

ARTICLE 15
LEAVE

Section 15.01 - General.

- (1) Accrual of Sick and Annual leave and use of all leave shall be in accordance with applicable laws, regulations, and this Agreement.
- (2) Employees shall use the Department's automated time and attendance system, or any successor system to request all leave. When an employee is unavailable due to leave or a non-duty status at the end of the pay period, the Department will ensure that the employee's time and attendance is processed timely according to applicable guidance.
- (3) In cases where it is not practicable to submit a request in advance using the departmental time and attendance system the employee shall do so upon return to duty.
- (4) Employees should request, in advance, approval of anticipated leave. Leave requests must be approved or disapproved by the supervisor or their designee. Employees will be informed of whether their requests for leave have been acted on promptly taking into account the start date of the leave and other relevant circumstances. When requests are made to use leave on the following day, the response will be made as soon as possible, but no later than the end of the employee's work day, if feasible.
- (5) Employees are responsible for informing their supervisor or designee, if known, of a request for unscheduled leave as soon as possible, but no later than one (1) hour after the core hours begin. A call in does not necessarily constitute leave approval; however if the supervisor or designee intends to deny the leave, the supervisor will contact the employee promptly. If the employee is unable to personally advise the supervisor or designee, any responsible person may request the leave on behalf of the employee. If the supervisor or their designee is not available, the person requesting the leave or the employee shall provide appropriate contact information. If the employee requesting the unscheduled leave provides an estimate of the date when they shall return to work and the leave is approved by the supervisor, the employee need not be required to call in again unless the date of their return changes.
- (6) Leave shall normally be approved by the supervisor unless the employee's services are required to meet an operational need.
- (7) All leave shall be requested and used in increments of one-quarter hour.
- (8) Employees will not be denied leave based solely on their leave balance as long as leave is available.
- (9) When leave is denied the reasons for the denial will be in accordance with this Article and provided to the employee in the departmental time and attendance system. An alternative written response will be provided to the employee if the automated system is not available.

- (10) Leave denial should not be used as a form of discipline.
- (11) The impact and implementation of changes to the Department's automated departmental time and attendance system, or any future automated leave system, shall be negotiated in accordance with government-wide law, regulation and this Agreement.
- (12) Management will ensure that proper procedures are in place to protect employees' information. Information regarding types of approved leave and information in support of leave requests are confidential.
- (13) Employees may, upon supervisory approval, change authorized types of leave.
- (14) The Department shall maintain an internal web page on leave administration.
- (15) An employee may grieve denial(s) of leave.
- (16) Employees may be granted extended absence by combining accrued leave (excluding sick leave) and/or LWOP for such reasons as, but not limited to, unpaid sabbatical, education, personal development, religious activities, career enhancement and relocation. Such leave shall be subject to operational needs and supervisory approval. Such activities may be subject to HUD Standards of Conduct regulations; managers and employees are encouraged to consult with their HUD Ethics Official regarding such matters.
- (17) The following additional provisions shall apply to employees working Maxiflex Schedules:
 - (a) For Maxiflex Schedules, an employee who is on annual, sick, or other leave for a full or partial workday shall be charged leave according to the number of hours they were scheduled to work for that day.
 - (b) When an employee's scheduled day off falls on a holiday, the employee shall be entitled to an in-lieu-of holiday on the immediately preceding workday.
 - (c) For Maxiflex Schedules, an employee shall be credited with holiday leave according to the number of hours they were scheduled to work on that holiday.
 - (d) The amount of excused absence to be granted to an employee working a Maxiflex Schedule shall be based on the employee's scheduled tour of duty on the day on which the excused absence is granted. An employee shall not be entitled to an excused absence on their scheduled day off, regardless of whether excused absences are granted to other employees in the same work unit on that day.
 - (e) Any other necessary determinations with respect to the crediting or use of leave under flexitime, credit hours, and/or Maxiflex Schedules shall be made in accordance with OPM regulations.

18(1) For the purpose of this Article health care provider is defined as (1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations;

(2) any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question; (3) a health care provider as stated in (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of their practice as defined under such law; (4) a Christian Science Practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or (5) a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with public law.

