

14 JAN 2013

DEPARTMENT OF THE ARMY
SOUTHWESTERN DIVISION CORPS OF ENGINEERS
1100 COMMERCE STREET
DALLAS, TEXAS 75242

SWD Regulation
690-1-630

Human Resources
LEAVE ADMINISTRATION

1. Purpose. This regulation implements the law, government-wide regulations, and Department of the Army Regulations pertaining to leave administration.
2. Applicability. This regulation applies to all employees of the US Army Corps of Engineers (USACE) Southwestern Division (SWD) and the Dallas Recruiting Battalion. Where locally negotiated union-management agreements conflict with the provisions of this regulation, the negotiated agreement is controlling in most cases; questions should be directed to the Civilian Personnel Advisory Center (CPAC).
3. References.
 - a. Army Regulation (AR) 690-990-2, Book 630, Absence and Leave
 - b. Title 5 of the Code of Federal Regulations (CFR), Part 630, Absence and Leave
 - c. United States Code (U.S.C.) Title 5 Part III Subpart E, Chapter 63-Leave
 - d. Department of Defense Instruction 1400.25, Subchapter 630-Leave
 - e. DoD FMR, Volume 8, Civilian Pay Policy and Procedures
 - f. OMB A-123 Test Plan - Annex C, 3 Payroll
4. Definitions. Appendix A defines terms that apply to several types of leave categories, such as annual leave, sick leave, voluntary leave transfer program, and emergency leave transfer program. Definitions of terms that are relevant only to a specific leave category, such as family medical leave act or military leave, are included in the respective appendix to which they apply.
5. Responsibilities.
 - a. Leave approving official will:

SWDR 690-1-630 dated 15 June 2000 and Change 1 dated 20 June 2000 are hereby superseded

14 JAN 20...

- (1) Maintain a working knowledge of leave administration policies, regulations, and procedures to include applicable collective bargaining agreement leave provisions.
- (2) Inform employees of office procedures for requesting, documenting, and obtaining approval of leave.
- (3) Approve or disapprove employee requests for leave or participation in a leave donor program and notify employee in writing 10 business days from receipt of request. If request for leave is disapproved, provide written reason to employee for the disapproval.
- (4) Ensure that employee absences from duty are charged in accordance with timekeeping procedures. All leave will be supported in one of the following methods: an OPM 71 (or equivalent), clock hours on manual timesheet, or the signature on the CEFMS CETAL report with appropriate hours absent designated in the 'remarks' field if less than a full day of leave. Leave authorization forms, when required, must be signed and dated by the employee and the supervisor who approves the leave, to clearly detail that the leave was requested and approved. Manual timesheets must be signed and dated by the employee and the supervisor who approves the leave, to clearly detail that the leave was requested and approved.
- (5) Establish annual leave schedules early in the year and review the schedules periodically to minimize the forfeiture of "use or lose" leave.
- (6) Correct administrative errors which caused the loss of annual leave.
- (7) Review requests for restoration of annual leave, provide required supporting documents, and forward through supervisory channels to the Commander for approval.
- (8) Notify employees of the decision on any requests for restoration of annual leave.
- (9) Ensure that any excess advanced annual or sick leave left in an employee's account, after the purpose for the advance has ended, is taken out of the employee's account by coordinating the correction with the Customer Service Representation (CSR).

b. Employees will:

- (1) Be familiar with and follow established leave requirements for requesting and obtaining approval for leave.
- (2) Review leave balances periodically to ensure there is sufficient accrued leave to cover periods of requested leave.
- (3) Request non-emergency leave at least 2 business days in advance to avoid interference with peak workload periods, prevent large accumulations of unused "use or lose" annual leave at the end of the leave year, and allow for equitable opportunity for employees to share preferred leave periods, such as holiday periods.

14 JAN 2013

(4) Personally contact the leave-approving official to request approval of absence due to unanticipated illness or an emergency as soon as possible, normally within the first 2 hours from the start of the tour of duty, on the first day of the absence.

(5) Provide the address or telephone number to be reached by their supervisors, especially if the absence is to be for an extended period of time.

(6) For USACE employees, all leave will be supported by one of the following methods: an OPM Form 71 (or equivalent), clock hours on manual timesheet, or the signature on the CEFMS CETAL report with appropriate hours absent designated in the 'remarks' field if less than a full day of leave. Leave authorization forms, when required, must be signed and dated by the employee and the supervisor who approves the leave, to clearly detail that the leave was requested and approved.

(7) Provide any required or requested documentation within the time instructed by the leave-approving official.

(8) Request restoration of leave forfeited as a result of an exigency or illness.

6. Relationship of Leave Earnings to Pay Periods. Full-time and part-time employees earn leave during each full biweekly pay period while in a pay status. Leave generally does not accrue for fractional pay periods at the beginning or end of Federal employment.

7. Reductions in Leave Credits. When the total number of hours of non-pay status in a full-time employee's leave year equals the number of base hours in a pay period, the employee's leave credits are automatically reduced by the amount the employee earns during a pay period. For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. For part-time employees, the earned accruals and reductions in credits are prorated based on the hours in a pay status.

8. Correction of Administrative Error in Charging or Crediting Leave. Administrative errors may be corrected by retroactively crediting or charging annual or sick leave for the period, or any portion thereof, provided the employee is still on the rolls of the activity at the time of correction and also provided that leave credit at the time of the absence was sufficient.

9. Erroneous Leave Credit. An employee who uses excess annual leave, which was erroneously credited to his or her annual leave account, may refund the amount received by lump-sum or installment payments or have the excess leave carried forward as a charge against future accruals of annual leave. In some instances, repayment may be waived under regulations governing overpayments of pay and allowances.

14 JAN 2013

10. Refund for Unearned Leave.

a. An employee who is separated and who is indebted for unearned leave may:

(1) Be required to refund the amount paid for the period covering the leave for which indebted; or

(2) Have the amount deducted from any pay due. An employee who enters active military service with a right of restoration is deemed not separated for the purpose of this paragraph.

b. This paragraph does not apply when an employee

(1) Dies,

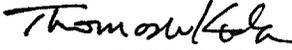
(2) Retires for disability; or

(3) Resigns or is separated because of a disability which prevents the employee from returning for duty or continuing in the service, and which is the basis of the separation as determined by the agency or medical evidence acceptable to the agency.

11. Transfer of Leave. Accumulated and/or accrued leave transfers with an employee who moves to another agency if they are covered by 5 U.S.C., Chapter 63. Fractions of an hour of leave are transferable for employees who move within the Department of Defense. Supervisors may accept a newly-transferred employee's personal certification as to the amount of leave credit, together with a "Leave and Earnings Statement" or a personally maintained record of leave earned and taken when the official record of leave data has not been received or has been delayed.

12. Liquidation of Advanced Leave. Advanced annual or sick leave may be liquidated by subsequently earned leave, by refund upon separation from Federal service, and/or donated leave through the voluntary leave transfer program. Advanced annual or sick leave may not be approved if it is known at the time the employee will not return to duty.

13. Leave Not Covered. Contact the SWD CPAC for guidance on leave categories or matters not covered in this regulation.


THOMAS W. KULA
Brigadier General, USA
Commanding

10 Appendices:

14 JAN 2013

- A. Definitions
- B. Annual Leave
- C. Sick Leave
- D. Family and Medical Leave
- E. Leave Without Pay
- F. Military Leave
- G. Court Leave
- H. Funeral Leave
- I. Excused Absence
- J. Voluntary Leave Transfer Program

Distribution:

Southwestern Division Headquarters
Fort Worth District
Galveston District
Little Rock District
Tulsa District
Dallas Recruiting Battalion
SWD CPAC Homepage

14 JAN 2013

APPENDIX A

Definitions

1. **Absence Without Leave (AWOL).** AWOL is an absence from duty which was not authorized or approved, or for which a leave request has been denied and charged as "absent without leave."
2. **Accrued Leave.** Leave earned by an employee during the current leave year that is unused at any given time in that leave year.
3. **Accumulated Leave.** The unused leave remaining to the credit of an employee at the beginning of a leave year.
4. **Committed Relationship.** Relationship in which the employee and the domestic partner of the employee are each other's sole domestic partner (and are not married to or are domestic partners with anyone else); and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).
5. **Domestic Partner.** A domestic partner is an adult who is in a committed relationship with another adult. This term includes both same-sex and opposite-sex relationships.
6. **Employee.** As defined in 5 U.S.C. Chapter 21, Section 2105, and Chapter 63, Section 6301.
7. **Family Member.** This definition applies to the following leave categories: annual leave, sick leave, voluntary leave transfer program, or emergency leave transfer program. It does not apply to the Family Medical Leave Act.
 - a. Spouse, and parents thereof; or
 - b. Sons and daughters and spouses thereof; or
 - c. Parents and spouses thereof; or
 - d. Brothers, sisters, and spouses thereof; or
 - e. Grandparents, grandchildren, and spouses thereof; or
 - f. Domestic partner and parents thereof, including domestic partners of any individual listed in paragraph 7.b. through 7.e. of this definition; or
 - g. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

14 JAN 2013

8. In Loco Parentis. Refers to a situation in which an individual has day-to-day responsibility for the care and financial support of a child; or in the case of an employee, who had such responsibility for the employee when the employee was a child. *Loco parentis* means “instead of a parent” or “in place of a parent” and a biological or legal relationship is not necessary.

9. Incapacitation. The general definition of incapacitation means the inability to perform work duties, attend school, or perform other regular daily activities because of physical or mental illness, injury, pregnancy or childbirth. This definition is not all inclusive and supervisors may need to consider other forms of incapacitation presented by an employee requesting sick leave before making a decision to grant sick leave.

10. Intermittent Leave or Leave Taken Intermittently. Leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of 1 hour to several weeks. DoD employees are allowed to take leave in periods of quarter hour increments.

11. Leave Without Pay (LWOP). LWOP is an approved absence from duty in a nonpay status. Leave without pay may be taken only for those hours of duty comprising an employee's basic workweek.

12. Leave Days. Are days in which an employee would otherwise work and receive pay and are exclusive of holidays and non-work days established by Federal statute, Executive Order, or administrative order.

13. Leave Year. The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

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

15. Parent. The definition of a parent includes:

a. A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;

b. A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;

c. A person who stands in *loco parentis* to the employee or stood in *loco parentis* to the employee when the employee was a minor or required someone to stand in *loco parentis*; or,

d. A parent, as described in paragraph 15.a.-15.c. of this definition, of an employee's spouse or domestic partner. This term does not include parents “in law.”

14 JAN 2013

16. Serious Health Condition. This term is defined in 5 CFR 630.1202 and Appendix D, Family Medical Leave Act, paragraph 4.g. of this Regulation.

