



# Director of Administration and Management

## ADMINISTRATIVE INSTRUCTION

**NUMBER 67**

December 30, 2011

Incorporating Change 3, March 12, 2025

---

---

HRD, WHS

SUBJECT: Leave Administration

References: See Enclosure 1

1. PURPOSE. This Administrative Instruction (AI):

a. Reissues AI 67 (Reference (a)) in accordance with the authority in DoD Directive 5110.04 (Reference (b)) and DoD Instruction 5025.01 (Reference (c)) to implement part 630 of title 5 of the Code of Federal Regulations (CFR) (Reference (d)), assign responsibilities, and prescribe procedures to be used in the administration of leave.

b. Incorporates and cancels AI 98, "Voluntary Leave Program" (Reference (e)).

c. Removes and cancels use of:

(1) DD Form 2538, "Voluntary Leave Transfer Program Leave Donor Application."

(2) DD Form 2539, "Voluntary Leave Transfer Program Leave Recipient Application."

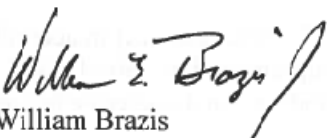
(3) DD Form 2540, "Voluntary Leave Transfer Program Notice of Termination of Medical Emergency."

d. Explains when the voluntary leave transfer program leave recipient's medical emergency is terminated.

2. APPLICABILITY. This AI:

a. Applies to OSD and those Defense Agencies, DoD Field Activities, and other DoD Components that receive human resources services from Washington Headquarters Services (WHS), referred to collectively in this issuance as "WHS-serviced Components."

- b. Governs all full-time and part-time civilian employees, except those excluded by subchapter 6301 of title 5, United States Code (U.S.C.) (Reference (f)).
  - c. Unless specifically included under the provisions of this AI, the provisions herein do not apply to members of the Military Services.
  - d. This AI shall be construed in conjunction with any applicable labor agreements.
- 3. DEFINITIONS. See Glossary.
  - 4. POLICY. Employees will accrue and use leave in accordance with part 630 of Reference (d) and with the procedures of this AI.
  - 5. RESPONSIBILITIES. See Enclosure 2.
  - 6. PROCEDURES. See Enclosures 3 through 7.
  - 7. RELEASABILITY. **Cleared for public release.** Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.
  - 8. SUMMARY OF CHANGE 3. The changes to this issuance are administrative and update language to comply with Executive Order 14168 (Reference (p)).
  - 9. EFFECTIVE DATE. This AI is effective December 30, 2011.

  
William Brazis  
Director, Washington Headquarters Services

Enclosures

- 1. References
- 2. Responsibilities
- 3. Procedures
- 4. Creditable Service Toward Annual Leave Accrual
- 5. Restoration of Forfeited Annual Leave
- 6. Lump-Sum Payment for Unused Annual Leave
- 7. FMLA Leave

Glossary

## TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....	5
ENCLOSURE 2: RESPONSIBILITIES .....	6
DIRECTOR, WHS.....	6
HUMAN RESOURCES CHIEF OFFICER, HRD .....	6
ASSISTANT DIRECTOR, BWD.....	6
HEADS OF THE WHS-SERVICED COMPONENTS.....	6
LEAVE APPROVING OFFICIALS.....	7
EMPLOYEES.....	7
ENCLOSURE 3: PROCEDURES .....	9
UNEXCUSED ABSENCE CHARGED AS ABSENCE WITHOUT LEAVE (AWOL).....	9
Appropriate Use of AWOL.....	9
Charging an Employee's Absence to AWOL .....	9
Impact of AWOL on Employee Pay, Benefits, or Other Eligibilities.....	9
APPROVED ABSENCE CHARGED TO ACCRUED OR ADVANCED LEAVE .....	9
Annual Leave .....	9
Sick Leave.....	13
APPROVED ABSENCE CHARGED TO LEAVE WITHOUT PAY (LWOP).....	19
Appropriate Use of LWOP .....	19
Requesting LWOP .....	19
Approving or Disapproving LWOP.....	20
Impact of LWOP on Employee Pay, Benefits, or Other Eligibilities .....	21
EXCUSED ABSENCE .....	21
Administrative Leave .....	21
Court Leave.....	24
Military Leave.....	25
DONATED LEAVE PROGRAMS .....	27
Emergency Leave Transfer .....	27
Voluntary Leave Transfer .....	30
ENCLOSURE 4: CREDITABLE SERVICE TOWARD ANNUAL LEAVE ACCRUAL .....	35
CREDITABLE SERVICE .....	35
CREDITABLE SERVICE ACCUMULATION.....	36
ENCLOSURE 5: RESTORATION OF FORFEITED ANNUAL LEAVE .....	37
GENERAL .....	37
DECLARING AN EXIGENCY OF THE PUBLIC BUSINESS .....	37
REQUESTS FOR RESTORATION OF LEAVE. ....	37
APPROVING OR DISAPPROVING REQUESTS FOR RESTORATION OF LEAVE .....	38