Section 15.02 - Annual Leave.

- (1) Annual leave is a right of the employee and not a privilege. Annual leave shall be requested in advance and shall be acted on promptly.
- (2) The approval of annual leave requested in advance by a supervisor shall be governed by the following:
 - (a) The number of employees granted leave during any given period shall be governed by operational needs as defined in Article 16 of this Agreement.
 - (b) Employees shall be responsible for making timely requests for their annual leave in accordance with their personal desire and the provisions stated below.
 - (c) Supervisors shall approve annual leave, to the extent practicable, in a manner which permits each employee to take at least two (2) consecutive weeks in each year.

Section 15.03 - Annual Leave Schedules. Except for requests for annual leave of five (5) days or fewer falling within an administrative workweek, all requests for annual leave shall be subject to the following:

- (1) Employees shall request leave sufficiently in advance of peak use periods (i.e., June, July, August, November, and December) to permit scheduling. Leave schedules shall be established and posted in a conspicuous place.
- (2) When it is impracticable to grant all requests for annual leave for a given period, including, in this case, leave for five (5) days or fewer, the supervisor shall provide the affected employees with the opportunity to work out leave conflicts prior to resolving the conflict. If it is necessary for the supervisor to resolve a conflict, the relative importance of each of the following criteria shall be considered:

- (a) Employees with "use or lose" leave, especially in the cases where the period involved is at the end of the leave year.
 - (b) The amount of leave to an employee's credit.
 - (c) Relative need of employees for taking leave at a specific time.
 - (d) Whether the employee had to reschedule or forego leave in a similar scheduling conflict.
- (3) If an employee wishes to change scheduled leave, their leave shall be approved if workload permits. If workload does not permit, they shall be provided an opportunity to interchange leave periods with an employee who has similar skills and duties, with the concurrence of the supervisor.

Section 15.04 - Annual Leave Denial or Cancellation.

- (1) In the case of annual leave denial or cancellation, the supervisor and the employee should discuss an alternative time to reschedule the leave request, to ensure that the leave shall not be forfeited.
- (2) In no case shall any particular time of the year or season, be excluded from consideration for the granting of annual leave for reasons other than operational needs.
- (3) The Department will make every reasonable effort to manage the workload so as to avoid rescinding previously approved leave. It is understood that the possible reimbursement for financial loss resulting from the rescinding of previously approved leave is not covered by this Agreement.

Section 15.05 - Advanced Annual Leave. Advanced annual leave may be approved at the discretion of the approving official. The amount of annual leave advanced may not exceed the number of hours that the employee would accrue during the remainder of the leave year. Employees are not required to exhaust other leave prior to approval for advanced leave.

Section 15.06 - Forfeiture and Restoration of Annual Leave. Employees are allowed to carry over 240 hours of annual leave from pay period 26 to pay period 1. Management shall remind employees sufficiently in advance of the end of the leave year of the pending deadline and the conditions of the employees' rights to restored leave under the provision of 5 CFR Part 630. Management shall process requests for restored leave in a timely manner.

Section 15.07 - Sick Leave.

- (1) In accordance with 5 CFR Part 630, the Department must grant sick leave to an employee when he or she:
 - (a) Receives medical, dental, or optical examination or treatment;

- (b) Is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth;
 - (c) (i) Provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or
 - (ii) Provides care for a family member with a serious health condition.
 - (d) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
 - (e) 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
 - (f) 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.
- (2) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraphs (1)(c)(i) and (d) of this section may not exceed a total of 104 hours (or, for a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave he or she normally accrues during a leave year).
- (3) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraph (1)(c)(ii) of this section may not exceed a total of 480 hours (or, for a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in their scheduled tour of duty each week), subject to the limitation found in paragraph (4) of this section.
- (4) If, at the time an employee uses sick leave to care for a family member with a serious health condition under paragraph (3) of this section, he or she has used any portion of the sick leave authorized under paragraph (2) of this section during that leave year, the agency must subtract that amount from the maximum number of hours authorized under paragraph (3) of this section to determine the total amount of sick leave the employee may use during the remainder of the leave year to care for a family member with a serious health condition. If an employee has previously used the maximum amount of sick leave permitted under paragraph (3) of this section in a leave year, he or she is not entitled to use additional sick leave under paragraph (2) of this section.
- (5) If the number of hours in the employee's tour of duty is changed during the leave year, their entitlement to use sick leave for the purposes described in paragraphs (1)(c) and (4) of this section must be recalculated based on the new tour of duty.

