

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
Emergency Leave Transfer Program

OFFICE OF PRIMARY INTEREST: OFFICE OF HUMAN CAPITAL

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SUPERSEDES:	See Section 3

DIRECTIVE TITLE: Emergency Leave Transfer Program

1. **PURPOSE and SCOPE.** The purpose of this Directive is to set forth the basic provisions and establish the procedures for the administration of the Emergency Leave Transfer Program (ELTP) within U.S. Immigration and Customs Enforcement (ICE). This Directive applies to all ICE components.

Any ICE employee (as defined in 5 U.S.C. 6331(1)) who has been adversely affected by a disaster or emergency, as declared by the President (e.g., a major disaster or emergency that results in loss of life or property, serious injury, or mental illness as a result of a direct threat to life or health) may receive donated leave under the ELTP.
2. **AUTHORITIES/REFERENCES.**
 - 2.1. Title 5 United States Code (U.S.C.) Section 6391, Emergency Leave Transfer Program.
 - 2.2. 5 U.S.C. Section 5302 (g), Annual Leave, General Provisions.
 - 2.3. 5 U.S.C. Section 5551, Lump Sum Payments for Annual Leave.
 - 2.4. 5 U.S.C. Section 5552, Lump Sum Payment for Accumulated and Accrued Leave on Entering Active Duty; Election.
 - 2.5. 5 U.S.C. Section 6304, Annual Leave Accumulation.
 - 2.6. 5 U.S.C. Section 6306, Refund of Lump-Sum Payment and Recredit of Annual Leave
 - 2.7. 5 U.S.C. Section 6263, Voluntary Leave Bank Program.
 - 2.8. 5 U.S.C. Section 6331 (I), Definitions, Employee.
 - 2.9. 5 CFR, Part 630, Subpart K, Emergency Leave Program.
 - 2.10. Department of Homeland Security (DHS) Management Directive 3080.1 entitled, *Work Schedules, Leave Programs, and Time and Attendance/Payroll*
 - 2.11. Chief Human Capital Officer Memorandum for Human Capital Council, Subject: Emergency Leave Transfer Program, September 20, 2005.
3. **SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive supersedes previous issuances and previously recognized processes for the implementation of emergency leave policy for all ICE Program Offices. This is the

Emergency Leave Transfer Program

originating and establishing Directive for the Emergency Leave Transfer Program for all ICE offices.

4. **BACKGROUND.** As directed by the President in his memorandum of September 1, 2005, the Office of Personnel Management (OPM) has established an ELTP to assist federal employees affected by a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of federal employees. DHS has delegated to ICE the authority to administer an ELTP for its employees in DHS Management Directive 3080.1 (Section 2.10).
5. **DEFINITIONS.**
 - 5.1. **Disaster or Emergency** – A major catastrophic event, as declared by the President, that results in loss of life or property, serious injury, or mental illness as a result of a direct threat to life or health.
 - 5.2. **ELTP Screening Coordinator** – An official designated by the Director, Human Capital Office to review and act on applications for donated annual leave. The coordinator shall consult with program office management officials as necessary and appropriate.
 - 5.3. **Emergency Leave Bank** – A leave repository established and maintained by OPM at the declaration of an emergency by the President for each such disaster or emergency. The leave bank will contain the aggregate amount of annual leave donated by emergency leave donors in the agency or agencies for a specific disaster or emergency.
 - 5.4. **Emergency Leave Donor** – An employee whose voluntary written request for transfer of annual leave to the Emergency Leave Bank is approved by his or her employing agency.
 - 5.5. **Emergency Leave Recipient** – An employee approved, as a result of a disaster or emergency, to receive annual leave from other employees under the ELTP.
 - 5.6. **Employee** – An employee as defined by Title 5 U.S.C. Section 6301(2), excluding an individual employed by the Government of the District of Columbia.
 - 5.7. **Family Member** – A person related to the employee as follows: spouse; parents of the spouse; children, including adopted children and stepchildren, and their spouses; parents; brothers and sisters and their spouses; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
6. **POLICY.**
 - 6.1. It is ICE policy to permit the transfer of donated annual leave to employees who have been affected by a major disaster or emergency, as declared by the President.
 - 6.2. An ICE employee who has a family member who has been adversely affected by a disaster or emergency and does not have reasonable access to other forms of assistance may receive donated leave under the ELTP.
 - 6.3. An employee is considered to be adversely affected by a major disaster or emergency if the disaster or emergency has caused severe hardship to the employee or family member to such a degree that the employee's absence from work is required.

