



SOUTH CAROLINA DEPARTMENT OF AGRICULTURE

LEAVE POOL POLICY AND PROCEDURE

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. POLICY

The South Carolina Department of Agriculture's (SCDA) Leave Transfer Program consists of annual and sick leave donations made by SCDA's employees for use by South Carolina Department of Agriculture employees who qualify as recipients and are approved by the Agency. Donations cannot be designated for specific individuals except as noted in section IX of this policy.

II. DONATION OF LEAVE

Employees may voluntarily request that a specified number of hours of accrued annual and/or sick leave be transferred from their leave account(s) to the South Carolina Department of Agriculture's Leave Transfer Pool(s) by using the Agency's Leave Donation Request form or submitting an email to Human Resources. The following are restrictions on donation of leave:

- A. Employee must retain a minimum of 15 days (112.5 hours) in sick leave account to donate sick leave.
- B. Employee may donate no more than one-half of the annual or sick leave earned within a calendar year.
- C. Leave must be donated prior to December 31 of the year for which the donation is to be made.
- D. Once leave has been transferred to a pool account, it cannot be restored or returned to the leave donor.

III. REQUEST FOR LEAVE TRANSFER

An employee with a personal emergency may request sick or annual leave from the appropriate pool account by completing the South Carolina Department of Agriculture's Leave Recipient Request form and submitting it to their Division's Assistant Commissioner. While there is no limit to the number of separate requests that may be submitted, each request shall be limited to no more than 30 working days and generally not to exceed a total of 90 days.

IV. MINIMUM ELIGIBILITY REQUIREMENTS

The applicant must be eligible to accrue sick and/or annual leave to qualify as a recipient of transferred leave.

An employee's leave usage records and length of State service may be used when considering leave transfer requests for approval. Employees 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.

The applicant must have experienced a personal emergency, which means a medical or family emergency or other hardship situation that is likely to require the 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.

A personal emergency is limited to catastrophic and debilitating medical situations, severely complicated disabilities and severe accident cases – each of which would require a prolonged period of recuperation. Routine disabilities or disabilities resulting from elective surgery do not qualify for leave transfers.

An employee must have been in leave without pay status for at least 30 working days or documentation must certify the emergency will result in an employee being in leave without pay for this length of time.

Employees who become eligible for other paid benefits for periods of absence from work will generally be considered ineligible for leave transfers. Examples of other paid benefits include, but are not limited to, workers' compensation, long-term disability, and disability retirement benefits. (NOTE: The sick leave transfer program is a "bridge" program. If there is any possibility that an employee will be out of work more than 90 calendar days due to disability, he/she should apply for long-term disability immediately upon leaving work. An employee having combined sick and annual leave to carry the employee beyond 90 calendar days would not be eligible for the sick leave transfer program).

An employee who is within 30 days of eligibility for long-term disability insurance or disability retirement and who has exhausted a substantial balance of accrued leave due to prolonged personal emergency is eligible for consideration when requesting approval for less than the 30-day minimum requirement for leave transfer.

An employee must have used all eligible earned sick and annual leave prior to using approved transferred leave.

Whether transferred leave may be applied retroactively and for what length of time will be determined on a case-by-case basis in light of the justification presented. The South Carolina Department of Agriculture must have sufficient leave in the appropriate leave pool and sufficient funds to pay for the requested leave. Any exception to these guidelines must be recommended to the South Carolina Department of Administration, Division of State Human Resources for approval.

V. PROCEDURE FOR ADJUDICATION OF REQUESTS

- A. An employee with a personal emergency may request sick or annual leave from the appropriate pool account by completing the South Carolina Department of Agriculture Leave Transfer Pool Recipient Request Form and submitting it to their Division's Assistant Commissioner.
- B. Leave requestors may be required to furnish a detailed, personal statement to document the financial hardship incurred as a result of the unavailability of paid leave. Leave recipients may be required to submit documentation certifying the continuation of the personal emergency.
- C. After the Division's Assistant Commissioner's review, the request shall be submitted to SCDA Human Resources with a supporting position statement and documentation or a statement denying approval. Any recommendation for approval must include verification that necessary funds are available.
- D. Upon receipt of a Leave Transfer Request with Division Assistant Commissioner's approval, SCDA Human Resources will review the request(s) and issue a written recommendation to the Commissioner or designee.

- E. The requestor, their direct supervisor and the Division's Assistant Commissioner will be notified by SCDA Human Resources of the Commissioner or designee's decision.
- F. In the event multiple requests are approved and the leave available in the appropriate Leave Transfer Pool(s) is insufficient, requests will be satisfied as fully as possible based upon date and time the initial request was received in SCDA Human Resources. If the appropriate leave pool is exhausted at the time of the request, the request must be denied.
- G. The approval or denial by the Commissioner or designee is final and there is no administrative or judicial appeal.

VI. USE OF ANNUAL OR SICK LEAVE

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) (see Family Medical Leave Act Policy) and, if so, will run concurrently.

VII. MONITORING OF USE

The supervisor or manager and SCDA Human Resources shall continuously 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 a pool account after the personal emergency ceases to exist.

The personal emergency affecting a leave recipient terminates when the Agency Director or designee, in consultation with SCDA Human Resources, determines that the personal emergency no longer exists or the leave recipient's employment terminates.

VIII. RESTORATION OF TRANSFERRED LEAVE

When the personal emergency affecting a leave recipient terminates or when employment terminates, any transferred annual or sick leave remaining to the credit of the employee must be restored to the appropriate pool account. SCDA Human Resources will complete a Personal Action Form to restore the leave.

When employment terminates, transferred leave from a pool account must not be transferred to another employee, included in a lump-sum payment for accrued leave, or included in the leave recipient's total service for retirement computation.

IX. DONATION OF LEAVE TO ANOTHER SCDA EMPLOYEE

In the event of a medical emergency, employees may make a voluntary written request that a specified number of hours of accrued annual and/or sick leave be transferred from their leave account(s) to a specific South Carolina Department of Agriculture employee. For the purposes of this provision, a medical emergency is defined under Internal Revenue Service (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 work 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 transfer plan. Such transfer is subject to the approval of the Commissioner or designee.

An employee with more than 15 days in his sick leave account may transfer sick leave to the recipient if the donating employee retains a minimum of 15 days in his own sick leave account. An employee with less than 15 days in his sick leave account may not transfer any sick leave to the recipient. Once leave of an employee has been transferred to the recipient, it may not be restored or returned to the leave donor.

All the requirements, restrictions, processes and procedures enumerated in this Leave Pool Policy and Procedure also apply to leave donation to a specific employee, except that donations to a specific employee may be made only for a medical emergency as defined by the IRS and such transfers require approval of the Commissioner or designee.