

## LEAVE

### SECTION 1. GENERAL:

- A. Employees will not be denied leave based solely on their leave balance.
- B. No arbitrary or capricious restraints will be established to restrict when leave may be requested.
- C. Employees should request, in advance, approval of anticipated leave.
- D. Leave will only be denied for appropriate reasons and not as a form of discipline. No approved leave or approved absence will be a basis for disciplinary action except when it is clearly established that the employee submitted fraudulent documentation or misrepresented the reasons for the absence.

### SECTION 2. ANNUAL LEAVE:

**A. Right to Annual Leave:** Employees accrue and have a right to use annual leave in accordance with applicable laws and regulations. The use of annual leave is a right of the employee, subject to the right of the agency to approve when leave may be taken.

#### **B. Planned Leave Procedures:**

1. **Application:** Employees will apply in advance for approval of anticipated leave. Leave requests, approval or denial will be made electronically using ATAAPS, when available, or the written OPM-71 or the successor to either the electronic system or written form if either has been replaced. The leave approving official, normally the supervisor, will respond to all requests for leave in a timely manner. Employees may, upon request and with the approval of their supervisor, change previously authorized annual leave to sick leave in accordance with 5 CFR 630.405.
2. **Time Increments:** Employees may utilize annual leave in 15-minute increments. Annual leave may not be charged in increments of less than 15 minutes.
3. **Consecutive Weeks:** Annual leave will be granted, subject to mission requirements, a manner which permits each employee who wishes to take at least two (2) consecutive weeks of annual leave each year. If workload permits, employees may request, and supervisors may approve periods of annual leave that exceed two (2) consecutive weeks. If the request is denied, the reasons must be annotated on the ATAAPS/OPM-71. Upon denial, at the employee's request, the employee and supervisor will meet to discuss alternate dates when leave may be rescheduled. The times at which such rescheduled leave is used must be with concurrence of the employee and the supervisor.

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4. **Timeliness of Approval:** Employees will be informed of whether their requests for leave have been approved in a timely manner:
  - a. For leave requests made to begin the following duty day, the response will be made as soon as possible, but no later than the end of the employee's tour of duty.
  - b. For leave requests made to begin less than seven (7) days in the future, the response will be normally provided within 48 hours (or two working days) after submission of the request, but in any event, no later than before the start date.
  - c. For leave requests that begin more than seven (7) days in the future, the response will be made no later than seven (7) calendar days after the request.
5. **Cancellations:** The Agency retains the right to cancel previously approved leave requests when it is determined that that an employee's presence on duty is required to support mission requirements. Such cancellation will be accompanied with written explanation to the employee detailing the specific mission requirements used in making the decision to cancel the employee's leave.
6. **Detailed Employees:** All leave previously requested and approved in the Automated Time and Attendance Production System (ATAAPS) will be transferred with the employee. Employees must communicate all leave that was previously approved with new supervisor in advance and the supervisor will notify the employee if mission requirements preclude the leave.
7. **Preservation of Work Schedule:** When an employee requests annual leave in conjunction with scheduled days off at the beginning and/or end of the leave period, the supervisor will not change the employee's days off except where necessary to meet valid operational needs.

### SECTION 3. PROJECTED LEAVE

**A. Leave Planning:** Employees are required to submit leave requests using ATAAPS/OPM Form 71, Request for Leave or Approved Absence. Supervisors will expeditiously inform employees of their approval/disapproval of annual leave requests. Supervisors will make reasonable efforts to schedule and to approve requested annual leave in such a manner throughout the leave year so that no employee forfeits leave at the end of the calendar year. However, it is agreed that it is the employee's responsibility to request use or lose leave in a timely manner in order to preclude end of the year forfeiture.

**B. Approval:** Supervisors will review the requests and inform each employee of their tentative decision regarding the projected annual leave plans. Supervisors will make reasonable efforts to accommodate employees' vacation desires consistent with workload and staffing needs. All approvals will be provided in writing either through electronic approval or a copy of a written approval.