TIMEFRAMES BY WHICH RESTORED LEAVE MUST BE USED .....	38
ENCLOSURE 6: LUMP-SUM PAYMENT FOR UNUSED ANNUAL LEAVE .....	40
GENERAL .....	40
ELIGIBLE LEAVE .....	40
INELIGIBLE LEAVE/LIMITATIONS .....	41
ENCLOSURE 7: FMLA LEAVE.....	42
APPLICABILITY OF FMLA LEAVE.....	42
APPROPRIATE USE OF FMLA LEAVE.....	42
General.....	42
FMLA Entitlements .....	42
Limitations .....	43
REQUESTING OR INVOKING FAMILY AND MEDICAL LEAVE.....	43
General.....	43
Requesting Non-emergency or Anticipated Medical, Dental, or Optical Examination or Treatment.....	43
Requested Emergency Medical, Dental, or Optical Examination or Treatment.....	43
Substituting Paid Leave for LWOP .....	44
APPROVING OR DISAPPROVING REQUESTS TO USE OR INVOKE FMLA LEAVE .....	44
General.....	44
Factors to Consider in Approving or Disapproving Requests to Use FMLA Leave .....	44
Administratively Acceptable Medical Documentation.....	45
IMPACT OF FMLA LEAVE ON EMPLOYEE PAY, BENEFITS, OR OTHER ELIGIBILITIES.....	46
REQUIRED RECORD KEEPING .....	46
GLOSSARY .....	47
PART I. ABBREVIATIONS AND ACRONYMS .....	47
PART II. DEFINITIONS.....	47

ENCLOSURE 1

REFERENCES

- (a) Administrative Instruction 67, "Leave Administration," December 27, 1988 (hereby cancelled)
- (b) DoD Directive 5110.04, "Washington Headquarters Services (WHS)," March 27, 2013
- (c) DoD Instruction 5025.01, "DoD Issuances Process," August 1, 2016, as amended
- (d) Part 630 of title 5, Code of Federal Regulations
- (e) Administrative Instruction 98, "Voluntary Leave Transfer Program," March 14, 1990 (hereby cancelled)
- (f) Section 6300 of title 5, United States Code
- (g) Public Law 101-510, "Defense Base Realignment and Closure (BRAC) Act of 1990," November 5, 1990
- (h) Washington Headquarters Services Memorandum, "Approval of Administrative Changes to ODA&M DoD Issuances," February 1, 2022
- (i) Public Law 116-283, "William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021," January 1, 2021
- (j) Deputy Secretary of Defense Memorandum, "Disestablishment of the Chief Management Officer of the DoD and Realignment of Functions and Responsibilities," January 11, 2021
- (k) Deputy Secretary of Defense Memorandum, "Re-establishment of the Assistant to the Secretary of Defense for Intelligence Oversight and the Director of Administration and Management," January 11, 2021
- (l) Title 38, United States Code
- (m) Executive Order 5396, "Special Leaves of Absence to be Given Disabled Veterans in Need of Medical Treatment," July 17, 1930
- (n) Executive Order 13223, "Ordering the Ready Reserve of the Armed Forces To Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation," September 14, 2001
- (o) Part 825 of title 29, Code of Federal Regulations
- (p) Executive Order 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," January 20, 2025

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, WHS. The Director, WHS, under the authority, direction, and control of the Director of Administration and Management shall develop and establish procedures and assign responsibilities for the administration of leave in those WHS Components receiving operational support from the Benefits and Worklife Division (BWD), Human Resources Directorate (HRD), WHS.
2. HUMAN RESOURCES CHIEF OFFICER, HRD. The Human Resources Chief Officer, HRD, under the authority, direction, and control of the Director, WHS, shall administer the leave administration program.
3. ASSISTANT DIRECTOR, BWD. The Assistant Director, BWD, under the authority, direction, and control of the Human Resources Chief Officer, HRD, shall:
  - a. Inform employees of their rights and responsibilities and of administrative requirements for using leave.
  - b. Assist leave approving officials in ensuring proper approval of and accounting for leave and other periods of absence.
  - c. Publicize annually a reminder of the statutory procedures and suspense date for scheduling annual leave, and the procedures and requirements for requesting restoration of forfeited annual leave because of an exigency of the public business or illness of an employee.
  - d. Publicize annually emergency dismissal and closure procedures for WHS serviced Components within the National Capital Region (NCR).
  - e. Approve or deny employee requests for more than 104 hours of advanced sick leave.
4. HEADS OF THE WHS-SERVICED COMPONENTS. The Heads of WHS serviced Components shall:
  - a. Ensure that leave is administered in accordance with this AI and any applicable collective bargaining agreements.
  - b. Establish and communicate appropriate internal administrative procedures for requesting and approving leave.
  - c. Determine exigencies of the public business, establish termination dates for the exigencies,

