

# ARS □ ERS □ NASS □ NIFA

## *Policies and Procedures*

**Title:** Leave Administration

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Human Capital Planning and Development  
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**Distribution:** REE Offices in Headquarters, Areas, and Field Locations

This P&P provides the legal and regulatory policy and procedures applicable to granting, approving, crediting, recording, or restoring leave. Also identified are a number of new or expanded military leave entitlements. For ARS, authority to approve leave cancellation for restoration has been moved from HRD to line management.

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# **1. Purpose**

This document addresses the most common types of leave available to Federal employees, focusing primarily on who is eligible for which type of leave and under what circumstances. The discussion is not exhaustive. This P&P, in addition to addressing leave rules and situations, covers the Leave Restoration Program and the Voluntary Leave Transfer Program.

# **2. Background**

The regulations which support the information in this P&P can be found primarily in the U.S. Code and the Code of Federal Regulations (CFR). For situations that are not addressed here, contact a specialist on the Pay and Leave Team of the Human Resources Division (HRD).

For information on the roles and responsibilities of employees, timekeepers, and supervisors in the time and attendance process and a discussion of credit time, see P&P 402.1 “Flexible Work Schedule Program.”

For information on overtime and other forms of premium pay to include compensatory time off, see P&P 402.3 “Premium Pay.”

For information on holidays, administrative leave, and excused absence, see P&P 402.4 “Administrative Leave and Excused Absence.”

# **3. Policy**

## **3.1 Annual Leave**

Annual leave is a paid absence from duty that provides Federal employees time off for rest and recreation, leisure travel, and personal business. Employees may also use annual leave when sick, to attend to family matters, and to handle emergency situations.

While the use of annual leave is an employee entitlement, when the annual leave is taken is subject to supervisory approval. Employees should submit leave requests as far in advance as possible, and management should render timely decisions on employees' leave requests. Considerations in this decision are the need to maintain a necessary work force through minimizing absences during peak workload periods while allowing employees to schedule annual leave so as to prevent forfeiture of leave in excess of their annual leave ceiling. See Section 3.1.6 for annual leave ceilings.

If while on annual leave an employee becomes ill or is injured, upon employee request, the annual leave will be changed to sick leave for the time of the incapacitation.

### **3.1.1 Eligibility**

To earn annual leave, an employee must (1) be appointed to a position for 90 calendar days or

longer and (2) serve a regularly scheduled tour of duty. Intermittent employees cannot earn annual leave. Part-time and full-time employees with temporary appointments of 89 calendar days or less are not entitled to earn annual leave. However, if their employment is extended without a break in service to equal or exceed 90 days, the employee is credited with leave retroactive to the time when they started the initial appointment. When an employee's continuity of service is interrupted by a non-leave-earning period (e.g., change in tour of duty from full-time to intermittent), that employee will earn leave on a pro-rated basis for that fraction of that pay period which does qualify for leave.

### 3.1.2 Accrual Rates

Full-time employees earn leave during each full biweekly pay period while in pay status, or in a combination of pay status and nonpay status (also see discussion below under section 3.1.5, "Reduction of Accrued Leave Due to Non-Pay Status"). Changes from one leave category to another will take effect at the beginning of the next full pay period following the pay period in which the service computation date falls. The exception is when the date falls on the first Sunday of the pay period, then, the leave category change is effective in the same pay period.

The amount of leave accrued is based on years of Federal service (or in combination with creditable non-Federal service, see P&P 420.0, while Senior Executive Service (SES), Senior Level (SL) and Scientific (ST) employees are always in the 8 hour category regardless of years of service). See table below for leave category based on years of service.

Years of Service	Hours Earned per Pay Period
Fewer than 3	4
At least 3, but less than 15	6*
15 or more	8

\* There is a single exception to this rule. An employee in the 6 hour leave category earns 10 hours of annual leave for the last full pay period in the calendar year (usually pay period 25).

When part-time employees use Leave Without Pay (LWOP), it does not affect their accrual rate. Thus, part-time employees earn leave **only** while in pay status. The amount of leave accrued is based on their leave category and the number of hours in pay status. This includes hours worked; paid leave (e.g., sick leave, annual leave, credit hours used, etc); and overtime (as long as other pay status hours and overtime does not exceed 80 hours in a pay period).

Years of Service	Leave Category	Hours Worked	Leave earned
Fewer than 3	4	20	1 hour
At least 3, but less than 15	6	13	1 hour
15 or more	8	10	1 hour

### 3.1.3 Part-time Carryover

Part-time employees may carry over into the next pay period any “left over” (carry-over) hours of qualifying service that fall short of the minimum needed to earn an hour of leave (e.g., employees with 5 years of service who work 64 hours per pay period will earn 4 hours of annual leave and carry over the 12 remaining hours into the next pay period). See chart below:

Years of Service	Leave Category	Hours Worked	Leave Earned	PT Carryover
5	6	64 div. by 13=	4	12

Carryover hours (i.e., those hours insufficient to earn the minimum of one hour of leave) are **not** lost or dropped whenever a Mixed Tour and Continuing Program Employee [this includes students in STEP (Student Temporary Employment Program) and SCEP (Student Career Employment Program)], changes their tour of duty from part-time to full-time or Intermittent and back again to part-time. However, when an employee changes to an Intermittent tour of duty or leaves the Federal service and receives a lump sum payment, carryover hours may not be carried forward if the employee is either changed back to part-time or is rehired. In these cases, the agency will need to remove the employee’s part-time annual/sick leave carryover hours on the timekeeper’s database and the National Finance Center’s (NFC) database through TINQ (Time Inquiry). Carryover hours are also lost when a non-student moves from part-time to full-time and back to part-time again.

### 3.1.4 Leave Accruals for the First & Last Pay Periods of Employment

To accrue leave for an **employee’s first pay period**, the employee must have entered on duty (started work) on their first scheduled workday of the pay period which the facility is open and is not a holiday, and continued in Federal service to the end of their scheduled tour of duty for that pay period. This is true for full and part-time employees. Example: Sunday is the beginning of a pay period and the first Monday of the pay period is the employee’s first scheduled workday. Labor Day, the first Monday of the pay period, is a holiday. An employee who enters on duty on Tuesday and continues to serve for the remainder of the pay period (even if they end the pay period on LWOP) is considered to have completed the first full biweekly pay period for leave accrual purposes.

To accrue leave for an **employee’s last pay period**, the employee must have been employed through the end of their tour of duty for that pay period. Besides working, the last scheduled day counts for leave purposes if it is a holiday, sick leave is used, a time-off award is used, or comp-time, military leave, court leave, administrative leave, etc., is used. However, an employee who is on LWOP, suspension, AWOL (Absence Without Leave), or annual leave (terminal leave) for their entire last scheduled workday does not earn leave for that final pay period. This is true for full- and part-time employees.

The NFC system cannot determine if a new or separating employee is employed for the full pay period because the daily tour of duty is not recorded in the database. Therefore, the Headquarters Human Resources Division must indicate on the personnel action the beginning date for new employees and communicate that date to the location if it is not the first day of the

pay period. To avoid leave errors, it is important for the timekeeper to coordinate with the Headquarters Human Resources Division concerning leave accruals for the first and last pay periods of an employee's Federal Government service.

### **3.1.5 Reduction of Accrued Leave Due to Non-Pay Status**

When full-time employees are absent in a nonpay status (e.g., LWOP, AWOL, Suspension, Furlough, etc.) for 80 hours at any time during a leave year (i.e., the equivalent of a full pay period), they will forfeit the leave that would have been earned for that pay period. This same provision applies to each subsequent 80-hour increment (i.e., for every additional 80 hours in a nonpay status, employees will not accrue 4, 6, 8 or **10\*** hours of annual leave and will also not accrue 4 hours of sick leave). The annual leave is based on the employee's leave category. Since part-time employees do not earn leave while in a nonpay status, this provision does not apply to them.

\* This refers to the last full pay period of the calendar year for the employees in the 6 hour annual leave category when they earn 10 hours of annual leave.

### **3.1.6 Maximum Accumulation**

Most Federal employees, both full-time and part-time, may carry an accumulation of **240 hours** of annual leave forward into the next leave year. Employees stationed outside the United States may carry forward **360 hours** of accumulated leave. An employee whose leave balance exceeds the authorized ceiling will forfeit the excess hours at the beginning of the new leave year. SES, SL and ST employees may carry forward **720 hours** of accumulated leave. When an employee moves to SES, SL, or ST, any annual leave in their account (on the pay period prior to their move to SES, SL or ST) exceeding their prior leave ceiling, must be used by the end of that leave year or be forfeited [e.g., an employee has 300 hours of annual leave when they are promoted from a GS to an SES position. The employee must use or lose 60 hours (300 hours minus the previous 240 hour ceiling) of annual by the end of that leave year]. Leave earned while in SES, SL or ST status is accrued toward the new SES, SL, or ST ceiling of 720 hours. When employees in the 360 or 720 hour end of year annual leave ceiling category move to a position in the 240 hour end of year category, any annual leave accumulated that is in excess of 240 hours shall remain to the employees' credit until used (i.e., whatever balance they have above 240 at the time of the change (not to exceed 360 or 720) becomes their personal leave ceiling. That personal leave ceiling is lowered by any end of leave year balance that is lower than their previous personal leave balance ceiling and becomes their new personal leave ceiling. This continues until their end of year leave balance takes them to, or below 240 hours, then 240 hours becomes their annual leave ceiling.

