

**CHAPTER 5****LEAVE**0501 **GENERAL REQUIREMENTS**

★ 050101. **Eligibility.** The type, amount, and nature of leave benefits are dependent on the type and length of employment, military status, and other eligibility requirements. See DoD 1400.25-M, subchapter 630 (reference (u)), 5 U.S.C., chapter 63 (reference (b)), and 5 C.F.R., Part 630 (reference (l)).

050102. **Objectives.** The leave objectives to be met by payroll operations and systems are as follows. Leave records shall be properly maintained for each employee; leave shall be accurately accrued; leave taken shall be properly authorized and reported; and information on leave use and accrual shall be accurately determined and promptly reported to facilitate collection of certain leave-related debts from employees and for preparation of financial reports, including those for cost accounting purposes.

050103. **Documentation.** Leave records shall be maintained to show the following for each employee: rate of accrual for each type of leave; hours or days accrued and used by leave type; and hours or days advanced by leave type. Additional documentation requirements for specific types of leave are described in this chapter in the paragraphs discussing the type of leave. The mechanized leave record is created automatically from accession leave data obtained from information on the SF 50 and SF 1150. Annual and sick leave balances for employees transferring in are furnished to the civilian payroll office on the SF 1150. Prior to receipt of the SF 1150, the leave balances from the last LES issued the employee by the losing civilian payroll office may be used. Upon receipt of the SF 1150, the gaining civilian payroll office makes any necessary adjustments. See subparagraph 090202.C. for additional guidance.

050104. **Accruals**

A. The leave year begins with the first full pay period starting in the calendar year. For leave accruals, the civilian payroll system shall contain accurate information on the type of appointment for each employee and the leave hours or days to which the employee is entitled. Leave earned shall be accurately accrued for each type of leave using correct rates effective at the proper times. Reductions shall be made at the beginning of each leave year for accumulated leave exceeding statutory limits. Reductions shall be made in accruals for annual and sick leave when necessary to reflect extended leave without pay or absence without leave.

B. Annual and sick leave earned shall be posted to an employee's record each pay period before leave taken in that period is charged against leave balances. During a pay period in which an employee's service is interrupted by a non-leave-earning period, he or she earns leave on a pro rata basis (5 C.F.R. 630.204) (reference (l)). For example, leave shall be prorated when an employee has reemployment rights in connection with military service, both at the time of separation and at the time of reemployment, and both separation and reemployment occur within

the normal biweekly pay period; when an employee is in receipt of injury compensation, both at the beginning and at the end of the nonpay status, and the nonpay status begins and ends within the normal biweekly pay period; when an employee transfers to an agency having a different pay period; when an employee is restored after a period of unwarranted suspension or removal for which retroactive compensation is paid; and when an employee is attending school or college as a student trainee. Full-time and part-time employees who change to an intermittent work schedule during the pay period are eligible to have their leave accruals prorated. See Table 5-1 for proration of leave.

050105. Approval. To support the time and attendance record, employees shall request approval of leave. Leave used shall be documented and approved in writing by a supervisor designated to make such approvals. Documentation for leave used shall show the dates, times, and types of leave taken. Employees may not be compensated for leave taken in excess of leave accrued except for religious observances taken for which compensatory time off for religious reasons was not worked in advance and for authorized advance leave.

★ 050106. Minimum Charge. Unless an agency establishes a minimum charge of less than 1 hour, or establishes a different minimum charge through negotiations, the minimum charge for leave is 1 hour, and additional charges are in multiples thereof. It is Department policy, as stated in DoD 1400.25-M, subchapter 630 (reference (u)), that minimum charges of less than six minutes shall not be established.

050107. Interfaces. The payroll system shall be integrated or interfaced with general ledger and cost accounting systems to ensure prompt and accurate collection of health and life insurance premiums from employees on unpaid leave, when required, and court reimbursements for time served as a juror while on court leave, when required. Amounts of leave accrued and used and their related values shall be maintained to compute leave expenses and liabilities by designated general ledger and cost accounting classifications and to report externally.

050108. Conversions. See Table 5-2 for conversions when there is an insufficient amount of the type of hours requested.

## 0502 ANNUAL LEAVE

050201. General. Annual leave is absence with pay for personal and emergency purposes. 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. Other than for the liquidation of advance sick leave indebtedness, the retroactive substitution of annual leave for sick leave is not authorized. A substitution of annual leave for sick leave may not be made retroactively for the purpose of avoiding a forfeiture of annual leave at the end of the leave year.

050202. Amount of Annual Leave Earned

A. Full-time and part-time employees earn annual leave. Intermittent employees (that is, employees with no scheduled tour of duty) do not earn annual leave. Employees who are appointed to positions not limited to less than 90 days are entitled to annual leave earning upon completion of the first biweekly pay period. Employees whose current employment is limited to less than 90 days are entitled to annual leave earning only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90-day period, employees are entitled to be credited with the leave that would have accrued during those 90 days.

B. The amount of annual leave earned depends on the length of service. Full-time employees with less than 3 years of service earn 4 hours of annual leave per biweekly pay period. Full-time employees with 3 years, but less than 15 years of service, earn 6 hours per biweekly pay period. In the last full pay period of the calendar year, they earn 4 additional hours. Full-time employees with 15 or more years of service earn 8 hours per biweekly pay period. Employees must be employed for the full biweekly pay period to be entitled to accrue annual leave for that period. An employee is considered to have been employed for a full biweekly pay period if he or she is employed during the days falling within that period, exclusive of holidays and nonworkdays established by federal statute, Executive Order, or administrative order (5 U.S.C. 6302(b)) (reference (b)).

★ C. Each time the number of hours in a nonpay status, which includes all nonpay hours, in a full-time employee's leave year equals the number of base pay hours in a pay period, the civilian payroll system shall reduce his or her credits for leave by an amount equal to the amount of leave the employee earns during the pay period. When an employee's number of hours of nonpay status does not require a reduction of leave credits, the civilian payroll system shall drop those hours of nonpay status at the end of the employee's leave year. An employee in the Office of Workers Compensation Program does not accrue leave; therefore, reduction in leave credits is not required.

D. Part-time employees with regularly scheduled tours of duty earn leave for the time they are in a pay status. Part-time employees with less than 3 years of service earn 1 hour of annual leave for each 20 hours in a pay status. Part-time employees with 3 years, but less than 15 years of service, earn 1 hour of annual leave for each 13 hours in a pay status. Part-time employees with 15 or more years of service earn 1 hour of annual leave for each 10 hours in a pay status. Hours in a pay status in excess of an activity's basic working hours (normally 80 hours) in a pay period are disregarded in computing the leave earnings of a part-time employee. Part-time employees may carry over from one pay period to the next those excess hours that are not evenly divisible by 10, 13, or 20 hours, as applicable. These hours will be added to the next pay period work hours for leave accrual. See 5 C.F.R. 630.202 (b) and 630.303 (reference (l)).

E. Annual leave earned shall be posted to an employee's record each pay period before annual leave taken in that period is charged against annual leave.

050203. Uncommon Tours of Duty, Leave Accruals, and Charges to Leave

★ A. Employees who work a 24-hour shift or a 72-hour workweek, such as firefighters, accrue and use leave based on the uncommon tours of duty. The 72-hour workweek leave accrual for up to 3 years of service is 7 hours 12 minutes per biweekly pay period. For 3 to 15 years of service, the accrual is 10 hours 48 minutes per biweekly pay period and 18 hours for the last full pay period. For 15 or more years of service, the accrual is 14 hours 24 minutes per biweekly pay period. See DoD 1400.25-M, subchapter 630 (reference (u)).

★ B. Employees with up to 3 years of service who work standby tours of 56-hour workweeks, such as fire chiefs, accrue 5 hours and 36 minutes per biweekly pay period. Employees with 3 to 15 years of service accrue 8 hours and 24 minutes per biweekly pay period and 14 hours the last full pay period. Employees with 15 or more years of service accrue 11 hours and 12 minutes per biweekly pay period. See DoD 1400.25-M, subchapter 630 (reference (u)).