- 6.4. An employee is not required to exhaust available leave before receiving donated leave under the ELTP.
- 6.5. Donated annual leave shall be put into an emergency leave bank for use by applicants under this program.
- 7. **RESPONSIBILITIES.**
 - 7.1. **The Director, Office of Human Capital (OHC) shall:**
 - 7.1.1. Oversee the management and implementation of the ICE ELTP;
 - 7.1.2. Designate an OHC staff member to serve as the ELTP Screening Coordinator; and
 - 7.1.3. Provide advice and assistance and serve as a source of technical information for supervisors, employees, ELTP Screening Coordinator, and ICE's shared services payroll provider regarding ELTP by interpreting regulations and processing the necessary paperwork required by the program.
 - 7.2. **The ELTP Screening Coordinator shall:**
 - 7.2.1. Review and act on applications for donated annual leave. The coordinator shall consult with management officials as necessary and appropriate in the administration of ELTP;
 - 7.2.2. Verify that the employee's Application to Become a Leave Recipient Under the Emergency Leave Transfer Program (OPM Form 1637) is in compliance with the provisions of this Directive;
 - 7.2.3. Adjudicate requests;
 - 7.2.4. Within 10 business days from the submission date of the application, notify the applicant, his or her supervisor, and timekeeper in writing of the approval or disapproval of the request and the reason(s) for the disapproval; and
 - 7.2.5. Send a copy of the approved recipient's application to the ICE shared services payroll provider.
 - 7.3. **The Emergency Leave Recipient's Timekeeper shall:**
 - 7.3.1. Maintain communication with the ICE shared services payroll provider to ensure donated annual leave is credited to the leave recipient's account.
 - 7.3.2. Ensure that the leave recipient's time and attendance record is properly coded to indicate the use of donated annual leave.
 - 7.3.3. Notify the ICE shared services payroll provider of any change in the recipient's status, e.g., part-time employment, return-to-duty, or any other information pertinent to proper administration of ELTP.
 - 7.4. **The ICE shared services payroll provider shall:**
 - 7.4.1. Coordinate with OPM to maintain donated annual leave in an emergency leave bank to be used by approved emergency leave transfer recipients;