### **3.1.7 Cancellation and Restoration of Annual Leave**

Forfeited annual leave may be restored only if it was forfeited because of the following reasons and criteria. There are only five circumstances under which forfeited annual leave can be restored:

1. An administrative error (e.g., incorrect service computation date, failure to change a leave accrual rate, incorrect calculations on time and attendance records, etc.) which results in the unknowing forfeiture of annual leave. Also, failure on the supervisor's part to either schedule requested annual leave or present cases to the proper officials for determinations of public exigency constitutes an administrative error.
2. A period of sickness which occurs during a time of scheduled annual leave which results in a reduction in the charge to annual leave. The period of sickness has to be of such duration or occur so late in the year that the annual leave cannot be rescheduled and used prior to the end of the leave year. **For annual leave to be restored it must have been scheduled (i.e., requested and approved in writing) 3 pay periods before the end of the leave year.**
3. Annual leave which is canceled by the supervisor because of an exigency of public business (i.e., an unexpected work situation which clearly requires the services of the employee), and the excess annual leave cannot be rescheduled and used prior to the end of the leave year. **PLEASE NOTE: administrative leave, compensatory time off, or holidays which interrupt annual leave are not considered exigencies of the public business and annual leave forfeited as a result cannot be restored.** Management Officials who have the authority to cancel and approve leave pertaining to leave restoration also have the authority to determine whether an exigency to public business situation exists. **For annual leave to be restored it must have been scheduled (i.e., requested and approved in writing) 3 pay periods before the end of the leave year.**
4. An employee is designated as essential in a national emergency. The national emergency has to be declared by a Presidential proclamation.
5. If an employee is affected by an unjustified or unwarranted personnel action (meaning that the personnel action was found to be inappropriate and was rescinded) and is deemed to have performed service during the period that such action was in effect, the employee is entitled to earn leave for that period. Any annual leave earned during this period which was in excess of the maximum leave accumulation permitted by law, and thus forfeited, will be restored.

Serving in the military is not considered a reason for restoration of leave since these employees can opt for a lump-sum payment of all or a part of their annual leave upon going on active duty service, or can use the leave intermittently while on active duty service. If an employee is serving in the military and has annual leave that is subject to forfeiture, it is recommended that the employee use their annual leave in one of the ways stated above in this paragraph.

### **Step 1 - Cancellation of leave:**

The annual leave that might be forfeited must be scheduled in writing before the start of the third pay period (normally pay period 24, but pay period 25 in those years with 27 pay periods) prior to the end of the leave year. The supervisor must approve the use of the potentially forfeited leave at the time of the request. If the need arises to cancel the leave, the supervisor and employee must try to reschedule the leave before the end of the year. If unable to reschedule the leave before the end of the leave year, approval to cancel the leave must be obtained as follows: To request official cancellation of the leave, a memorandum must be sent to the Administrator in ERS, CSREES or NASS for approval. In ARS it must be sent to the Area Director, Division



Director in AFM, or Headquarters Staff/Office Head for those offices reporting directly to the Administrator.

All requests must include:

- The employee's name, title, grade, last four numbers of their social security number, duty station, and email address;
- The timekeeper's and supervisor's name, telephone number, and email address;
- details of the specific circumstances causing cancellation of leave;
- a copy of the approved forms or documents used to schedule or reschedule canceled annual leave and the total number of hours that may be forfeited;
- an explanation as to why the employee could not reschedule and use the annual leave during the leave year.

The Approving Official has to agree that the leave meets one of the above criteria and will send a memo to the employee and employee's supervisor stating that the leave has been canceled.

## **Step 2 - Restoration of Leave:**

**REE** - To request the restoration of forfeited leave, supervisors must forward a memorandum, via the chain of command to the official named in Step 1 who approved the cancellation of the leave. **This is to be done no earlier than the second pay period, but no later than March 1** of the next leave year. The leave restoration step is necessitated because in some instances, all, or some of the cancelled leave can be rescheduled and used before the end of the leave year. All requests must include:

- employee's name, title, last four numbers of their social security number, duty station, and email address;
- Timekeeper's and supervisor's name, telephone number, and email address;
- an explanation as to why the employee could not reschedule the annual leave which was forfeited;
- date or anticipated ending date of the reason (public exigency, illness, etc.) the leave was cancelled;
- a copy of the approved forms or documents used to schedule or reschedule forfeited annual leave and the total number of hours forfeited;
- a copy of the employee's time and attendance (T&A) reports for pay period 26 of the applicable leave year and for pay period 1 of the new leave year; and

- a copy of the paperwork documenting the reason for cancellation of the leave and its approval by the designated agency official.

**Step 3** – Approving Official will forward the approved restoration request package to the Pay and Leave Unit of HRD no later than April 1 of the next year.

**Step 4 - HRD (Pay and Leave Staff) will:**

- Review the documentation and process the requests which meet the necessary criteria.
- Via a memorandum:
  1. Notify employee, timekeeper, and supervisor of the amount of any restored leave and the time limitation for its use.
  2. Provide processing T&A instructions for the timekeeper.

**Leave Restored – Time Limitation for Use**

- Exigency of Public Business or National Emergency - used by the end of the second leave year following the termination date of the exigency of public business or National Emergency.
- Employee Illness - used by the end of the second year following the employee’s return to duty.
- Administrative Error or Unwarranted Personnel Action - used by the end of the second year following the date the leave was restored.

Leave not used within these time limitations is lost and may not be restored. If an employee resigns before the restored leave is used, any remaining restored hours will be included in their lump sum payment. If an employee transfers to another Federal agency, the restored leave will be included in the transfer of their leave balances.

**3.1.8 Advanced Annual Leave**

For employees with appointments of **90 calendar days** or longer and who are not intermittent, the amount of annual leave that may be advanced may not exceed the amount the employee will accrue in the remainder of the leave year or their appointment, (whichever is least). The granting of such leave is at the discretion of the supervisor. In no way is advanced leave to be construed as an employee right. Advanced annual leave may not be authorized when it is known or can reasonably be expected that the employee will not return to duty. When an employee resigns or retires with advanced annual leave, the employee will be indebted to the Government for the advanced hours and will be billed by the NFC.

Employees have the option to buy back advanced leave with a payment to the NFC.

Employees may also use credit time worked to reduce or eliminate their advanced annual and

sick leave balances. This may be accomplished by submitting (faxing) the designated form after supervisory approval to the Pay and Leave Unit of HRD (see P&P 402.1, Section 5.3. and its appendix for the form).

NASS, as Agency policy does not advance annual leave.

### **3.1.9 Terminal Annual Leave**

Terminal annual leave is an approved absence immediately before an employee separates, when it is known an employee will not return to duty before the date of separation. Usually terminal annual leave may **not** be granted unless it occurs near the end of the fiscal year and the lump sum payment (see below) cannot be made from the current appropriation. Or, terminal annual leave may be granted to retain an employee on the rolls until the final date of separation where such date is set by regulatory requirements (e.g., a court order). In such cases the timekeeper will note in the remarks block of the timesheet, "Terminal leave, employee accrues leave." This prohibition does not apply to sick, comp-time, or credit leave hours.

### **3.1.10 Disposition of Annual Leave upon Separation or Transfer**

**Separation.** When employees separate, follow the procedures **in** Section 7.

Employees who are separated from the service are entitled to receive a lump sum payment for accrued and accumulated annual leave as well as ending balances of restored annual leave, comp-time and credit time. Such separation includes death, separation for one or more workdays, transfer to a Public International Organization if the employee requests payment, and a grant of military furlough unless the employee elects to retain leave credit until they return. This lump sum payment for annual leave shall equal the pay the employee would have received had they remained in the service until expiration of the period of the leave. Credit hours are paid at the employee's rate of pay at the time of separation. Compensatory time is paid at the rate of pay that was assigned at the time it was earned. A lump-sum payment is considered pay for taxation purposes only. The period of leave used for calculating the lump-sum payment may not be extended due to any holiday occurring after separation (in other words, count the holiday as part of the period). An employee may not earn leave for the period covered by the lump-sum payment. When an employee who received a lump-sum payment for annual leave is reemployed in the Federal service prior to the expiration of the lump-sum period, he or she must refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period. An amount of annual leave equal to the leave represented by the refund is recredited to the employee.