and approve requests for restoration of forfeited annual leave, consistent with applicable provisions of subparts 630.305 through 630.311 of Reference (d).

5. LEAVE-APPROVING OFFICIALS. The leave-approving officials shall:

- a. Maintain a sound working knowledge of policies, regulations, and procedures governing absence and leave, including applicable collective bargaining agreements and this AI.
- b. Inform employees of internal procedures for requesting, documenting, and receiving approval of leave.
- c. Approve or disapprove employee requests for leave within the timeframes specified in this AI, but before the effective time of the requested leave. Normally, the authority to approve absences and leave shall be vested in the lowest practicable supervisory level, generally an employee's first level supervisor.
- d. Approve or disapprove employee requests for participation in a leave donor program within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) after receiving the application.
- e. Seek guidance, assistance, and coordination of all applications to become a leave donor recipient with BWD to ensure conformance with established laws, regulations, and policies.
- f. If a leave request is disapproved, notify the employee in writing that the request has not been approved and the reason(s) for its disapproval.
- g. Ensure that absences from duty are charged in the timekeeping system appropriately in accordance with this AI and maintain supporting documentation as required.
- h. Establish leave schedules in January of each year, and review the schedules periodically (normally once a quarter) throughout the leave year, to ensure that all employees are given an opportunity to use all earned leave during the leave year.
- i. Approve up to 104 hours of advanced sick leave each leave year or disapprove the requests in accordance with this AI.
- j. Review leave usage periodically and ensure that use of leave is consistent with the letter and spirit of applicable policies, regulations, collective bargaining agreements, and this AI.

6. EMPLOYEES. Employees shall:

- a. Become knowledgeable of the provisions of this AI and any applicable collective bargaining agreement in order to fulfill their responsibilities hereunder.
- b. Review leave balances to ensure they have accrued leave sufficient to cover the period of

requested leave and notify supervisors of such information when requesting leave, to the extent practicable.

c. Request reasonably anticipated leave in advance to avoid interference with peak workload periods, prevent large accumulations of unused “use or lose” annual leave at the end of the leave year, and allow for equitable sharing of preferred leave periods.

d. Personally contact the leave-approving official to request approval of absence due to unanticipated illness or an emergency as soon as possible, normally within the first 2 hours after the beginning of the employee’s duty day.

e. Submit a completed Office of Personnel Management (OPM) form or electronic equivalent for the appropriate leave program to the leave approving official when requesting approval for absences and provide any required or requested documentation in a timely manner. The list of OPM forms for leave administration is located at <https://www.opm.gov/forms/OPM-forms/>.



ENCLOSURE 3

PROCEDURES

1. UNEXCUSED ABSENCE CHARGED AS ABSENCE WITHOUT LEAVE (AWOL)

a. Appropriate Use of AWOL

(1) Any unapproved absence from duty (including leave that is not approved pending submission of required documentation) must be recorded in the timekeeping system as AWOL.

(2) If it is later determined that an absence without prior approval is excusable, the leave-approving official may change the time charged as AWOL to time charged to annual or sick leave or leave without pay (LWOP) as appropriate, if requested by the employee.

b. Charging an Employee's Absence to AWOL. The leave approving official must annotate time charged as AWOL on the employee's time card or otherwise notify the designated time keeping official in writing for processing in the timekeeping system.

c. Impact of AWOL on Employee Pay, Benefits, or Other Eligibilities

(1) Time charged to AWOL is considered non-pay and non-duty time. Time charged as AWOL may affect employee benefits and entitlements.

(2) Charging an employee's time as AWOL is not a disciplinary or adverse action in and of itself; however, time appropriately charged to AWOL may serve as a basis for initiating a disciplinary or adverse action, up to and including an employee's removal from his or her position and from the Federal service.

2. APPROVED ABSENCE CHARGED TO ACCRUED OR ADVANCED LEAVE

a. Annual Leave

(1) Annual Leave Accrual

(a) Rate of Accrual. In accordance with subchapter 6303 of Reference (f), full- and part-time employees earn annual leave if their appointment is for 90 days or longer consecutively or under successive appointments of shorter periods without a break in service. Intermittent employees do not earn annual leave.