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**C. Conflicts:** Where two or more employees request the same period of annual leave and all cannot be spared, the conflict will be resolved on the following basis:

1. **Informal Conflict Resolution:** When scheduling conflicts occur, an effort should be made to resolve the conflict between the employees involved.
2. **Seniority:** Any conflict will be resolved on a first-come, first-served basis. Otherwise, such as where requests are received the same day, approval will be settled on the basis of seniority, as measured by Service Computation Date (SCD).

### SECTION 4. UNPLANNED LEAVE:

**A. No Presumption of Approval:** Unplanned leave is subject to approval of the supervisor. When emergencies or unforeseen circumstances arise requiring the use of annual leave that has not been approved in advance, the approval of annual leave cannot be presumed by the employee.

**B. Notification Process:** The supervisor will provide a method of notification to subordinate employees that clearly sets forth the procedures for requesting unscheduled leave (i.e. phone call, voice mail, text message, email, etc.); designating in writing an alternate official who can receive and approve employees unscheduled leave requests in the absence of the immediate supervisor; and the procedure to follow if neither the supervisor or alternate is available. The following procedures shall apply:

1. Employees must leave their return contact preference (i.e. phone call, voice mail, text message, email, etc.) for the approving official; and
2. Employees will request as soon as possible, but not later than one (1) hour before the beginning of the employee's scheduled tour of duty, unscheduled or emergency leave, unless the emergency occurs during the employee's duty hours.

**C. Employee Responsibility:** It is understood that merely calling in and requesting leave does not automatically mean an employee's request for unscheduled or emergency leave is approved. It is further understood that it is the employee's responsibility to ensure that they speak with a responsible management official in their supervisory chain to ensure that leave approval has been obtained.

**D. Denial:** If the leave cannot be granted, the supervisor will notify the employee as soon as possible, but no later than within two (2) hours of the employee's request, that it cannot be granted or upon the employees return to duty.

1. Approval of unscheduled or emergency leave is at the discretion of the supervisor; therefore, the employee will explain the general nature of the emergency and requested duration of the absence. The supervisor will make a determination on whether or not leave should be granted, and also approve the duration of the leave. If the absence exceeds the original approved duration, the employee will call their supervisor to obtain

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approval for any continued absence.

2. If the supervisor determines the reason for the unscheduled leave request is not bona fide or compelling enough to warrant absence from work and the employee's services are required, the request for leave can be denied. If the request is denied, or the employee does not receive a response within two (2) hours, the employee will be given a reasonable amount of time to report to work, depending on the distance to the work site and any other appropriate circumstances. The time missed from the employee's duty day will normally be charged to leave; however, the parties agree that management has the right to grant or deny leave based on the circumstances of a given situation.

**SECTION 5. ADVANCED ANNUAL LEAVE:** Advanced annual leave shall be granted only in accordance with applicable regulations.

**SECTION 6. LEAVE FOR UNION REPRESENTATIVES:** Subject to mission requirements, a Union representative will be granted annual leave or Leave without Pay ("LWOP") to attend internal Union functions which are not covered by the Official Time. Normally, the representative will provide written notice of the request to attend such function as soon as possible but no later than fifteen (15) calendar days in advance of the start of the function.

### SECTION 7. ACCRUAL AND USE OF SICK LEAVE

**A. Accrual:** Employees will earn and accrue sick leave in accordance with applicable law and regulations.

**B. Request for Sick Leave:** Employees may utilize sick leave in 15-minute increments. Sick leave is an employee's earned benefit and will be granted to the employee for appropriate absences. Employees will apply in advance for approval of anticipated leave. Leave requests, approvals or denials will be made electronically using ATAAPS, when available, or the written OPM-71. The leave approving official, normally the supervisor, will respond to all requests for leave in a timely manner. If the employee complies with the Agency's notification and medical evidence/certification requirements, the Agency must grant sick leave.

