

Director of the Office of Personnel Management shall prescribe regulations to carry out this section, including—

- (1) guidance to agencies regarding the appropriate purposes for providing leave under this section; and
- (2) the proper recording of leave provided under this section.

(e) RELATION TO OTHER LAWS.—Notwithstanding subsection (a) of section 7421 of title 38, this section shall apply to an employee described in subsection (b) of that section.

(Added Pub. L. 114-328, div. A, title XI, § 1138(e)(1), Dec. 23, 2016, 130 Stat. 2469.)

REFERENCES IN TEXT

The date of enactment of this section, subsec. (d), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

§ 6331. Definitions

For the purpose of this subchapter—

- (1) the term “employee” means an employee as defined by section 6301(2), excluding an individual employed by the government of the District of Columbia;
- (2) the term “leave recipient” means an employee whose application to receive donations of leave under this subchapter is approved;
- (3) the term “leave donor” means an employee whose application to make 1 or more donations of leave under this subchapter is approved; and
- (4) the term “medical emergency” means a medical condition of an employee or a family member of such employee that is likely to require the prolonged absence of such employee from duty and to result in a substantial loss of income to such employee because of the unavailability of paid leave (disregarding any advanced leave).

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2834; amended Pub. L. 103-103, §3, Oct. 8, 1993, 107 Stat. 1022.)

AMENDMENTS

1993—Par. (4). Pub. L. 103-103 inserted “the term” after par. designation and inserted before period at end “(disregarding any advanced leave)”.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-103, §6, Oct. 8, 1993, 107 Stat. 1024, provided that: “Except as provided in section 2 [enacting and repealing provisions set out as notes under this section], this Act [amending this section and sections 6337, 6361, 6362, and 6373 of this title and enacting provisions set out as a note under section 6301 of this title] and the amendments made by this Act shall take effect as of the 120th day after the date of the enactment of this Act [Oct. 8, 1993] or such earlier date as the Office of Personnel Management may by regulation prescribe.”

REPEALS

Pub. L. 100-566, §2(d), Oct. 31, 1988, 102 Stat. 2844, which provided for the repeal of subchapters III (§6331 et seq.) and IV (§6361 et seq.) of this chapter effective 5 years after Oct. 31, 1988, and which also contained savings provisions for continued availability of certain leave as if such program had not been terminated, was

repealed by Pub. L. 103-103, §2, Oct. 8, 1993, 107 Stat. 1022, effective Oct. 30, 1993.

[Pub. L. 103-103, §2, Oct. 8, 1993, 107 Stat. 1022, provided that the repeal made by that section is effective Oct. 30, 1993.]

IMPLEMENTATION OF LEAVE TRANSFER AND LEAVE BANK PROGRAMS

Pub. L. 100-566, §2(c), Oct. 31, 1988, 102 Stat. 2844, provided that:

“(1) No later than 3 months after the date of the enactment of this Act [Oct. 31, 1988], the Office of Personnel Management shall prescribe regulations to implement leave transfer programs pursuant to the amendments made by this Act [see Short Title of 1988 Amendment note set out under section 6301 of this title].

“(2) No later than 6 months after the date of the enactment of this Act—

“(A) the head of each agency involved under sections 6332 and 6339 of title 5, United States Code, shall establish and begin operating a leave transfer program in accordance with applicable provisions of subchapter III of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office; and

“(B) the Office of Personnel Management shall prescribe regulations to implement leave bank programs pursuant to the amendments made by this Act.

“(3) No later than 9 months after the date of the enactment of this Act, the head of each agency involved under section 6362 of title 5, United States Code, shall establish and begin operating a leave bank in accordance with subchapter IV of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office.”

REPORT TO CONGRESS

Pub. L. 100-566, §2(e), Oct. 31, 1988, 102 Stat. 2845, provided that:

“(1)(A) Within 2 years after the date of the enactment of this Act [Oct. 31, 1988] and again no later than 6 months before the scheduled termination date of any program under subchapter III or subchapter IV of chapter 63 of title 5, United States Code (excluding any program under sections 6339 and 6372 of such chapter) the Office of Personnel Management shall submit a written report to the Congress with respect to the operations of such programs.

“(B) The Office of Personnel Management may require agencies to maintain such records and to provide such information as the Office may need to carry out subparagraph (A).