1. In accordance with subchapter 6303 of Reference (f), full-time employees earn leave as follows:

a. Employees with less than 3 years of creditable service earn 4 hours of annual leave for each biweekly pay period.

b. Employees with at least 3, but less than 15 years of creditable service earn 6 hours of annual leave for each biweekly pay period, except the accrual of the last full biweekly pay period in the calendar year is 10 hours.

c. Employees with 15 years or more of creditable service or who are members of the Senior Executive Service (SES) to include Defense Intelligence SES, employees in senior level (SL), scientific, and professional positions to include Defense Intelligence SLs; and DoD highly qualified experts paid under part 630 of Reference (d) earn 8 hours of annual leave for each biweekly pay period.

2. In accordance with subpart 630.303 of Reference (d), part-time employees with established regular tours of duty on 1 or more days of each administrative workweek and part-time employees on flexible work schedules for whom there has been established only a biweekly work requirement earn annual leave in accordance with part 630 of Reference (d):

a. Employees with less than 3 years of creditable service earn 1 hour of annual leave for each 20 hours in a pay status.

b. Employees with at least 3 years, but less than 15 years of creditable service earn 1 hour of annual leave for each 13 hours in a pay status.

c. Employees with 15 years or more of creditable service earn 1 hour of annual leave for each 10 hours in a pay status.

(b) Creditable Service. See Enclosure 4 of this AI for information about creditable service toward the annual leave accrual rate.

(c) Maximum Annual Leave Accumulation. In accordance with subpart 630.304 of Reference (d), full- or part-time employees may normally accumulate and carry over a maximum of 240 hours from one leave year to the next. This maximum excludes any restored annual leave and any advanced annual leave that had not been earned. (See Enclosure 5 for information about the restoration of “use or lose” annual leave.) The following types of employees may accumulate and carry over above 240 hours from one leave year to the next:

1. Employee Assigned Outside of the United States. In accordance with subpart 630.302 of Reference (d), a full-time employee assigned to an area outside the United States may accumulate and carry over a maximum of 45 days (360 hours) from one leave year to next.

2. SES. In accordance with Part 630.301 of Reference (d):

a. A member of the SES may normally accumulate and carry over a maximum of 720 hours from one leave year to the next, unless the individual has a personal leave ceiling that provides otherwise.

b. Any accrued annual leave of an employee who moves from a position outside the SES to a position in the SES remains to the employee's credit. If the employee serves less than a full biweekly pay period under an appointment in the SES, only that portion of accrued annual leave that is attributable to service in the SES is subject to the 720-hour limitation on accumulation of annual leave. Annual leave accrued during the remainder of the pay period is subject to the limitation allowed for the position to which the employee has moved.

3. Other Situations. Other non-permanent situations may be designated for accumulation and carryover of more than 240 hours of annual leave by law or regulation, such as that relating to base realignment and closing in accordance with Public Law 101-510 (Reference (g)).

(2) Appropriate Use of Annual Leave

(a) Annual leave may be used for personal or vacation time or emergencies.

(b) Employees have a right to use accrued annual leave; however, accrued annual leave is subject to supervisory approval or disapproval based on work requirements.

(c) An absence may only be charged to an employee's annual leave in the timekeeping system when requested by the employee.

(d) Annual leave may be substituted for sick leave that has been requested and approved in advance, but not used.

(e) Annual leave may be substituted retroactively for advanced sick leave, but not to prevent forfeiture of the annual leave. The substitution must be made before the annual leave would have been forfeited.

(3) Requesting Annual Leave

(a) Requesting the Use of Accrued Annual Leave

1. An employee must submit a completed OPM Form 71, "Request for Leave or Approved Absence," located at [https://www.opm.gov/forms/pdf\\_fill/opm71.pdf](https://www.opm.gov/forms/pdf_fill/opm71.pdf) or electronic equivalent to his or her leave approving official in advance of the requested absence; requests should be submitted as far in advance as possible to minimize potential scheduling conflicts, allow for the agency to make arrangements to cover work requirements during the employee's absence, and avoid a forfeiture of leave due to maximum annual leave accumulation rules, often referred to as "use or lose" leave.

2. During emergencies, when a completed OPM Form 71 or electronic equivalent cannot be submitted in advance of the requested absence, an employee must call in as soon as possible, but usually no later than 2 hours from the employee's scheduled start time to request leave, unless circumstances clearly show that a delay in requesting leave was unavoidable. Even during emergencies, the use of annual leave is subject to supervisory approval. Upon the employee's return to the office, the OPM Form 71 or electronic equivalent must be submitted for

record keeping purposes, even if the employee's absence was approved verbally. If the employee is expected to be absent for an extended period, the employee may be directed to submit the OPM Form 71 or electronic equivalent via mail, e-mail, or facsimile.