**C. Use of Sick Leave:** An employee is entitled to use sick leave when they:

1. Receive medical, dental, or optical examination or treatment; or
2. Is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth; or
3. Provide care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, optical examination or treatment; or
4. Provide care for a family member with a serious health condition; or
5. Make arrangements necessitated by the death of a family member or attends the funeral

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of a family member; or

6. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by their presence on the job because of exposure to a communicable disease; or
7. Must be absent from duty for purposes relating to their 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; or
8. When the employee is disabled and depends on an aid or device, e.g., wheelchair, seeing eye dog or prosthetic device, to perform his/her duties, and the employee is without that aid or device; or
9. Leave is needed for occupational rehabilitation training or therapy; or
10. Any other reason set forth in 5 CFR Part 630 and any applicable Executive Order, law or regulation establishing that reason as a basis for use of sick leave.

**D. Exposure to Communicable Disease:** The Merit Systems Protection Board (MSPB) and the courts have determined that placing an employee on sick leave against their will is tantamount to a suspension. Therefore, an employee who reports for duty and is ordered to return home may (1) be continued into duty status for the remainder of that day. (2) if required to take leave may choose the type of leave to be used. The Agency will not place an employee on enforced sick leave without following the procedures contained in the Disciplinary and Adverse Action agreement.

### E. Scheduling:

1. **Planned Sick Leave:** Employees should schedule non-emergency medical, dental, optical, psychological, or alcohol/drug counseling appointments as soon in advance as practicable and should request sick leave in advance for such appointments. Employees have the responsibility to notify their supervisor of their need for unplanned or unscheduled sick leave.
2. **Unplanned Sick Leave:** Employees will request unscheduled sick leave as soon as possible, before the beginning of the employee's scheduled tour of duty, unless the need for sick leave occurs during the employee's normal duty hours. In those rare situations in which an employee is medically unable to notify the Agency of the unanticipated absence and/or request for sick leave, a responsible adult may notify the Agency and/or make the request for sick leave on the employee's behalf.
3. **Notification Process:** The supervisor will provide a method of notification to employees that clearly sets forth the procedures for requesting unscheduled sick leave (i.e. phone call, voice mail, text message, email, etc.); designating in writing an alternate official who can receive and approve employees unscheduled sick leave requests in the absence of the

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immediate supervisor; and the procedure to follow if neither the supervisor or alternate is available. Employees must leave their return contact preference (i.e. phone call, voice mail, text message, email, etc.) for the approving official.

### F. Medical evidence

1. **Self-Certification:** For periods of up to three (3) consecutive days, the Agency shall normally consider an employee's self-certification as to the reason for their absence as administratively acceptable evidence. A supervisor may consider an employee's self-certification as to the reason for their absence as administratively acceptable evidence, regardless of the duration of the absence.
2. **Requirement for Documentation:** For an absence in excess of three (3) workdays, or for a lesser period when determined necessary, the agency may require a medical certificate or other acceptable evidence as to the reason for an absence for any of the purposes as described in 5 CFR 630.403(a). The supervisor must notify the employee if there is to be a requirement to provide medical documentation at the time of the sick leave request. The requirements for employees to provide administratively acceptable evidence to support sick leave absences to the Agency will be governed by applicable law and regulation. The Agency may require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any absence in excess of three (3) days or for a lesser period when the Agency determines it is necessary, including but not limited to when an employee is under a leave restriction or if a supervisor has reason to believe the employee is abusing/misusing sick leave privileges. Employees will not be required to reveal the nature of the illness as a condition of sick leave approval.
3. **Acceptable Documentation:** At a minimum, medically acceptable documentation to support a sick leave absence must:
  - a. Be on letterhead or other official documentation signed (either electronically or in hard copy) by an appropriate medical practitioner;
  - b. State when the employee was seen and whether or not the employee is incapacitated for duty;
  - c. Provide the date the employee is expected to return to duty;
  - d. The handling of all medical documentation will be subject to all laws, rules, and regulations.
4. **Timelines:** When medical documentation is requested, an employee should normally provide the administratively acceptable evidence or medical certification within 15 calendar days after the date the supervisor requests such certification, but no later than 30 calendar days after the date the supervisor requests such documentation. If it is not practicable under the particular circumstances to provide the requested evidence or

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medical certification within the timeline, despite the employee's diligent, good faith efforts, the employee must provide the evidence of medical certification within a reasonable time under the specific circumstances involved. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave. Employees will be carried in an absent without leave (AWOL) status until acceptable documentation is provided, after which the AWOL status will be converted to sick leave or other approved leave.