- 7.4.2. Credit annual leave to the leave account of an approved emergency leave transfer recipient, as appropriate;
 - 7.4.3. Maintain an appropriate file for emergency leave transfer documents for 3 years; and
 - 7.4.4. Restore any unused donated annual leave to the leave accounts of the leave donors in accordance with the provisions of this Directive.
- 8. PROCEDURES**
- 8.1. Application Procedures.**
- 8.1.1. **Donors.** Leave donors must complete OPM Form 1638, Request to Donate Annual Leave under the Emergency Leave Transfer Program (Attachment A). The form may be downloaded at <http://www.opm.gov/FORMS/HTML/emerg.htm>. (NOTE: The Web address is subject to change.) The donor shall forward the completed form to his or her servicing payroll office for final processing.
 - 8.1.2. **Applicants.** Applicants, or their designee, must complete OPM Form 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program (Attachment B) which may be downloaded at <http://www.opm.gov/FORMS/HTML/emerg.htm>. (NOTE: The Web address is subject to change.) The applicant should include any relevant supplemental information which supports the request. The employee or designee shall send the completed application to become an ELTP recipient to the ELTP Screening Coordinator at ICE Office of Human Capital, 425 I Street, NW, Washington, DC 20536.
- 8.2. Approval Procedures.**
- 8.2.1. The ELTP Screening Coordinator, or a designated representative, shall review the application to determine if the applicant is or has been affected by the designated major disaster or emergency.
 - 8.2.2. The ELTP Screening Coordinator shall review the application and make a decision on the amount of leave to be granted.
 - 8.2.3. The ELTP Screening Coordinator shall notify the applicant or designee in writing and by whatever other available direct means of his decision within 5 business days from the date of the decision.
 - 8.2.4. Upon approval, the ELTP Screening Coordinator shall notify the applicant or designee of the amount of emergency leave granted. The coordinator shall also notify the supervisor, timekeeper, and servicing payroll office.
 - 8.2.5. The ELTP Screening Coordinator shall ensure that the entire approved application package, including the name, telephone number, and e-mail address of the emergency leave recipient's timekeeper is forwarded to the ICE shared services payroll provider.
 - 8.2.6. If the application is denied, the ELTP Screening Coordinator shall notify the applicant or designee in writing of the disapproval and the specific reason(s) for the disapproval (e.g., the employee or his or her family member was not adversely affected by the major disaster or emergency; or that the needs of the service preclude granting the requested leave). The notice shall advise the applicant that the disapproval can be

grieved in accordance with the applicable negotiated agreement or through the administrative grievance procedure, whichever is applicable.

- 8.2.7.** Disclosure of information provided by the applicant in support of his or her application to become an ELTP recipient shall be in accordance with applicable privacy protection laws, rules, and regulations.

8.3. Limitations on Donation and Use of Leave

- 8.3.1.** Only annual leave may be donated to ELTP. Donated leave must be in whole hour increments.
- 8.3.2.** In any one leave year, a leave donor may not donate more than 104 hours of annual leave. ICE may waive this limitation if warranted by sufficiently unusual circumstances.
- 8.3.3.** An emergency leave recipient may receive a maximum of 240 hours for each disaster or emergency.
- 8.3.4.** An emergency leave recipient shall use the donated annual leave for purposes related to the disaster or emergency for which he or she was approved. Annual leave transferred in accordance with this Directive can be used to substitute for periods of leave without pay and to liquidate any indebtedness for advanced annual and/or sick leave.
- 8.3.5.** While an emergency leave recipient is using donated leave, annual and sick leave shall accrue to the credit of the employee at the same rate as if the employee were in a paid leave status and shall be subject to the limitations imposed by 5 U.S.C. Section 6304(a), (b), (c), and (f) at the end of the leave year in which the transferred annual leave is received.
- 8.4.** Annual leave transferred under this Directive shall not be:
- 8.4.1.** Included in a lump-sum payment under 5 U.S.C. Sections 5551 or 5552;
- 8.4.2.** Made available for recredit under 5 U.S.C. Section 6306 upon reemployment by a federal agency; or
- 8.4.3.** Used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement under 5 U.S.C. Section 5302(g).
- 8.5. Termination of the Disaster or Emergency.** The disaster or emergency affecting an emergency leave recipient terminates when:
- 8.5.1.** The emergency leave recipient's federal service terminates;
- 8.5.2.** At the end of the bi-weekly pay period in which the emergency leave recipient, or his or her personal representative, notifies the supervisor or higher-level official or the ELTP Coordinator in writing that he or she is no longer affected by such disaster or emergency;
- 8.5.3.** At the end of the bi-weekly pay period in which the supervisor or higher-level manager determines, after written notice 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

- 8.5.4. At the end of the bi-weekly pay period in which the emergency leave recipient's employing agency receives notice that OPM has approved an application for disability retirement.

8.6. Restoration of Donated Annual Leave

- 8.6.1. Any donated annual leave remaining to the credit of a leave recipient when the disaster or emergency terminates shall be restored to the leave accounts of the donors currently employed by the Federal Government in 15-minute increments, to the extent that it is administratively possible. The amount of unused donated annual leave that must be returned to each emergency leave donor must be proportional to the amount of annual leave donated by the emergency leave donor.