★ C. Employees who work uncommon tours of duty are charged leave on an hour-for-hour basis for time off. For example, an employee working a 72-hour workweek would be charged 72 hours for a week's absence. See 5 C.F.R. 630.210 (reference (l)) and DoD 1400.25-M, subchapter 630 (reference (u)).

#### 050204. Limitations and Variances

A. The maximum carried forward from one leave year to another is usually 240 hours. See paragraph 050408 regarding unlimited annual leave carryover for civilian DoD employees who are employed at installations that are facing planned base closures. Employees stationed outside the United States, who meet the conditions for eligibility established by 5 U.S.C. 6304(b) (reference (b)) and 5 C.F.R. 630.302 (reference (l)), may carry forward a maximum of 360 hours. Employees returning from an OCONUS assignment outside the continental United States (OCONUS) may carry forward the balance of leave to their credit at the end of the pay period which includes the date the employee departs for reassignment. If an employee is placed on detail to another OCONUS assignment, the date he or she ceases to perform duty at the detailed post is considered the date the employee departs for reassignment. Annual leave in excess of 240 hours, which was accumulated under 5 U.S.C. 6304(b) (reference (b)) by an employee who becomes subject to the 240 hour maximum carry forward, remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period occurring in a leave year, by the amount of annual leave the employee used during the preceding year that is in excess of the amount which accrued during that year. This process continues until the employee's accumulated leave does not exceed 240 hours.

★ B. The following formula is used to arrive at the maximum hour accumulation for a newly assigned standby employee who has a 30-day maximum accumulation. Multiply 240 times the number of hours in the standby workweek; then divide the result by 40. Using this formula, the maximum accumulation for an employee with a 72-hour standby workweek would be 432 hours. For an employee with a 56-hour standby workweek, the maximum accumulation would be 336 hours.

C. There is a 90-day (720-hour) maximum limitation on the amount of annual leave that an SES member may carry over from one leave year to the next. SES members with

accumulated annual leave that exceeds 90 days (720 hours) are allowed to retain their excess annual leave in a personal leave ceiling as of the first day of the first applicable pay period beginning after October 13, 1994. The amount of annual leave credited to an SES member's personal leave ceiling will be based on the amount of annual leave accumulated by the employee as of the end of the pay period preceding the first applicable pay period beginning after October 13, 1994. Annual leave accrued for any pay period during only a portion of which the employee served under an appointment to the SES shall be prorated.

★ D. Executive Schedule employees generally do not accrue leave (5 U.S.C. 6301(2)(x)) (reference (b)). Any unused annual leave that remains to his or her credit immediately before an employee moves to an appointment under the Executive Schedule shall be liquidated by a lump-sum payment (5 U.S.C. 5551(b)) (reference (b)). Lump-sum annual leave payments are based on the rate of pay the employee was receiving immediately before the date became applicable to him or her (5 U.S.C. 6301(2)(x)) (reference (b)). If a career appointee is appointed at a rate of basic pay which is equal to or greater than the rate payable for Level V of the Executive Schedule, the career appointee may elect to continue under leave provisions as if the career appointee had remained in the SES position from which appointed. If the appointee elects to continue under leave provisions, the liquidation of leave by lump-sum payment would not apply. See 5 U.S.C. 3392 (reference (b)) for additional information.

E. Annual leave may be changed to sick leave, if the employee becomes ill during a period of annual leave.

★ 050205. Advance Criteria. The current leave year accrual of annual leave may be advanced if approved by the supervisor and if there is reasonable assurance the employee will be in a duty status long enough to earn the advanced leave. Doubtful cases shall be disapproved. Subsequent loss of accrual may result in an indebtedness situation. An employee separating from federal service must repay any advanced annual leave unless the separation is caused by death, disability retirement, or a disability that prevents return to duty or continued service, and which is the basis of the separation as determined by the employing office on medical evidence acceptable to it. See 5 C.F.R. 630.209 (reference (1)).

050206. Unused Annual Leave. Upon separation from federal employment, all employees are entitled to a lump-sum payment for the balance of their annual leave account. Refer to 5 U.S.C. 5551 (reference (b)) for additional information. Employees who enter on active duty in the Armed Forces are entitled to elect to have the leave remain to their credit until they return from active duty. See section 0307 for additional information on lump sum leave payments.

★ 050207. Transferred Employees. Employees who transfer to another DoD or non-DoD civilian payroll office are not required to repay unearned annual leave until they separate from federal service. For transferred employees, see subparagraph 090202.C. for the instructions for the SF 1150 to transfer annual leave balances.

#### 0503 SICK LEAVE

050301. General. Sick leave is provided for an employee's use when sick, injured, confined by pregnancy, required to give care to a member of his or her immediate family who is

afflicted with a contagious disease, or the health of others would be jeopardized by his or her presence on duty because of exposure to a contagious disease, or for medical, dental, or optical appointments. Sick leave usage information under the Family and Medical Leave Act is in section 0504 of this volume. Sick leave usage information under the Family Friendly Leave Act is in section 0505 of this volume.

050302. Amount of Sick Leave Earned

A. Full-time employees earn 4 hours of sick leave for each full biweekly pay period. Employees on uncommon tours of duty accrue 7 hours and 12 minutes of sick leave per pay period for a 72-hour workweek and 5 hours and 36 minutes of sick leave per pay period for a 56-hour workweek. Each time the number of hours in a nonpay status, which includes all nonpay hours except OWCP, in a full-time employee's leave year equals the number of base pay hours in a pay period, the civilian payroll system shall reduce his or her credits for sick leave by an amount equal to the amount of sick leave the employee earns during the pay period. Part-time employees earn 1 hour of sick leave for each 20 hours in a pay status. They may not earn more than 4 hours of sick leave for 80 hours in a pay status during any biweekly pay period. Intermittent employees do not earn sick leave.

B. Sick leave earned shall be posted to an employee's record each pay period before sick leave taken in that period is charged against the sick leave balance.

050303. Limitations and Variances

★ A. There is no limit on accrued balances of sick leave. Sick leave is reccredited after a break in service to an employee, who returns to federal employment on or after December 2, 1994, unless the sick leave was forfeited upon reemployment in the federal government before December 2, 1994. See 5 C.F.R. 630.502 (reference (l)). The exception is when sick leave has been used in the computation of an annuity for an employee (5 C.F.R. 630.407) (reference (l)).

B. Executive Schedule employees generally do not accrue leave (5 U.S.C. 6301(2)(x) (reference (b))). Any unused leave that remains to his or her credit when an employee moves to an appointment under the Executive Schedule will be certified on an SF 1150 by the civilian payroll office. The SF 1150 will be sent to the human resources organization (HRO) for retention in the Official Personnel Folder (OPF), until the employee is reemployed in a leave-accruing position or separated from the Executive Schedule position. Career appointees, appointed at a rate of basic pay equal to or greater than the rate payable for Level V of the Executive Schedule, may elect to continue to have leave provisions as if the career appointee remained in the SES position from which appointed.

★ 050304. Advance Criteria. In cases of serious disability or illness, employees, except those serving under a limited appointment or with a specified termination date, may be advanced up to 30 days sick leave, or equivalent for uncommon tours of duty. Example: An employee with an 80-hour biweekly tour of duty may be advanced up to 240 hours, and an employee on a 144-hour biweekly uncommon tour of duty may be advanced 432 hours. Employees should submit requests in writing for advance sick leave to the leave-approving official. Advance sick leave

should not be granted if it appears likely that the employee will not return to duty long enough to earn the leave. Employees separating from federal service must repay any advanced sick leave unless the separation is caused by death, disability retirement, or a disability which prevents the employee from returning to duty or continuing in the service, and which is the basis of the separation as determined by the employing office on medical evidence acceptable to it. See 5 C.F.R. 630.209 (reference (l)).

050305. Unused Sick Leave. Employees are not paid for unused sick leave upon separation. The unused sick leave balance upon retirement or death is shown in the remarks column under “Service History” on the SF 2806/3100. See 5 C.F.R. 630.209 (reference (l)).

★ 050306. Transferred Employees. Employees who transfer to another DoD or non-DoD civilian payroll office are not required to repay unearned sick leave until they separate from federal service. For employees transferred, see subparagraph 090202.C. for the instructions for the SF 1150 to transfer sick leave balances.