17. Son or daughter. The definition of a son or daughter includes:

- a. Biological, adopted, step, or foster son or daughter of the employee;
- b. A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
- c. A person for whom the employee stands in *loco parentis* or stood in *loco parentis* when that individual was a minor or required someone to stand in *loco parentis*; or
- d. A son or daughter, as described in paragraph 15.a.-15.c. or this definition, of an employee's spouse or domestic partner.

~~14~~ JAN 2013

APPENDIX B

Annual Leave

1. Purpose. An employee may use annual leave for vacation periods, extended rest and relaxation, personal purposes, or emergencies. These absences may include, but are not limited to such matters as a death in the employee's family, religious observances, attendance at conferences or conventions, securing a driver's permit, or other personal business.

2. Eligibility.

a. Generally, the following employees are entitled to annual leave:

(1) Full-time permanent employees.

(2) Temporary and/or part-time employees with an established tour of duty and whose appointments are not limited to less than 90 days. An employee whose current employment is limited to less than 90 days is entitled to annual leave only after being employed for a continuous period of 90 days under successive appointments without a break in service.

b. Intermittent employees are not entitled to annual leave since they do not have an established tour of duty.

3. Accrual. The amount of annual leave employees earn depends on the length of creditable service and the number of hours in the scheduled tour of duty. Employee accrual rates are listed in the following chart.

Employee Type	<i>Less than 3 years of service</i>	<i>3 years but less than 15 years of service</i>	<i>15 or more years of service</i>
Full-time employees	½ day (4 hours) for each pay period Annually-104 hrs	¾ day (6 hours) for each pay period, except 1¼ day (10 hours) in last pay period Annually – 160 hrs	1 day (8 hours) for each pay period Annually – 208 hrs
Part-time employees	1 hour for each 20 hours in a pay status	1 hour for each 13 hours in a pay status	1 hour for each 10 hours in a pay status

a. Annual leave accrual rate changes are automatically processed by the Defense Finance Accounting System (DFAS) and they are reflected on employees' Leave and Earnings Statements.

b. Leave does not accrue for fractional pay periods at the beginning or end of Federal employment. Fractional accruals (less than one hour) are proper for employees who transfer between offices without a break in service, whether the same or different pay periods exist.

14 JAN 2013

4. Scheduling and Use of Annual Leave. Employees and their supervisors are mutually responsible for planning and scheduling the use of employees' annual leave throughout the leave year. To ensure that all employees will be given an opportunity to take their annual leave and that an adequate work force is present at all times, annual leave should be scheduled early in the leave year. Employees should request annual leave in a timely manner, and supervisors should provide timely responses to an employee's request. Employees should bear in mind that failure to take leave when scheduled, or to arrange a different schedule in advance, could result in forfeiture due to the necessity of ensuring an adequate work force at all times.

5. Request for and Approval of Annual Leave.

a. Although annual leave is a right of an employee in that its accrual may not be denied, it is the prerogative of management to make the final decision on when leave is to be used. For this reason, the use of annual leave is subject to the approval of the immediate supervisor in advance unless there is an emergency which causes the absence

(1) In case of emergency, employees should contact their supervisors as soon as possible, normally within the first 2 hours from the start of their tour of duty but no later than the first day of the absence so that proper approval may be given. Failure to secure the proper approval may result in the period of absence from work being charged to absence without leave.

(2) For USACE employees, all leave will be supported by one of the following methods, an OPM Form 71 (or equivalent), clock hours on manual timesheet, or the signature on the CEFMS CETAL report with appropriate hours absent designated in the 'remarks' field if less than a full day of leave. Leave authorization forms, when required, must be signed and dated by the employee and the supervisor who approves the leave, to clearly detail that the leave was requested and approved.

b. Supervisors should make reasonable accommodations for the religious needs of employees to the extent that such accommodations do not cause undue hardship on the business of the organization. "Reasonable accommodations" to these needs may include such arrangements as changing a tour of duty, substituting another qualified employee, or granting annual when appropriate. Excused absence (administrative leave) is not appropriate for this purpose. If the employee's religious needs cannot be accommodated, the supervisor should inform the employee as to the reason the request for leave cannot be granted.

6. Advancing Annual Leave. Supervisors may advance annual leave to an employee in an amount not to exceed the amount the employee would accrue during the remainder of the leave year. When an employee's separation is expected, (such as in the case of employees on temporary appointments or those employees whose retirement is planned), leave that is advanced may not exceed the amount that can be repaid by accrual before separation. Before granting advanced annual leave, the approving authority should consider such matters as the expectation of return to duty, the need for the employee's services, and the benefits to the agency of retaining the employee.

14 JAN 2013

7. **Insufficient Annual Leave Charges.** In situations where the employee does not have sufficient annual leave available to cover the leave requested, the excess absence is automatically charged to the following accounts: compensatory time, donated leave for family, credit hours, and then to leave without pay.

8. **Annual Leave Ceilings.** Normally, employees can accumulate and carry over a maximum of 30 days (240 hours) of annual leave from one leave year to the next. However, employees serving at an overseas station under a transportation agreement as defined by Joint Travel Regulation may accumulate annual leave up to a maximum of 45 days (360 hours). Employees having an accumulation in excess of 30 days under these conditions retain such balance until it is reduced by the use of leave in excess of the yearly accrual.

9. **“Use or Lose” Annual Leave.** Is the amount of annual leave that is in excess of the employee’s applicable annual leave ceiling. Any accrued annual leave in excess of the maximum applicable leave ceiling is forfeited if not used by the final day of the leave year (the day immediately before the first day of the first full biweekly pay period in the following calendar year).

10. **Retroactive Substitution of Sick Leave.** Annual leave may not be substituted retroactively for sick leave. However, annual leave may be substituted retroactively to liquidate an employee’s indebtedness for advanced sick leave.

11. **Forfeiture and Restoration of Annual Leave.**

a. Employees may have annual leave restored that was forfeited because it was in excess of the maximum leave ceilings (i.e., 30, 45, or 90 days) and it was due to the reasons stated below:

(1) **Administrative error.** The administration error caused the loss of annual leave.

(2) **An exigency of the public business.** Commanders have delegated authority to approve an exigency of the public business and approve restoration of annual leave that was lost due to the exigency. However, a Commander does not have the authority to approve an exigency affecting an employee for whom he is the leave approving official. Exigencies affecting these employees must be forwarded to the next higher echelon for approval. The authority may not be redelegated. Exigencies must be approved at the time of its occurrence. Supervisors should ensure that any excess cancelled leave due to the exigency of the service is rescheduled for use before the end of the year so that it does not result in forfeiture.

(3) **Employee’s illness or injury.** A determination must be made that the annual leave was forfeited because of a period of absence due to an employee's sickness or injury that occurred late in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year.

(4) **National emergency from certain terrorist attacks.** Employees whose services are determined to be necessary for a national emergency by reason of certain terrorist attacks are entitled to have their excess annual leave restored without the administrative burden of

14 JAN 2013

scheduling and canceling such leave. In addition, the time limitations for using restored annual leave are suspended for the entire period during which employees' services are determined to be essential for activities associated with the national emergency. At the end of the national emergency, or when the services of the employee are no longer determined to be necessary, a new time limit will be established for using all restored leave available to the employee.

b. Workload consideration that is affected by an employee's absence due to illness may not be used as a basis for canceling scheduled annual leave or for not rescheduling the use of annual leave to avoid forfeiture unless the requirements relating to exigencies of public business are satisfied.

c. The restoration of any annual leave forfeited because of sickness or the exigency of the service is conditioned upon the requirement that it was scheduled in writing at least three pay periods prior to the end of the leave year and the excess annual leave could not be rescheduled for use before the end of the leave year. For forfeiture in exigencies of the services, the following conditions must also be met before annual leave may be restored:

(1) The Commander must have approved the exigency in writing and beginning and ending dates are provided.

(2) The exigency was approved before the leave was cancelled (except in cases of extreme emergency).

(3) The leave must have been cancelled in writing because of the exigency. The request for restoration must contain the written approval of the exigency, the dates of the cancelled annual leave and the reasons the leave could not be rescheduled and used before the end of the leave year.

d. The request for restoration of the forfeited annual leave is approved by the Commander, after the end of the leave year and the approval is provided to the Customer Service Representative/Payroll Representative for processing. The annual leave is restored to a separate leave account and must be used within the specified time limits. Restored annual leave not used by the set time limits is forfeited with no further rights to restoration. Restored leave must be used not later than the end of the leave year ending two years after:

(1) The date of restoration of the annual leave forfeited because of an administrative error; or

(2) The date fixed by the Commander as the termination date of the exigency of the public business which resulted in forfeiture of annual leave; or

(3) The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.

e. To preclude permanent forfeiture of restored leave, employees should observe the following procedures.

14 JAN 2013

(1) In all cases where requested annual leave is to be charged to the restored leave account, the employee must submit a request on OPM Form 71 or other form of acceptable documentation clearly indicating the amount of leave to be charged to the restored leave account.

(2) In the case of small amounts of restored annual leave (e.g., 5 days or less), employees will normally schedule and use the restored leave before using current leave accruals. Larger amounts of restored leave may be prorated for use over the approved period, or lesser time if feasible.

12. Lump-Sum Payment for Annual Leave Upon Separation. Employees are entitled to payment for all accumulated annual leave when he or she separates from Federal service or enters on active duty in the Armed Forces and elects to receive a lump-sum payment.

a. For this purpose, "accumulated annual leave" consists of the following:

- (1) The regular carryover balance from the previous leave year, if any; plus,
- (2) Accrued and unused annual leave during the current leave year, if any; plus,
- (3) Any unused restored annual leave maintained in a separate account.

b. Generally, a lump-sum payment equals the pay the employee would have received had he or she remained employed until expiration of the period covered by the annual leave.

c. A separated employee who receives a lump-sum payment for annual leave and is reemployed within the period represented by the annual leave payment must refund a proportionate share of the payment. Annual leave covered by the refund will be recredited to the employee's leave account.

14 JAN 2013

APPENDIX C

Sick Leave

1. Purpose. Sick leave is a qualified right in that the employee is entitled to use it only when actually warranted. Supervisors are responsible for determining whether the reasons for the absence warrant granting sick leave. An employee may be required to provide a medical certificate or other administratively acceptable evidence to support a request for sick leave. Sick leave will be granted to an employee who requests it for the following:

a. Employee's personal use. No limitation on the use of sick leave for an employee's own personal medical needs, subject to supervisory approval and any required supporting evidence.

(1) To receive medical, dental, or optical examination or treatment, or

(2) For incapacitation for the performance of duties by physical or mental illness, injury, pregnancy or childbirth, or

(3) When the employee's presence at the post of duty would jeopardize the health of others because of exposure to a serious communicable disease. The use of sick leave generally applies in situations where it has been determined that Federal isolation or quarantine is authorized by appropriate health authorities.

b. To provide care to a family member or for bereavement purposes. An employee may use up to a maximum of 104 hours of sick leave for general family care and bereavement purposes each leave year as described in paragraphs 1.b. of this Appendix. Part-time employees and employees on an uncommon tour of duty may use the total amount of sick leave they would normally accrue in a leave year.