3. An employee is responsible for requesting his or her own leave. However, an employee may designate in writing an individual to serve as his or her personal representative in the rare event the employee is personally unable to make the leave request.

(b) Requesting Advanced Annual Leave

1. If an employee does not have accrued annual leave sufficient to cover a requested absence, he or she may request advanced annual leave; however, there is no employee entitlement to advanced annual leave.

2. The procedures for requesting advanced annual leave are the same as for requesting the use of accrued annual leave.

(4) Approving or Disapproving Requests to Use Annual Leave

(a) General

1. Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

2. The leave-approving official will promptly approve or disapprove an employee's request for leave. This will normally occur within 10 workdays of receiving an employee request or before the requested absence, whichever occurs first. However, unique circumstances, such as requests for absence during peak vacation or holiday periods or periods of heavy workload, may warrant delay in approval or disapproval.

(b) Factors to Consider in Approving or Disapproving Accrued Leave

1. Leave-approving officials should approve or disapprove properly submitted annual leave requests based on whether the employee can be spared from his or her duties during the requested absence. With that said, consideration will be given to the potential of forfeiture of leave due to maximum annual leave carryover rules. Leave-approving officials will strive to ensure all employees are provided a reasonable opportunity to take annual leave throughout the leave year.

2. Leave-approving officials may disapprove leave requests that do not adhere to clearly communicated leave requesting procedures, unless circumstances show that the employee was unable to adhere to the procedures. For example, the leave-approving official may disapprove an otherwise acceptable request for emergency annual leave if the request is received more than 2 hours after the start of the employee's tour of duty, unless circumstances show that a delay in requesting leave was unavoidable.

3. When it is necessary to deny or cancel a request for annual leave due to work requirements, the leave-approving official shall inform the employee in writing and ensure prompt rescheduling of the employee's leave to the extent practicable.

(c) Factors to Consider in Approving or Disapproving Advanced Annual Leave

1. Approving officials should exercise caution in advancing annual leave as it creates an employee debt to the agency and the agency may deduct that amount from any pay due the employee upon separation. However, if the employee dies, retires on disability, or resigns or separates as the result of a disability, the requirement to repay the leave does not apply.

2. When considering requests for advanced annual leave, in addition to considering whether an employee can be spared from work, the leave-approving official should consider the likelihood of the employee returning to duty for a period sufficient to accrue annual leave to repay the advance.

3. The amount of annual leave that may be advanced shall not exceed the number of hours the employee would accrue in the remainder of the leave year.

4. Advanced leave should not be approved on an intermittent basis due to an employee's failure to use judiciously his or her earned leave.

(5) Impact of Annual Leave on Employee Pay, Benefits, or Other Eligibilities

(a) Annual leave is an approved non-duty status that does not adversely affect an employee's pay, benefits, or other eligibilities. Advanced annual leave creates employee indebtedness to the agency and the U. S. Government.

(b) In accordance with subpart 630.212 of Reference (d), an employee may use annual leave to establish initial eligibility for retirement following a specific notice of termination due to reduction-in-force (RIF) or other restructuring situations (e.g., separation by adverse action proceedings because of the employee's decision to decline relocation (including transfer of function)) or discontinued service or voluntary early retirement. An employee may use annual leave to establish initial eligibility to continue health benefits coverage into retirement.

(c) Annual leave that may be used for the purposes described in subparagraph 2.a.(2) of this enclosure includes all accrued and restored annual leave to the employee's credit prior to the effective date of the RIF or relocation, annual leave earned by an employee while in a paid leave status after the effective date of the RIF or relocation, and annual leave donated to the employee if he or she is an approved leave recipient and the medical emergency has not terminated as of the effective date of the RIF or relocation. Annual leave that is advanced to an employee may not be used for these purposes.

b. Sick Leave

(1) Sick Leave Accrual

(a) Rate of Accrual. In accordance with subchapter 6307 of Reference (f):

1. Full-time employees accrue 4 hours of sick leave for each full biweekly pay period.
2. 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.
3. Intermittent employees do not earn sick leave.
4. Employees on uncommon tours of duty earn sick leave based on the following formula: ((4 hours) times (Average number of hours worked per biweekly pay period)) divided by 80.

(b) Maximum Sick Leave Accumulation. There is no limitation on the amount of sick leave that an employee may accumulate.