★ 050307. Sick Leave for Adoption. Section 629(b) of P.L. 103-329 (reference (e)) authorizes federal employees to use sick leave for purposes related to the adoption of a child. Employees may use sick leave for appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. This entitlement is in addition to unpaid leave for the placement of a child with an employee for adoption under the Family and Medical Leave Act. Refer to 5 C.F.R. 630.401 and 630.409 (reference (l)) for additional information on sick leave usage for adoption.

★0504 FAMILY AND MEDICAL LEAVE ACT

★ 050401. General. The Family and Medical Leave (FML) Act of 1993, P.L. 103-3 (reference (e)), provides a total of up to 12 administrative workweeks of unpaid leave (LWOP) during any 12-month period to take care of specified family and medical needs for employees covered by the sick and annual leave provisions of 5 U.S.C. Chapter 63, subchapter V (reference (b)) and 5 C.F.R. Part 630, Subpart L (reference (l)), and certain other federal employees.

★ 050402. Entitlement. The employee must have completed at least 12 months of federal service. Temporary or intermittent employees are not entitled to FML. A total of up to 12 administrative workweeks of unpaid leave will be available during any 12-month period (which begins when the FML is first used and ends 12 months later). An employee may elect to substitute annual, sick, or educator leave, or leave made available to the employee under the Voluntary Leave Transfer Program or the Voluntary Leave Bank Program for the LWOP. The employee's work schedule will be the basis for computing the number of hours of FML available for the 12 administrative workweeks. For example: An 80-hour full-time employee will have 480 hours available for FML - 40 hours per week times 12 weeks.

★ 050403. Usage. The FML may be used for:

- A. The birth of a son or daughter and care of the newborn; 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 with a serious health condition; or

D. A serious health condition of the employee that makes the employee unable to perform the duties of his or her position.

★ 050404. Conditions. Under certain conditions, FML may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. The FML is in addition to other paid time off available to an employee.

★ 050405. Advance Notice and Medical Certification. The employee must provide notice of intent to take FML not less than 30 days before leave is to begin or as soon as is practicable. The agency may request medical certification for FML taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.

★0505 THE FAMILY FRIENDLY LEAVE ACT

★ 050501. General. Title 5 United States Code, section 6311 (reference (b)) and 5 C.F.R. Part 630, subpart D (reference (l)) allow for the use of sick leave for family care or bereavement. Employees who accrue sick leave under 5 U.S.C. 6307 (reference (b)) may use the total number of hours of sick leave normally accrued by that employee during a leave year for family care or bereavement purposes.

★ 050502. Entitlement. A full-time federal employee may use up to 104 hours (13 days) of sick leave in a leave year for family care or bereavement. The part-time employee or an employee with an uncommon tour of duty may use up to the number of hours of sick leave normally accrued by that employee during the leave year. The full-time employee may use 40 hours (5 days) of sick leave without regard to his or her current sick leave balance. A part-time employee or an employee with an uncommon tour of duty may use the average number of hours of work in the employee's scheduled tour of duty each week. An additional 64 hours (8 days) may be used if the employee maintains a balance of at least 80 hours of sick leave in his or her sick leave account. The part-time employee or an employee with an uncommon tour of duty may use an additional amount equal to twice the average number of hours of work in the employee's scheduled tour of duty.

★0506 BONE-MARROW OR ORGAN DONOR LEAVE. Title 5 United States Code, section 6327 (reference (b)) provides up to 7 days of paid leave in a calendar year (in addition to sick or annual leave) to serve as a bone-marrow or organ donor.

★0507 NONAPPROPRIATED FUND (NAF) TRANSFER OF LEAVE UNDER EMPLOYEE BENEFIT PORTABILITY PROGRAM

★ 050701. General. In accordance with DoD 1404.1-M (reference (ap)), an employee who transfers from a NAF position to an appropriated position or the reverse without a break in service of more than three days, shall transfer all leave without limit. An employee may not be paid for any accumulated hours of leave. Leave will be administered in accordance with the rules of the gaining employment system (civil service or NAF). The employee shall be credited with the full amount of leave even in those cases where the employee may receive a higher rate of pay from the gaining employment system (civil service or NAF).

★ 050702. Provisions. Service in the losing employment system (civil service or NAF) shall be credited in determining the appropriate leave accrual rate. All provisions are applied exactly the same regardless of whether the move is voluntary or involuntary, and regardless of the direction of the move, civil service to NAF or NAF to civil service.

#### 0508 RESTORED LEAVE

050801. General. Except as otherwise authorized by regulation, annual leave restored under 5 U.S.C. 6304(d) (reference (b)) must be scheduled and used not later than the end of the leave year ending 2 years after the date:

- A. Of restoration of the annual leave forfeited because of administrative error;
- or
- B. Fixed by the agency head, or his designated official, as the termination date of the exigency of the public business which resulted in forfeiture of the annual leave; or
  - C. The employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.

050802. Approval Requirements. The following requirements must be met before forfeited annual leave can be considered for restoration:

- A. Use of the annual leave must have been scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year; and
- B. The determination that an exigency is of major importance and, therefore, annual leave may not be used, must be made by the head of an activity no lower than a major field headquarters or major field installation.

050803. Time Limit. For an extended exigency of the public business, the time period for use of restored leave is 2 years for each calendar year, or part thereof, during which the exigency existed. This time period starts at the beginning of the leave year following the leave year in which the exigency is declared to be ended. An extended exigency is one that threatens the national security, safety or welfare; lasts more than three calendar years; affects a segment of an agency or occupational class; and precludes subsequent use of both restored and accrued annual leave within the time limit specified in 5 U.S.C. 6304(d) (reference (b)) and 5 C.F.R. 630.306 and

630.309 (reference (l)). The time limit established under 5 C.F.R. 630.306 (reference (l)), during which restored leave must be used in order to avoid forfeiture, is not changed by entry into the SES.

050804. Separate Leave Account. The payroll system shall maintain three separate restored leave accounts for each calendar year. Restored annual leave must be credited to a separate leave account identifying the date of restoration, the date of forfeiture, the amount credited for use, the amount of usage, and the unused balance. Restored annual leave is not included in, and does not increase, the maximum annual leave carryover for an employee.

050805. Time and Attendance Reports. Timekeeping instructions in paragraph 020203 specify the method to be used to identify the leave account to be charged.

050806. Forfeiture of Annual Leave. Restored annual leave, if unused at the expiration of the time limitation, is forfeited with no further right to restoration.

★ 050807. Lump-Sum Payment. Upon separation, employees entitled to lump sum payment shall be paid for their unused restored annual leave if such leave has not been forfeited. If the leave is forfeited because of an administrative error, a claim must be filed within 3 years of the discovery of the administrative error leading to the forfeiture (5 U.S.C. 6304(e)) (reference (b)). Employees entering active duty in the Armed Forces may elect to have leave remain to their credit until their return from active duty (5 U.S.C. 5552 and 6304) (reference (b)). See section 0307 for additional information on lump sum leave payments.

050808. Maximum Annual Leave Accumulation

★ A. Title 5, United States Code, section 6304(d) (reference (b)) was amended so that civilian DoD employees who are employed at installations that are facing planned base closures may carry into the next leave year more than 240 hours of annual leave. Annual leave accumulated in excess of 240 hours at closing bases under this provision shall be considered restored leave. It applies to the period beginning October 1, 1992, and ending on December 31, 1997. As of September 23, 1996, leave restored under 5 U.S.C. 6304(d)(3) (reference (b)) must be liquidated by lump sum payment when an employee transfers to another federal agency outside of the Department or to a position within the Department not located at an installation being closed or realigned.

B. The HROs shall furnish civilian payroll offices with listings by the end of each leave year that identify each employee who is eligible (including those who were eligible in prior years and those who are newly eligible) for restoration of annual leave under this provision. The list shall contain each eligible employee's full name, SSN, and employing activity. The list should be labeled "Employees eligible for annual leave restoration under Section 4434 of P.L. 102-484" (reference (e)) or an equivalent heading, and it should be signed by the personnel officer. This listing should be separate and distinct from any employee listing, form, or memorandum which is used to inform civilian payroll offices that an employee's annual leave is to be restored under provisions of 5 C.F.R. 630.306 (reference (l)).