5. **Chronic Medical Conditions:** Employees with a chronic medical condition which requires occasional absence from work, but does not necessarily require medical treatment, and who have previously furnished medical certification of the chronic condition, shall not be required to furnish a medical certificate to substantiate sick leave for subsequent occurrences of the same condition. However, the Agency may periodically require further medical certification to substantiate that the condition still exists.

### G. Sick Leave Abuse:

1. **Letter of Leave Restriction:** If reasonable grounds exist for questioning an employee's use of sick leave, the employee may be placed on a letter leave restriction. The notification will be in writing and inform the employee that no request for sick leave, or other leave in lieu of sick leave, will be approved for a stated period, not to exceed six (6) months, unless supported by acceptable medical documentation (see 3C Acceptable Documentation, above).
2. **Presenting Documentation:** If there is reason to believe that an employee has abused sick leave, the supervisor can require the employee to provide medical documentation signed by the appropriate medical official for the period of time of absence of sick leave. The employee will be notified in advance of this requirement. Although not required, the parties agree that the best practice is for employees suspected of abusing sick leave to normally be counseled on their attendance related deficiencies at least once prior to being placed on leave restriction. Any requirements regarding documentation of sick leave will be clearly and specifically stated in the leave restriction letter.

### H. Advanced Sick Leave:

1. **Purpose:** Employees who are incapacitated for the performance of duties because of serious disability or ailment may request advance sick leave not to exceed 240 hours (30 days). A maximum of 240 hours of sick leave for any purpose for which sick leave is authorized above may be advanced to an employee. Requests for Advanced Sick Leave will be submitted through the Automated Time Attendance and Production System (ATAAPS) or the OPM Form-71.
2. **Conditions:** Requests for advanced sick leave may be granted in accordance with governing regulations when all of the following conditions are met:
  - a. The employee is eligible to earn sick leave;

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- b. The employee's request does not exceed 240 hours (or for temporary employees, the amount of hours to be earned during the period of temporary employment);
  - c. There is no reason to believe the employee will not return to work after having used the leave, and the employee has sufficient funds in their retirement account or any other source of monies owed to the employee by the government to reimburse the Agency for the advance, should the employee not return to work;
  - d. The employee has provided acceptable medical documentation of the need for advanced sick leave; and
  - e. The employee is not subject to leave restriction.
3. **Inter-Agency Transfers:** When an employee who is indebted for advanced sick leave transfers to another Federal agency without a break in service, any negative sick leave balance shall be transferred to the employee's new agency.
  4. **Repayment:** An employee who is indebted for advanced sick leave and separates from Federal service is required to refund the amount of advanced sick leave. However, if the employee dies, retires for disability, or is separated or resigns because of disability (as determined by the Agency), the requirement to repay does not apply.
  5. **Entry to Active-Duty Service:** An employee who enters active military service with a right to restoration will not be considered as having separated and will not be required to refund the amount of advanced sick leave when entering military service. The Agency will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave.
  6. **Liquidation of Advanced Sick Leave:** If an employee is a participant in the Agency's voluntary leave transfer program, advanced sick leave may be liquidated by substituting donated annual leave for sick leave that was advanced on or after the date of the medical emergency.

**I. Privacy:** The Agency may disclose such information subject to the Privacy Act of 1974 (5 USC 552a), 5 CFR 339, and 45 U.S.C. § 300 *et seq.* only for purposes of making informed management decisions and only to individuals who have a need to know. A need to know does not extend to secretarial or administrative staff.

