date of Employment**

The Enter on Duty date annotated in the employee's Official Personnel Folder.

### **Employee**

An individual who is engaged in the performance of a Federal function under authority of law or an Executive act and subject to the supervision of an individual named by paragraph (1) in 5 U.S.C. 6301 while engaged in the performance of the duties of his/her position.

### **Family and Medical Leave Act**

[5 U.S.C. 630.1201](#) as added by Title II of the Family and Medical Leave Act 1993 (FMLA) (Public Law 103-3, February 5, 1993), provides covered Federal employees with entitlement to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- the birth of a son or daughter of the employee and the care of such son or daughter;
- the placement of a son or daughter with the employee for adoption or foster

care;

- the care of spouse, son, daughter, or parent of the employee who has a serious health condition; or
- serious health condition of the employee that makes the employee unable to perform the essential functions of his/her positions.

## **Family Member**

The following relatives of an employee are considered family members for purposes of leave receipt – please note that *spouse* under FMLA is now defined as a partner in any legally recognized marriage, regardless of the employee’s state of residency. The term “spouse” does not include unmarried domestic partners, unless they meet the requirements of being spouses in a common-law marriage in States where such marriages are recognized:

1. Spouse, and parents thereof;
2. Sons and daughters, and spouses thereof;
3. Parents, and spouses thereof;
4. Brothers and sisters, and spouses thereof;
5. Grandparents and grandchildren, and spouses thereof;
6. Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
7. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Parent means:

1. A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;
2. A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian; or
3. A person who stands in loco parentis to the employee or stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis.
4. A parent (as described in the above subparagraphs) of an employee's spouse or domestic partner.

Son or daughter means:

1. A biological, adopted, step, or foster son or daughter of the employee;
2. A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
3. A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or
4. A son or daughter (as described in 1-3) of an employee's spouse or domestic

partner.

Domestic partner means an adult in a committed relationship with another adult, including both same sex and opposite-sex relationships.

Committed relationship means one in which the employee, and the domestic partner of the employee, are each other's sole domestic partner (and are not married to or domestic partners with anyone else); and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).

### **Health Care Provider**

Means one or more of the following:

- A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this subpart;
- Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question;
- A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his/her practice as defined under such law;
- A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or
- A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95-314, August 11, 1978 (92 Stat. 469), as amended by Public Law 103-344, October 6, 1994 (108 Stat. 3125).

### **Intimidate, Threaten, or Coerce**

Includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

### **Leave Bank**

A pooled fund of annual leave established by an agency.

## **Leave Bank Caps**

As a Leave Bank Member, you may be eligible to receive up to **480 paid** leave hours within a membership period for a personal medical emergency and up to **480 paid** leave hours within a membership period to care for a qualified family member experiencing a medical emergency. Total amount of leave received through the Leave Bank within a membership period may not exceed **960 hours**. The amount of leave you receive is contingent upon the period of your medical emergency and the available leave in the Bank. Maximum limitations may vary based on available leave in the Leave Bank. Also, the Leave Bank Board reserves the right to modify cap amounts and/or how caps are applied. Any changes would become effective on the first day of a new membership period.

## **Leave Bank Member**

A Leave Contributor who has contributed, in an open enrollment period (or individual enrollment period, as applicable) of the current leave year, at least the minimum amount of annual leave required or has received a waiver; is within an eligible organizational group, and has completed and submitted the required documentation within the specified time frame. A Leave Bank Member is eligible to become a Leave Bank Recipient during the approved membership period.

## **Leave Contributor/Donator**

An employee who contributes annual leave (including Restored annual leave) to a Leave Bank.

## **Leave Recipient**

A Leave Bank Member whose application to receive contributions of annual leave from a Leave Bank has been approved.

## **Membership Period**

A membership period is the same as the leave year. Leave year beginning and end dates are available at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-year-beginning-and-ending-dates/>.

## **Paid Leave Status**

The administrative status of an employee while using accrued or accumulated annual or sick leave, credit hours, or compensatory time.

## **Qualifying Medical Emergency/Condition**

A medical emergency/condition is a serious health condition (see 5 U.S.C. 630.1202)

of an employee, or a family member of such employee, 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 (at least 24 hours of pay) because of the unavailability of paid leave.

### **Set-Aside Account**

After an employee becomes a Leave Bank Recipient, his/her annual leave and sick leave accruals are prorated each pay period based upon the number of donated hours used. The portion of accrued annual and sick leave that is not made available for immediate use is put into a leave account that will be available to employee when he/she is removed from recipient status; this is called a "set-aside account." An employee may accrue no more than 40 hours of annual leave and 40 hours of sick leave in his/her set-aside account.

### **Shared Leave Status**

The administrative status of an employee while the employee is using transferred leave from the VLTP or Leave Bank.

### **Voluntary Leave Transfer Program**

The Voluntary Leave Transfer Program (VLTP) is a leave sharing program. Under the VLTP, all Federal civilian employees may donate annual leave or restored annual leave *directly* to another Federal Civilian employee who is projected to exhaust all of his/her available paid leave due to a personal or family medical emergency and be in non-pay status for at least 24 hours. More information about VLTP, VLTP forms and a list of current NIH approved VLTP recipients is available at:

<https://hr.nih.gov/benefits/leave/vltp/voluntary-leave-transfer-program-vltp>

### **Leave Bank Program**

The Leave Bank Program (Leave Bank) is a leave sharing program that covers personal or family medical emergencies that are projected to result in non-pay status of at least 24 hours. Federal employees donate leave into the Leave Bank so that the Leave Bank Board may distribute it to approved recipients. Only members may apply to draw leave from the Leave Bank.