(2) Appropriate Use of Sick Leave. An employee may use sick leave for personal medical needs, care of a family member, bereavement, and adoption-related purposes. (See Enclosure 7 for information on Family and Medical Leave Act (FMLA) leave.)

(a) Sick Leave for Personal Medical Needs. Sick leave may be granted to an employee when he or she:

1. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
2. Receives medical, dental, or optical examination or treatment; or
3. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a contagious disease.

(b) Sick Leave for Family Care or Bereavement Purposes

1. In accordance with subpart 630.401 of Reference (d), full-time employees may use a total of up to 104 hours (13 workdays) of accrued sick leave each leave year to:

- a. Provide care for a family member who is incapacitated because of physical or mental illness, injury, pregnancy, or childbirth;
- b. Attend to a family member receiving medical, dental, or optical

examination or treatment; or

c. Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

2. The amount of sick leave an employee on a part-time or uncommon tour of duty is eligible to use under this section is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

3. If an employee has already used the maximum 480 hours (12 weeks) of accrued sick leave to care for a family member with a serious health condition in a given leave year, he or she cannot use an additional 104 hours (13 days) in the same leave year for general family care (including bereavement) purposes.

(c) Sick Leave to Care for a Family Member with a Serious Health Condition

1. In accordance with subparts 630.401 and 630.1202 of Reference (d), employees may use up to 480 hours (12 weeks) of accrued sick leave to care for a family member with a serious health condition.

2. The amount of sick leave an employee on a part-time or uncommon tour of duty is eligible to use under this section is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

3. If an employee has used any portion of the 104 hours (13 days) of accrued sick leave available for general family care or bereavement purposes in a given leave year, that amount must be deducted from the 480 hour (12 week) entitlement under this section.

4. See Enclosure 7 for information relating to the FMLA.

(d) Sick Leave for Adoption. In accordance with subpart 630.401 of Reference (d), an employee may use sick leave for purposes related to the adoption of a child.

1. Absences related to adoption include:

a. Appointments with adoption agencies, social workers, and attorneys.

b. Court proceedings.

c. Any periods of time for which the adoptive parents are ordered or required by the adoption agency or by the court to take off from work to care for the adopted child.

d. Required travel.

e. Any other activities necessary to allow the adoption to proceed.

2. Adoptive parents may not use sick leave when they voluntarily choose to be absent from work to bond with or care for a healthy adopted child. They may use annual leave or LWOP for these purposes.

(3) Requesting Sick Leave

(a) Requesting to Use Accrued Sick Leave

1. Non-Emergency Medical, Dental, or Optical Examination or Treatment

a. Employees have a right to use accrued sick leave; however, non-emergency sick leave (e.g., routine medical or dental appointments) is subject to supervisory approval or disapproval based on work requirements.

b. An employee must submit a completed OPM Form 71 or electronic equivalent to his or her leave approving official in advance of the requested absence; requests should be submitted as far in advance as possible to minimize potential scheduling conflicts and allow for the agency to make arrangements to cover work requirements during the employee's absence. Employees may be required to submit administratively acceptable medical documentation to substantiate the use of sick leave for medical appointments or examination.

2. Emergency Medical, Dental, or Optical Examination or Treatment

a. If an employee has an emergency, and an OPM Form 71 or electronic equivalent cannot be submitted in advance of the requested absence, the employee must call in as soon as possible, but usually no later than 2 hours from the employee's scheduled start time to request leave, unless circumstances clearly show that a delay in requesting leave was unavoidable. Even during emergencies, the use of sick leave is subject to the leave-approving official's approval. Upon the employee's return to the office, the OPM Form 71 or electronic equivalent must be submitted for record-keeping purposes, even if verbal approval was given. If the employee is expected to be absent for an extended period, the employee may be directed to submit the OPM Form 71 or electronic equivalent via mail, e-mail, or facsimile.

b. An employee is responsible for requesting his or her own leave. However, an employee may designate in writing an individual to serve as his or her personal representative in the rare event the employee is unable to request leave.

(b) Sick Leave Substitutions. When an employee does not have sufficient accrued sick leave to cover a requested absence for health-related reasons, he or she may request annual leave or LWOP in lieu of sick leave.

(c) Advanced Sick Leave. When an employee does not have sufficient accrued sick leave to cover a requested absence for health-related reasons, he or she may request advanced sick leave; however, there is no employee entitlement to advanced leave. Leave approval officials should be judicious in approving advanced leave because it creates a debt to the agency and the U.S. Government. Advanced leave should not be approved without good cause and may



not be approved on an intermittent basis due to an employee's failure to use judiciously his or her earned leave.