### **J. Sick Leave for Family Purposes:**

1. **Family and Medical Leave Act:** Employees are entitled to a total of 12 administrative workweeks of unpaid Family Medical Leave during any 12 month period for (a) birth of a son or daughter and care of the newborn; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) the care of a spouse, son or daughter or parent with a serious health condition; or (d) a serious health condition of the employee that



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makes the employee unable to perform the duties of their position.

2. **Paid Parental Leave (PPL):** This leave will be provided to new parents, including grants of annual leave, sick leave, and leave without pay to the maximum extent allowable by law and government-wide regulation.

### SECTION 8. FAMILY MEDICAL LEAVE ACT

**A. Administration:** The Agency will administer leave requests made pursuant to the Family and Medical Leave Act of 1993 (FMLA) in accordance with 5 U.S.C. §§ 6381-6387 and 5 C.F.R. Part 630, subpart L.

**B. Eligibility:** To be eligible for coverage under the FMLA, an employee must have completed at least twelve (12) months of civilian service with the Federal government.

**C. Entitlement:** Eligible employees will be entitled to a total of twelve (12) administrative work weeks of unpaid leave (leave without pay) during any 12-month period. An employee may elect to substitute any accrued annual or sick leave for the covered period (consistent with existing sick leave regulations).

**D. Grounds for Leave:** An eligible employee may take FMLA leave for the following reasons:

1. Birth of a son or daughter and care of newborn (within one (1) year after birth);
2. Care of spouse, son, daughter, or parent with a serious health condition;
3. Placement of a son or daughter with employee for adoption or foster care (within one (1) year after placement); or
4. Serious health condition of employee that makes employee unable to perform the essential duties of the employee's position.
5. Any other grounds established at law, rule, or regulation.

**E. Injured Military Member:** A Federal employee, who (1) 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 (2) provides care for such service member, is entitled to up to 26 weeks of FMLA leave during a single 12-month period to care for the service member. However, the serious illness or injury must have been incurred by the covered service member in the line of duty while on active duty in the Armed Forces.

**F. Continuation of Employment and Benefits:** An employee who takes FMLA leave is entitled to be restored to the same position with equivalent benefits, pay status, and other terms and conditions of employment. The leave will not result in the loss of any employment benefit accrued before the leave began. If the employee uses leave without pay, he or she may elect to continue Federal Employee Health Benefits (FEHB) coverage and make arrangements to pay the

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employee contribution.

**G. Requirements:** Eligible employees will normally provide at least thirty (30) days notice of the need for FMLA leave, as practicable, by submitting an application (DOL Form WH-380) for FMLA leave to the Agency.

### SECTION 9. EXCUSED ABSENCE:

**A. Definition:** An excused absence is an absence from duty administratively authorized by supervisors without loss of pay and without charge to leave. Excused absence under the following conditions is coded as Administrative Leave.

**B. Eligibility for Excused Absence:** With the exception of emergency conditions, an employee must be in duty status at the beginning and/or end of a period of excused absence in order to receive benefit of the excused time. If operational requirements preclude an employee from receiving the full amount of excused absence authorized in this Section for a specific purpose, the remaining time is not available for future use by the employee.

#### C. Voting:

1. **Time Off to Vote:** The Agency has determined that, if it does not interfere with mission requirements, the employee will be authorized, upon request, an amount of excused absence that will permit them to report for work up to four (4) hours after the polls open or leave work up to four (4) hours before the polls close, whichever requires the lesser amount of time off.
2. **Poll-Worker or Non-Partisan Observer:** Employees may also use up to 4 hours of administrative leave per leave year to serve as a non-partisan poll worker or to participate in non-partisan observer activities. A "leave year" begins on the first day of the first pay period commencing on or after January 1 of the given year and ends on the day before the first day of the next leave year. This leave is in addition to any administrative leave an employee uses to vote.

**D. Donating Blood:** The Agency has determined that, if it does not interfere with mission requirements, employees who donate blood to the Red Cross or other recognized Blood Banks, which the Agency sponsored, will be excused from duty upon request, for a period of not more than four (4) hours, including travel, and any necessary recovery time following the donation. The Agency has determined that, if it does not interfere with mission requirements, additional excused absence will be granted, upon request, to employees who donate of other blood products (such as platelets) through an Agency Program, consistent with mission requirement.