**Transfer.** When employees transfer (or are separated and reemployed without a break in service) to a position under the same or a different Federal leave system, the leave is certified to the receiving agency for credit and charge. In cases where the employee will serve without a regularly scheduled tour of duty (intermittent schedule), a lump sum payment will be made. Concerning credit hours, if the gaining agency does not recognize or accept transferred credit hours, the losing agency will pay in a lump sum the amount of credit hours at the employee's regular pay rate. Concerning compensatory time, if the gaining agency will not accept transferred compensatory time, the losing agency will pay in a lump sum the outstanding comp-

time balance at the rate of pay that was assigned at the time it was earned.

### **3.1.11 Acceptance of Leave upon Transfer**

HRD and the timekeeper will accept the concurring leave balances from an employee's final T&A along with the employee's last leave and earnings statement until such time as the SF-1150, Record of Leave Data, is transferred by the losing Human Resources Office to HRD, REE. Timekeepers and their TINQ personnel or servicing Human Resources Assistant (if it is the employees' first pay period with REE) need to communicate leave balances so that the employee's leave balances will be the same on the agency's and the NFC T&A databases.

## **3.2 Voluntary Leave Transfer Program (VLTP)**

The purpose of the Voluntary Leave Transfer Program is to assist Federal employees experiencing a financial hardship due to a personal or family medical emergency because of the unavailability of paid leave. This assistance is accomplished through the voluntary transfer of annual leave from one Federal employee (the donor) to the Federal employee in need (the recipient). Acceptance into and continuation in the VLTP is an employee entitlement as long as all program eligibility requirements are met and the employee remains in Federal service. However, being in the VLTP is not a protection against the employee being legally removed from Federal service.

### **3.2.1 Recipients**

To be eligible for assistance via this program, an employee must be experiencing a medical emergency that will require their absence from duty for **24 work hours without pay** (i.e., all available annual and sick leave have been utilized, requiring the employee to take LWOP or **advanced leave**). In addition, potential leave recipients are subject to the following requirements and limitations:

- For a **personal** medical emergency, employees must have exhausted all annual leave, sick leave, restored annual leave, compensatory time off, and compensatory time off for travel before becoming eligible as a recipient. An employee can however be placed in the program in anticipation of their leave balances being exhausted.
- For a medical emergency affecting a **family member**, an employee must have exhausted all annual leave, restored annual leave, compensatory time off, compensatory time off for travel, and either all of their sick leave or 480 hours of sick leave (in a/each leave year), whichever occurs first, before becoming eligible as a recipient. See Section 3.4.5 in this P&P, "Sick Leave for Family Care, Bereavement and Adoption." The definition of a family member is the same as that used in Section 3.4 of this P&P under "Sick Leave for Family Care, Bereavement and Adoption."
- Prospective leave recipients must apply for acceptance into the program by submitting to their immediate supervisor form REE-3A, Recipient Application (Personal) or REE-3B Recipient Application (Family).

- The application must be accompanied by a medical certificate from the attending physician giving a brief description of the nature, severity, and anticipated duration of the medical emergency [the beginning and ending dates of the time off from work (incapacitation period) or if unknown, the date of the next medical evaluation (NTE 6 weeks from date of medical certificate)]. If the medical condition is a recurring one, the approximate frequency and duration of the medical emergencies need to be documented.
- The application must be signed, dated and submitted to the immediate supervisor--no later than **90 days** after the beginning of the employee's medical emergency. If the employee is incapacitated and therefore unable to apply in person, a personal representative may forward an application on behalf of the employee. The medical emergency begins when all available annual and sick leave is exhausted, not when the medical condition began. If the application is not received within 90 days of the beginning of the medical emergency, it can only cover the period of incapacitation going back 90 days from the receipt of the application by the employee's immediate supervisor.
- Full-time employees may not receive more than 2087 hours of donated leave for any given emergency. Part-time employees may receive an amount of leave equal to the number of hours scheduled to be worked in a year.
- While still in the VLTP, but working part-time and using leave, leave requests must indicate whether leave is being taken for personal use or the medical emergency.
- The recipient will request to be removed from the program upon return to full-time work.

### 3.2.2 Supervisors

A supervisor has the following responsibilities:

- Advise the employee of their options and determine how the absence of the employee will impact the mission of the agency.
- Request medical documentation that states the nature and anticipated duration of the medical emergency.
- To consider the option of advancing leave to the employee.
- Establish whether or not the employee intends to invoke their entitlement of up to 12 weeks of LWOP under The Family and Medical Leave Act (See Section 3.5).
- Review all VLTP extensions.
- Work with the Leave Transfer Coordinator (LTC) and the employee should there be questions regarding the employee working part-time and remaining in the VLTP.

- Consult with their servicing Employee Relations Specialist if there is a reason to begin employee removal procedures due to the employee being absent from work for an extended period of time, which is expected to continue, and is resulting in adverse mission consequences.
- Ensure that an approved leave audit is completed by the timekeeper and submitted with the VLTP request package to the LTC.

### 3.2.3 Donors

A leave donor may not contribute less than 1 hour of annual leave, or more than one half of the annual leave that will be earned during the leave year (see below “Waiver of hour limitation”). An employee may not donate leave to their immediate supervisor. Employees may only donate currently available annual or restored leave. Other types of leave, (e.g., sick, comp-time, credit hours, etc.) may not be donated. Full-time employees may donate the following, depending on their annual leave earning category:

Leave Hour Category	Maximum Donation (Hours)
4	52
6	80
8	104

**Part-time employees:** In the case of a part-time employee, the number of hours that can be donated cannot exceed the amount equal to twice the average number of hours in the employee’s scheduled tour of duty each week.

**The end of the leave year:** The end of the leave year, when employees may be in a “use or lose” situation, is frequently a popular time to donate leave. However, employees must bear in mind that as the year winds down, the amount of leave that may be donated is limited to the number of hours left in the leave year, excluding holidays. For example: If there are 2 weeks left in the year with 2 holidays, employees wishing to donate 104 hours of “use or lose” leave will only be allowed to donate 80 hours, minus 2 holidays, equaling 64 hours that can be donated. Prospective leave donors should submit form REE-4, Leave Transfer Program - Donor Application, to the LTC, specifying the number of hours to be credited to another employee's leave account, or enter hours to be donated in the WebTA T&A system. At the end of the leave year donors may also indicate that they are authorizing their donation to any recipient in need, instead of, or in addition to naming a specific recipient for their leave donation.

**Waiver of hour limitations:**

The limitations on the number of hours that may be transferred in a given situation (see preceding section) may be waived if: (1) the donated leave does not exceed the number of hours needed by the intended recipient **and** (2) it appears unlikely that the needed leave will be available from other donors. Donors, by making a donation above the donor limitation and signing the form, are in effect requesting a waiver of the limitation. The LTC will indicate the

reason for the waiver and approve the waiver request.

### 3.2.4 Timekeepers

A timekeeper has the following responsibilities:

- Coordinate document flow e.g., REE 3A, 3B, 4, leave audits, etc., between the recipient, supervisor, and LTC as needed.
- Follow LTC instructions and make leave account entry changes as directed. File LTC letter with T&A.
- Prepare entry into VLTP leave audit with supervisor's signature/approval.
- Keep track of whether recipient leave used is for personal use or the medical emergency. Notify the LTC of leave taken each pay period.
- Notify the LTC when the employee returns to work full- or part-time.
- Notify the LTC when unemployment benefits or workers' compensation is first received by the recipient as a result of the medical emergency.
- Work with the LTC to prepare the final VLTP leave audit and obtain supervisory signature/approval.

### 3.2.5 Use of Transferred (Donated) Leave

Leave recipients may use donated leave only for purposes relating to the recipient's or family member's serious health condition. The recipients may use the leave to cover current absence, retroactively substitute it for LWOP, or use it to liquidate indebtedness for advanced annual or sick leave associated with the medical emergency. Accrued leave to include annual leave, sick leave, compensatory time, and compensatory time for travel must be used by the recipient each pay period before donated leave can be used. Only VLTP deferred annual and sick leave hours do not need to be used (see section 3.2.8). Supervisors may not disapprove the use of donated leave for the VLTP approved medical emergency. However, the supervisor may request medical certification for intermittent periods of absence due to the medical emergency. Donated leave may **not** be transferred to anyone other than the named recipients. Should a recipient leave Federal service, any unused transferred leave remaining in the employee's account will **not** be included in a lump sum leave payment but will be recredited to the donor or donors' account(s). Deferred hours, which are leave accruals based on donations received, will not be returned to the employee for lump sum purposes.