(4) Approving or Disapproving Requests to Use Sick Leave

(a) General

1. Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

2. The leave-approving official will promptly approve or disapprove an employee request for leave. This will normally occur within 10 workdays of receiving an employee request or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval.

3. A leave-approving official is entitled to receive administratively acceptable medical documentation from an employee in support of sick leave requests. Normally, the employee will not be requested to provide certification unless the absence is more than 3 days; he or she has been placed on a leave restriction letter; or there are circumstances that cause the supervisor to believe the request for sick leave may be improper.

4. If an employee requests sick leave and the leave approving official is aware the employee does not have a sufficient balance of sick leave to cover the period of absence for those purposes, the leave approving official is encouraged to ask the employee if he or she would like to be carried on annual leave or LWOP (as appropriate). LWOP is discretionary and should not routinely be granted unless there is good cause.

(b) Factors to Consider in Approving or Disapproving the Use of Accrued Sick Leave. Unless there is reason to doubt that a request for the use of sick leave is legitimate, the leave approving officials should normally approve the absence at the time of the request.

(c) Factors to Consider in Approving or Disapproving Advanced Sick Leave

1. A maximum of 240 hours (30 days) of sick leave may be advanced to a full-time employee with a medical emergency, for purposes related to the adoption of a child, for family care or bereavement purposes, or to care for a family member with a serious health condition. Generally, advanced sick leave is not granted when it is likely that the employee will not return to duty for a sufficient period to repay the amount of advanced sick leave. A temporary employee may not be advanced more sick leave than will be earned before the appointment expires. If an employee separates from Federal service before repaying all advanced leave, he or she is required to refund the amount of unearned leave to which he or she is indebted or the agency may deduct that amount from any pay due the employee upon separation (e.g., lump-sum payment for unused annual leave or refund of retirement contributions). However, if the employee dies, retires on disability, or resigns or separates as the

result of a disability, the requirement to repay the leave does not apply.

2. Sick leave may not be advanced until the employee has exhausted all accrued sick leave and any annual leave that would be subject to forfeiture (e.g., annual leave that is in a restored leave account or “use or lose” annual leave), compensatory time, and credit hours.

3. The leave-approving official may advance sick leave to an employee based on the employee’s written request, with administratively acceptable supporting documentation prior to the employee’s absence from duty for which the advanced leave is requested. In considering a request for advanced sick leave, the leave-approving official shall review the employee’s leave balances and consider the employee’s past time and attendance record, and the likelihood the employee will return to duty for a sufficient period to repay the advanced leave.

4. The leave-approving official shall respond to the employee’s request in writing prior to the start of the requested period of advanced leave and advise the employee how many hours of advanced sick leave are approved. A copy of the written approval shall be provided to the timekeeping official.

(5) Administratively Acceptable Medical Documentation

(a) The employee’s self-certification as to the reason for his or her absence may be considered administratively acceptable evidence, regardless of the duration of the absence; however, the leave approving official may request the administratively acceptable medical documentation as stated in subparagraph 2.b.(4)(a)3 of this enclosure.

(b) Administratively acceptable medical documentation consists of a signed and dated original certificate from a licensed physician or other health care provider (as stated in section 630.1202 of Reference (d)), on his or her letterhead that includes a statement certifying that the medical problem renders the employee incapacitated for the performance of duties, the employee was receiving an examination or treatment, or to the period of disability while the patient was receiving professional care. The certificate must also state the duration of incapacitation and the nature of the medical condition.

(c) Administratively acceptable medical documentation for an employee requesting sick leave to care for a family member would also include a written statement from the health care provider concerning the family member’s need for psychological comfort or physical care. Such statements should include the following information:

1. The family member requires psychological comfort or physical care.
2. The family member would benefit from the employee’s care or presence.
3. The employee is needed to care for the family member for a specified period of time.

(d) In accordance with subpart 630.405 of Reference (d), employees must provide the requested documentation no later than 15 calendar days after the agency requests it. If the

requested medical documentation cannot be obtained within 15 calendar days despite the employee's diligent, good faith efforts, the employee may request an extension to provide the documentation no later than 30 calendar days after the agency's request.

(6) Impact of Sick Leave on Employee Pay, Benefits, or Other Eligibilities

(a) Sick leave is an approved non-duty status that does not affect an employee's pay, benefits, or other eligibilities. Advanced sick leave creates employee indebtedness to the agency and the U.S. Government.

(b) Unused sick leave accrued by employees covered by the Civil Service Retirement System or the Federal Employees Retirement System is used in the calculation of their annuities.

3. APPROVED ABSENCE CHARGED TO LEAVE WITHOUT PAY (LWOP)

a. Appropriate Use of LWOP. LWOP is most commonly requested because an employee has exhausted or does not have enough otherwise accrued leave to cover the entire requested absence.