- 8.6.2. At the election of the emergency leave donor, unused donated annual leave may be restored by:

- 8.6.2.1. Crediting the restored annual leave to the donor's annual leave account in the current leave year; or

- 8.6.2.2. Crediting the restored annual leave to the donor's annual leave account as of the first day of the following leave year.

- 8.7. **Records Maintenance.** All documentation pertaining to ELTP and the use of donated leave (e.g., leave recipient's application, Leave Donation Requests, and Time and Attendance records of the leave recipient) shall be maintained for a period of 3 years following the termination of the declared disaster or emergency.

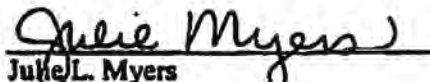
9. ATTACHMENTS.

- 9.1. **Attachment A:** OPM Form 1638, Request to Donate Annual Leave Under the Emergency Leave Transfer Program.

- 9.2. **Attachment B:** OPM Form 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program.

10. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

Approved


Julie L. Myers
Assistant Secretary

Request to Donate Annual Leave Under the Emergency Leave Transfer Program

I request that my annual leave be transferred to the emergency leave transfer program established by the Office of Personnel Management. As of the date indicated below, I have enough annual leave in my account to cover this amount. I understand I may not donate more than 104 hours of annual leave under the emergency leave transfer program, unless otherwise permitted by my agency.

I understand that my decision to transfer leave is not revocable. If a sufficient balance of unused donated leave remains after the emergency has terminated, I understand that a pro-rated share will be returned to me either during the current leave year or the following leave year. However, to recredit my leave, I must remain employed by a Federal agency and be subject to chapter 63 of title 5, United States Code. I have not been directly or indirectly intimidated, threatened or coerced, or promised any benefit by an employee for the purpose of donating or using leave.

Completed Form Must Be Submitted to Employing Agency

1. Applicant's name (Last, first, middle)		2. Employee or Social Security Number	
3a. Position title	3b. Pay plan	3c. Grade/pay level	
4. Name of organization (Agency, Department, Office, Division, Branch, etc.)		5. Office telephone number	
6. Amount of annual leave accrued as of end of last pay period		7. Amount of annual leave to be donated	
8. Major disaster or emergency declared by the President			
9a. Signature		9b. Date signed	

Privacy Act Statement

Participation in this program is voluntary; however, solicitation of this information is authorized under 5 U.S.C. 6391. The information furnished will be used to identify records properly associated with the transfer of annual leave. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court when the Government is party to a suit. Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, Section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.

Application to Become a Leave Recipient Under the Emergency Leave Transfer Program

Completed Form Must Be Submitted To Employing Agency

1. Applicant's name (Last, first, middle)		2. Employee or Social Security Number
3a. Position title	3b. Pay plan	3c. Grade/pay level
4. Name of organization (Agency, Department, Office, Division, Branch, etc.)		5. Office telephone number
6. Major disaster or emergency declared by the President		
7. Nature and severity of the emergency as it relates to the applicant		
8. Individual affected by the emergency (check one) ☐ Employee ☐ Employee's family member	9. Date emergency began	10. Date emergency ended (or is expected to end)
11a. Name of individual completing application (if applying on behalf of the applicant)	11b. Relationship to applicant	11c. Telephone number (area code)
12a. I certify that the above statements are true. (Signature of applicant or individual applying on behalf of applicant)		12b. Date signed

Privacy Act Statement

Participation in this program is voluntary; however, solicitation of this information is authorized under 5 U.S.C. 6391. The information furnished will be used to identify records properly associated with the transfer of annual leave. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court when the Government is party to a suit. Public Law 104-134 (April 28, 1985) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, Section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.

13. First level supervisor's recommendation ☐ Approve ☐ Disapprove Signature _____ Date signed _____	14. Deciding official's decision ☐ Approve ☐ Disapprove Signature _____ Date signed _____
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