(1) To provide care for a family member who is incapacitated by a medical or mental condition, or attends to a family member receiving medical, dental, or optical treatment.

(2) To actively provide care to a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.

(3) To make arrangements necessitated by the death of a family member or attend the funeral of a family member.

c. To provide care to a family member with a serious illness. Serious illness includes incapacitation because of pregnancy or childbirth. For these purposes, the sick leave entitlement is up to 12 workweeks (480 hours). There is no entitlement to use sick leave once the period of incapacitation because of pregnancy or childbirth has ended. A serious health condition has the same meaning used under the Family and Medical Leave Act. See Appendix A for definition of serious health condition.

d. An employees may use an aggregate of 480 hours of sick leave each leave year for all family care or bereavement purposes, to include sick leave used under the Family Medical Leave Act (Appendix D). The amount of sick leave permitted for family care and bereavement purposes is pro-rated for part-time employees and employees with uncommon tours of duty in proportion to the average number of hours of work in the employee's regularly scheduled administrative workweek. It is the supervisor's responsibility to track the amount of sick leave used for family care and bereavement.

Example: During the leave year, an employee uses 100 hours of sick leave to care for his/her children with minor illnesses and to take them to various eye and dental appointments. The 100 hours must be subtracted from the 480-hour entitlement if the employee requests the use of sick leave to care for a family member with a serious illness.

Example: An employee has already used 240 hours of sick leave to care for a family member with a serious health condition and substituted 240 hours of sick leave for LWOP under FMLA. He/she cannot use additional sick leave in the same leave year for general family care and bereavement purposes.

e. An employee may use sick leave for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys, court proceedings, required travel, and any other activities necessary to allow the adoption to proceed. There is no limit on the amount of sick leave that may be used for this purpose, subject to supervisory approval and any required supporting evidence.

2. Eligibility. Generally, full-time permanent, temporary, and part-time employees with an established tour of duty will accrue sick leave.

3. Accrual.

a. The following employees are entitled to earn sick leave. There is no limit on the amount of sick leave an employee may accrue.

(1) Full-time employees earn sick leave at the rate of 4 hours for each full biweekly pay period.

(2) Part-time employees with an established tour of duty earn sick leave at the rate of 1 hour for each 20 hours of duty in a pay status, not to exceed 4 hours of sick leave for 80 hours of duty in any pay period.

(3) Temporary employees, including those appointed for less than 90 days, are entitled to earn and use sick leave.

b. Intermittent employees are not entitled to sick leave because they do not have an established tour of duty.

14 JAN 2013

c. There is no limitation on the amount of sick leave which can accumulate to an employee's leave account.

d. Sick leave does not accrue for fractional pay periods at the beginning or end of Federal employment. Fractional accruals (amounts less than one hour) are proper for employees who transfer between offices without a break in service, whether the same or different pay period exist.

4. Request for and Approval of Sick Leave.

a. An employee who is absent due to illness should notify the supervisor, or other employee authorized by their supervisor, as early as practicable on the first day and each succeeding day for which leave has not been approved. Normally, the notification is to be within the first 2 hours after the beginning of the tour of duty, or as soon thereafter as possible. Failure to give notice may result in the charging of the absence to Absence without Leave (AWOL). Requests for sick leave for medical, dental, or optical examination or treatment normally should be made prior to the beginning of the absence.

b. Sick leave charges will be documented as follows:

(1) For USACE employees, all leave will be supported by one of the following methods: an OPM Form 71 (or equivalent), clock hours on manual timesheet, or the signature on the CEFMS CETAL report with appropriate hours absent designated in the 'remarks' field if less than a full day of leave. Leave authorization forms, when required, must be signed and dated by the employee and the supervisor who approves the leave, to clearly detail that the leave was requested and approved.

(2) A supervisor can require a medical certificate if the employee requests sick leave for more than three consecutive work days or for a lesser period when determined necessary. When requested, employees must provide administratively acceptable evidence or medical certification no later than 15 days after the date of request for such certification. If after diligent good faith efforts the employee fails to provide it within a reasonable period of time, but no later than 30 calendar days, the employee is not entitled to sick leave.

(3) When in individual cases there is reason to believe that sick leave is being abused, a medical certificate may be required to justify the grant of such leave thereafter. In such cases, the employee will be advised in writing that a medical certificate will be required to support a future grant of sick leave, regardless of duration, e.g. 1 hour. Suspected sick leave abuse cases and/or the requirement for a medical certificate should be coordinated with the CPAC. Any unjustified absence or failure to comply with leave procedures may result in disciplinary action.

(4) In case of prolonged absence because of illness, the supervisor may require an employee to provide OPM Form 71 or other acceptable form of documentation on a pay period basis. The employee is responsible for providing appropriate medical certificates to support the request for sick leave, when requested by the supervisor.

14 JAN 2013

5. **Advanced Sick Leave.** At their discretion, supervisors may advance sick leave to an employee, when required by the exigencies of the situation, for the same reasons they grant sick leave to an employee, subject to the limitations stated below. Supervisors should not grant advance sick leave to an employee when the employee is not reasonably expected to return to duty (i.e., disability retirement). Before granting advanced sick leave, it is recommended that the approving authority consider such matters as the expectation of return to duty, the need for the employee's services, and the benefits to the organization of retaining the employee. Supervisors should only grant the amount of advanced sick leave necessary to cover the exigency of the situation.

a. Up to 240 hours (30 days) of sick leave may be granted to a full-time employee:

(1) Who is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth; or

(2) For a serious health condition of the employee or a family member; or

(3) When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

(4) For purposes relating to the adoption of a child; or

(5) For the care of a covered service member with a serious injury or illness, provided the employee is exercising his or her entitlement under 5 U.S.C. 6382(a)(3).

b. Up to 104 hours may be granted to a full-time employee:

(1) When he or she receives medical, dental, or optical examination or treatment; or

(2) To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment; or

(3) To provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or

(4) To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

6. **Sickness During Annual Leave.** When sickness occurs within a period of annual leave, employees are permitted to change their scheduled annual leave to sick leave to cover the period of sickness. For example; if an employee becomes sick while on annual leave a supervisor may

14 JAN 2013

grant sick leave to him or her in place of annual leave. Likewise, if an employee on annual leave must care for a family member who becomes sick, the supervisor may grant sick leave. The use of sick leave within a period of annual leave must be justified and approved by the employee's immediate supervisor.

7. Restriction on Retroactive Sick Leave. Sick leave may not be substituted retroactively for annual leave that has been granted and already taken by the employee.

8. Annual Leave in Lieu of Sick Leave. An absence that is otherwise chargeable to sick leave may be charged to annual leave if requested by the employee and approved by the supervisor. Sick leave may not be substituted retroactively for annual leave that has been granted and already taken by the employee. However, annual leave may be substituted retroactively to liquidate an employee's indebtedness for advanced sick leave.

9. Sick Leave for Exposure to Communicable Disease. The use of sick leave for exposure to a communicable disease may be used in those cases where the employee or family member is not sick but it has been determined by appropriate authority that the employee's presence would jeopardize the health of others. This situation would only arise in cases of serious communicable diseases such as cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, severe acute respiratory syndrome, and influenza that causes or has the potential to cause a pandemic. An employee does not need to be the sole provider of care, but must be actively providing care to the family member in order to use sick leave to care for a family member exposed to a communicable disease.

10. Leave Flexibilities during a Pandemic Health Crisis. In the event of a pandemic health crisis, employees may need to work from home or alter their work arrangements. Because the Federal government must continue to operate, employees who are able to work and told to do so by their supervisor must comply.

11. Sick Leave Upon Separation. No lump-sum payment is made for unused sick leave when employees leave the Federal service, but it may be recredited to an employee's account if reemployed in accordance with OPM rules. Under Civil Service Retirement System (CSRS), unused sick leave is used in computing the annuity payments. Under Federal Employees Retirement System (FERS), 50 percent of the unused sick leave is used in computing the annuity payments based on a separation from service from 28 October 2009 through 31 December 2013; and 100 percent of the unused sick leave balance is used in computing the annuity based on a separation from service occurring on or after 1 January 2014. For those employees who were vested in the CSRS system and later switched to FERS, the lesser of (1) the amount of sick leave at the time of retirement or (2) the amount of sick leave when FERS was elected, is included in the CSRS portion of the annuity computation. Sick leave cannot be used in computing the "high-3" average salary or for meeting the minimum length of service for retirement eligibility.

14 JAN 2013

APPENDIX D

FAMILY AND MEDICAL LEAVE (FMLA)

1. Regular FMLA Purposes. The Family and Medical Leave Act of 1993 provides to covered employees up to a total of 12 administrative workweeks of *unpaid leave* (leave without pay) during any 12 month period for the following reasons:

- a. The birth of a son or daughter of the employee and the care of such son or daughter; or
- b. The placement of a son or daughter with the employee for adoption or foster care; or
- c. The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or
- d. A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position; or
- e. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces to a foreign country or in the case of a member of a reserve component under a call or order to active duty in support of a contingency operation under 10 USC 101(a)(13)(B).

(1) A call to active duty for purposes of leave taken because of a qualifying exigency refers to a Federal call to active duty. State calls to active duty are not covered unless ordered by the President of the United States. See definition of call to active duty, paragraph 5(a) of this Appendix.

- (2) There are eight qualifying exigencies for which employees may use FMLA leave:
- (a) Short-term deployment;
 - (b) Military events and related activities;
 - (c) Childcare and school activities;
 - (d) Financial and legal arrangements;
 - (e) To attend counseling;
 - (f) Rest and recuperation;
 - (g) Post-deployment activities;

14 JAN 2013

(h) Additional activities that arise out of the covered military member's covered active duty status, if the supervisor and employee agree that such leave qualifies as an exigency.

2. FMLA Military Family Leave (MFL). The National Defense Authorization Act (NDAA) of 2008 amended FMLA to provide MFL entitlements for an employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness and provides care for such service member.

a. Employees may take up to 26 workweeks (1040 hours) of unpaid leave during a *single* 12-month period for the purpose of caring for a covered service member who is undergoing treatment, recuperation, therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or the illness incurred in the line of duty on active duty. MFL is applied on a per-covered service member, per-serious injury or illness basis.

(1) If an employee does not take all of the 26 workweeks of leave entitlement during the single 12-month period, the remaining leave (hours) is forfeited.