### 3.2.6 Leave Transfer from/to Other Federal Departments

**REE Recipient receiving leave from an outside agency:** The outside donor will fill out their own agency form and send it to their LTC, who will in turn contact our agency. The information

submitted must include the name of the REE recipient and phone number of their REE LTC.

**REE Donation to an outside recipient:** Using the OPM 630B form, REE employees may donate leave to Federal employees outside of REE providing the leave recipients are from a qualifying department/agency (under Title 5) and in each case have been screened and approved by the recipients' own human resources office. On a separate sheet provide the following information: your timekeeper and the outside agency's LTC name or their agency contact with phone number or fax number. Send the information to your REE LTC.

Currently, and subject to change, the forms for the Leave Transfer Program, forms – REE-3A, REE-3B and REE-4 can be found on e-forms.

### **3.2.7 The Recipient Must Notify the LTC When:**

- returning to work part-time and using donations to complete their tour of duty;
- unemployment benefits or workers' compensation is first received by the recipient as a result of the medical emergency;
- applying for retirement disability; or
- the medical emergency has ended.

### **3.2.8 Accrual Earned While in the Program**

**Accrual of Leave Based on donations:** Leave accrual (deferred hours) is limited to 40 hours of annual leave and 40 hours of sick leave for use after the emergency terminates. A part-time employee's accrual limitation is the average number of hours scheduled weekly (e.g., a part-time employee working 12 hours per week could have a maximum of 12 hours of annual and sick leave deferred for use after the emergency terminates). Once the recipient has exhausted all donated leave, she/he may use leave from this deferred account of accruals subject to supervisory and LTC approval. Donation accruals can also be used to reduce advanced annual and sick leave indebtedness.

**Accrual of leave based on working part-time:** If a recipient returns to work part-time, leave accruals will be based on the hours actually worked. These hours can be used for personal use in that pay period or must be used for any leave taken because of the medical emergency before any more leave donations can be used. In order to monitor the accrual and use of leave and process the T&A's correctly, the timekeeper and the LTC need to communicate regularly. Hours accrued based on donated annual leave used for the medical emergency will be deferred. These hours will be returned to the recipient upon removal from the program or prior to removal with approval from the LTC and the recipient's supervisor. If the employee leaves the agency and there are hours remaining which were accrued based on part-time work, the hours will be paid via lump sum. Unused hours received through donations are recredited to the donors.



### **3.2.9 Recipient Removal from the VLTP**

The recipient may be removed:

- at the end of the biweekly pay period in which the agency receives a request to be removed from the VLTP from the leave recipient;
- when the employee's Federal service is terminated;
- at the end of the biweekly pay period in which the agency (management or LTC) determines after written notice, and an opportunity for the leave recipient to respond, that the employee will be removed from the VLTP (e.g., due to medical certification expiration, employee over 4 pay periods is earning enough leave to cover medical absences, etc.);
- by the agency when the expiration date of the approved medical documentation is exceeded by 30 or more days; or
- when the recipient has been approved for disability retirement or workers' compensation.

NOTE 1: If the employee is approved for disability, the last day in paid status can be extended by the set-aside hours or donations. Donations should be applied as far back as possible within the time frame of the medical emergency.

NOTE 2: Upon a recipient's return to work full-time, they may remain in the program for up to three additional pay periods in order to receive donations to cover any unpaid time or advanced leave incurred because of the emergency.

### **3.2.10 Recrediting of Transferred Annual Leave**

When the medical emergency ends or when the recipient leaves the Federal service, any transferred annual leave remaining in the recipient's account must be recredited to the annual leave balance of eligible donors on a prorated basis. The remaining donations cannot be returned to the recipient via a lump sum nor to their beneficiaries should the recipient die.

### **3.2.11 VLTP for Federal Employees Who are Wounded Veterans**

A qualified recipient can participate in the VLTP without first having to exhaust their own available paid leave. The recipient is eligible to receive donated annual leave for up to 5 years from the start of the employee's treatment, as long as the employee continues to undergo such medical treatments. For an employee who is already undergoing medical treatment on the date of the enacting legislation, the 5 year period begins on January 28, 2008.

## **3.3 Emergency Leave Transfer Program (ELTP)**

The emergency leave transfer program allows Federal employees to donate annual leave to assist

other Federal employees, in their agency, or other Federal agencies, who are adversely affected by a major disaster or emergency and who need additional time off from work without having to use their own paid leave. Emergencies that are eligible for this program are officially designated by the Office of Personnel Management (OPM).

A leave donor may not contribute less than 1 hour of annual leave, nor more than 104 hours in a leave year (unless waived by the agency). The waiver justification for emergency leave transfer donations is the same as that stated under Section 3.2.3 for the VLTP.

## 3.4 Sick Leave

Sick leave gives employees time off:

- to recover from incapacitation resulting from illness, injury, or pregnancy;
- to receive dental, medical, or optical examination and/or treatment;
- to attend to purposes relating to the adoption of a child; or
- to provide care for family members.
- Sick leave also provides for paid absence should an employee's own exposure to communicable diseases threaten the health of coworkers. The determination of this threat is made by a health authority or health care provider that the employee would jeopardize the health of others by his or her presence on the job.

### 3.4.1 Eligibility and Accrual

#### Eligibility

Employees with scheduled tours of duty, be it full-time or part-time, permanent or temporary, accrue sick leave beginning with the first full biweekly pay period of employment, see Section 3.1.4 of this P&P. Employees on an Intermittent appointment will not earn sick leave.

#### Accrual

Full-time employees earn 4 hours of sick leave for each pay period. Part-time employees earn 1 hour of sick leave for each 20 hours in a pay status, up to a maximum of 4 hours per pay period. Normally when moving from part-time to full-time employment, employees lose all carry-over or fractional parts of 1 hour of leave. For leave accruals for an employee's first and last pay periods of employment, see Section 3.1.4 "Leave Accruals for the First and Last Pay periods of Employment." During the leave year, whenever a full-time employee's absence in a non-pay status totals 80 hours (or a multiple thereof) in a pay period, the sick leave accruals will be zero for that pay period. **Employees may accrue sick leave without limitation.**

### **3.4.2 Advanced Sick Leave**

In the event of serious disability or illness, (refer to Section 3.4.5 for the definition of a serious health condition) supervisors may grant up to **30 days (240 hours)** of advanced sick leave to full-time employees at any time, or it can also be stated that an employee may carry a balance of negative 240 hours of sick leave at any time during the year. The advancing of leave is at the discretion of the supervisor. In no way is advanced leave to be construed as an employee right. An employee serving under a limited appointment may be granted advanced sick leave not to exceed the amount of sick leave they will earn in the remaining period of employment. For a part-time employee, the maximum amount of sick leave that may be advanced must be prorated according to the number of hours in the employee's regularly scheduled administrative workweek (e.g., an employee who is scheduled to work 20 hours per week would be eligible to be advanced up to 120 hours of sick leave). Advanced sick leave may not be authorized when it is known or reasonably expected that an employee will not return to duty (e.g., the employee has applied for disability retirement, a removal action is pending, or the employee has submitted a resignation). When an employee who is indebted for unearned (advanced) leave separates from Federal service, he or she is required to refund the dollar amount paid for unearned leave for which he or she is indebted, or the agency may deduct that amount from any pay due the employee upon separation. However, if the employee dies, retires on disability, resigns or separates as the result of a disability, the requirement to repay may be waived.

Employees can use annual leave to reduce or eliminate advanced sick leave balances. Employees may also use credit time worked to reduce or eliminate their advanced annual and sick leave balances. This may be accomplished by submitting (faxing) the designated form after supervisory approval to the Pay and Leave Unit of HRD, (see P&P 402.1, Section 5.3. and its appendix for the form).

**NASS:** Advanced sick leave will only be granted during the time between when an employee has applied for the Voluntary Leave Transfer Program and when the application has been approved or disapproved, not to exceed 80 hours.

### **3.4.3 Recredit of Sick Leave Balance**

For employees who separate from the Federal service, but subsequently return on or after December 2, 1994, all unused sick leave earned during the previous appointment(s) will be restored to their account.

### **3.4.4 Administration of Sick Leave**

#### **Minimum Charge**

Sick leave is charged in quarter hour increments.

#### **Requesting Sick Leave**

When the need for sick leave can be anticipated (e.g., scheduled medical or dental

appointments), employees should submit the request for leave as far in advance as possible. When such absence cannot be anticipated, employees must notify their immediate supervisor as early as possible on the first day of absence from the office. Any sick leave of **over 3 consecutive workdays**, whether for the employee or to take care of a family member, must be supported by a medical certificate or other acceptable documentation. The supervisor may request such documentation for absences of shorter duration providing the supervisor has a legitimate management reason for doing so (e.g., a concern about possible leave abuse). Since issues concerning leave can, and generally do, elicit strong emotions, supervisors are encouraged to discuss any problem situations, either existing or potential, with an Employee Relations Specialist.