#### E. Bone Marrow and Organ/Tissue Transplant:

1. The use of excused absence can cover time off for activities such as donor screening, the actual medical procedure, and recovery time. Employees may use up to seven (7) days of paid leave each calendar year to serve as a bone marrow donor. An employee may also

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use up to thirty (30) days of paid leave each calendar year to serve to serve as an organ/tissue donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

2. For longer periods of incapacitation, employees may use sick leave, annual leave, advanced annual or sick leave, Voluntary Leave Transfer Program (VLTP) and LWOP under the Family Medical Leave Act (FMLA) may be used if the condition meets the requirements of these programs.

**F. Preventative Medical Program Participation:** Employees may be excused from duty to attend Agency-sponsored preventive medical programs offering health education, physical examinations, or immunizations.

**G. Workplace Closures:** Whenever the workplace is closed or otherwise not operational due to a declared OPM emergency or pandemic situation, workplace circumstances, or inclement weather, non-emergency employees may be granted administrative leave for the duration of the closure in accordance with OPM Governmentwide Dismissal and Closure Procedures and local Agency policy.

1. **Facility Closure:** Employees who are prevented from reporting to work due to the closure of all or part of a facility should be granted authorized absence in accordance with OPM guidance and/or government-wide regulations. The Agency will annually communicate these procedures to employees.
2. **Hazardous Conditions:** When hazardous conditions (e.g. extreme weather conditions, serious interruptions in public transportation, earthquake, and disasters such as flood, fire, or other natural phenomena) arise, the Agency will determine whether all or part of the Agency facilities should be closed or should be open as usual. If the Agency decides to close all or part of their facilities during periods the facilities would otherwise be open, the Agency will notify employees whether liberal leave or authorized absence will be granted.
3. **Leave Transfer Program:** In accordance with government-wide regulations, the agency will fully implement the provisions of any approved program designed to provide inter-agency leave donation for employees affected by natural disasters.
4. **Union Notification:** The Union shall be informed by the appropriate Agency official at the time the facility declares hazardous weather/emergency conditions.
5. Facilities under emergency conditions should provide access to both meals and accommodations, if safe and available, for employees who are required to remain at the facility during non-duty time, to the extent permitted by law.

**H. Excused Absence for Employees Returning from Active Military Duty:** Federal civilian employees who are called to active duty in support of the Overseas Contingency Operations (OCO) (formerly the Global War on Terrorism) are entitled to five (5) days of excused absence

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upon their return from active duty. The intent of this entitlement, which was granted through Presidential Memorandum, is to provide five (5) days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life. Employees and supervisors who require additional information should contact LMER. Employees may request Union representation for these situations.

**I. Veterans Participating in Military Funeral Ceremonies:** Employees who are veterans may be granted administrative leave not to exceed four (4) contiguous hours in any workday to enable them to participate as active pallbearers or as members of firing squads or guards of honor in funeral ceremonies for members of the Armed Forces of the United States whose remains are returned from abroad for final interment in the United States, subject to applicable law and regulation.

1. Supervisors may also excuse absences up to four hours for veterans, for the purpose of participating as active pallbearers or as members of firing squads or guards of honor, in funerals of active-duty military not covered above or for such participation in funerals of veterans.
2. Upon request and workload permitting, annual leave/ leave without pay may be approved in conjunction with the administrative leave for the remainder of the workday.

**J. Emergency Rescue or Protective Work:** Employees who are members of the Civil Air Patrol or other similar organizations, whose services can be excused, may be granted excused absence for up to three (3) days to participate in emergency rescue or protective work during an emergency such as fire, flood, or search operations. When an employee has requested and received approval for excused absence in excess of one day for such activities, the employee shall provide to the leave-approving official a statement signed by a responsible official of the local emergency organization certifying the employee's attendance throughout the period of excused absence. This provision does not cover employees who respond to emergencies in National Guard/Reserve status.