0509 RESTORED LEAVE RESULTING FROM CORRECTION OF UNJUSTIFIED OR UNWARRANTED PERSONNEL ACTION

★ 050901. General. Annual leave that is restored to an employee as a result of the correction of an unjustified or unwarranted personnel action in excess of the maximum leave accumulation authorized by law shall be credited to a separate leave account for use by the employee (5 C.F.R. 550.805(g)) (reference (l)). This restored leave shall be referred to as reinstated leave. Annual leave in such a separate account must be scheduled and used as provided in the following subparagraphs. If leave is not used within the prescribed time frames, it shall be forfeited. Refer to 5 U.S.C. 5596(b)(1)(B) (reference (b)) for additional information.

A. Full-Time Employees. Excess annual leave of 416 hours or less must be scheduled and used by the end of the leave year ending 2 years after the date on which the leave is credited to the separate account. This period is extended by 1 year for each additional 208 hours of excess annual leave or any portion thereof. See Table 5-3.

B. Part-Time Employees. These employees shall schedule and use excess annual leave in an amount equal to or less than 20 percent of the employee's scheduled tour of duty over a period of 52 calendar weeks by the end of the leave year ending 2 years after the date on which the annual leave is credited to the separate account. This period shall be extended by 1 leave year for each additional number of hours of excess annual leave or any portion thereof, equal to 10 percent of the employee's scheduled tour of duty over a period of 52 calendar weeks. See Table 5-3.

0510 COMPENSATORY TIME USED

★ 051001. General. Compensatory time off in lieu of overtime pay derives from entitlement to pay for overtime work (i.e., work in excess of 8 hours in a day or 40 hours in a week, ordered in advance by management). At the request of an employee, the head of an agency may grant an eligible employee compensatory time off from the employee's scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work. An agency may provide that an FLSA exempt employee whose rate of basic pay exceeds the maximum rate for GS-10 shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off in lieu of payment for overtime worked. Refer to 5 U.S.C. 5543, 5544, 6122, 6123, 6127, and 6128 (reference (b)) and 5 C.F.R. 550.114 (reference (l)).

★ 051002. Usage. Compensatory time off shall be granted to an employee within a reasonable time after the overtime is worked. The limit for the use of compensatory time is the end of the 26th pay period after that in which the overtime was worked. The unused compensatory time then shall be paid at the overtime rate at which it was earned. Compensatory time earned before June 8, 1997, was placed in an "old compensatory time" account on June 7, 1998, and thereafter shall be charged only if the employee has insufficient current compensatory time to cover the compensatory time off requested. National Guard employees are not paid for unused compensatory time worked. They shall use their compensatory time by the end of the 26<sup>th</sup> pay period after it is earned or forfeit it.

051003. Separation or Transfer. When a DoD employee separates or transfers to another DoD Component or federal agency, unused compensatory time balances shall be paid at the overtime rate in effect when the compensatory time was earned. Title 32 National Guard technicians shall forfeit any unused compensatory time when they separate or transfer to another DoD Component or federal agency.

05111 COMPENSATORY TIME OFF FOR RELIGIOUS REASONS. Compensatory time off for religious observances is provided for in 5 U.S.C. 5550a (reference (b)). An employee whose personal religious beliefs require not working during certain periods of time may elect to work compensatory time for the time lost to meet those religious requirements. An employee who works compensatory time for religious reasons shall be granted equal compensatory time off from the scheduled tour of duty (5 C.F.R. 550.1002) (reference (l)). See subparagraph 030302.F. for additional information regarding compensatory time off for religious reasons.

0512 LEAVE-SHARING PROGRAMS (VOLUNTARY LEAVE TRANSFER AND VOLUNTARY LEAVE BANK)

★ 051201. General. The "Federal Employees Leave Sharing Amendments Act of 1993," P.L. 103-103 (reference (e)), made permanent the voluntary leave transfer and voluntary leave bank programs. The Act requires all agencies to operate a leave transfer program, allows all agencies to establish leave banks at any time, permits employees to participate in both programs, eliminates the requirement to count any advanced leave an employee may have when determining whether the employee qualifies to be a leave recipient, and permits leave recipients who exhaust transferred leave to use leave accrued while in a transferred leave status. The Act took effect on February 5, 1994.

051202. Voluntary Leave Transfer Program. In accordance with 5 C.F.R. 630.901 *et seq.* (reference (l)), federal employees may donate annual leave to other employees who need leave because of a medical emergency. Medical emergency used herein is defined as a medical condition of an employee or a family member of an employee (as defined in 5 C.F.R. 630.902) (reference (l)) that may require an employee's absence from duty for a prolonged period of time and result in a substantial loss of income to the employee because of the unavailability of paid leave.

A. Interagency leave transfer is mandatory if any of the following conditions are met:

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

2. If, in the judgment of the leave recipient's employing agency, 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.

3. If, in the judgment of the leave recipient's employing agency, acceptance of leave transferred from another agency would further the purpose of the Voluntary Leave Transfer Program (5 C.F.R. 630.906(f) (reference (l))).

B. Leave donors may not contribute to an immediate supervisor. The annual leave donated must be accrued and available at the date of donation. 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

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. These limitations may be waived according to the agency's established written criteria. The waivers shall be documented in writing.

C. The recipient only for the documented medical emergency may use the donated leave. It may not be used for any other purpose. The law provides that a leave recipient shall earn annual and sick leave while using donated leave, but only up to 40 hours of each, which are placed in separate accounts for use after the recipient exhausts all donated leave or the medical emergency ends. An employee may use any annual or sick leave accrued while in a shared leave status if the medical emergency continues after the leave recipient exhausts all transferred leave. Leave accruals for employees who use donated leave intermittently shall be prorated between the regular leave accounts and the separate leave accounts until the maximum accrual is reached or termination of the emergency. Accruals are prorated based on the number of hours of donated leave used within the pay period.

D. Upon termination of the medical emergency, the unused donated leave shall be transferred pro rata back to each donor (5 C.F.R. 630.911) (reference (l)). Each donor has an election as to how the leave is to be recredited from the following options:

1. Crediting the donated annual leave to the donor's annual leave account in the current leave year;

2. Crediting the donated annual leave 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. Donating such leave in whole or part to another leave recipient.

E. The civilian payroll office shall process all leave balances, restore unused balances and track the identified civilian payroll office cost.

051203. Voluntary Leave Bank Program. Under the Voluntary Leave Bank Program (5 U.S.C. 6361-6373) (reference (b)) and (5 C.F.R. 630.1001 *et seq.*) (reference (l)), employees can make a specified contribution of annual leave to their agency's leave bank in order to become leave bank members. See 5 C.F.R. 630.1004 (g) through (i) (reference (l)) for minimum leave contributions. Should a leave bank member experience a medical emergency, he or she can apply to the leave bank board for withdrawal of annual leave from the leave bank.

051204. Participation in Both Programs. The law permits an employee to participate in both leave transfer and leave bank programs in the same agency for the same medical emergency if his or her agency has established both programs.

0513 HOLIDAY

051301. When No Work Is Performed. An employee in a pay status on either the regularly scheduled workday preceding a holiday or on the regularly scheduled workday succeeding a holiday is entitled to straight-time pay for the holiday, regardless of his status on the holiday not worked.

A. Regular full-time employees receive their regular straight-time pay, including night and shift differential, for holidays on which they are not required to work.

B. Part-time employees receive their regular pay for holidays falling on their regularly scheduled workdays. When an installation is closed for an "in lieu of" holiday that falls on a part-time employee's regularly scheduled workday and the employee is prevented from working on that day, the installation may excuse the employee from duty by an administrative order or grant the employee annual leave or LWOP for the hours scheduled to be worked on that day.

C. Intermittent employees, including experts and consultants, with no regularly scheduled tour of duty receive no compensation unless actual work is performed.