An employee may request that other approved types of leave (other than sick leave) be changed to sick leave if while on those other types of leave the employee becomes sick or otherwise incapacitated.

### **Medical Documentation**

As of October 1, 2006, employees are required to provide medical documentation of sick leave no later than 15 calendar days after the date his or her agency requests such documentation. Since any sick leave of over 3 consecutive workdays requires medical documentation as stated in this section, the implied management request date for documentation is the day the employee returns to work, unless management has made the request for documentation earlier, before the employee returned to work. This would also apply where management is requiring in individual cases that documentation is necessary for an employee's absence of 3 days or less. If it is not practicable to provide the requested documentation in the 15 days requested, despite the employee's diligent good faith efforts, the employee must provide such certification within a reasonable period of time, but no later than 30 calendar days from the agency's initial request. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave for the period of absence in question.

### **3.4.5 Sick Leave for Family Care and Bereavement**

Full-time employees are permitted to use sick leave to provide care for those of a family relationship who are incapacitated or require attention in conjunction with any of the following situations or conditions:

1. physical or mental illness;
2. injury;
3. pregnancy and childbirth;
4. medical, dental, or optical examination or treatment; or
5. make arrangements necessitated by the death of those of a family relationship or to attend the funeral.

An employee may use his or her accrued sick leave to give care for or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such a condition, would justify the use of sick leave by the employee. In other words, if the family

member was an employee, and his or her condition would justify the use of sick leave, the employee's use of sick leave to care for the family member is justified.

The care of attending to a family member is divided into two categories. When the care is short term (i.e., a few days or less, for taking someone to a doctor's appointment, or for bereavement purposes) it is referred to as caring for someone with a general medical condition. For this type of care, the employee is entitled to use up to 104 hours of such sick leave each leave year.

When an employee is caring for a family member with a serious medical condition, 480 hours (12 weeks) of sick leave may be used each leave year.

Employees may be advanced sick leave, with requisite supervisory approvals, up to a balance of minus 240 hours to care for a family member with a serious medical condition or for adoption purposes, as long as the leave used does not exceed the 480 hour leave year limitation. Part-time employees and employees with uncommon tours of duty may use sick leave for the above purposes in amounts equal to the average number of hours of work scheduled per week (e.g., an employee who works 20 hours per week would be able to use up to 240 hours of sick leave each year to take care of a family member with a serious medical condition or up to 52 hours of sick leave for a general medical condition or up to 240 hours for a combination of the two medical conditions). Approval of advanced leave must be done in accordance with agency policy and is at the discretion of the supervisor. Advancement of leave is not an employee entitlement, and supervisors should discuss other options with the employee such as flexible work schedules and the Voluntary Leave Transfer Program.

If an employee has already used 480 hours of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 104 hours in the same leave year for a family member with a general medical condition. An employee is only entitled to a total of 480 hours of sick leave each leave year for all family care purposes.

### **Definition of a Family Member**

1. Spouse, and parents thereof;
2. Children, including adopted children, and spouses thereof;
3. Parents;
4. Brothers and sisters, and spouses thereof; and
5. Any individual related by blood or affinity (e.g., same gender couples) whose close association with the employee has been the equivalent of a family relationship.

### **Definition of a Serious Health Condition**

The term "serious health condition" has the same meaning as used in OPM's regulations for administering the Family and Medical Leave Act of 1993 (FMLA). That definition includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer's disease, pregnancy, and childbirth. The term "serious health condition" is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, the flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc.,

are not serious health conditions unless complications arise.

### **3.4.6 Sick Leave for Adoption**

An employee may use his or her accrued sick leave for purposes related to the adoption of a child. Examples:

- Appointments with adoption agencies, social workers, and attorneys;
- Court proceedings;
- Required travel;
- Any period of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and
- Any other activities necessary to allow the adoption to proceed.

Sick leave **may not** be used by adoptive parents who voluntarily choose to be absent from work to bond with an adopted child unless court ordered.

Sick leave used for adoption **does not** count against the 12 workweeks during the leave year which can be used for Sick Leave for Family Care and Bereavement. If the prospective parent does not have sick leave to use and has also used all of their annual leave, they may be eligible for the Voluntary Leave Transfer Program.

FMLA may be invoked for the above listed adoption purposes and to bond with the adopted child.

## **3.5 Family Medical Leave Act**

### **Key Provisions**

Full-time employees who have completed 1 year of Federal service are entitled to 12 administrative workweeks (480 hours) of leave without pay during any 12-month period for one or more of the following reasons:

1. Birth of a child and care of the newborn (within 1 year of birth);
2. placement of a child with the employee for adoption or foster care (within 1 year after placement);
3. care for those of a family relationship with a serious health condition; or
4. a serious health condition that prevents the employee from performing essential duties.

**NOTE:** For part-time employees, entitlement to FMLA leave is pro-rated, based on the employee's scheduled workweek (e.g. the number of hours scheduled per week).

## Medical Certification

Medical certification is required for situations 3 and 4 above. This can be provided on the Department of Labor form WH-380. Some form of documentation is required indicating the date of birth for a newborn for situation 1 above, and documentation supporting adoption related absences are required for situation 2 above.

If the agency doubts the validity of the original medical certification provided by the employee, the agency may require, at the agency's expense that the employee obtain the opinion of a second health care provider designated or approved by the agency. If the opinion of the second health care provider differs from the original certification, the agency, may require at the agency's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee. The opinion of the third health care provider shall be binding on the agency and the employee.

## Using Leave

Employees must obtain agreement from their supervisors to take leave intermittently or on a "reduced leave schedule" under (1) and (2) above. On a "reduced leave schedule," the usual number of hours of work per workday or workweek is reduced. Employees may take leave intermittently or on a "reduced leave schedule" under (3) or (4) above when medically necessary. An agency may require employees to transfer temporarily to alternative positions with equivalent pay and benefits that can better accommodate intermittent leave under (3) and (4). **Employees may choose to substitute annual leave for any unpaid leave under the FMLA. They may also substitute sick leave in those situations in which the use of sick leave is permitted.** Before approving a request to substitute paid leave for unpaid leave under FMLA, supervisors must determine whether under the circumstances presented, employees are entitled to use paid leave. For example, employees who request leave for child bonding reasons are not entitled to use sick leave for that purpose. They would use either annual leave or LWOP. The amount of sick leave used for a family member is limited to the amount that is outlined under Section 3.4.5, "Sick Leave for Family and Care and Bereavement."

## Definition of Family Relationship

Family members include the employee, employee's current spouse, employee's parents, son or daughter (this means a biological, adopted, foster child, step child, legal ward, or a child of a person standing in loco parentis) who is:

- Under 18 years of age; or
- 18 years of age or older and incapable of self-care because of a mental or physical disability.

## Invocation

Employees must invoke the entitlement to FMLA leave, subject to notification and medical

certificate requirements. Employees may not invoke entitlement to FMLA leave retroactively for any previous absence from work.

### **Advance Notice**

Employees must provide notice of intent to take FMLA leave at least 30 days before taking it, or as soon as practicable.

### **Benefits and Protections**

While on FMLA LWOP type leave, employees may maintain health benefits coverage by paying the employee's share of the health benefits premium while on LWOP or upon return to work. Also, employees who take FMLA leave will be restored to the same or equivalent positions upon return to employment.

### **Approving Leave**

Before approving requests for FMLA-type absences, supervisors should ask employees if they are requesting leave under the FMLA. This is particularly important when absences are clearly for family or medical reasons (absence due to childbirth, adoption/foster care, care for a family member with a serious health condition, or a serious health condition of the employee).

If FMLA leave is requested, employees should confirm the request by checking the appropriate box on the OPM Form 71, "Request for Leave or Approved Absence;" in WebTA selecting the appropriate FMLA transaction code for the leave request and making the appropriate selection in the bottom section of the leave request when requesting and invoking FMLA leave; or otherwise indicating **in writing** that the FMLA leave entitlement is being invoked.

If the absence is for FMLA-type reasons and LWOP or annual leave is requested, but FMLA is not invoked, supervisors must carefully consider whether the leave should be approved. Keep in mind that full-time employees are **entitled** to 12 weeks of FMLA leave in any 12-month period **regardless of the amount of non-FMLA leave already approved**. For example, full-time employees could use 8 weeks of non-FMLA leave for family and medical reasons and then **invoke an additional** 12 weeks of FMLA leave.

Supervisors faced with this situation should discuss the leave request with the employee and decide whether to approve the request for non-FMLA annual leave and/or LWOP. HRD (the Pay and Leave and Employee Relations Staffs) can provide advice in these situations. Before approving requests for extended absence, supervisors should discuss the leave request with their supervisors.