(2) After the 26 workweeks are exhausted, any subsequent requests for leave to care for the service member for the same injury/illness may be made by the employee under other leave entitlements available to Federal employees, subject to the applicable rules of that leave.

b. An employee may use more than one 26-week period of military family leave for *different* covered service members or *different* illness/injury of the same covered service member.

c. An employee is limited to a *combined total* of 26 administrative workweeks of FMLA for any reason under regular FMLA or MFL during any single 12-month period. This means that any periods of regular FMLA used for any of the reasons stated in paragraph 1.a., above, that overlap with MFL, must be subtracted from the 26 weeks. This is also true when more than one period of MFL leave to care for different covered service members for different illnesses/injuries overlap. In that case, the employee is limited to no more than 26 workweeks during a single 12-month period of FMLA leave to care for a covered service member or service members.

3. Applicability. The provisions of FMLA apply to permanent full-time and part-time employees who have completed at least 12 months of Federal service. There is no requirement for these 12 months to be recent or consecutive. FMLA provisions exclude temporary employees with an appointment time limitation of 1 year or less and intermittent employees. Information on FMLA is located in 5 USC 6381-6387 and 5 CFR Part 630, Subpart L, Sections 1201-1211.

4. Definitions under Regular FMLA. Complete definitions and other terms not listed below may be found in 5 CFR Part 630, Subpart L, Section 1202.

14 JAN 2013

a. Family Members under FMLA includes the following: spouse, son, daughter, in loco parentis, and parents of employee. The FMLA definitions of spouse, son, daughter, and in loco parentis are included in paragraph 4 of this Appendix.

b. Family and Medical Leave (or FMLA leave) means an employee's entitlement to 12 or 26 administrative workweeks of unpaid leave for certain family and medical needs, as prescribed under 5 U.S.C. 6381-6387.

c. Health Care Provider means-

(1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this subpart; or

(2) Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question; or

(3) A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law; or

(4) A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or

(5) A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95-314.

d. In Loco Parentis refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, or covered service member, who had such responsibility for the employee or the covered service member when either was a child. A biological or legal relationship is not necessary.

e. Incapacity means the inability to work, attend school, or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition.

f. Intermittent Leave or leave taken intermittently means leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of 1 hour to several weeks. Leave may be taken for a period of less than 1 hour.

g. Serious Health Condition.

(1) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

(a) Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

(b) Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following:

[1] A period of incapacitation of more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition;

[2] Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if there is no active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days;

[3] Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires periodic visits for treatment or continues over an extended period of time, or may cause episodic rather than a period of incapacity;

[4] A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease); or

[5] Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

(2) Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal

14 JAN 2013

disease are not serious health conditions. Allergies, restorative dental, or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.

h. Son or Daughter means a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing *in loco parentis* who is—

(1) Under 18 years of age; or

(2) 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL's) or “instrumental activities of daily living” (IADL's). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc. A “physical or mental disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in 29 CFR 1630.2 (h), (i), and (j).

i. Spouse means 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. This definition does not include a domestic partner.

5. Definitions under Qualifying Exigency. The following definitions supplement the regular FMLA definitions.

a. Covered active duty or call to covered active duty status means:

(1) In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (or notification of an impending call or order to active duty); and

(2) In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation pursuant to any of the following sections of title 10, U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress: Section 688; Section 12301(a); Sections 12302, 12304, 12305 or 12406; and Chapter 15.

14 JAN 2013

b. Covered Military Member means the employee's spouse, son, daughter, or parent on covered active duty or call to active duty status.

c. Son or Daughter on covered active duty or call to covered active duty status means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.

6. Definitions under Military Family Leave. The following definitions supplement the basic FMLA definitions.

a. Covered Service Member means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty, but does not include former members of the Armed Forces, former members of the National Guard and Reserves, and members on permanent disability retired list.

b. Next of Kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter.

c. Parent of a Covered Service Member means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stands or stood in loco parentis to the covered service member. This term does not include parents-in-law.

d. Serious Injury or Illness means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating.

e. Single 12-Month Period means the period beginning on the first day the employee takes FMLA leave to care for a covered service member with a serious injury or illness and ending 12 months after that date in accordance with 5 CFR Section 630.1205(b) and (c).

f. Son or Daughter of a covered service member means a covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.

7. Intermittent Leave or Reduced Leave Schedule.

a. Leave for childbirth or adoption-related reasons (paragraphs 1.a. and 1.b. of this Appendix) may not be taken intermittently or on a reduced leave schedule unless the employee and the supervisor agree to do so.

14 JAN 2013

b. Leave taken for serious health condition reasons (paragraphs 1.c. and 1.d.) may be taken intermittently or on a reduced schedule when medically necessary subject to notification and medical certification requirements.

c. Leave taken for a qualifying exigency (paragraph 1.e.) may be taken intermittently or on a reduced schedule subject to notification and certification requirements.

d. Military family leave may be taken intermittently or on a reduced leave schedule during the 12-month single period, subject to notification and certification requirements.

e. An employee may take only the amount of FMLA leave that is necessary to manage the circumstances that prompted the need for the leave.

8. Substitution of Paid Leave.

a. An employee may elect to substitute the following paid leave for any or all of the period of leave without pay taken under regular FMLA (paragraphs 1.a.-1.e. of this Appendix):

- (1) Accrued or accumulated annual or sick leave.
- (2) Advanced annual or sick leave approved.
- (3) Donated leave under the voluntary leave transfer program.

b. An employee may substitute up to 26 weeks of sick leave during a single 12-month period for any or all unpaid leave when he/she invokes FMLA to provide care under the military family care entitlement. This means there are no limits on the amount of sick leave an employee may substitute under this entitlement for the 26 weeks. If the employee does not have sufficient sick leave to cover all of the 26-week period, the employee may request donated leave or annual leave. An employee may be advanced up to 30 days of sick leave to care for a covered service member when FMLA is invoked for this purpose.

c. Supervisors may not deny an employee's right to substitute paid leave nor require an employee to substitute paid leave for any or all of the period of leave without pay. Employees who choose to substitute paid leave for the period of leave without pay must notify their supervisors of their intent to do so prior to the date such paid leave begins. Employees may not retroactively substitute paid leave for leave without pay previously taken.

9. FMLA Entitlement. Supervisors bear the responsibility to inform their employees of their entitlements under FMLA, including the requirements and obligations of employees. An employee must invoke FMLA for the respective leave he or she is requesting and must follow the notification or certification requirements. As an example, an employee who needs leave for childbirth purposes and also leave to care for an injured service member must invoke FMLA for each leave purpose, regular FMLA and military family leave under FMLA.

14 JAN 2013

10. Notice and Certification.

a. An employee who intends to invoke his or her entitlement to family or medical leave must notify his or her supervisor in writing. When possible, the employee must notify his or her supervisor of the intent to take leave not less than 30 days before the date the leave begins. If the need for the leave is not foreseeable and the employee cannot provide 30 days notice, the employee will provide notice within a reasonable period of time, appropriate to the circumstances involved. When the need for leave is foreseeable and the employee fails to inform the supervisor of his or her intent to take leave and cannot provide a reasonable excuse for the delay of notification, the date the employee may began taking family and medical leave may be delayed until at least 30 calendar days after the date the employee provides notice.

b. Supervisors may require that a request for leave for a serious illness (paragraphs 1.c. and 1.d.) be supported by written medical certification issued by the health care provider of the employee or of the spouse, son, daughter, or parent of the employee, as appropriate. This requirement may be waived in a subsequent 12-month period if the leave is for the same chronic or continuing condition. Employee may be required to provide the medical documentation within 15 days from the supervisor's request of medical certification. After the leave has commenced and the employee fails to provide the requested medical certification, the supervisor may (1) charge the employee as absent without leave (AWOL); or (2) allow the employee to request the leave to be charged as leave without pay or to the employee's annual and/or sick leave account, as appropriate.

c. For leave taken for purposes relating to pregnancy, chronic conditions, or long-term conditions, an employee cannot be required to provide subsequent medical recertification more than once every 30 calendar days.

d. For leave taken for all other serious health conditions, including leave taken on an intermittent or reduced leave schedule, if the health care provider has specified on the medical certification a minimum duration of the period of incapacity, the supervisor may not request recertification until that time has passed.

e. Supervisors may require subsequent medical recertification more frequently than once every 30 calendar days or the minimum duration of the period of incapacity specified on the medical certification, if

(1) The employee has requested that the original leave period be extended; or

(2) The circumstances described in the original medical certification have changed significantly; or

(3) The supervisor has received information that casts doubt upon the continuing validity of the medical certification.

f. Table 1 at the end of this Appendix provides a quick overview of the notice and certification requirements for leave requested under FMLA.

14 JAN 2013

11. Accommodation through Alternative Positions. Employees who take leave under the serious health condition purpose (paragraphs 1.c. or 1.d.) intermittently or on a reduced leave schedule (that is foreseeable based on planned medical treatment or recovery from a serious health condition) may be eligible for temporary placement in an available alternative position for which they are qualified. This opportunity should be utilized to better accommodate recurring periods of leave. Alternative positions need not consist of equivalent duties, but must be in the same commuting area and must provide:

- a. An equivalent grade or pay level, including locality adjustments and
- b. The same type of appointment, work schedule, status, and tenure and
- c. The same employment benefits (e.g. life insurance, health benefits, retirement coverage, and leave accrual) that were available to the employee in their previous position.

It is the employer's responsibility to determine the available alternative position that has equivalent pay and benefits consistent with Federal laws, including the Rehabilitation Act of 1973 (29 U.S.C. 701) and the Pregnancy Discrimination Act of 1978 (42 U.S.C. 2000e).

12. Return from FMLA Leave. Upon return from FMLA leave, the employee shall be entitled to be returned to:

- a. The same position held by the employee when the leave commenced; or
- b. An equivalent position with equivalent benefits, pay status, and other terms and conditions of employment as defined in 5 CFR 630.1210.

13. Reports. Records shall be maintained by supervisors on all employees who take leave under FMLA.

a. These records should include the employee's name, rate of basic pay, the occupational series for the employee's position, and the number of hours of leave taken under regular FMLA, including any paid leave substituted for leave without pay under 5 CFR 630.1205(b). The reason for taking leave must also be provided and number of hours substitute leave. The reason given can be as simple as stating the entitlement(s) used by the employee, i.e., "the care of a parent with a serious health condition". See 5 CFR 630.1213.

b. When employees transfer to different agencies, the information on leave taken under regular FMLA by the employee during the 12 month period prior to the date of transfer will be provided to the gaining agency, together with the beginning and ending dates of the employee's 12 month period as well as the number of hours taken during this period.