Section 15.08 - Advanced Sick Leave. An agency may advance a maximum of 30 days of sick leave to a full-time employee at the beginning of a leave year or at any time thereafter when required by the exigencies of the situation for a serious disability or ailment of the employee or a family member or for purposes relating to the adoption of a child. Thirty days is the maximum amount of advance sick leave an employee may have to their credit at any one time. For a part-time employee (or an employee on an uncommon tour of duty), the maximum amount of sick leave an agency may advance must be prorated according to the number of hours in the employee's regularly scheduled administrative workweek.

Section 15.09 - Documentation for Sick Leave.

- (1) In accordance with 5 CFR Part 630, the Department may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence. The Department 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. The Department may also require a medical certificate or other administratively acceptable evidence as to the reason for the absence for any of the purposes described in Section 24.07(1) for an absence in excess of 3 workdays or for a lesser period when the Department determines it is necessary.
- (2) An employee must provide administratively acceptable evidence or medical certification for a request for sick leave no later than 15 calendar days after the date the Department requests such medical certification. If it is not practicable under the particular circumstances to provide the requested evidence or medical certification within 15 calendar days after the date requested by the Department despite the employees diligent, good faith efforts, the employee must provide the evidence or medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the Department requests such documentation. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave.
- (3) The Department may require an employee requesting sick leave to care for a family member under Section 15.07 (1)(c) (ii) above to provide an additional written statement from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must certify that:
 - (a) The family member requires psychological comfort and/or physical care;
 - (b) The family member would benefit from the employee's care or presence; and
 - (c) The employee is needed to care for the family member for a specified period of time.
- (4) Requests for approval of sick leave for non-emergency medical, dental, or optical examinations or treatments shall be submitted, where practicable, at least one (1) workday in advance to the supervisor in the departmental time and attendance system.
- (5) In cases where it is not practicable to submit a written request in advance, the employee shall, upon return to duty, submit a written request in the departmental time and attendance system.

- (6) If an employee suffers from a chronic condition, which does not necessarily require medical treatment, although absence from work is necessary, the employee shall not be required to furnish a medical certificate if a medical certificate of the chronic condition has been previously furnished. However, the supervisor may periodically require that such documentation be updated.
- (7) Employees who, because of illness, are released from duty shall not be required to furnish a medical certificate to substantiate sick leave for the day released from duty. Subsequent days of absence may be subject to medical certification or a written statement from the employee of the nature of the illness.
- (8) For the purposes of Sick Leave, the employee will not be required to reveal diagnoses or details of their medical condition. However, medical certification or administratively acceptable evidence must indicate that the employee is incapacitated for work, and the period of incapacitation for work.
- (9) Family Care or Bereavement.
 - (a) Advance approval must be received for sick leave for family care or bereavement on the departmental time and attendance system. It must indicate the name and relationship of the family member; and provide an administratively acceptable certification/statement for an absence of more than three (3) consecutive days.
 - (b) Eligible employees may use sick leave to provide care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental or optical examination or treatment; and for bereavement purposes, i.e., to make arrangements necessitated by the death of a family member or to attend the funeral of a family member.
 - (c) All covered full-time employees may use a total of up to 104 hours of sick leave each year to provide care for these purposes. A part-time employee is entitled to an amount equal to the average number of hours of work in each week of the employee's scheduled tour of duty. A part-time employee who maintains a sick leave balance equal to at least twice the average number of hours of work in each week of the scheduled tour of duty may use an amount equal to the number of hours of sick leave normally accrued by the employee during a leave year for these purposes.