### **Recording Leave**

Timekeepers must keep a record of the amount of FMLA leave employees use and whether the leave was for family or personal reasons. Timekeepers may be asked to report the amount and kind of FMLA leave used each year.



Because employees are permitted under FMLA to substitute paid leave, as appropriate, for LWOP, any form of paid leave (e.g., annual, sick, advanced leave, compensatory time off, credit time, etc.) to include donated leave under the Voluntary Leave Transfer Program may be used. However, donated leave can only be used/substituted for LWOP after all other forms of paid leave have been exhausted. Thus, timekeepers should seek guidance from employees' supervisors concerning approving and recording such leave; and supervisors may want to consult with the Pay and Leave Staff before approving absences involving FMLA-type leave.

### **FMLA pertaining to military service**

- **Active Duty Leave**

An employee may take up to 12 weeks of unpaid FMLA leave for any qualifying exigency (as defined by regulation) related to a spouse, son, daughter, or parent's active duty or notification of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

- **Servicemember Family Leave (Caregiver)**

An employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave is available during a single 12-month period.

## **3.6 Leave Without Pay**

LWOP is a temporary, unpaid absence from work granted at the employee's request.

### **3.6.1 Requesting and Administering LWOP**

Employees must request LWOP and have it approved in advance, except in the case of emergencies. Supervisors may grant up to a **30 day period** of LWOP for any justifiable reason.

LWOP in excess of 30 continuous days is regarded as **extended** LWOP and is subject to the following provisions:

- a form SF-52, Request for Personnel Action, must be completed in order to request, authorize, and process extended LWOP;
- initial grants of extended LWOP (and any subsequent extensions) are limited to 1 calendar year;
- supervisors must be reasonably sure that any employees taking extended LWOP will return to duty once the LWOP has expired (except in the case of disabled veterans and employees applying for disability compensation or retirement); and

- extended LWOP may be granted **only** if such leave will benefit USDA and advance the welfare of the employees.

REE employees may schedule and be granted up to 24 hours of LWOP each leave year for the following activities:

#### School and Early Childhood Educational Activities

To allow employees to participate in school activities directly related to the educational advancement of a child. This would include parent-teacher conferences or meetings with child care providers, interviewing for a new school or child care facility, or participating in volunteer activities supporting the child's educational advancement. In this policy and procedure, "school" refers to an elementary school, secondary school, Head Start Program, or a child care facility.

#### Routine Family Medical Purposes

To allow parents to accompany children to routine medical or dental appointments, such as annual checkups or vaccinations. Although these activities are not currently covered by the "Family Medical Leave Act", the provisions of "Sick Leave for Family Care and Bereavement" does permit employees to use up to 13 days (104 hours) of sick leave each leave year for such purposes. Agencies should assure that employees are able to use up to 24 hours of leave without pay for these purposes in cases when no additional sick leave is available to employees.

#### Elderly Relatives' Health or Care Needs

To allow employees to accompany an elderly relative to routine medical or dental appointments or other professional services related to the care of the elderly relative such as making arrangements for housing, meals, phones, banking services, and other similar activities.

### **3.7 Home Leave**

Home leave is leave earned by service abroad for use in the U.S., Puerto Rico, or in the territories or possessions of the U.S. Such leave is earned in addition to any other leave entitlement. Home leave is granted consistent with the needs of the program.

Form REE-34 and Optional Form 126 (Rev. 9-94) (Foreign Service Residence and Dependency Report) must be completed for appointment to the service abroad assignment. This is necessary to establish the address to be used for home leave purposes.

#### **3.7.1 Eligibility**

Home leave mainly applies to any employee working outside the U. S. It does, however, extend to employees who reside in Puerto Rico or in one of the territorial possessions of the U. S. (e.g., Guam), but who work elsewhere, including the United States. Employees are entitled to home leave after completing **24 months** of continuous service abroad.

### 3.7.2 Accrual Rate

Employees earn and expend home leave in daily, rather than hourly, units and the accrual rate varies with the conditions of employment. For each 12 months spent in service abroad, employees earn home leave at the following rate in the following situations:

DAYS	Situation involving employees
15	<ul style="list-style-type: none"> <li>• Serving with a U.S. mission to a public international organization</li> <li>• Obligated to accept assignments throughout the world as agency needs arise, or</li> <li>• Serving at a post for which payment of a differential (other than tropical) of at least 20 percent is authorized.</li> </ul>
10	Serving at a post for which at least 10 percent, but less than a 20 percent differential (other than tropical) is authorized
5	Not described above

Home leave is credited in multiples of 1 day in accordance with the following table:

HOME LEAVE EARNING TABLE												
Months of Service	1	2	3	4	5	6	7	8	9	10	11	12
Cumulative days, 5-day earning rate	0	0	1	1	2	2	2	3	3	4	4	5
Cumulative days, 10-day earning rate	0	1	2	3	4	5	5	6	8	8	9	10

E.g., at the completion of 7 months of service abroad, employees at the 5-day rate would have earned a total of 2 days of home leave. Employees at the 10-day rate would have earned a total of 5 days of home leave after the same 7 months of service.

Employees may use home leave **only** in the U. S., the Commonwealth of Puerto Rico, or a territory or possession of the U. S. In terms of timing, employees may be granted leave while actually serving abroad, or within a reasonable period (e.g., 6 months) after returning home, provided the employees are planning to return to service abroad immediately or intend to do so after completing an assignment in the U. S. Employees who do **not** return to a post abroad after using home leave will be indebted to the Government for the amount of leave used. The minimum charge for home leave is **1 day**, with additional leave being computed in multiples thereof.

### 3.7.3 Maximum Accumulation

Employees may accumulate home leave without limitation. Regulations, however, do not allow payment for any unused leave upon separation, nor may employees use home leave as terminal leave.

### 3.7.4 Tour Renewal Agreement Travel

Tour renewal agreement travel is the transportation permitting home leave between tours of duty in Alaska or Hawaii. An agency may pay the expenses of round-trip transportation for an employee and their immediate family from the employee's post of duty in Alaska or Hawaii to their place of authorized location in the U. S. The authorizing official for REE is the Director, HRD. Tour renewal agreement travel is offered to those highly qualified employees occupying positions for which there are proven recruitment and retention difficulties. In addition, employees who were on or were offered a position with a tour renewal agreement on or before September 8, 1982, will continue to receive the tour renewal agreement incentive as long as they remain at their present post of duty.

## 3.8 Military Leave

An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces.

### 3.8.1 Coverage

Any full-time Federal civilian employee whose appointment exceeds 1 year is entitled to military leave. Regular military leave is prorated for part-time career employees and employees on an uncommon tour of duty. Eligible part-time employees accrue military leave at a percentage of the full-time accrual rate. That percentage is determined by dividing the number of hours of scheduled work per week by 40 and multiplying by 15.

### 3.8.2 Types of Military Leave

#### Regular Military Leave

5 U.S.C. 6323 (a) provides 15 days **per fiscal year** for active duty, active duty training, and inactive duty training. An employee can carry over a maximum of 15 days into the next fiscal year. Inactive duty training is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training.

An employee's civilian pay remains the same for periods of military leave under regular military leave; including any premium pay (except Sunday premium pay) an employee would have received if not on military leave.

#### Emergency Military Leave

5 U.S.C. 6323 (b) provides 22 workdays **per calendar year** for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in

support of a contingency operation\* as defined in section 101(a)(13) of title 10, United States Code.

\* The term "contingency operation" means a military operation that -

(a) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(b) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of title 10, United States Code, chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

For emergency military leave, an employee's civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave, compensatory time off for travel, or sick leave, if appropriate, in order to retain both civilian and military pay. Leave can be used intermittently.

### **3.8.3 Entitlement**

Employees who are entitled to military leave and who are ordered to report for military training or duty must be released from their civilian positions. Application for military leave must be supported by a copy of the order directing employees to report.


REE will not reassign current employees to positions held by employees who are performing active military duty. Instead, employees may be detailed to those positions.

#### Parades and Encampments (D.C. National Guard Only)

Members of the National Guard of the District of Columbia are entitled to military leave for each day of a parade or encampment ordered or authorized by the District of Columbia Code.

### **3.8.4 Days of Leave**

Military leave should be credited to a full-time employee on the basis of an 8-hour workday. The minimum charge to leave is 1 hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.

Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) will now be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves  and National Guard will no longer be charged military leave for weekends and holidays that occur within the period of military service.

### **3.8.5 Administrative Leave for Returning Employees**

In recognition of the sacrifices activated civilian employees have made, the President has directed that all agencies grant 5 work days of administrative leave, without charge to leave, to these employees upon notification to their employing agencies of their intent to return to Federal civilian employment. This request covers all employees who were activated for military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operations subsequently established under Executive Order 13223. Agencies must grant this period of administrative leave **immediately** prior to the employee's resumption of his **or her** duties. The 5 days must be used all together. This is a one time entitlement. Returning from additional qualifying military tours **will not** result in an entitlement to more administrative leave.