051302. When Work Is Performed. See holiday premium pay provisions in paragraph 030305.

0514 CREDIT HOURS

★ 051401. General. Credit hours are any hours within a flexible schedule established under 5 U.S.C. 6122 (reference (b)), that are in excess of an employee's basic work requirement, and that the employee elects to work to vary the length of a workweek or a workday.

★ 051402. Requirements. Only employees on flexible schedules may work credit hours. Credit hours are used within the tour of duty. Credit hours shall be earned and used in the same increments as other absences with pay. The hours are in excess of the employee's basic work requirement (8 hours in a day, 40 hours in a week, or 80 hours in the biweekly pay period). Credit hours are distinguished from overtime hours in that they are not officially ordered in advance by management. See 5 U.S.C. 6121-6126 (reference (b)).

051403. Accumulation. A full-time employee may accumulate not more than 24 credit hours to be carried forward for credit against a later pay period. The 24 credit hours carried forward must be accounted for the same as other types of absences with pay. (5 U.S.C. 6126) (reference (b)).

051404. Part-Time Employees. A part-time employee is limited to the credit hours to be carried forward on a pro rata basis. For carry-over purposes, a part-time employee may carry over credit hours from one biweekly pay period to a subsequent biweekly pay period, in an amount equal to 25 percent of the biweekly scheduled hours of work.

051405. Payment. The employee receives no additional pay for credit hours when these hours are credited to his or her account. Credit hours are considered a part of the basic work requirement (nonovertime work) in the biweekly pay period to which they are applied. An employee is entitled to his or her basic rate of pay for credit hours. Credit hours shall be paid at the employee's current hourly rate when an employee is no longer subject to a flexible work schedule program, transfers to another employing activity, or upon separation (5 U.S.C. 6126(b)) (reference (b)). For full-time employees not more than 24 accumulated credit hours can be paid. For part-time employees, credit hours that are not more than 25 percent of such employee's biweekly scheduled hours can be paid.

051406. Entitlement. An employee shall not use credit hours to increase the entitlement to overtime pay. An employee shall not be paid Sunday pay or holiday pay for credit hours. Whether an employee is entitled to night pay for credit hours on the workday in which taken depends on the rules for night pay. Credit hours shall be considered daytime hours whenever possible. For example, if an employee's schedule includes daytime and nighttime hours, credit hours may be applied only to the daytime portion of the schedule. An employee has the right to use earned credit hours, subject to the activity's authority to approve the time at which they may be used (5 U.S.C. 6123(c)) (reference (b)).

★ 051407. Biweekly Pay Period. There is no limit on the number of credit hours that may be accumulated during the biweekly pay period; however, a supervisor may limit the number of credit hours accumulated during the biweekly pay period. Any credit hours worked in a pay period that exceed the 24-hour maximum carryover must be taken during that pay period, or they will be forfeited. Credit hours must be earned before they are used. Employees may carry forward only 24 credit hours into the succeeding pay period. Credit hours under a maxiflex schedule may be used during the pay period in which they are earned.

0515 TIME OFF AS AN INCENTIVE AWARD. Authorized by 5 U.S.C. 4502(e) (reference (b)), a time-off award may be granted in lieu of cash (5 C.F.R. 451.301-451.307) (reference (1)). A time-off award is an absence with pay. See subparagraph 031102.C for additional information.

#### 0516 EXCUSED ABSENCE

★ 051601. General. Excused absence is an absence from duty, administratively authorized, without loss of pay and without charge to leave. Agency heads or their designees have authority to grant excused absence in limited circumstances for the benefit of the agency's mission or a government-wide recognized and sanctioned purpose. The following are some of the more common situations in which agencies generally excuse absence without charge to leave. See DoD 1400.25-M, subchapter 630 (reference (u)).

- ★ 051602. Blood Donation. Employees who serve as blood donors shall be excused from work without charge to leave for the time necessary to donate the blood, for recuperation following blood donation, and for necessary travel to and from the donation site (30 Comp. Gen. 521 (1951)) (reference (p)). This provision does not cover an employee who gives blood for his or her personal use or receives compensation for giving blood. See DoD 1400.25-M, subchapter 630 (reference (u)).
- ★ 051603. Closure of Installations or Activities. Administrative leave may be granted when employees are prevented from working due to extreme weather conditions or other severe disruptions.
- ★ 051604. Tardiness and Brief Absence. Comptroller General decisions limit discretion to grant excused absence to situations involving brief absences. Where absences are for other than brief periods of time, a grant of excused absence is not appropriate unless the absence is in connection with furthering a function of the Department. The absence also may be compensated for by additional work or may be charged against any compensatory time the employee may have to his or her credit or may be charged to annual leave, LWOP (with the employee's consent), or AWOL. See DoD 1400.25-M, subchapter 630 (reference (u)).
- ★ 051605. Registering and/or Voting. Excusal from duty is authorized for registering and/or voting in any election or referendum for a reasonable period of time. Generally, employees are excused from duty to permit them to report for work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever results in 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 schedules. See DoD 1400.25-M, subchapter 630 (reference (u)).
- ★ 051606. Taking Examinations. This applies only to examinations given by or taken at the request of the employing activity. Employees shall be excused, without charge to leave or loss of pay, for all examinations required for converting to career-conditional appointments or for required noncompetitive examinations within the same employing activity. See DoD 1400.25-M, subchapter 630 (reference (u)).
- ★ 051607. Attending Conferences or Conventions. Employees may be excused to attend conferences or conventions when it is determined that the attendance will serve the best interest of the federal service. Such absences may be restricted to those situations in which the employee is an official representative of the organization involved 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.
- ★ 051608. Representing Employee Organizations. Representative leave hours shall be reported by three separate categories. The categories are negotiations, grievance and appeals, and on-going labor and management committees. Absence charged as representative leave may be subject to the provisions of local negotiated agreements and/or supervisory approval. See 5 C.F.R. 551.424 (reference (l)) for additional information.

★ 051609. Official Duty Status - Funerals of Fellow Federal Law Enforcement Officers or Federal Firefighters. Excused absence from duty without loss of pay or leave may be granted for a federal firefighter or federal law enforcement officer to attend the funeral of a fellow federal firefighter or federal law enforcement officer who was killed in the line of duty. See 5 U.S.C. 6327 (reference (b)). When excused from duty, attendance at the service shall be considered official duty for the firefighter or officer for the purposes of 31 U.S.C. 1345(1) (reference (d)).

#### 0517 COURT LEAVE

051701. General. Employees are authorized court leave with pay when summoned in connection to serve as a juror; or as a witness in a nonofficial capacity on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. See 5 U.S.C. 6322 (reference (b)).

051702. Annual Leave. If an employee is on annual leave when called for jury duty or witness service, court leave shall be substituted. No charge shall be made to annual leave for the court service.

051703. Requirements. An employee who is under proper summons from a court to serve on a jury should be granted court leave for the entire period, regardless of the number of hours per day or days per week he actually serves on the jury during the period. Jury service for which an employee is entitled to court leave does not include periods when the employee is excused or discharged by the court, either for an indefinite period, subject to call by the court or for a definite period in excess of 1 day. Therefore, an employee may be required to return to duty or be charged annual leave if excused from jury service for 1 day or even a substantial part of a day. The employee may not, however, be required to return to duty if it would cause a hardship.

051704. Intermittent Employees. Intermittent employees are not eligible for court leave (49 Comp. Gen. 287 (1969)) (reference (p)).

051705. Nonexempt Employees. Nonexempt employees shall not have their pay reduced under FLSA (reference (n)) due to court leave for jury duty or witness service during their regularly scheduled tour of duty (5 U.S.C. 6322) (reference (b)). The Comptroller General has determined that the court leave provision provides authority to pay nonexempt employees the same pay as they otherwise would receive for their regularly scheduled tour of duty in the biweekly pay period under FLSA (62 Comp. Gen. 216 (1983)) (reference (p)).

051706. Documentation. When an employee is called for court service (as a witness or juror), the court order, subpoena, or summons, if one was issued, must be presented to the supervisor as far in advance as possible.