15.10 - Sick Leave Restriction. Abuse of sick leave shall not be determined solely on the basis of leave balance. In those cases where the supervisor has a reasonable belief that an employee is abusing their sick leave, the supervisor may discuss the matter and the employee shall be given the opportunity to explain their use of sick leave. An employee may choose to provide medical information to support the use of sick leave. Absent a reasonably acceptable explanation the employee should be counseled that continued and frequent use of sick leave, or use in unusual patterns or circumstances, may result in a written requirement to furnish acceptable documentation for each subsequent absence due to illness or incapacitation for duty regardless of duration.

- (a) If reasonable grounds continue to exist for questioning an employee's use of sick leave, the supervisor may request that the employee provide a medical certification indicating that the employee is under the care of a physician, is incapacitated for duty, and the expected duration of such incapacitation.
- (b) If reasonable grounds continue to exist for questioning an employee's use of sick leave, the employee may be placed on 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 a doctor's certificate. Any such written notice will describe the frequency, patterns or circumstances which led to its issuance, and will specify the termination date of the letter. At the end of the stated period, the Department will review the employee's situation and will notify the employee in writing if the leave restriction is no longer in effect. Restrictions may be renewed if there are reasonable grounds to believe that the abuse is continuing.

Section 15.11 - Advanced Sick Leave.

- (1) An employee who is ill or injured without sick leave to their credit may be advanced a maximum of thirty (30) days (two hundred forty (240) hours) sick leave. Application for advance sick leave must be supported by a medical certificate and signed by a physician or authorized practitioner. The advance sick leave provision does not apply to employees with probationary appointments. If intermittent use of advanced sick leave immediately following an absence due to injury or illness is anticipated, it must be requested when the advance sick leave is requested and approved in writing. The request must specify the frequency of use; otherwise the remaining advanced sick leave is forfeited when the employee returns to work.

Requests for advanced sick leave may be approved at the discretion of the approving official, based on the above, except in certain situations including but not limited to the following:

- (a) It is known or reasonably expected that the employee shall apply for disability retirement or voluntarily retire for health reasons;
- (b) The employee is absent for maternity reasons after the delivery of her child and the request is for a period of adjustment and/or to make arrangements for the care of the child;
- (c) The remaining time on a limited appointment would be insufficient to liquidate the advance by future accruals;
- (d) The employee is terminally ill;
- (e) Chronic ailments have necessitated the employee's absences in the past, and are expected to continue; or
- (f) The total illness lasts less than two (2) consecutive workdays.
- (g) Employees are not required to exhaust other types of leave prior to approval of advanced sick leave.

Section 15.12 - Administrative Leave. Administrative leave is time an employee is approved for absence from duty without loss of pay and without charge to accrued leave. Employees will make their request for administrative leave via the departmental time and attendance system as soon as practicable. If a third party verification is required to support the request it will be done outside the departmental time and attendance system, but will be noted in the system by the employee and/or the approving official. Administrative leave is treated as time worked for all purposes except that the employee is excused from their regular assigned duties. If administrative leave is granted to employees, all affected parties will be notified in a fair and timely manner.

The parties agree the reasons listed below for granting administrative leave are not all inclusive and that there may be other situations supporting a request for the granting of such leave. Such requests shall be considered based on the reasons presented at the time; the Department may require documentation as appropriate to support the reasons for and/or duration of such administrative leave requests.