### SECTION 10. COURT LEAVE:

**A. Definition:** Employees are authorized court leave with pay when summoned to serve as a juror, or when summoned as a witness in a non-official capacity on behalf of any party in connection with any judicial proceeding in which the United States, the District of Columbia, or a State or local Government is a party. If testifying in an official capacity, this is considered duty time and not court leave.

**B. Administration:** The Agency will provide employees with court leave, and employees will provide documentation to the Agency, in accordance with 5 U.S.C. §§ 5515, 5537, and 6322; and other applicable statutes, regulations, and policies.

**C. Pay Status Requirement:** The Agency will grant court leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

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**D. Leave Period:** The leave will start on the date on which the employee must report to the court, as identified in the summons, and will run until the date on which the court discharges the employee from service. It does not include:

1. time during which the employee is excused or discharged by the court for an indefinite period subject to recall by the court; or
2. time during which the employee is excused or discharged for one (1) or more days or for a substantial part of a day (more than five [5] hours).

**E. Adjustment of Schedule:** An employee who is normally assigned to a work schedule adjustment that conflicts with a requirement to appear in court, whether on jury duty or as a witness during the day, will be granted an adjustment in their regular schedule in order to coincide with the court day(s). In the alternative, the employee may request court leave for the employee's regularly scheduled tour of duty, to allow for sufficient rest to perform their court duties. In such cases, the employee will not suffer any loss of pay and will continue to be entitled to night differential or other regularly scheduled premium payments in accordance with applicable payroll policies.

**F. Return to Duty:** If an employee on court leave is excused from court with sufficient time to enable that employee to return to duty for at least two (2) hours of the scheduled workday, excluding travel time, the employee shall return to duty or request approval to telework, unless granted appropriate leave by the Agency. Employees will request and receive approval prior to going on leave to the extent practicable, using procedures as set forth above.

**G. Expense Money:** Employees may keep any court-provided expense money received for mileage, parking, or required overnight stay, to the extent consistent with law.

### SECTION 11. MILITARY LEAVE

**A. Administration:** The Agency will grant military leave to eligible employees in accordance with 5 U.S.C. § 5519, 5 U.S.C. § 6323, Public Law 106- 554 (December 21, 2000), Public Law 108-136 (November 24, 2003), and other applicable statutes, regulations and policies.

**B. Eligibility:** A full-time employee who is a reservist of the Armed Forces or a member of the National Guard is entitled to military leave for active duty or for training, in accordance with applicable statutes, regulations, and policies.

**C. Pay Status Requirement:** The Agency will grant military leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

**D. Guard/Reserve Duty:** The Agency will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC§ 4301, et al, which applies to employees who perform duty, voluntarily or involuntarily, in the uniformed services,

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including the Army, Air Force, Navy, Marine Corps, Coast Guard, Public Health Service, or other Commissioned Corps, as well as the reserve components of each of these services. Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active-duty training, and funeral honors duty performed by National Guard and reserve members as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

**E. Reintegration:** Service members returning from a period of service in the uniformed services must be reemployed by the "pre-service" employer if they meet all four (4) eligibility criteria as set forth in USERRA in accordance with government regulations.

1. the person must have held a civilian job;
2. the person must have given notice to the Agency that he or she was leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;
3. the period of service must not have exceeded five (5) years;
4. the person must not have been released from service under less than honorable or other punitive conditions; and the person must have reported back to the civilian job in a timely manner based on OPM guidelines.

**F. National Guard or Reservists Called to Active Duty:** Employees who are called to active duty in support of the ongoing national emergency are entitled to military leave under two separate provisions, 5 U.S.C. 6323(a) and 5 U.S.C. 6323(b).