051707. Jury Duty Service Payment. Employees who perform jury duty service on behalf of:

- A. A state or local court is paid jury duty fees;

B. The United States or District of Columbia Government are not paid jury duty fees (5 U.S.C. 5537) (reference (b)).

051708. Witness Service Payment. Employees who perform witness service on behalf of:

A. A state or local government in a nonofficial capacity is paid witness fees.

B. A private party in a nonofficial capacity to which the United States, District of Columbia, or a state or local government is a party is not paid witness fees.

051709. Certificate of Attendance. The employee cannot retain fees received for jury duty and witness service performed in subparagraphs 051707.A. and 051708.A. The employee must submit fees received for jury or witness service by money order or personal check to the employing activity. A certificate of attendance from the clerk of the court must also be submitted. The certificate shows inclusive dates of jury duty or witness service and amount of fees the court paid to the employee. The certificate of attendance separately should identify fees and allowances. Fees received by the employee are collected while allowances are not collected. If the certificate of attendance does not identify allowances separately, all moneys are considered fees and shall be collected. The employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned and may keep fees that exceed the employee's compensation for the days of service. 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.

★ 051710. Retention of Fees. Fees should not be paid for jury duty or witness service performed in subparagraphs 051707.B. and 051708.B. If fees are paid to an employee while serving in a nonofficial capacity, however, the employee cannot retain those paid fees. Such fees must be turned in to the customer service representative (CSR) at the employing activity. An employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned.

051711. Official Capacity. Employees who perform witness service in an official capacity on behalf of the U.S. or District of Columbia Government, a state or local government, or a private party shall not be paid witness fees nor shall the time served as a witness be charged to court leave or annual leave. The time shall be recorded as official duty. If any fees are paid, they must be turned in to the employing activity.

051712. Nonofficial Capacity. Employees who testify in a nonofficial capacity on behalf of a private party to which the United States, the District of Columbia, a state, or local government is not a party are not entitled to court leave. The employee must take annual leave or LWOP. He or she is entitled to the fees and expenses related to such witness service.

051713. Holiday. When a holiday occurs during the time an employee is on jury duty or witness service, the employee can keep the jury duty or witness service fee paid for the holiday.

051714. Nonworkday. If an employee is called to jury duty on a nonworkday, the employee may keep the fees paid.

★ 051715. Submission of Fees. Moneys submitted to the payroll office from the CSR for fees collected by employees for jury duty or witness service shall be accounted for on a DD Form 1131. Under 5 U.S.C. 5515 (reference (b)), the appropriation and accounting classification that paid the employee's salary while on jury duty or witness service will be credited with these moneys.

051716. Employee Absence. See Table 5-4 for employee absences for court or court-related services.

051717. Payroll Deduction. Fees not submitted in a timely manner are subject to payroll deduction. Payroll deductions to collect the fees will be made in the next regular pay period.

#### 0518 MILITARY LEAVE

051801. General. Public Law 96-431 (reference (e)), as codified at 5 U.S.C. 6323 (reference (b)), provides, that effective October 1, 1980, military leave shall be made available to eligible employees on a fiscal year rather than a calendar year basis; unused military leave up to 15 calendar days shall be allowed to accumulate for subsequent use; and eligible part-time employees, as defined by 5 U.S.C. 3401(2) (reference (b)), are entitled to military leave on a prorated basis. Employees with temporary appointments of 1 year or less, or intermittent work schedules are not entitled to military leave. Employees with appointments exceeding one year are entitled to military leave.

★ 051802. Reduction of Civilian Pay. Under the provisions of 5 U.S.C. 5519 (reference (b)), an employee's civilian pay is reduced by the amount (other than a travel, transportation, or per diem allowance) received by the employee for military service as a member of the Reserve or National Guard for a period for which he is granted military leave for law enforcement assistance under 5 U.S.C. 6323(b) or (c) (reference (b)). When the employee uses annual leave or compensatory time, the offset rules do not apply and the employee receives full military pay and full civilian pay. Refer to subparagraph 080512. for further information.

★ 051803. Weekend Drills. Civilian employees whose regular workweek includes Sunday, may not take military leave under 5 U.S.C. 6323(a) (reference (b)) to attend weekend drills since an employee, as a member of a Reserve Component of the Armed Forces, is entitled to military leave under 5 U.S.C. 6323(a) (reference (b)) only if on active duty. Weekend drills are considered inactive duty. See Comp. Gen. B-202564 (reference (p)).

051804. Recording Military Leave. At the beginning of each fiscal year (1 October) eligible full-time employees shall be credited with 15 calendar days of military leave. Eligible part-time employees shall be credited with leave on a prorated basis. The percentage is determined by dividing 40 into the number of hours in the employee's regularly scheduled workweek during

that fiscal year. Any portion of the leave unused at the end of the fiscal year, not to exceed 15 days, shall be carried forward to the next fiscal year. New eligible employees and new members of Reserve components shall be credited with the full 15 days (prorated if employed part-time) when entering upon duty or upon joining the Reserve unit. It shall not be prorated for a partial year.

051805. Military Leave Charges. To substantiate leave charges, an employee is required to submit a copy of the orders directing him or her to active military duty and a certified verification of attendance indicating completion of training duty upon return to duty from military leave. Military leave is charged on a calendar-day basis. No charge is made to nonworkdays at the beginning and end of a period of absence on active military duty, but all intervening nonworkdays falling within the period of active military duty must be charged to military leave. If an employee has separate sets of orders or orders which cover separate periods of time, with return to civilian status between the periods covered in the orders, military leave shall not be charged for the time the employee is returned to civilian status. Military leave may be taken intermittently, a day at a time, or all at one time, regardless of the number of training sessions.

051806. Effective Date of Separation for Military Duty. Before a Reserve or National Guard member is separated from civilian employment, the member must be given the chance to use any accrued military leave. If a member takes military leave and is then separated, the date the separation is effective shall be the date the military leave expires.

051807. Pay Status Required. A maximum of 30 days of military leave can be used in any fiscal year. The military leave may be used during one or more periods of military duty during the fiscal year. Employees can take the full 15 days of military leave immediately at the beginning of a fiscal year even if up to a maximum of 30 days had been taken during the prior fiscal year and even if the military duty is continuous (70 Comp. Gen. 263 (1991)) (reference (p)).

051808. Nonexempt Employees. Nonexempt employees shall not have their pay reduced under FLSA due to military leave for training. Employees shall receive the same pay as they would otherwise receive for their regularly scheduled biweekly tour of duty.

★ 051809. Reserve or National Guard Members. Permanent or temporary indefinite (including all appointments exceeding one year) employees who as Reserve or National Guard members provide military aid to enforce the law or assistance to civil authorities in the protection or saving of life or property or the prevention of injury are also entitled to leave not to exceed 22 workdays in a calendar year. At the employee's request, the period the employee is absent to perform service may be charged to the employee's accrued annual leave or available compensatory time balance. It may not be charged to sick leave. See 5 U.S.C. 6323(b) (reference (b)). A copy of the orders and a certificate of attendance is required. Leave granted for these purposes are charged in hours. The 22 workdays are converted to 176 hours and charged on the same basis as annual and sick leave. An employee working an uncommon tour of duty shall have this additional leave entitlement adjusted on a pro rata basis (49 Comp. Gen. 233 (1969)) (reference (p)).

★ 051810. National Guard of the District of Columbia. Employees who are members of the National Guard of the District of Columbia are entitled to leave without loss in pay or leave for each day of a parade or encampment ordered or authorized under title 39, District of Columbia

Code (reference (aq)). This covers each day of service, or a portion thereof, the National Guard is ordered to perform by the commanding general. See 5 U.S.C. 6323(c) (reference (b)).