- (1) **Hot or cold working conditions.** Employees may be granted administrative leave when the workplace experiences unusually hot (at or above 80 degrees F) or cold (at or lower than 65 degrees F) due to a breakdown of essential building services and the situation is expected to remain for a substantial period of time.
- (2) **Voting.** An employee may be excused to vote as follows:
 - (a) If the polls are not open at least three (3) hours, either before or after an employee's hours of duty, they may be allowed to report for work three (3) hours after the polls open or to leave work three (3) hours before the polls close, whichever is the lesser (see also Section 17.04(4)).
 - (b) If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is not permitted, sufficient time off may be granted to enable the employee to make the trip to the voting place. Where more than one (1) day is required, a liberal leave policy shall be observed, and time off in excess of one (1) day shall be charged to annual leave, if available, or to leave without pay.
 - (c) An employee may be excused for such additional time as may be needed by him/her to vote depending upon the particular circumstance in their individual case, but not to exceed one (1) full day.
 - (d) A reasonable amount of administrative leave, normally not to exceed up to two (2) hours, shall be granted for voter registration, except when it can be done by mail or on a non-workday.
- (3) **Blood Donation.** Upon advance request to their supervisor, employees may be granted up to four (4) hours of excused absence to donate blood. Additional time may be granted for the donation of Platelets, if circumstances warrant. Such absences shall include the amount of time necessary to travel to the donation site, donate blood, recuperate at the donation site, if needed, and return to work if the employee's tour of duty is not over.

- (4) **Tardiness and Brief Absences.** Brief absences from duty of less than one (1) hour and infrequent tardiness up to one (1) hour may be excused when reasons are justifiable to the supervisor, including but not limited to reasons such as inclement weather, emergencies, and transportation delays.
- (5) **Bone Marrow/Organ Donations.** Within established limits, employees may be granted excused absence for bone marrow or organ donation. An employee may be granted up to seven (7) days of excused absence per calendar year to serve as a bone marrow or organ donor. The employee must obtain advance written approval for any period of excused absence related to the bone marrow/organ donation process, using the departmental time and attendance system along with administratively acceptable evidence that the absence is related to a bone marrow or organ donation.
- (6) **Funeral Leave of an Immediate Relative In Armed Forces.** An employee shall be granted up to three (3) days of administrative/funeral leave to make arrangements for or attend the funeral or memorial services of an immediate family member who died as a result of wound, disease, or injury incurred while serving as a member of the armed forces in a combat zone. The leave need not be consecutive days however; the employee shall furnish the approving official satisfactory reasons justifying a grant of funeral leave for non-consecutive days. Additional information may be found in 5 USC 6326.
- (7) **Absence of Veterans to Attend Funeral Services.** An employee who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized or a member of an honor or ceremonial group of an organization of those veterans, may be granted administrative leave not to exceed 4 hours in any one day, to enable him/her to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States. Additional information may be found in 5 USC 6321.
- (8) **Unsanitary/Dangerous Conditions.** Employees may be granted administrative leave where conditions exist that may affect the health of employees (e.g. leaking pipes, bathroom facilities not functioning, lack of hot water, etc.).
- (9) **Court Leave.** Employees shall be granted administrative leave to serve as a juror or as a witness, when one of the parties is, the United States, District of Columbia or state or local government in a proceeding located in a State, territory, or possession of the United States including the Commonwealth of Puerto Rico or the Trust Territory of the Pacific Islands or the District of Columbia as required in 5 USC 6322. If the employee receives compensation and the court defines the compensation as "expense," the employee may retain the monies. If the court defines the compensation as "fee," the employee must remit the monies to the Department.
- (10) **Volunteer Activities.** To participate in Volunteer activities as defined in this Agreement.

- (11) **Military.** Employees shall be granted administrative leave based on their military or veteran status as provided by law, rule or regulation. Employees shall also be granted administrative leave based on a family relationship to a member of the armed forces, as provided by law, rule or regulation.

Section 15.13 - Dismissals during Emergency Situations. The designated Union representative shall be notified when a decision is made regarding any administrative leave under this Section. The following policies shall be followed unless superseded by directives of the Office of Personnel Management or the Telework Article:

- (1) **Emergency Occurs During Working Hours.** Leave shall be charged as follows based on the employee's duty or leave status as of the time set for dismissal:
- (a) **On Duty.** For non-teleworkers, the remainder of the day shall be charged to administrative leave. For teleworkers, the amount of excused time, if any, shall be consistent with the telework article and policy.
 - (b) **Departed Before Time Set for Dismissal, but after Notification.** The appropriate type of approved leave shall be charged from the time of departure to the time set for the dismissal. Administrative leave shall be charged from the time set for the dismissal to the end of the day.
 - (c) **On Approved Leave, but Scheduled to Report to Work Later.** The appropriate type of approved leave as scheduled is charged up to the time set for dismissal. Administrative leave shall be charged from the time set for the dismissal to the end of the day.
 - (d) **Approved Leave for the Entire Day.** The appropriate type of leave shall be charged up to the time of dismissal and the remainder of the day shall be charged to administrative leave.
- (2) **Emergency Occurs During Non-work Hours.** If the emergency condition prevented an employee from arrival or timely arrival at work, even though the workplace is not closed, the employee may be granted administrative leave for the absence. The amount of administrative leave granted will depend on where the employee lives, mode of transportation normally used by the employee, efforts the employee made to come to work, the success of other similarly situated employees, any physical disability of the employee; and or any local travel restrictions. Employees should contact their supervisors as early as practicable to explain the circumstances and provide an estimated arrival time at work.
- (3) **Liberal Leave Policy.** A liberal leave policy is instituted when the Office of Personnel Management, for Headquarters, or a Federal Executive Board, or its equivalent, in the Field Offices, has determined that the emergency conditions do not warrant closing Government offices in the area. In such instances, employees may use annual leave or LWOP without advance approval or providing detailed justification.

(4) **Federal Agency Closed by Administrative Order.**

- (a) **Pay Status.** Full-time and part-time employees who were in a pay status the last day immediately before the closing, including employees who were scheduled to be on approved, paid leave on the day(s) of the closing, shall not be charged leave or lose pay for the day(s) that the office did not open due to an emergency arising during the nonworking hours. The absence shall be charged to administrative leave.
- (b) **Non-pay Status.** Full-time and part-time employees who are in a non-pay status immediately before and after the day that the office is closed are not entitled to administrative leave for the day(s) that the office is closed. The employee shall be charged leave without pay.

Section 15.14 - Military Leave. The Parties recognize the value of service in the Armed Forces by employees. Any employee who meets the eligibility requirements of 5 USC 6323 shall be entitled to military leave. All military leave will be granted consistent with statutes, government wide rules, regulations and this Agreement. Any employee anticipating the use of military leave shall advise the employer as soon as possible of the anticipated dates of such leave and shall provide the appropriate documentation.

- (1) The Department will not arbitrarily deny any employee's request for military leave. Approval of the military leave shall be based on the copy of the orders provided by the employee.
- (2) Employees who are either voluntarily or involuntarily called to military training or a period of active duty beyond those provided for in the above referenced regulations shall be granted annual leave, credit hours, compensatory time or LWOP upon request.
- (3) In accordance with the applicable directives, and to welcome home employees who are called to active duty, eligible employees shall be granted five (5) days of administrative leave following every eligible deployment.
- (4) The Department will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act.

Section 15.15 - Leave without Pay (LWOP). Leave without pay is a temporary non-pay status and absence from duty for a specific period of time. LWOP may impact pay and benefits in accordance with applicable laws, rules and regulations. In addition to regulatory entitlements regarding the granting of LWOP, including FMLA, USERRA, etc., LWOP may be granted at the discretion of the supervisor for a variety of reasons. These reasons could include but are not limited to educational purposes, disability retirement, personal development, etc. LWOP will be processed in the same manner as annual leave and sick leave. Periods of LWOP which exceed 30 days must be documented by a personnel action.

Section 15.16 - Leave Entitlements under the Family and Medical Leave Act of 1993 (FMLA) and 5 CFR 630.