“(2) The excepted agencies that establish programs under sections 6339 and 6372 of title 5, United States Code, shall report to the Congress on the operation of such programs within 2 years after the date of the enactment of this Act and again no later than 6 months before the scheduled termination of any such programs.”

CONTINUATION OF TEMPORARY LEAVE TRANSFER PROGRAMS

Pub. L. 100-566, §2(f), Oct. 31, 1988, 102 Stat. 2845, provided that: “Any temporary program allowing for transfers of leave among officers or employees of the Federal Government may, if such program is being implemented with respect to an agency (or any unit thereof) as of the date of the enactment of this Act [Oct. 31, 1988], continue to be implemented with respect to such agency (or unit), notwithstanding any provision of law which would otherwise terminate the authority for such program, pending the commencement of a leave transfer program with respect to such agency pursuant to amendments made by this Act [see Short Title of 1988 Amendment note set out under section 6301 of this title]. The Office of Personnel Management (or, in the case of a program established by another agency, such other agency) shall prescribe regulations to ensure that any leave which has been transferred to the

credit of an officer or employee and which remains unused as of the date on which any such temporary program terminates (and a successor program commences pursuant to amendments made by this Act) shall not be lost by reason of that termination.”

§ 6332. General authority

Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual leave account of any other employee if such other employee requires additional leave because of a medical emergency.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2834.)

§ 6333. Receipt and use of transferred leave

(a)(1) An application to receive donations of leave under this subchapter, whether submitted by or on behalf of an employee—

(A) shall be submitted to the employing agency of the proposed leave recipient; and

(B) shall include—

(i) the name, position title, and grade or pay level of the proposed leave recipient;

(ii) the reasons why transferred leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the medical emergency involved;

(iii) if the employing agency so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under clause (ii); and

(iv) any other information which the employing agency may reasonably require.

(2) If an agency requires that an employee obtain certification under paragraph (1)(B)(iii) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of such sources.

(3) An employing agency shall approve or disapprove an application of a proposed leave recipient for leave under this subchapter, and, to the extent practicable, shall notify the proposed leave recipient (or other person acting on behalf of the proposed recipient, if appropriate) of the decision of the agency, in writing, within 10 days (excluding Saturdays, Sundays, and legal public holidays) after receiving such application.

(b)(1) A leave recipient may use annual leave received under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that any annual leave, and any sick leave, accrued or accumulated by the leave recipient and available for the purpose involved must be exhausted before any transferred annual leave may be used.

(2)(A) The requirement under paragraph (1) relating to exhaustion of annual and sick leave shall not apply in the case of a leave recipient who—

(i) sustains a combat-related disability while a member of the armed forces, including a reserve component of the armed forces; and

(ii) is undergoing medical treatment for that disability.

(B) Subparagraph (A) shall apply to a member described in such subparagraph only so long as the member continues to undergo medical treatment for the disability, but in no event for longer than 5 years from the start of such treatment.

(C) For purposes of this paragraph—

(i) the term “combat-related disability” has the meaning given such term by section 1413a(e) of title 10; and

(ii) the term “medical treatment” has such meaning as the Office of Personnel Management shall by regulation prescribe.

(c) Transferred annual leave—

(1) may accumulate without regard to any limitation under section 6304; and

(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced leave, which began on or after a date fixed by the employing agency of the employee as the beginning of the medical emergency involved.

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2834; amended Pub. L. 110-181, div. A, title XVI, §1675(a), Jan. 28, 2008, 122 Stat. 484.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title XVI, §1675(b), Jan. 28, 2008, 122 Stat. 484, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 28, 2008], except that, in the case of a leave recipient who is undergoing medical treatment on such date of enactment, section 6333(b)(2)(B) of title 5, United States Code (as amended by this section) shall be applied as if it had been amended by inserting ‘or the date of the enactment of this subsection [probably should be ‘paragraph’], whichever is later’ after ‘the start of such treatment’.”

§ 6334. Donations of leave

(a) An employee may, by written application to the employing agency of such employee, request that a specified number of hours be transferred from the annual leave account of such employee to the annual leave account of a leave recipient in accordance with section 6332.

(b)(1) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave such donor would be entitled to accrue during the leave year in which the donation is made.

(2) A leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under section 6304(a) may donate no more than the number of hours remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

(3) The employing agency of a leave donor may waive the limitation under paragraphs (1) and (2). Any such waiver shall be made in writing.

(c) The Office of Personnel Management shall prescribe regulations to include procedures to