14 JAN 2013

Table 1 – FMLA Notice and Certification Requirements

Purpose	Notice Requirement for Foreseeable/Planned Leave	Notice Requirement for Unforeseeable/ Unplanned Leave	Use of Leave on Intermittent/ Reduced Schedule	Certification Requirements
Childbirth or Adoption	At least 30 calendar days advance notice. If leave is required within the 30-day period; as soon as practicable. If employee fails to give 30 days' advance notice with no reasonable excuse, leave may be delayed at least 30 days after invocation of FMLA.	Notice must be given within reasonable time that is appropriate to the circumstances. Leave may not be delayed or denied if employee is unable to provide notice within the requested time, due to circumstances beyond his/her control.	No, unless supervisor and employee agree to do so.	Administratively- acceptable evidence.
Serious health condition			Yes, when medically necessary. Subject to 5 CFR 630.1208 and 630.1209.	Written medical certification. See 5 CFR 630.1208 Employee may be requested to provide within 15 days.
Serious health condition/planned medical treatment	Schedule treatment so as not to disrupt the org operations. Schedule is based on approval of health care provider.			
Qualifying exigency	Notice as soon as practicable.	Employee must comply with employer's call in procedure.	Yes, for medical reasons, subject to notice and medical certification.	Active duty orders/medical certification/and / or other supporting documentation 5 CFR 630.1209.
Military family medical leave to care for covered service member	30 calendar days advance notice for planned medical treatment. When not possible, as soon as practicable relative to the circumstances.	Employee must comply with employer's call in procedure.	Yes, when medically necessary.	Medical certification. When employee must travel to Germany, an Invitational Travel Order or Invitational

SWDR 690-1-630

14 JAN 2013

				Travel Authorization is acceptable.
--	--	--	--	---

APPENDIX E

Leave Without Pay

1. Purpose. Leave without pay (LWOP) is a temporary non-pay status and absence from duty granted upon the employee's request. The permissive nature of leave without pay distinguishes it from absence without leave (AWOL). In most instances, the authorization of LWOP is a matter of supervisory discretion. In the following situations, employees have an entitlement to LWOP, subject to the requirements of the applicable statutes or governing regulations.

a. The Family and Medical Leave Act of 1993 (FMLA) (Public Law 103-3, February 5, 1993), which provides covered employees with an entitlement to a total of up to 12 weeks of unpaid leave (LWOP) during any 12 month period for certain family and medical needs. Under the National Defense Authorization Act of 2008 which amended the FMLA provisions, employees are also entitled to use up to 26 weeks unpaid leave to care for a covered service member.

b. The Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 (Public Law 103-353), which provides employees with an entitlement to LWOP when employment with an employer is interrupted by a period of service in the uniformed service.

c. Executive Order 5396, July 17, 1930, provides that disabled veterans are entitled to use sick leave (or annual leave or LWOP) for necessary medical treatment associated with the service connected disability.

d. Employees receiving worker's compensation payments from the Department of Labor must be taken out of a pay status and placed on LWOP.

2. Granting Leave Without Pay.

a. An employee cannot demand the approval of LWOP as a matter of right. Each request for LWOP or extensions should be examined closely to assure that the value to the Government or the serious needs of the employee are sufficient to offset the costs and administrative inconveniences to the Government which result from the retention of an employee in a LWOP status. Among these costs and inconveniences are:

- (1) Encumbrance of a position.
- (2) Loss of services which may be needed in the organization.
- (3) Obligation to provide active employment at the end of the approved leave period.
- (4) Credit for 6-months of each calendar year toward retirement.
- (5) Eligibility for continued coverage of health insurance and life insurance.

14 JAN 2013

(6) Complication of retention preference registers in the event of a reduction in force. An aggregate of 6 months nonpay status in a calendar year is creditable service.

b. In addition to the above factors, there must be reasonable expectation that the employee will return at the end of the approved period of absence and it should be apparent that at least one of the following benefits would result:

- (1) Increased job ability;
- (2) Protection or an improvement of employee's health; or
- (3) Retention of a desirable employee.

c. Normally, the initial grant of LWOP will not exceed 1 year. Requests for additional periods will be reviewed even more carefully than the original authorization. Requests should be approved only when the interests of the Government are best served thereby, or when unusual circumstances indicate it would be manifestly harsh or unfair to deny the extension. If at the end of the initial year, the review indicates the employee will not or cannot return to work, additional LWOP should not be granted and appropriate steps should be taken to separate the employee. If any extension would cause an absence beyond 2 years, the employee should be separated and reemployed when available for duty.

d. Normally, all accrued leave balances will be used before requesting LWOP. In some situations, LWOP may be granted to an employee with accrued and/or accumulated leave balances. Examples of such situations are:

(1) Absence of student-trainees returning to college when covered by work-study agreements;

(2) Absence resulting from employee injury or disability; or

(3) Absence to serve temporarily in a salaried position as an officer or representative of a union representing Federal employees.

(4) To avoid a break in the continuity of service for career or career conditional employees who must relocate because they are spouses or dependents of service personnel or of Federal employees who are relocating. (In these instances the supervisor should require that the employee submit a resignation Request for Personnel Action (RPA) with the proposed effective date being the same as the expiration of the LWOP);

3. Examples of Proper Cases for Extended Leave Without Pay.

a. The following list includes examples of types of cases for which approval of extended LWOP would be proper, all other factors being favorable;

14 JAN 2013

(1) For educational purposes, when the course of study or research is in line with a type of work which is being performed by the agency and completion of which contribute to its best interests;

(2) To recover from illness or disability not of a permanent or disqualifying nature, when continued employment or immediate return to employment would threaten impairment of the employee's health or the health of other employees;

(3) To protect employee status and benefits during any period pending final action on a claim for disability retirement or on a claim resulting from work-related illness or injury;

(4) To serve, temporarily, as an officer or representative of a union representing Federal employees; or

(5) To serve on active military duty for training for a period of less than 3 months. If the active duty is later extended in excess of 3 months, consideration will be given to separating the employee and granting restoration rights. Brief extensions may only require extension of LWOP.

b. LWOP will not normally be granted to permit an employee to accept private employment or non-Federal public employment.

c. Supervisors and employees should consider the effects of extended LWOP on Federal benefits and programs. Table 2 at the end of this Appendix shows the amount of LWOP that is creditable services for the purpose of determining an employee's entitlement to or eligibility for various Federal benefits and programs.

4. Request for Approval of Leave Without Pay. All requests for LWOP will be initiated by the employee after discussion with his/her supervisor.

a. LWOP for 30 days or less may be approved by the supervisor. The employee must submit an OPM Form 71 or other form of acceptable documentation to request the LWOP.

b. LWOP in excess of 30 days must be requested in writing and approved by Division/Office Chiefs, or equivalent. Upon approval, a Request for Personnel (RPA), must be routed through channels to the respective Civilian Human Resources Agency (CHRA) Processing Center to officially document the LWOP.

c. LWOP for Pathways interns to return to their educational institution will be requested by submission of the RPA through channels to the Processing Center.

24 JAN 2013

Effect of Extended Leave Without Pay (LWOP) (or Other Nonpay Status) on Federal Benefits and Programs

Table 2 below shows the amount of LWOP (or other nonpay status) that is creditable service for purposes of determining an employee's entitlement to or eligibility for the following Federal benefits and programs.

Type of Benefit or Program	Creditable Service for determining entitlement or eligibility
Career tenure	The first 30 calendar days of each nonpay period are creditable service (5 CFR 315.201(b)(4)(ii)(A)).
Probationary period	For the computation of a probationary period on an initial appointment to a competitive service position, a total of 22 workdays in a nonpay status is creditable service (5 CFR 315.802(c) and 317.503(d)(2)).
Qualification standards	For General Schedule positions, there is no requirement to extend qualifying periods by the amount of non-pay status. However, agencies may require such extensions in order to meet training requirements or ability to perform.
Time-in-grade requirements (for promotion)	All nonpay status is creditable service.
Within-grade increases	An aggregate of no more than 2 workweeks in a nonpay status in a waiting period is creditable service for advancement to steps 2, 3, and 4 of the General Schedule; 4 workweeks for advancement to steps 5, 6, and 7; and 6 workweeks for advancement to steps 8, 9, and 10 (5 CFR 531.406(b)). For prevailing rate employees (WG, WL, and WS schedules), an aggregate of 1 workweek nonpay status is creditable service for advancement to step 2, 3 workweeks for advancement to step 3, and 4 workweeks for advancement to steps 4 and 5 (5 CFR 532.417(c)).
Service computation date (annual leave accrual)	For purposes of computing accrual rates for annual leave (i.e., 4, 6, or 8 hours per pay period), an aggregate of 6 months of nonpay status in a calendar year is creditable service (5 U.S.C. 6303(a) and (f) and 8332(f)). The service computation date must be adjusted by the amount of nonpay time in excess of 6 months in a calendar year (i.e., excess time is added to the employee's service computation date).
Accrual of annual and sick leave	The accumulation of nonpay status hours during a leave year can affect the accrual of annual leave and sick leave (See 5 CFR 630.208(a)). For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status from the beginning of the leave year

24 JAN 2013

Type of Benefit or Program	Creditable Service for determining entitlement or eligibility
	(either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If the employee again accumulates 80 hours of nonpay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached. (This means that a full-time employee who is in the 6-hour annual leave accrual category and who has accumulated 80 hours of nonpay status in the last pay period of the year will forfeit 10 hours of leave accrual in that pay period.) At the end of the leave year, any accumulation of nonpay status hours of less than 80 hours is zeroed out so that the accumulation for the next leave year starts at zero. For part-time employees, leave accrual is prorated based on hours in a pay status in each pay period; thus, time in nonpay status reduces leave accrual in each pay period containing such time (5 CFR 630.303 and 5 U.S.C. 6307).
Recruitment, relocation, and retention incentives	The service agreement may address the extent to which time in a nonpay status is creditable towards the completion of the service period (5 CFR 575.110(f), 575.210(f), and 575.310(e)).
Student loan repayments	Time in a nonpay status does not count toward completion of the required service period. Thus, the service completion date must be extended by the total amount of time spent in nonpay status (5 CFR 537.107(b)).
Enhanced annual leave flexibility (required 1-year period of continuous service)	If an employee who has been provided with an enhanced annual leave accrual rate under 5 CFR 630.205, is placed in a leave without pay status during the required 1-year period of continuous service, the 1-year period of continuous service must be extended by the amount of time in a leave without pay status. However, if the employee separates or is placed in a leave without pay status to perform military service and later returns to civilian service through the exercise of a reemployment right, or the employee separates or is placed in a leave without pay status while receiving workers compensation and later recovers sufficiently to return to work, then the period of leave without pay is creditable towards the 1-year period of continuous service (5 U.S.C. 6303(e) and 5 CFR 630.205).
Reduction in force (determining years of service)	An aggregate of 6 months nonpay status in a calendar year is creditable service.