- (1) Within established limits of FMLA and 5 CFR Part 630, employees have an entitlement of up to twelve (12) administrative workweeks of unpaid leave during any (twelve) 12-month period for:
 - (a) Birth of a child and care of a newborn (within one (1) year after birth);
 - (b) Placement of a child with an employee for adoption or foster care (within one (1) year after placement);
 - (c) Care of a spouse, child, or parent of an employee, if such spouse, child, or parent has a serious health condition; or
 - (d) Serious health condition of the employee that makes the employee unable to perform the duties of their position.
- (2) If the employee invokes entitlement to FMLA leave, they shall be able to choose to substitute their annual leave or sick leave as available, or leave without pay under the FMLA. FMLA leave does not have to be taken as continuous days, but may be taken on a weekly or bi-weekly schedule with leave days interspersed with work days.
- (3) In an emergency, an employee shall be able to invoke their entitlement to FMLA leave on the day of the emergency.
- (4) The Department may not put an employee on FMLA leave and may not subtract leave from an employee's FMLA entitlement unless it has obtained confirmation from the employee of their intent to invoke leave under FMLA.
- (5) The Department will otherwise comply with all requirements under the FMLA. The Department will make readily available electronic information including but not limited to 5 CFR Part 630 on the Departmental website under the subject heading Family and Medical Leave Act (FMLA).
- (6) **Time Frames.** The Department agrees that the time frames established in 5 CFR Part 630 shall be the Departmental Policy and that the Department may waive the time frames.
- (7) **Medical Certification.** The Department agrees employees will not be required to submit medical documentation either initially or for recertification purposes that exceeds the requirements of 5 CFR Part 630 and will comply with the timeframes in the CFR. If the Department doubts the validity of the certification provided it may require, at the Department's expense that the employee obtain the opinion of a second health care provider designated or approved by the Department. Should the Department require a second opinion the time for the appointment(s) shall be considered duty or administrative time.
- (8) The Department official who issues a final decision to deny a FMLA certification will identify to the employee in writing the specific reason(s) for denial and notify the employee of their rights (Alternative Dispute Resolution (ADR), EEO Complaint process, Grievance process, or Merit Systems Protection Board process).

- (9) **FMLA Leave Balance.** If the Department is made aware that an employee is unable to track FMLA leave the employee shall receive written notification from the Department via US mail to their home address indicating how much time has been charged against their FMLA allotment prior to the exhaustion of the FMLA leave.

If an employee is on intermittent FMLA leave (chronic health condition, scheduled multiple treatments), they shall be able to review FMLA balances utilizing the departmental time and attendance system or through an inquiry to their supervisor.

- (10) **Employees returning from Workers Compensation.** An employee returning from Workers Compensation who meets the FMLA requirements may invoke their entitlement to FMLA leave.
- (11) **Protection of employment and benefits.** Employees who take FMLA shall be entitled to return to the Department to the same or equivalent position and benefits in compliance with 5 CFR Part 630.
- (12) **Additional Leave Provision.** As permitted by 5 CFR 630.1210, on a case by case basis, the Department shall consider requests for sick leave, annual leave, advanced sick leave, advanced annual leave, FMLA, LWOP, or any other discretionary leave.

Section 15.17 - Unauthorized Absences/Absent without Leave (AWOL).

- (1) An employee who fails to report for duty and has not received supervisory approval for leave or absence shall be carried in an absent without leave (AWOL) status for timekeeping purposes and may be subject to disciplinary action.
- (2) Employees will be notified of the periods for which AWOL is charged. AWOL may be changed to appropriate leave if it is later determined that the absence was excusable.

Section 15.18 - Compensatory Time for Religious Observances. To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the Department's mission, an employee whose personal religious beliefs require that they abstain from work at certain times of the workday or workweek must be permitted to work alternative work hours so that the employee can meet the religious obligation. Any employee who elects to work compensatory time for this purpose may be granted (in lieu of overtime pay) an equal amount of compensatory time off from their scheduled tour of duty. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay (including overtime pay). The compensatory time may be worked thirteen (13) pay periods before or after the compensatory time off.

- (1) **Requests.** Compensatory time off for religious observances and for compensatory time worked for religious observance shall be processed in the same manner (via departmental time and attendance system) as other requests for leave without the imposition of additional burdens or submission of written forms in hard copy.
- (2) **Supervisory Notification.** Employees shall notify their supervisor of their intent to work religious compensatory time in the same manner and under the same procedures as employees do for credit hours and or compensatory time. A grant of advanced compensatory time off shall be

repaid by the appropriate amount of compensatory time worked within a reasonable time, (i.e., thirteen (13) pay periods). If religious compensatory time is not repaid within 13 pay periods the supervisor will advise the employee of their obligation to repay the time or either party may elect to use LWOP or annual leave to repay the time. Notification under this Section shall not be considered a disciplinary action, nor shall it be referred to with regard to any future disciplinary action(s).