★ 051811. Military Reserve Technicians. Under P.L. 104-106 (reference (e)), employees who are defined by 5 U.S.C. 8401(30) (reference (b)) as military reserve technicians are entitled to an additional 44 workdays of military leave in a calendar year. See 5 U.S.C. 6323(d) (reference (b)). This military leave is in addition to the military leave already available under 5 U.S.C. 6323(a), (b), and (c) (reference (b)). To be eligible for military leave, the military reserve technician must be on active duty without pay under section 12301(b) or 12301(d) of 10 U.S.C. (reference (ar)) (other than active duty during a war or national emergency declared by the President of Congress) for participation in noncombat operations outside the United States, its territories, and possessions. A copy of the military orders or a statement by the employee's commanding officer which shows either 10 U.S.C. 12301(b) or 12301(d) (reference (ar)) authority is required as acceptable evidence that the military duty was performed and was without military pay. The compensation of an employee granted leave under 5 U.S.C. 6323(d)(1) (reference (b)) shall not be reduced by reason of such absence. An employee shall receive the same pay he or she would have received for the regularly scheduled work. The carryover of all or a portion of the 44 workdays is not permitted. There is no charge for holidays and nonworkdays. At the employee's request, the period the employee is absent to perform service may be charged to the employee's accrued annual leave or available compensatory time. It may not be charged to sick leave. See 5 U.S.C. 6323(d)(2) (reference (b)).

0519 EDUCATORS LEAVE. See subparagraph 070201.M. for provisions on educator's leave.

0520 SHORE LEAVE

052001. General. An officer, crew member, or other employee serving aboard an oceangoing vessel on an extended voyage may be granted leave of absence under 5 U.S.C. 6305(c) (reference (b)) and 5 C.F.R. 630.701-630.704 (reference (l)) at a rate not to exceed 1 day for each 15 calendar days of absence on one or more extended voyages. An employee has an absolute right to use shore leave, subject to the right of the head of the agency to fix the time at which shore leave may be used.

052002. Extended Voyage. Shore leave accrues for service by employees on an extended voyage. An extended voyage must be at least 7 consecutive calendar days long, including voyage-preparation time on board the vessel.

052003. Employee Record. An employee earns shore leave at the rate of 1 day of shore leave for each 15 calendar days of absence on one or more extended voyages. The master of the vessel will keep a record of accrual and use of shore leave for each employee.

052004. Time and Attendance Report. Civilian payroll offices shall accept shore leave taken on the time and attendance report.

052005. Request by Employee. Shore leave may be granted during a voyage at the request of the employee. An employee must submit the request in writing; if the shore leave is denied, the denial must be in writing.

052006. Limitation. Shore leave is in addition to annual leave. It may be accumulated for future use without limitation.

052007. Minimum Charge. The minimum charge for shore leave is 1 day. Additional charges are in whole days.

052008. Lump-Sum Leave Payment. Shore leave is not included for lump-sum leave payment.

052009. Forfeiture. Shore leave is forfeited if not granted before:

A. Separation from the service; or

B. Official assignment (other than for temporary detail) to a position in which the employee does not earn shore leave. To the extent administratively practicable, the employing activity shall give an employee an opportunity to use the shore leave to his or her credit either before the reassignment, or not later than 6 months after the date of the reassignment when the employing activity is unable to grant the shore leave before the reassignment.

052010. Transfer. At the time of an employee's transfer to a position at another employing activity or agency, accumulated shore leave shall be transferred if:

A. He or she is entitled to shore leave in the new position, and

B. There is no break in service.

## 0521 HOME LEAVE

★ 052101. General. Employees who met the requirements of 5 U.S.C. 6304(b) (reference (b)) for the accumulation of a maximum of 45 days of annual leave earn home leave. Home leave is earned from the day of arrival in a post of duty outside the United States or on the date of entrance on duty when recruited abroad. Employees earn 5, 10, or 15 days of leave based on the criteria established in 5 C.F.R. 630.604(a) (reference (1)). Employees may be granted home leave after completion of a one-time basic service period of 24 months of continuous service abroad. The minimum charge is 1 day and multiples thereof. There is no maximum accumulation. Balances shall be retained on the SF 1150 for future use. Home leave is to be granted only during an employee's period of service abroad, or within a reasonable period after return from service abroad when it is contemplated that the employee will return to service abroad immediately or on completion of an assignment in the United States (unpub. Comp. Gen. Decision, B-147031, September 11, 1961, and February 5, 1962) (reference (p)).

052102. Indebtedness. An employee is indebted for the home leave used when he or she fails to return to service abroad after the period of home leave, or after the completion of an assignment in the United States. However, a refund for this indebtedness is not required when the employee has completed not less than six months' service in an assignment in the United States following the period of home leave; the employing activity determines that the employee's failure to return was due to compelling personal reasons of a humanitarian or compassionate nature, such as involving physical or mental health or circumstances over which the employee has no control; or the employing activity which granted the home leave determines that it is in the public interest not to return the employee to the overseas assignment. Home leave can only be used in the United States, Commonwealth of Puerto Rico, or a territory or possession of the United States. For additional information, see 5 U.S.C. 6305(a) (reference (b)) and 5 C.F.R. 630.601-630.607 (reference (l)).

052103. Transfer and Recredit of Home Leave. An employee is entitled to have the home leave account transferred or recredited when he or she moves between agencies or is reemployed without a break in service of more than 90 days. No lump-sum payment is made for home leave.

## 0522 FUNERAL LEAVE

052201. General. 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 a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. Title 5, United States Code, section 6326 (reference (b)) requires an activity to grant an employee funeral leave as is needed and requested, not to exceed 3 workdays, without loss of or reduction in pay, leave to which he or she is otherwise entitled, or credit for time or service, and without adversely affecting his or her performance or efficiency rating. The 3 days need not be consecutive, but if not, the employee shall furnish the approving authority satisfactory reasons justifying a grant of funeral leave for nonconsecutive days. Combat zone means those areas determined by the President under the authority of 26 U.S.C. 112 (reference (ad)). An activity may grant funeral leave only from a prescribed tour of duty, including regularly scheduled overtime. Immediate relatives are the following relatives of the deceased member of the Armed Forces:

- A. Spouse and his or her parents;
- B. Children, including adopted children, and their spouses;
- C. Parents;
- D. Brothers and sisters, and their spouses;
- E. Any person related by blood or affinity whose close association with the deceased was the equivalent of a family relationship. See 5 C.F.R. 630.801-630.804 (reference (l)) and 5 U.S.C. 6326 (reference (b)).

★ 052202. Official Duty Status. Refer to paragraph 051609 for information concerning the official duty status of an employee in connection with funerals of fellow federal law enforcement officers or federal firefighters under second 5 U.S.C. 6327 (reference (b)).

0523 CONTINUATION OF PAY (COP) AND OFFICE OF WORKERS' COMPENSATION PROGRAM (OWCP). For information on COP and OWCP, see section 0312. See subparagraph 050104.B. for proration of leave.

0524 FURLOUGH

052401. General

★ A. Use. A furlough action is the placement of an employee in a temporary nonduty and nonpay status on a continuous basis (for example, 10 consecutive days), or a noncontinuous basis (for example, one day a week) because of lack of work or funds or for other nondisciplinary reasons. An SF 50 must be issued for furlough. Reduction-in-Force (RIF) procedures under 5 C.F.R. 351.201 (reference (1)) must be followed to furlough an employee when the furlough will be for more than 30 consecutive days (or more than 22 workdays if done on a noncontinuous basis), if caused by one of the reasons in 5 C.F.R. 351.201 (reference (1)), and is not in accordance with preestablished conditions of employment. See 5 C.F.R. Part 752 (reference (1)) for additional information.

B. Time Limit. An employee may be furloughed for up to 1 year. The 1-year limit begins the day after the notice period ends and when the furlough begins.

C. Exclusions

★ 1. Placement in nonpay and nonduty status in accordance with preestablished conditions of employment is not a RIF action, but is covered by the requirements in 5 C.F.R. Part 340 (reference (1)).

2. A furlough for 30 days or less (or 22 workdays or less if done on a noncontinuous basis) is not a RIF action but is covered by the adverse action procedures.

0525 ABSENCE FOR MILITARY DUTY

★ 052501. General. Whether an employee is placed on a leave of absence or military separation while absent on military duty depends on the authority under which the employee enters on military duty. A member of a Reserve Component who performs active duty for training or inactive duty training covered under 38 U.S.C. 2024(d) (reference (as)) must be granted a leave of absence upon request. Similarly, an employee is entitled to a leave of absence for the period required to report for induction, enlistment, or to determine by preinduction or other examination the employee's physical fitness to enter the Armed Forces under 38 U.S.C. 2024(e) (reference (as)).