14 JAN 2013

Type of Benefit or Program	Creditable Service for determining entitlement or eligibility
Severance pay	Nonpay status time is fully creditable for the 12-month continuous employment period to qualify for severance pay (5 U.S.C. 5595(b)(1) and 5 CFR 550.705). However, for the purpose of determining service creditable towards the computation of an employee's severance payment, no more than 6 months of nonpay time per calendar year is creditable service (5 U.S.C. 5595(c)(1) and 5 CFR 550.707-550.708).
Military duty or workers' compensation	Nonpay status for employees who are performing service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) or have been placed in a nonpay status because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81 counts as creditable service for purposes of rights and benefits based on seniority and length of service upon the employee's return to duty (38 U.S.C. 4316(a) and 5 CFR 353.107.)
Retirement benefits	An aggregate nonpay status of 6 months in any calendar year is creditable service. Coverage continues at no cost to the employee while in a nonpay status. When employees are in a nonpay status for only a portion of a pay period, their retirement deductions are adjusted in proportion to their basic pay (5 U.S.C. 8332 and 8411).
Health benefits	Enrollment continues for no more than 365 days in a nonpay status. The nonpay status may be continuous or broken by periods of less than 4 consecutive months in a pay status (5 CFR 890.303(e)). The Government contribution continues while employees are in a nonpay status. The Government also is responsible for advancing from salary the employee share as well. The employee may choose between paying the agency directly on a current basis or having the premiums accumulate and be withheld from his or her pay upon returning to duty. If non-pay status is due to a lapse of appropriations (shutdown furlough), there will be no opportunity for an employee to pay the agency directly. In this instance, the premiums will accumulate and be paid upon return to duty.
Life insurance	Coverage continues for 12 consecutive months in a nonpay status without cost to the employee (5 CFR 870.508(a)) or to the agency (5 CFR 870.404(c)). The nonpay status may be continuous, or it may be broken by a return to duty for periods of less than 4 consecutive months. Please note

14 JAN 2013

Type of Benefit or Program	Creditable Service for determining entitlement or eligibility
	that premium payments are required if an enrolled employee in nonpay status is receiving workers' compensation (5 CFR 870.508(a)).
Flexible Spending Account (FSAFEDS)	Incurred eligible health care expenses will not be reimbursed until the employee returns to a pay status and the allotments are successfully restarted (in which case the remaining allotments would be recalculated over the remaining pay periods to match the employee's annual election amount). Eligible dependent care expenses incurred during the nonpay status may be reimbursed up to whatever balance is in the employee's dependent care account, as long as the expenses incurred during the nonpay status allow the employee (or employee's spouse if married) to work, look for work, or attend school full-time. Once dependent care allotments are successfully restarted, remaining allotments would be recalculated over the remaining pay periods to match the employee's annual election amount.
Federal Long Term Care Insurance Program (FLTCIP)	Coverage continues for as long as premiums are paid. If Long Term Care Partners receives \$0 in premium for 3 consecutive pay periods, they begin directly billing the enrollee. If they receive \$0 in premium for 2 or fewer pay periods, they will adjust future deductions with a cap of an additional \$50 until the balance is collected. Enrollees can contact Long Term Care Partners at 1-800-582-3337 for a billing change form if they wish to change their premium billing method from payroll deduction to automatic bank withdrawal or direct billing.
Federal Employees Dental Vision Insurance (FEDVIP)	Coverage will continue. BENEFEDS will generate a direct bill for past due premiums when no premium is paid for 2 consecutive pay periods. Coverage will continue only if the direct bills are paid timely.
Thrift Savings Plan (TSP)	Agencies and employees should refer to the TSP website or contact their agency representative for information. Agency representatives may contact the Federal Retirement Thrift Investment Board at (202) 942-1450 for additional information.

14 JAN 2013

APPENDIX F

Military Leave

1. **Military Leave Rights.** An employee performing service with the uniformed services must be permitted, upon request, to use any accrued annual leave, military leave under 5 U.S.C. 6323 (Military leave; Reserves and National Guardsmen), earned compensatory time off for travel, or sick leave (sick leave; accrual and accumulation), if appropriate, during such service or to retain leave for use upon the employee's return to civilian employment.

2. **Policy.** It is the policy of SWD to extend full cooperation to all reserve components of the Armed Forces by granting leave of absence for military training purposes so far as is practicable.

3. **Eligibility.** An employee who is a member of a Reserve component of the Armed Forces or National Guard meeting the following requirements is entitled to military leave:

a. Is on a full-time or part-time work schedule or an indefinite employee who does not have an intermittent work schedule; and

b. Is serving in an appointment that is not limited to one year or less. Successive temporary appointments do not confer eligibility. Military leave is prorated for employees working a part-time schedule or uncommon tour of duty.

4. **Definitions.**

a. **Military Leave.** Approved absence from official duty for an employee who is a member of the National Guard or a reserve component of the Armed Forces. Military leave is authorized for days in which the employee is ordered to active duty or inactive duty training, or is engaged in field or coast defense training under 32 U.S.C. 502-505 and 5 U.S.C. 6323.

b. **Military Duty** is any period of active duty for training, inactive duty training, or for service in the Armed Forces of the United States. Military duty also covers full-time training or other full-time duty and inactive duty training performed by a member of the National Guard as set forth under appropriate statutory provisions.

c. **Inactive Duty Training** is authorized training performed by a member of a Reserve component not on active duty or active duty for training and consisting of regularly scheduled unit training assemblies, additional training assemblies, periods of appropriate duty or equivalent training, and any special additional duties authorized for Reserve component personnel by the Secretary concerned, and performed by them in connection with the prescribed activities of the organization in which they are assigned with or without pay. It does not include work or study associated with correspondence courses.

d. **Contingency Operation** means a military operation that—

14 JAN 2013

(1) 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

(2) 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, 12304a, 12305, or 12406 of Title 10, Chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

e. Notice means any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an agency by the employee performing the service or by the uniformed service in which the service is to be performed.

5. Types of Military Leave: In general, there are four types of military leave.

a. A Federal employee who is a member of the National Guard or Reserves receives 15 days (120 hours) each fiscal year of paid military leave to use for active duty, active duty training, or inactive duty training under the provisions of 5 U.S.C. 6323(a).

(1) The 15 days are credited to the member's account on October 1 of each fiscal year or upon appointment. Unused military leave remaining from the prior fiscal year, not to exceed 15 days can be carried-over, giving a maximum balance of up to 30 days. While on military leave under this provision, employees receive both military and civilian pay. Employees are responsible for informing their supervisors when they are no longer eligible to accrue or use military leave. For example, an employee who is no longer a member of the Reserves may not use any remaining military leave credited to the military account.

(2) An employee is charged military leave only for hours that the employee would have worked and received pay. An employee who requests military leave for inactive duty training (usually 2, 4 or 6 hours in length) is charged only for the amount of military leave necessary to cover the period of military training and travel. The minimum charge is one hour.

(3) Members are not charged military leave for non-duty days (i.e., weekends and holidays) that occur within the period of military service.

b. Employees who perform military duties in support of civil authorities in the protection of life and property (law enforcement) or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation are authorized 22 days per calendar year under U.S.C. 6323(b). The 22 days military leave may be in addition to other forms of military leave.

(1) Employees perform military duty in support of law enforcement ordered by the President, the Secretary of Defense or a State Governor.

24 JAN 2013

follows leave procedures and provides authorized military orders, approval of leave request is mandatory for military service.

b. Military leave will be prorated for part-time employees and for employees on uncommon tours of duty based proportionally on the number of hours in the employee's regularly scheduled bi-weekly pay period.

7. Evidence to be Submitted. The military order calling the employee to active duty military service is sufficient evidence for initial authorization of military leave. It may be provided by the employee or by an appropriate officer of the branch of the military which the employee will be serving.

(1) An employee must give advance written or verbal notice of the service unless such notice is prevented by military necessity or, under all relevant circumstances, the giving of advance notice is otherwise impossible or unreasonable.

(2) Upon completion of active duty, employees returning to work must provide their supervisor a copy of military orders containing dates, times, and signatures verifying that the period of active duty was actually performed; e.g., a statement from the commanding officer of the military unit stating that the employee is a member of the unit and did perform active duty for the period involved. For inactive duty training, a record of individual performance of reserve duty training certifying completed training may be submitted.

8. Excused Absence for Military Employees Returning from Active Duty. Military Employees returning from active duty who served in military operations ordered under Executive Order 13223 are authorized five work days of excused absence. The intent of the directive is to grant paid time off to military employees returning to Federal service to aid in their readjustment to civilian life. The excused absence maybe granted prior to the employee's resumption of his or her duties, or at a time mutually agreeable to the supervisor and the employee, if the employee has already returned to duty. Civilian Employees receive 5 days reintegration leave on TransAtlantic Divisions (TADs) rolls prior to coming back on Division/District rolls.

14 JAN 2013

APPENDIX G

Court Leave

1. Purpose. Employees may request to use court leave to be absent, without charge to leave or loss of compensation to serve on jury duty, or for attendance in court as a juror or witness in connection with any judicial proceeding to which the United States, the District of Columbia, a state, or a local government is a party. For court leave purposes, municipal courts are considered state courts.

2. Request for and Approval of Court Leave.

a. When an employee is called for jury duty, the court order, subpoena, summons, or official request should be provided to the supervisor. When the employee returns to duty, he/she should provide official written evidence of attendance in court showing the dates and hours to support the appropriate recording on the employee's time and attendance.

b. Court leave can only be granted for those days and hours the employee would otherwise be in a pay status. To avoid undue hardship, work schedules may be temporarily adjusted for employees who work nights or weekends and are called to duty. Employees are to return to work if excused by the court, unless the supervisor determines the employee's return would be impractical. If excused early from jury duty, the employee should contact the supervisor for a determination on their work status for the remainder of the work day.

3. Jury Service.

a. The Department of the Army considers it the civil responsibility of all its employees to respond to calls for jury and other court services. Excuses from jury duty will be requested only in those instances when the employee's services are required to meet essential work schedules and when public interests are better served by the employee's remaining on duty.

b. Court leave for jury duty is granted to permanent employees and temporary employees of the United States and the District of Columbia, both full-time and part-time. Intermittent employees are granted annual leave to which they might be entitled, or may be placed on leave without pay for any absence from duty for such jury service.

4. Witnesses. Permanent or temporary employees, either full-time or part-time, are eligible for court leave for witness service. Intermittent employees are not covered by court leave for witness service.

a. In official capacity. An employee is in an official duty status, as distinguished from a leave status, and is entitled to regular pay when summoned or assigned by the agency to testify in an official capacity or to produce official records.

b. Not in official capacity. When summoned to testify in a matter not related to

14 JAN 2013

employment as a witness in a judicial proceeding when one of the parties is the United States, the District of Columbia, a state, or local government, an employee is entitled to court leave during the time absent as a witness. When a government is not a party to the proceedings, the employee's absence must be charged to annual leave or to leave without pay.