- (3) **Approval.** In making a decision to grant compensatory time off for religious observances, supervisors shall not make any judgment about the employee's religious belief, affiliation with a religious organization, or cultural beliefs. The employee's election to work religious compensatory time or take religious compensatory time off to meet religious obligation/schedules, may be disapproved only if such modifications in the work schedule interfere with the efficient accomplishment of the Department's mission, cannot be performed in advance of the requested time by another employee or may not be delayed until the employee's return to duty.
- (4) **Limits.** The ability of employees to earn religious compensatory time shall not be impacted by de minimis budgetary constraints on compensatory time or overtime.

Section 15.19 - Voluntary Leave Transfer Program (VLTP). This program permits employees to donate accrued or restored annual leave to other federal employees who have insufficient leave (at least 24 hours) available to cover absences from work because of a medical emergency involving the employee or a family member. This process shall be managed in accordance with 5 CFR §630 Subpart I.

- (1) **Application.** An employee may make written application to the designated VLTP official or their immediate supervisor. If the employee is not capable of making application on their own behalf, a personal representative of the employee may submit a written application on their behalf. Applications will be processed within 10 business days. The recipient will be notified of the Department's approval or denial for participation in the program.
- (2) **Interagency Transfers.** The Department shall accept and process leave donations from employees in other Federal agencies.
- (3) **Donation Restrictions.** Employees are prohibited from donating leave to either their first or second-line supervisor. The minimum amount of leave a donor can donate is one (1) hour. The maximum donation cannot exceed an amount equal to one-half of the number of hours the donor will earn in the current leave year.
- (4) **Documentation.** The Department may require a medical certification from a medical provider, with respect to the medical emergency. If the Department requests the applicant to provide medical documentation of the emergency from more than one (1) source, the Department shall pay for the second certification. The medical certification and supporting documentation will be treated as confidential information.
- (5) **Information about recipient.** Recipients must agree to have their name published. The names of approved leave recipients, information about the leave transfer program, and the

names and telephone numbers of the coordinators shall be maintained by the servicing human resources office and posted on the internal web page. A statement regarding the leave transfer program shall also be included in the reminder to all employees concerning the scheduling of use-or-lose leave. A copy of the most recent notice to all employees regarding the leave transfer program shall be included in the new employee orientation package.

- (6) **Information about donor and donation.** The recipient shall be provided notification of donations. Upon the recipient's request and the donor's written authorization, recipients shall also be provided the donor's name and amount of leave donated.
- (7) **Restoration.** Any unused donated annual leave must be restored to the leave donor(s) if it cannot be credited to the intended recipient within 60 days of the termination of the recipient's eligibility. Restoration of donated leave is considered to be administratively infeasible when the donor is no longer employed by the Department and attempts to locate him or her at a last known address have failed or when the amount of leave to be restored is less than one (1) hour. At the time a leave donor becomes eligible for restoration of annual leave, the donor shall be informed in writing of the donor's right to donate such restored leave to another leave recipient or retrieve the leave.
- (8) **Crediting.** Donated leave shall normally be processed and credited to the recipient's account within two (2) pay periods.
- (9) **Inquiries about transferred leave.** If an employee has a question regarding the use or distribution of leave, they may contact the VLTP Coordinator, and they shall receive a prompt response.
- (10) **Use of transferred annual leave.** A leave recipient may use donated annual leave using the departmental time and attendance system in the same manner and for the purposes identified in the application for the VLTP. Any annual leave, and any sick leave, accrued or accumulated by the leave recipient and available for the purpose involved must be exhausted before any transferred annual leave may be used. VLT donations may be substituted retroactively for leave without pay (LWOP), or used to liquidate indebtedness for advanced sick or annual leave, so long as the LWOP or advanced leave was taken relates to the approved medical emergency.