★ 052502. Provisions Under 5 U.S.C. Chapter 83. An absence to perform military duty under any other section of Title 38, United States Code, (reference (as)) ordinarily should be

processed as a military separation except during a period of war or national emergency when the provisions of 5 U.S.C. 8332(g) (reference (b)) have been explicitly invoked. In this situation, all employees who enter on military duty will be granted a leave of absence unless an employee has applied for and received a lump-sum credit under 5 U.S.C. Chapter 83 (reference (b)). See 38 U.S.C. 2021 *et seq.* (reference (as)) and 5 C.F.R. Part 353 (reference (l)). Refer to paragraph 051805. for additional information.

#### 0526 LEAVE WITHOUT PAY (LWOP)

★ 052601. Employee Request. LWOP is a temporary nonpay status and absence from duty granted at the employee's request. Employee requests for paid leave absence, such as annual or sick leave, when such absence converts to LWOP because of insufficient leave available, are considered to be the requests for LWOP.

052602. Authorization. Authorizing LWOP is a matter of administrative discretion. An employee cannot demand LWOP as a matter of right except as follows:

A. Disabled veterans are entitled to LWOP if required for medical treatment under Executive Order 5396, July 17, 1960, (reference (s)).

B. Reserve and National Guard members are entitled to LWOP if required to perform military training duties under 38 U.S.C. 2024(d) (reference (as)). See paragraph 052501.

C. For limited periods, employees are entitled to LWOP if receiving injury compensation under 5 U.S.C. chapter 81 (reference (b)).

052603. Leave Conversion. LWOP granted an employee may not, at a later time, be converted to annual or sick leave except in the case of administrative error, participation in the voluntary leave transfer or voluntary leave bank programs, disability retirement and employee compensation cases in which claims are disallowed or when there has been a settlement or an order of an arbitrator, administrative law judge, or federal judge in an employee dispute.

052604. Reduction of Leave Accrual. When the number of LWOP status hours in a full-time employee's leave year equals his or her biweekly tour of duty (i.e., 80, 112, 144 hours), the employee's leave accrual is reduced by an amount equal to the amount of leave (sick and annual) earned during a pay period. When reduction of accrual is required during the last pay period in the calendar year for an employee in the 6-hour leave accrual category (entitled to accrue 10 hours of leave in such period), leave accrual for that period shall be reduced only by 6 hours. When an employee has one or more breaks in service during the leave year, include all hours in a LWOP status (other than nonpay status during a fractional pay period when no leave accrues). When an employee's number of LWOP hours at the end of the leave year is less than his or her biweekly tour of duty, the LWOP hours are dropped.

#### 0527 ABSENCE WITHOUT LEAVE (AWOL)

052701. General. An absence from duty which is not authorized or approved, or for which a leave request has been denied, is properly charged as AWOL although disciplinary action may be taken on the basis of AWOL. It does not necessarily mean that the employee has insufficient reason for requesting leave but that the employee's presence was required and the reason for requesting leave was one for which approval is not mandatory. AWOL shall be charged on the time and attendance report and leave record for the exact amount of time the employee is AWOL.

052702. Reduction of Leave Accrual. When the number of AWOL status hours in a full-time employee's leave year equals his or her biweekly tour of duty (i.e., 80, 112, 144 hours), the employee's leave accrual is reduced by an amount equal to the amount of leave (annual and sick) earned during the pay period. When reduction of accrual is required during the last pay period in the calendar year for an employee in the 6-hour leave accrual category (entitled to accrue 10 hours of leave in such period), leave accrual for that period shall be reduced only by 6 hours. When an employee has one or more breaks in service during the leave year, include all hours in a AWOL status (other than nonpay status during a fractional pay period when no leave accrues). When an employee's number of AWOL hours at the end of the leave year is less than his or her biweekly tour of duty, the AWOL hours are dropped.

0528 SUSPENSION. Suspension is the placement of an employee in a temporary nonpay and nonduty status for disciplinary reasons. An SF 50 must be issued for all suspensions. See 5 U.S.C. chapter 75 (reference (b)) and 5 C.F.R. Part 752 (reference (l)).

**Leave Proration for Fractional Pay Periods**

Biweekly Pay Period	Hourly Accrual Rate		
	Workdays	Category 4 *	Category 6
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8

\* This column may be applied for sick leave purposes.

Table 5-1 (Leave Proration for Fractional Pay Periods)

**Leave Conversion Matrix**

If the hours available to an employee are insufficient to cover the hours used or requested, the precedence for charging the excess is as follows:

TYPE OF HOURS USED OR REQUESTED	COMP TIME *	ANNUAL LEAVE WITH USE OR LOSE	ANNUAL LEAVE WITH NO USE OR LOSE	RESTORED LEAVE (OLDEST ACCOUNT FIRST)	LEAVE WITHOUT PAY	CREDIT HOURS	DONATED LEAVE FOR FAMILY	DONATED LEAVE FOR EMPLOYEE	REIN- STATED LEAVE
ANNUAL LEAVE	1			2	6	5	4		3
SICK LEAVE	2	1	5	3	8	7		6	4
COMP TIME		1	4	2	6	5			3
MILITARY LEAVE	2	1	5	3	7	6			4
RESTORED LEAVE**	2	1	4		6	5			3
TRAUMATIC INJURY (COP)					1				
MILITARY LEAVE FOR LAW ENFORCE- MENT	2	1	5	3	7	6			4
HOME LEAVE	2	1	5	3	7	6			4
SHORE LEAVE	2	1	5	3	7	6			4
EDUCATORS LEAVE***					1				
REINSTATED LEAVE	2	1	4	3	6	5			
CREDIT HOURS	2	1	5	3	6				4
PGS INCENTIVE					1				
TIME OFF AWARDS ****	2	1	5	3	7	6			4
ANY PURPOSE LEAVE					1				

If no hours are available, LWOP should be charged.

\* The oldest compensatory time within the 26 pay period limitation will be charged first, then any grandfathered compensatory time in the separate compensatory time account, if available. DCPS implementation is scheduled for June 1998.

\*\* All restored leave account balances will be used prior to converting to annual leave.

\*\*\* Educators leave converts directly to LWOP. Usable annual leave that is grandfathered is kept manually.

\*\*\*\* This conversion occurs if the payroll office has not received notification of the granting of the award within two pay periods after the usage.

Table 5-2 (Leave Conversion Matrix)

**Time Limitations for Use of Reinstated Leave**

Full-Time Employees	
Hours in excess of maximum accumulation	Time limitation for use of reinstated leave (end of leave year in progress after)
416 or less	2 years
417 – 624	3 years
625 – 832	4 years
833 – 1040	5 years
1041 – 1248	6 years

Part-Time Employees	
Hours in excess of maximum accumulation	Time limitation for use of reinstated leave (end of leave year in progress after)
If 208 or less multiply tour of duty by 20% (1040 x 20% = 208)	2 years
209 – 312 multiply tour of duty by 10% (1040 x 10% = 104)	3 years
313 – 416	4 years
417 – 520	5 years
521 – 624	6 years

Table 5-3 (Time Limitations for Use of Reinstated Leave)

**Employee Absences for Court or Court-Related Services**

Nature of Service	Type of Absence			Fees		Government Travel Expenses		
	Court leave	Official duty	Annual leave or LWOP	No	Yes		No	Yes*
					Retain	Turn in to agency		
I. JURY SERVICE								
A. U.S. or D.C. court	X			X			X	
B. State or local court	X					X	X	
II. WITNESS SERVICE								
A. On behalf of U.S. or D.C. Government		X		X				X
B. On behalf of state or local government:								
1. Official capacity		X				X		X
2. Non-official capacity	X					X	X	
C. On behalf of a private party:								
1. Official capacity		X				X		X
2. Non-official capacity:								
a. When party is U.S., D.C. or state or local government	X					X	X	
b. When party is not U.S., D.C. or state or local government			X		X		X	

\* Offset to the extent paid by the court, authority or party that caused the employee to be summoned.

Table 5-4 (Employee Absences for Court or Court-Related Services)