5. Annual Leave or Leave Without Pay.

a. Annual leave or leave without pay may be used for jury duty or witness service not covered by court leave.

b. If an eligible employee is on annual leave when called for jury or witness service, court leave will be substituted. An employee on leave without pay, although otherwise eligible, may not be granted court leave.

6. Court Fees. Employees are entitled to keep money received from a state or local court that is designated as reimbursement for expenses. Fees, other than for expenses, that are received for jury service in a local or state court must be submitted to the Customer Service Representative by a personal check or money order. An employee serving on a jury in a state or local court who waives or refuses to accept jury fees is still liable to the U.S. Government for the fees he or she would have received. Fees for jury service in a Federal court are not paid to Federal employees who are entitled to court leave. Additional information may be found in the DOD Financial Management Regulation, Volume 8, Chapter 5.

14 JAN 2013

APPENDIX H

Funeral Leave

1. Purpose. Funeral leave is granted to allow an employee to make arrangements for or to attend the funeral or memorial service for an immediate relative who died as the result of a wound, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone.

2. Granting Funeral Leave.

a. An employee may be granted funeral leave as is needed and when requested by the employee, not to exceed three work days, without loss of or reduction in pay or leave to which he/she is otherwise entitled, or credit for time or service, and without adversely affecting any performance or efficiency ratings. The three days need not be consecutive; but if not, the employee needs to furnish the leave-approving official satisfactory reasons justifying a grant of funeral leave for nonconsecutive days.

b. For this purpose, the following terms are defined in Appendix A.

(1) Committed relationship; or

(2) Domestic partner; or

(3) Immediate relative has the same meaning as family member; or

(4) Parents; or

(5) Sons or daughters.

JAN 2013

APPENDIX I

Excused Absence

1. Purpose. Excused absence is an administratively authorized absence from duty without loss of pay and without charge to other paid leave. The time spent on excused absence is included in an employee's basic workweek. Excused absences should be approved only for brief periods and supervisors should not grant excused absence for long periods of time. Supervisors should use this authority sparingly and also ensure that the granting of excused absence is not specifically prohibited by law. This Appendix contains some examples of situations in which a supervisor may excuse employees from duty. These examples are not all-inclusive and supervisors should inquire whether the grant of excused absence is appropriate on questionable requests from employees.

2. Brief Periods of Absence or Tardiness. Supervisors may excuse occasional or unavoidable employee tardiness or absences from duty of less than one hour based on acceptable reasons.

3. Voting and Registration. Employees may be granted excused absence to vote in Federal, State, county or municipal elections, or in referendums on any civic matter in their community, when practicable to do so without seriously interfering with organization operations.

a. As a general rule, when the polls are not open at least three hours either before or after an employee's regular hours of work, the employee may be granted an amount of excused leave which will permit reporting for work three hours after polls open or leaving work three hours before the polls close, whichever requires the lesser amount of time off. Employees on flexible work schedules will be excused only for those hours that cannot be accommodated by their flexible schedule. The following are examples of when excused absence may be approved for voting.

- Example 1: If polls are open 0700 to 2000, an employee with duty hours from 0800 to 1630 does not need excused absence because he or she has at least 3 hours after the end of his or her duty hours to vote.
- Example 2: If polls are open from 0700 to 1900, an employee with duty hours from 0800 to 1630 may be approved 30 minutes of excused absence and leave work at 1600. This allows the employee up to 3 hours to vote before the polls close.
- Example 3: If polls are open 0630 to 1830, an employee with duty hours of 0900 to 1730 may be granted 30 minutes of excused leave and report to work at 0930. This allows the employee up to 3 hours to vote after the polls open rather than approving 2 hours of excused absence for the employee to leave work at 1530 to vote.

b. An employee may be granted excused absence for early voting only when:

(1) The employee will not be able to vote on election day due to activities related to the organization's mission, such as travel and cannot vote by absentee ballot, or

14 JAN 2013

(2) Early voting hours are the same as, or exceed, voting hours on Election Day. In this case, the same rules for time granted under paragraph 3a of this Appendix apply for excused absence.

c. If an employee chooses to vote earlier, but the early voting hours at the polling place are shorter than on Election Day, the employee is not eligible for excused absence because the employee has opted to vote at that time.

Example:

- The employee is scheduled to work from 0800 to 1630, and the employee's polling place is open from 0700 to 1700 during early voting, but is open from 0700 to 1900 on Election Day, the employee should not be granted excused absence because the employee has opted to vote during the early voting period.

d. Under exceptional circumstances when the general rule does not permit sufficient time, an employee may be excused for such additional time as may be needed to enable voting, depending upon the circumstances in each case, but not to exceed a full day.

e. If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is not permitted, the employee may be granted sufficient time off to go to the voting place to cast his/her ballot. When more than 1 day is required, a liberal policy in granting leave will be observed.

f. For employees who vote in jurisdictions which require registration in person, time off to register may be granted on substantially the same basis as voting, except that no time off shall be granted if registration can be accomplished on a non-workday.

4. Blood Donations. All employees who volunteer as blood donors, without compensation, to the American Red Cross, to military hospitals, other blood banks, or respond to emergency calls for needy individuals, will be authorized excused absence up to a maximum of four hours on the day of blood donation. The time granted is to cover travel to and from the donation site, to donate the blood, and to recover from the donation.

5. Bone Marrow or Organ Donation. An employee may be granted up to 7 days of excused absence in a calendar year (in addition to sick or annual leave) to serve as a bone marrow donor or up to 30 days of excused absence in a calendar year to serve as an organ donor.

6. Emergency Situations. Excused absence may be granted to employees to assist in emergency situations. This provision does not cover employees who respond to emergencies in National Guard or Reserve status.

7. Armed Forces Medical Examinations. Time spent in reporting for and undergoing a physical examination to determine an employee's eligibility for enlistment or induction into the Armed Forces will be excused without charge to leave or loss of pay, providing the request for absence is supported by official notification from the appropriate military authority. If the absence

24 JAN 2013

extends beyond 1 work day, the employee will be required to submit a statement from the induction station showing the necessity for the additional absence. This provision does not cover travel time outside the commuting area or situations in which the employee receives military compensation, can use military leave, or undergoes additional tests, examinations, or treatments for conditions discovered or suspected as a result of the examinations.

8. Medical Examinations. Employees may be excused during duty time to undergo medical examinations and associated laboratory tests requested by the employer to determine an employee's fitness for Federal service. This must be done within normal duty hours.

9. On-the-Job Injuries. An employee injured in the performance of duty may be granted excused absence for the time required to obtain emergency treatment to the extent that the time falls within his/her prescribed hours of work that day.

10. Professional Certification. An employee may be granted excused absence to take an examination (e.g., certified public accountant examination) in his or her functional area if securing the certification or license would enhance the employee's professional stature, thereby benefiting the Department of Defense. This provision does not cover time spent preparing for such examinations.

11. Volunteer Activities. Excused absence may be granted to employees participating in management-sponsored volunteer projects (e.g., adopt a school). This provision does not cover volunteer activities in general or those promoted through established leave or alternative work schedules programs.

12. Conferences or Conventions. Employees may be excused up to five working days per calendar year to attend conferences or conventions when it is determined that such attendance will serve the best interests of the Federal government. These absences may be restricted to those situations where the employee is designated as an official representative or is a contributor on the agenda. Employees shall not be excused to attend conferences or conventions of political parties or partisan political groups or committees

13. Administrative Dismissals. Administrative dismissal differs from excused absence in that excused absence addresses individual employees, while administrative dismissal addresses a group of employees. Administrative dismissal excuses employees from duty because all or part of an activity is closed. Commanders or equivalent organizational heads may issue administrative orders relieving employees from work, without charge to leave and without loss of pay, when emergency conditions exist, when normal operations are interrupted by events beyond the control of management, for managerial reasons, or when it is in the public interest.

a. Supervisors are to maintain staff for essential operations, if appropriate, during emergency conditions.

b. When unusually severe weather conditions develop to the extent that the Commander determines it advisable not to open all or parts of its activity, the decision will be announced

14 JAN 2013

through local media communication, supervisory notification, employee telephone call-in voicemail and/or other emergency pre-arranged procedure. Employees are responsible for observing locally-established administrative dismissal instructions or procedures.

c. When the Commander has not issued an order for administrative dismissal and employees are allowed to report to work on a delayed schedule due to severe inclement conditions, employees may be granted excused absence up to the reporting time.

d. If an activity is closed before the workday begins, all non-emergency employees are excused from work with pay, even those employees who are on pre-approved leave

e. In the case of a late arrival or early dismissal, employees who are on pre-approved leave for the entire workday must continue to be charged leave for the entire workday.

(1) When an activity is open and employees are expected to report to work on time, employees may be authorized use of annual leave, credit hours, LWOP, compensatory time earned, or excused for reasonable tardiness when they experience commuting delays.

(2) Annual leave, credit hours, compensatory time earned, or LWOP may be granted, or AWOL may be charged, if appropriate, to employees who leave before the official notice of dismissal, for the period remaining until the end of the regular workday.

f. Teleworking Employees. An employee who is approved for regular and recurring or situational telework is expected to telework for the duration of an emergency:

(1) Pursuant to Component policy;

(2) In case of a pandemic;

(3) When the regular worksite is closed or closed to the public due to natural or manmade emergency situations (e.g., snowstorm, hurricane, act or terrorism, etc.);

(4) When Government offices are open with the option for unscheduled telework when weather conditions make commuting hazardous, or when similar circumstances comprise employee safety. Employees unable to work due to personal situations (e.g., illness or dependent care responsibilities), must take appropriate leave (e.g., annual or sick). If the worksite is closed or closed to the public, the employee may be granted administrative leave on a case-by-case basis when circumstances (e.g. power failure) prevent the employee from working at the telework site.

14. Absence of Veterans to Attend Funeral Services. An employee who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be excused from duty without loss of pay or deduction from annual leave for the time necessary, not to exceed 4 hours in any one day, to enable the employee to participate as an active pallbearer or as a member of a

14 JAN 2013

honor guard in a funeral ceremony for a member of the Armed Forces whose remains are returned from abroad for final interment in the United States.

15. Absence of Employees to Serve on State Boards of Registration for Professional Engineers and Architects. Upon request of appropriate state authorities, registered professional engineers or registered professional architects of the Corps of Engineers may be authorized to serve on state boards of registration for professional engineers and architects, provided no remuneration is received from the state other than an allowance for transportation and travel expenses. While serving on such boards, the employees will be considered in a duty status, normally not to exceed 5 working days per year.

16. Employee Assistance Counseling. Excused absence may be granted to permit an employee to attend the initial counseling session (e.g., drug, alcohol, financial) resulting from a referral under the Employee Assistance Program. This provision does not cover the official duty status an employee is in during the initial referral to the Employee Assistance Program.