1. U.S.C. 6323(a). A Federal employee who is a member of the National Guard or Reserves is entitled to 15 days (120 hours) of paid military leave under 5 U.S.C. 6323(a) each fiscal year for active duty, active duty training, or inactive duty training. An employee on military leave under section 6323(a) receives their full civilian salary, as well as military pay. This leave accrues at the beginning of each fiscal year, and all Guard or Reserve members, including those on extended active duty, should be credited with 15 days of paid military leave on October 1 of each year. An agency may charge military leave under 6323 (a) only for hours the employee otherwise would have worked. An employee no longer "loses leave" on weekends and other non-workdays and will be paid their full civilian pay for all 120 hours.
2. 5 U.S.C. 6323(b). Employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, are entitled to 22 days of military leave under 5 U.S.C. 6323(6). Under this provision the employee is entitled to the greater of his military or civilian pay. Employees also are entitled to use any accrued or accumulated annual leave for periods of active military duty. Employees using annual leave will receive their full civilian pay, as well as compensation for their military service.

## LEAVE

### SECTION 12. LEAVE WITHOUT PAY:

**A. Definition:** Leave Without Pay (LWOP) is a temporary non-pay status and absence from duty authorized by the Agency.

**B. Entitlements:** An employee is entitled to LWOP in the following circumstances:

1. **Medical Treatment for Disabled Veterans:** Disabled veterans are entitled to LWOP for medical treatment, examinations, and absences from duty in connection with their disability after presenting an official statement from a medical authority that such treatment is required. An employee must give prior notice of the period during which the employee's absence for treatment will occur.
2. **Military Duty:** Full time employees who are Military Reservists or National Guardsmen are entitled to LWOP for the time periods during which they are required to perform active duty or training if they have exhausted their military leave or are not entitled to military leave, in accordance with applicable laws and policy.
3. **FMLA:** Eligible employees are entitled to LWOP for certain family and medical needs covered by the FMLA.
4. **Worker's Compensation:** Employees are entitled to LWOP for the period during which they are receiving worker's compensation payments from the U.S. Department of Labor.

**C. LWOP to Serve in Certain Union Offices:** An employee may be granted LWOP to engage in Union Activities on the national, district, or local level to work in programs sponsored by the Union or the AFL-CIO, upon written request by the appropriate Union office. Such requests will be referred to the appropriate management official, in consultation with LMER, for approval or disapproval. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. The amount of LWOP is based upon the type and duration of activity in which the employee is engaged.

1. Upon request, the Agency may grant a one (1) year extension of LWOP status for this purpose. All requests for extensions must be requested thirty (30) days prior to expiration of the LWOP.
2. Employees on extended LWOP while serving as employee union representatives may arrange to make payment for retirement, Thrift Savings Plan (TSP), and health and life insurance benefits in accordance with applicable regulations.

**D. Discretionary Grants of LWOP:** The Agency may grant LWOP in other circumstances, but will not do so unless the leave will result in:

1. Better work performance; or
2. Protection or improvement of the employee's health; or

## LEAVE

3. Retention of a desirable employee; or
4. Furtherance of a program of interest to the government (e.g., Peace Corps volunteers); or
5. An employee at their option may request LWOP for annual leave for Officers and/or duly elected delegates of the Union for attendance at the Union's triennial convention or other Union sponsored training/event.

**E. LWOP or Compensatory Time for Religious Observances:** Subject to the Agency's mission requirements, when an employee has personal religious beliefs that require absence from work, the Agency may grant annual leave, LWOP, or compensatory time off for such religious observances:

1. When the employee requests and the Agency grants compensatory time off for religious observance, in each instance the Agency will afford the employee the opportunity to earn such compensatory time-off hours; Supervisors may contact DHA Equal Opportunity and Diversity Management (EODM) Office for further guidance.
2. An employee may work compensatory time-off for religious observances before or after taking such compensatory time-off on an hour-for-hour basis. A grant of advance compensatory time-off for religious observances will be repaid by the appropriate amount of compensatory time worked within three (3) pay periods or such time will be charged to annual leave;
3. If advanced compensatory time off is granted for a religious observance, the employee will be scheduled for the time to be worked to repay the compensatory time when the request is granted.
4. Compensatory time worked to repay time-off for religious observance is not subject to premium pay provisions applicable to overtime hours.