### **3.8.6 Butterbaugh Administrative Claims for Annual Leave**

Prior to December 21, 2000, military leave was charged for non-workdays that occurred within a period of military duty. In a court ruling on July 24, 2003, it was decided that agencies should not have charged military leave for non-workdays that occurred prior to December 21, 2000. [See Compensation Policy Memoranda (CPM) 2004-19 located on the OPM Web site.] Claims may be filed by employees who were forced to take leave without pay or annual leave for military duty because some of their military leave was used incorrectly for non-workdays. Claims can be made back to 1980.

#### **Claim Procedure**

As in all claims, the burden of proof is on the employee. An employee making a claim must supply a copy to his or her employing agency of the employee's orders, certification of attendance, or other documentation indicating that he or she engaged in one of more periods of active military duty that included non-workdays during the applicable claims period. Employees will be credited for 1 day of annual leave for each non-workday occurring with the period of active duty for which he or she was charged military leave. A maximum of 4 days of annual leave may be credited for each fiscal year. Any annual leave credited as a result of an employee's claim must be placed in a restored leave account.

### **3.8.7 Reservist Differential**

Reservist Differential is an entitlement for military reservists called to duty in support of a contingency operation. The reservist is entitled to be paid the difference between the military pay and the projected civilian pay where applicable for each qualifying pay period. Pay is computed for each pay period which falls all or in part during a period of active military duty, for any days in which no civilian pay is received.

### **3.9 Time Off Award**

- A Time-off award is a non-monetary extra effort award granted to employees in the form of time off from work without loss of pay or charge to leave. Agencies can use time-off

awards to recognize employee accomplishments, or as incentives to achieve specific performance goals.

- Full-time employees may be granted up to 40 hours per award but no more than 80 hours per calendar year. Part-time employees may be granted time off up to one-half or their biweekly scheduled tour per award and up to their full biweekly scheduled tour per leave year (e.g., a part-time employee with a scheduled tour of 64 hours could receive up to 32 hours per award and up to 64 hours per calendar year). Intermittent and Senior Executive Service (SES) employees are not eligible to receive time off awards.
- To avoid forfeiture, time off award hours must be scheduled and used within 26 pay periods (see note at the end of this section) after the effective pay period of the award. Unused time off hours cannot be converted to a cash payment upon separation from Federal service. Also, time off awards cannot be transferred when an employee moves from one Federal agency to another.
- Form AD-287 (Recommendation & Approval of Awards) must be processed before the time may be used (2 levels of approval and a single justification of the award is required). Once received by Headquarters (HRD Operations), it takes HRD approximately two pay periods to process the award.
- Refer to page 10 of the “Guide for Employee Recognition,” a USDA publication, when determining the amount of time to grant an employee. Examples of employee achievements that might be considered for a time off award include:
  - Making a high-quality contribution involving a difficult or important project or assignment.
  - Displaying special initiative and creativity in making improvements in a product, activity, program, or service.
  - Ensuring the mission of the unit is accomplished during a difficult period by successfully completing additional work or project assignments while maintaining the employee’s own workload.

Note: Time-off awards expire 26 pay periods after their effective date. The effective date shown in WebTA is not necessarily the effective date of the award. Employees should check with their Human Resources Office to make sure they do not forfeit any unused hours.

### **3.10 Absence Without Leave**

Absence without leave (AWOL) is an unpaid, unauthorized period of absence. It is a non-pay status resulting from a supervisory determination that no type of approved leave will be granted for a particular absence. AWOL is charged in 15 minute increments. If an employee is AWOL for a period of 3 or more workdays, the supervisor should contact Employee Relations for guidance. Leave charged to AWOL may later be changed to approved leave (i.e., annual, sick,

credit or compensatory leave, LWOP, or excused absence) should the employee provide a legitimate excuse for the absence.

### **3.11 Furlough**

A furlough is the placing of an employee in a temporary nonduty, nonpay status because of lack of work or funds, or other nondisciplinary reasons.

In the event that funds are not available through an appropriations law or continuing resolution, a "shutdown" furlough occurs. A shutdown furlough is necessary when an agency no longer has the necessary funds to operate and must shut down those activities which are not excepted. On the other hand, a "save money" furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any other event which requires the agency to save money.

In the context of shutdown furloughs, the term "excepted" is used to refer to employees who are funded through annual appropriations who are nonetheless excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work.

Furloughed employees are not allowed to take paid leave during the furlough.

Furlough is coded Transaction Code 74 in the WebTA timekeeping system.

### **3.12 Other Categories of Leave**

- Credit Hours are covered in P&P 402.1 "Flexible Work Schedules"
- Compensatory Time Off is covered in P&P 402.3 "Premium Pay"
- Administrative Leave is covered in P&P 402.4 "Administrative Leave and Excused Absence"

### **3.13 Correcting Leave Errors / Balances**

From time to time the timekeeper will be notified by an employee that a mistake has been made on their T&A. If this change will result in a difference in the employee's pay check, a corrected T&A will need to be transmitted to NFC for processing. If, however, the mistake only results in a change in leave balances, a leave audit should be done. Leave balances then need to be updated in the T&A program and the leave audit sent to the designated TINQ person. The TINQ action will update and correct the NFC database. Supervisors should periodically review their units leave error report and ensure that leave errors are corrected.



WebTA Users – Due to the bidirectional functionality between WebTA and the NFC database, any edits which the NFC database makes to leave accruals and balances will be reflected in WebTA in the following pay period. These changes will be recorded on the WebTA summary page as adjustments to leave balances. If an employee has questions about these adjustments which cannot be answered by the timekeeper or agency/area Human Resources contacts, the questions may be forwarded to the Human Resources Division’s Pay and Leave Staff.

NASS - Primarily, the timekeeper is responsible for clearing leave errors (when the local T&A system leave balances do not agree with the NFC database figures), however, the employee and supervisor are also a part of the process.

The following are procedures for clearing leave errors:

1. Determine from the leave error report the amount of leave from each of the two databases.
2. Do a leave audit:
  - Use the agency approved time sheet (this form is the source document containing figures to be transferred to the leave audit form in the ‘use’ column).
  - Determine resulting ending leave balances.
  - Leave audit must be signed by employee’s supervisor.

Using the leave balances from the results of your leave audit, determine the action that needs to be taken below:

- If the balance(s) is the same as the NFC's database, then adjust the balance(s) in the agency T&A database to agree with the leave audit (same as what is in the NFC database).
- If the balance(s) is the same as the agency’s T&A database, do not make any changes in the agency database. Submit the leave audit, approved by the employee’s supervisor, to your designated TINQ contact. They will make the needed adjustment in the NFC database.
- If the balance(s) match neither the agency’s nor the NFC’s database, perform both bullet actions directly above so that both databases will agree with the official leave audit.

**Note: T&A records must be retained for 6 years plus the current year.**

## **4. Responsibilities**

### **Agency Heads**

- Administer the leave program for all agency employees.

- In NIFA, ERS, and NASS, approve or deny requests to cancel scheduled use or lose annual leave.
- In NIFA, ERS, and NASS, approve or deny requests to restore forfeited annual leave.

### **ARS Division/Area Directors and Headquarters Staff/Office Heads Reporting Directly to the Administrator**

- Approve or deny requests to cancel scheduled use or lose annual leave.
- Approve or deny requests to restore forfeited annual leave.

### **Chief of the Pay, Leave, and Records Staff, HRD**

- Terminate leave recipient's participation in the leave transfer program (after notification) when recipient no longer meets the requirements of the program.
- Develop and administer guidance on leave administration and policy.

### **Pay and Leave Specialists, HRD**

- Approve or deny employees' requests to participate (either as a donor or a recipient) in the Voluntary Leave Transfer Program.
- Evaluate and respond to employees' requests to restore forfeited annual leave.
- Approve or deny forfeited leave restoration requests on the basis of meeting the regulatory criteria and update (TINQ) the NFC database according to the amount of leave restored.
- Answer questions and provide guidance on leave administration and policy.
- Approve VLTP cases.

### **Supervisors**

- Approve leave for assigned personnel and authorize excused absence.
- Assure scheduling of annual leave so employees do not forfeit leave at the end of the leave year.
- Contact the Employee Relations Branch, HRD, if assigned personnel abuse leave or are placed on AWOL.

- Request restoration of forfeited annual leave by submitting the request for approval through the chain of command and ending with the final approving official (Pay and Leave Human Resources Specialist) in HRD.