17. Employment Interview. Employees under notice of separation or change to lower grade for any reason except personal cause may be granted excused absence for job searches and interviews. Employees competing for positions within the Department of Defense may also be granted excused absence for merit placement interviews. This provision does not cover travel time to job searches and interviews outside the commuting area.

18. Permanent Change of Duty Station (PCS). Employees authorized PCS within the Department of Defense may be granted excused absence before departing the old duty station and following arrival at the new duty station to accomplish personal tasks resulting from the move (e.g., to close or open personal bank accounts or to obtain State driver's licenses or car tags). In similar situations, employees coming to the Department of Defense from other Federal agencies may also be granted an excused absence after the employee is placed on the DoD employment roll. This provision does not cover time involved in complying with PCS requirements such as obtaining passports and vaccinations, adhering to government housing authority requirements, or being present for packing and receiving of household goods accomplishing tasks that are conditional to the PCS is considered to be an official duty.

14 JAN 2013

APPENDIX J

Voluntary Leave Transfer Program (VLTP)

1. Purpose. The VLTP allows employees who do not have available paid leave and need to be absent from work because of a medical emergency to receive transferred (donated) annual leave from other employees.

2. Establishment of VLTP Activity. Commanders have delegated authority to establish and administer VLTP for their organizations in accordance with OPM rules under 5 CFR Part 630, Subpart I. This authority may not be re-delegated. However, Commanders may establish a committee to assist in the decision-making process. Within the Corps of Engineers, a request to be a leave recipient must be endorsed by the rating supervisor before it is forwarded to the Commander or activity head for consideration. Each activity must designate a single point of contact to perform recordkeeping tasks, such as to collect and verify voluntary donated leave, ensure the contributors do not donate more than the allowed amount of leave or that leave is not donated to a donor's immediate supervisor, and performance of other administrative VLTP requirements.

3. Definitions.

a. Available Paid Leave refers to accrued or accumulated annual or sick leave. It does not include advanced annual or advanced sick leave or any annual or sick leave accrued while employee is in a shared leave status and which has not been transferred and made available to the employee.

b. Family Member, Parent, and Son or Daughter has the same meaning as the terms listed in Appendix A.

c. Leave Donor means an employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by his or her own employing agency.

d. Leave Recipient means a current employee who has been approved to receive annual leave from the annual leave accounts of leave donor(s).

e. Medical Emergency means a medical condition of an employee or his/her family member that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

f. Shared Leave Status means the administrative status of an employee while the employee is using transferred leave under VLTP.

4. Application and Approval to Become a Leave Recipient. The process for application, medical documentation and approval must be consistent with the requirements at 5 CFR 630.904 and 630.905.

14 JAN 2013

a. An employee who has been affected by a medical emergency must make written application to his/her first level supervisor or leave approving official to become a leave recipient. If an employee is not capable of making application due to physical or mental impairment, the leave applicant or immediate family member may designate a personal representative in writing to make the application. Leave recipients must provide medical documentation as requested by the supervisor within the required time frames. A listing of OPM forms is located at the end of this Appendix. The fillable forms may be found on the OPM Leave Administration Homepage.

b. In making the determination whether a medical emergency is likely to result in a substantial loss of income, activities should not consider factors other than whether the absence from duty without available paid leave is (or is expected to be) at least 24 hours in a pay period. For part-time employees or an employee with an uncommon tour of duty, it is at least 30 percent of the average number of hours in the employee's bi-weekly scheduled tour of duty. Advanced annual leave may not be considered in the determination whether employee has "available paid leave."

c. A leave recipient applicant (or personal representative) must be notified within 10 days (excluding Saturdays, Sundays and legal holidays) whether the application has been approved. If the application is not approved, the leave recipient applicant must be given the reason for its disapproval.

5. Leave Donations

a. Leave donors may not contribute to an immediate supervisor.

b. The maximum amount of annual leave that may be donated during the leave year shall be the lesser of:

(1) One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made, or for employees with "use or lose" leave.

(2) 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 annual leave donated must be accrued and available at the date of donation.

c. The authority to waive the limitations under paragraph 5.b. may be delegated no lower than the second level supervisor of the leave donor. The waivers must be documented in writing and reported to the CPAC annually. Following is the criteria for granting a waiver:

(1) Waivers should only be granted when there are compelling and/or exceptional circumstances, to be considered on a case-by-case basis.

14 JAN 2013

(2) When the waiver is granted, the donor must have at least 16 hours remaining after the proposed donation.

(3) Waivers are not to be granted solely to avoid the forfeiture of annual leave.

(4) Waiver requests must be submitted through the donor's supervisor in writing and must indicate the number of excess hours requested for donation.

(5) The intended leave recipient identified in the request, must be an approved VLTP leave recipient.

(6) Upon receipt of the written request for waiver, with the assistance of the CPAC, the donor's supervisor will verify that the donor has sufficient leave to cover the proposed donation. The annual leave donated must have already been earned (accrued) and be available at the date of donation.

(7) The request for waiver must be forwarded to the appropriate approving official, together with the supervisor's recommendation.

6. Donated Leave Usage.

a. The leave recipient may only use the donated leave for the medical emergency for which approved. It may not be used for any other purpose or unapproved medical emergencies. However, the transferred leave may be substituted retroactively for periods of leave without pay (LWOP) or used to liquidate advanced annual leave already granted and used on or after the date fixed by the leave recipient's activity as the beginning of the period of medical emergency.

b. Except as provided below, leave recipients must use any accrued leave earned during the medical emergency before transferred annual leave.

(1) While using donated leave, a leave recipient can accrue no more than 40 hours of annual leave and 40-hours of sick leave in "set aside" accounts.

(2) The leave in the "set aside" accounts are transferred to the employee's regular leave accounts when the medical emergency ends or if the employee exhausts all donated leave while in a shared leave status.

7. Termination of Medical Emergency.

a. It is the responsibility of the supervisor to continuously monitor the status of the medical emergency to insure the leave recipient's eligibility under the program and that the donated leave is used for its intended purpose. A leave recipient may be terminated from VLTP due to separation from Federal service; the leave recipient is no longer affected by the medical

14 JAN 2013

emergency; or the leave recipient has been approved for disability retirement under Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS).

b. Once the medical emergency terminates, no further requests for transfer of annual leave may be granted and any unused transferred leave remaining to the credit of the leave recipient is to be restored to the leave donors in accordance with OPM regulations.

c. Activities are required to transfer back to each donor any unused donated leave on a pro-rated basis. Each donor has the option to elect the method to credit any unused annual leave. The options include:

(1) To credit it to the donor's annual leave account in the current leave year;

(2) To credit it to the donor's annual leave account effective as of the first day of the first leave year beginning after the date of election; or

(3) To donate it in whole or in part to another leave recipient.

8. Interagency Transfer. An interagency transfer is mandatory when the following conditions apply:

a. A family member of a leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient.

b. The amount of annual leave transferred from leave donors employed by the leave recipient's employing agency may not be sufficient to meet the needs of the leave recipient.

c. Acceptance of leave transferred from another agency would further the purpose of VLTP.

9. Army-wide Solicitation. Approved VLTP leave recipients meeting any of the conditions described below are eligible for Army-wide leave solicitation assistance. The request for Army-wide solicitation must be coordinated through the CPAC. The CPAC will review the request and forward it to the CHRA headquarters for Army-wide distribution.

a. Army civilian employees who become ill, contract diseases, or are injured or wounded while deployed to an area for which danger pay is authorized in direct support of a U.S. military contingency operation, including stability and reconstruction efforts;

b. Army civilian employees who are caring for their civilian or military family members who became ill, contracted diseases, or were injured or wounded while they were deployed to an area for which danger pay is authorized in direct support of a U.S. military contingency operation, including stability and reconstruction efforts;

14 JAN 2013

c. Army civilian employees whose medical emergencies are a result of hostile action caused by an enemy of the United States of America (such as the events that occurred on September 11, 2001); or

d. Army civilian employees who are caring for their civilian or military family members whose medical emergencies are a result of hostile action caused by an enemy of the United States of America.

10. Wounded Veterans. Federal employees who are undergoing medical treatment for a combat-related disability while serving in the Armed Forces, including a Reserve Component, may receive donated leave without first having to exhaust their own paid leave. A qualified leave recipient is eligible to receive donated annual leave up to five years from the start of the employee's treatment, as long as the employee continues such medical treatment. For an employee who is already undergoing medical treatment when this provision was enacted (January 2008), the five year period begins on the date of enactment.

11. Records and Reporting Requirements. Activities must maintain administrative records on VLTP should OPM request information on the program. As a minimum, activities should maintain the number of approved applications for medical emergencies affecting employees and/or the number of approved application affecting employees' families; the grade or pay level of each leave recipient and leave donor, the gender of each leave recipient and the total amount transferred annual leave used by each leave recipient.

12. Emergency Leave Transfer Program. In the event of a major disaster or emergency, as declared by the President, that results in severe effects for a substantial number of employees, OPM may be directed to establish an emergency leave transfer program under which an employee may donate unused annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. Agencies should maintain records on the amount of annual leave donated by each emergency leave donor for the purpose of restoring unused transferred annual leave. Information on the eligibility for the emergency leave transfer program's application and approval process and solicitation/acceptance or donated annual leave is contained at 5 CFR Part 630, Subpart K. Questions and information on this program may be obtained from the CPAC.

a. An employee who has been adversely affected by a disaster or emergency may submit a written application to their employing agency to become an emergency leave recipient. If an employee is not capable of making written application, a personal representative of the potential leave recipient may submit a written application on their behalf.

b. An employee who has a family member who has been adversely affected by a disaster or emergency may also submit a written application to their employing agency to become an emergency leave recipient. The emergency leave recipient may use donated annual leave to assist an affected family member, provided such family member has no reasonable access to other forms of assistance.

14 JAN 2013

c. An employee will be considered to be adversely affected by a major disaster or emergency if the disaster or emergency has caused severe hardship to the employee or a family member of the employee to such a degree that the employee's absence from work is required.

13. Leave Transfer Forms: The following leave transfer fillable forms may be found on OPM's leave administration homepage.

OPM 630 Application to Become a Leave Recipient Under the Voluntary Leave Transfer Program

OPM 630A Request to Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program (Within Agency)

OPM 630B Request to Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program (Outside Agency)

OPM 630C Transfer of Leave Records for Leave Recipient Covered by the Voluntary Leave Transfer Program

OPM 1637 Application to Become a Leave Recipient Under the Emergency Leave Transfer Program

OPM 1638 Request to Donate Annual Leave Under the Emergency Leave Transfer Program

OPM 1639 Transfer of Donated Annual Leave To/From the Emergency Leave Transfer Program