## **Employees**

- Give supervisors as much advance notice as possible when requesting leave.
- Provide documents needed to support various leave requests if required by management (e.g., medical certification for sick leave or family and medical leave).
- Exercise responsibility in managing leave accounts.
- Review the AD-334, Statement of Earnings and Leave, each pay period to ensure leave balances are correctly reported. Bring discrepancies in leave balances to the supervisor's and timekeeper's attention as soon as possible.

## **Employee Relations Specialists, HRD**

- Provide advice and assistance to both employees and management on leave related issues and in resolving leave related problems.

## **Leave Transfer Coordinator, HRD, Pay and Leave Staff**

- Administer the leave transfer program, entering and removing employees from the system, and coordinating the process with timekeepers and supervisors.

## **Time and Attendance Coordinators**

- Correct (TINQ) leave balances in the NFC database to resolve leave errors.
- Serve as a liaison between supervisors and timekeepers and the HRD Pay and Leave Staff on leave issues.

## **5. Authorities**

- 5.1 Title 5, United States Code, Chapter 63, Leave
- 5.2 5 Code of Federal Regulations, Part 630
- 5.3 Civilian Personnel Law Manual, Title II, Leave
- 5.4 Comptroller General Decisions

## 6. Definitions

**Accrued Leave.** Leave that employees have earned during the current leave year but have not yet used.

**Accumulated Leave.** Unused leave that remains in the employee's leave account.

**Advanced Leave.** Leave granted to employees before it has been earned (also called unearned leave.)

**Administrative Error.** The prevention of an administrative intent to act from being effected as intended, i.e., approval by the authorized official has taken place and acts necessary to effect the action were not carried out.

**AWOL.** Absence without leave; a period of unauthorized absence.

**Compensatory Time Off.** Time off granted to an employee in lieu of payment for overtime work and paid to the employee at their overtime rate if not used within 26 pay periods.

**Credit Hours.** Time off earned by employees on a flexible work schedule in recompense for voluntarily working beyond the basic scheduled requirement; credit hours differ from compensatory time off in that they are not granted in lieu of overtime pay. Credit hours are paid to employee at their regular rate of pay upon separation from Federal service.

**Executive Order.** An order issued by the President of the United States.

**Flexible Work Schedule.** A work schedule other than the standard 40-hour per week schedule with an established arrival and departure time (e.g., maxiflex).

**Forfeited Leave.** Hours of annual leave that exceed the maximum accumulation at the end of the leave year and, therefore, must be deleted from employees' accounts.

**Foster Care.** Twenty-four hour care for children in substitution for and away from their parents or guardian; such placement is made by or with the agreement of the State.

**In Loco Parentis.** "In place of a parent," refers to the legal responsibility of a person to take on some of the functions and responsibilities of a parent.

**Leave Transfer Coordinator (LTC).** An HRD employee given the responsibility for maintaining the leave transfer program.

**Leave Year.** The time frame beginning with the first day of pay period 1 (which occurs in early January of a given calendar year) and ending with the last day of pay period 26 (which generally occurs in early January of the following calendar year). Approximately every 12 years there will be 27 pay periods. In such a case, the leave year would end after pay period 27.

**Medical Certificate.** A written statement signed by a registered practicing physician or other licensed practitioner certifying to the incapacitation, examination, treatment, or period of disability while the patient was receiving professional treatment.

**Medical Emergency** (re: Voluntary Leave Transfer Program). A medical condition affecting employees or members of an employee's family that will require the employee's absence from duty for at least 24 hours of unpaid time or advanced leave (or, for part-time employees, a prorated number of hours based on an employee's scheduled workweek) thus resulting in a substantial loss of income or indebtedness since paid leave is unavailable.

**Non-pay Status.** See pay status below.

**Part-time Employees.** Employees who work less than 80 hours per pay period or 40 hours per week (most part-time employees work between 16 and 32 hours per week) but have a prearranged scheduled tour of duty.

**Pay Status.** Any situation in which employees are eligible for pay and benefits. The term most commonly applies to employees while at work but it also covers periods of paid leave, excused absences, and compensatory time off. Non-pay status, in contrast, describes those situations in which employees are not eligible for pay including LWOP, AWOL, furlough, and suspension.

**Public Exigency.** An event or situation of critical importance to an agency where appropriate action must be taken by the appropriate people, otherwise, the agency's mission will be in jeopardy.

**Reduced Leave Schedule.** A work schedule under which the usual number of hours worked per day or per week is reduced; the hours that are not worked are taken as leave.

**REE-4, Leave Transfer Program - Donor Application.** A form used by employees wishing to donate annual leave.

**REE-3A, Leave Transfer Program - Leave Recipient Application (Personal).** A form used by employees wishing to receive donated annual leave themselves.

**REE-3B, Leave Transfer Program - Leave Recipient Application (Family).** A form used by employees wishing to receive donated annual leave for taking care of a family member.

**Restored Leave.** Previously forfeited leave which has been returned to the employee's account.

**Sick Leave Abuse.** If an employee abuses sick leave in a pattern the supervisor or designee may reasonably suspect pattern abuse. If it is suspected, the supervisor or designee will notify the employee in writing that pattern abuse is suspected. The notice will also invite the employee to explain, rebut or refute the pattern abuse claim. Use of sick leave for valid reasons shall not be considered pattern abuse.

**Spouse.** An individual who is a husband or wife pursuant to a marriage that is a legal union

between one man and one woman including common law marriage between one man and one woman in states where it is recognized.

**Voluntary Leave Transfer Program.** A process whereby a Federal employee may donate annual leave to another Federal employee who needs leave in order to deal with a medical emergency.

## **7. Procedures**

### **7.1 Procedures for Payment of Lump Sum Annual Leave, Credit Hours, and/or Compensatory Time for Employees who are Separating or Retiring.**

#### **SEPARATING/RETIRING EMPLOYEES:**

##### **Action:**

Complete an AD-349, Employee Address Form, if needed, to ensure delivery to the correct address of the Thrift Savings Plan (TSP) Benefits Statements, the W-2 Wage and Tax Statement for the calendar year, and receipt of lump sum payment if salary check is sent to the home address. If employees receive pay through direct deposit, keep account open at financial institution until lump sum payment is received or cancel direct deposit and provide new check mailing address.

##### **Remarks:**

The AD-349 should accompany the SF-52. For retirement cases, it is extremely important that the SF-52 and retirement application be forwarded to the Retirement and Benefits Staff as soon as possible.

#### **T&A CLERK/OR PERSON DESIGNATED BY THE LOCATION FOR COMPLETION:**

##### **Action:**

Prepares separating/retiring employee's final T&A.

##### **Remarks:**

Transmits to NFC.

##### **Action:**

**NO LEAVE ERRORS, Leave Audit NOT Required.** As early as completion of the separating/retiring employee's final T&A, contacts the location to determine if the credit hours, annual, and sick leave balances in the NFC database match those in the agency's T&A database. (NOTE: Locations with access to the NFC IRIS system can check screens 136-140 for leave audit information.) If the leave error code is "0," a copy of the final T&A must be forwarded with the AD-581 to the HRD Operations Assistant/Retirement Staff for processing. (NOTE: If leave errors occurred in the employee's last pay period, the T&A clerk would be advised to conduct a leave audit and send it, with a copy of the AD-581, to the person who manages their actions.)

**Remarks:**

NO LEAVE ERRORS, Leave Audit NOT Required. The AD-581 should be completed and submitted at the same time as the SF-52. For separating employees, send AD-581 to the HRD Operations Assistant who services their area. For retiring employees, or death cases, send the AD-581 directly to the Retirement and Benefits Staff.

**Action:**

LEAVE ERRORS, Leave Audit Required. If credit hours and/or leave balances in the NFC database do NOT match those in the agency's T&A database, then prepare leave audits; starting with the beginning of the calendar year and through the end of the pay period in which the employee separated; and prepare AD-581, Lump Sum Payment of Annual Leave, Credit Hours (if unused), and Compensatory Time.

**Remarks:**

LEAVE ERRORS, Leave Audit Required. Send leave audit forms and AD-581 to the person who manages processing of forms for your area, within 2 weeks after the employee's separation or retirement for TINQ corrections.

**T&A COORDINATOR:**

**Action:**

Makes correction(s) in TINQ.

**Remarks:**

For separating employees, forward signed leave audit forms and AD-581 to your servicing HRD Operations Assistant within 1 week. For retiring employees, forward leave audit forms and AD-581 to the Retirement and Benefits Staff within 1 week.

**SERVICING HR ASSISTANTS/RETIREMENT AND BENEFITS STAFF:**

**Action:**

Reviews forms to ensure credit hours and leave balances shown on the AD-581 agree with the database and that the leave audit, if required, was carried through the pay period in which the employee separated/retired.

**Remarks:**

Processes AD-581 within pay period received. If credit hours are shown, payment processing can be accomplished through Special Payroll Processing System (SPPS).

Joon Park  
Director, Human Resources Division