(1) Employee Entitlements to LWOP. LWOP is normally granted at the agency's discretion. An employee has no entitlements to LWOP, except under the following circumstances:

(a) In accordance with subpart 630.1201, et seq. of Reference (d), covered employees are entitled to up to 12 weeks of unpaid leave (LWOP) during any 12-month period for certain family and medical needs. In some instances involving illness or injury of a family member while on active duty in the Military Services, the entitlement is 26 weeks of unpaid leave. See Enclosure 7 for more information on FMLA leave.

(b) In accordance with chapter 43 of title 38, U.S.C. (Reference (l)), covered employees are entitled to LWOP when employment with an employer is interrupted by a period of service in the uniformed service.

(c) According to Executive Order (E.O.) 5396 (Reference (m)), disabled veterans are entitled to LWOP for necessary medical treatment, except that employees may not be in a pay status while receiving workers' compensation payments from the Office of Workers' Compensation Programs, Department of Labor.

(2) Prohibited Uses of LWOP. LWOP may not be granted for an employee to engage in political activities, engage in private or commercial work where experience in such work is judged to be of no value to the Department of Defense, hold a civilian position with any other Federal agency, or to keep an employee on the rolls when he or she is not expected to return to duty (except in those circumstances described in subparagraph 3.a.(1) of this enclosure).

b. Requesting LWOP

(1) An employee shall request LWOP on an OPM Form 71 or electronic equivalent. The request must include the reason for the request and the beginning and ending dates of the requested LWOP. If the employee is requesting extended LWOP, he or she must provide contact information by which he or she may be reached during the period of LWOP.

(2) If an employee experiences an emergency, and a completed OPM Form 71 or electronic equivalent cannot be submitted in advance of the requested absence, an employee must call in as soon as possible, but usually no later than 2 hours from the employee's scheduled start time to request leave, unless circumstances clearly show that a delay in requesting leave was unavoidable. Even during emergencies, LWOP is subject to the leave-approving official's approval. Upon the employee's return to the office, the OPM Form 71 or electronic equivalent must be submitted for record keeping purposes, even if verbal approval was already given. If the employee is expected to be absent for an extended period, the employee may be directed to submit the OPM Form 71 or electronic equivalent via mail, e-mail, or fax.

(3) An employee is responsible for requesting his or her own leave. However, an employee may designate in writing an individual to serve as his or her personal representative in the rare event the employee is unable to request leave.

c. Approving or Disapproving LWOP

(1) General

(a) Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

(b) A leave-approving official shall promptly inform an employee in writing whether his or her request has been approved; this should normally occur within 10 calendar days after receipt, or before the start of the requested period of LWOP, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval.

(c) When a request for LWOP for 30 days or more is approved, the leave-approving official shall initiate a Standard Form 52, "Request for Personnel Action," located at <http://www.opm.gov/forms/html/sf.asp>, in the automated personnel system, routing it through the component administrative officer to the BWD, HRD, WHS, for processing.

(2) Factors to Consider in Approving or Disapproving LWOP. In evaluating whether to approve or disapprove LWOP, consideration should be given to the benefit to the Department of Defense that would result from the approval of the LWOP, the impact on the mission, and the inconvenience and costs associated with the approval of LWOP. LWOP normally should not be approved solely on the basis that an employee has exhausted his or her accrued leave because of failure to use accrued leave wisely. If the LWOP is requested for an extended period, the supervisor must also consider:

- (a) Encumbrance of the position.
- (b) Loss of services that may be vital to the WHS-serviced Component.
- (c) Complication of retention registers in the event of a RIF.
- (d) Obligation to provide active employment at the end of the approved period of LWOP.
- (e) Continuing agency contributions to unemployment compensation and, as applicable, to premiums for employee coverage under the Federal Employees Health Benefits Program and Federal Employees Group Life Insurance Program.

d. Impact of LWOP on Employee Pay, Benefits, or Other Eligibilities. LWOP is an approved non-pay and duty status that may adversely affect an employee's leave accrual, pay, benefits, or other eligibilities.

#### 4. EXCUSED ABSENCE

##### a. Administrative Leave

##### (1) Appropriate Use of Administrative Leave

(a) Administrative leave is an excused absence from duty without loss of pay or charge to an employee's personal leave (annual or sick leave) or LWOP. Administrative leave is not an employee entitlement; it is subject to supervisory discretion and should normally only be granted sparingly.

(b) Absences for other than brief periods have been ruled as inappropriate unless the absence is in connection with furthering a function of the Department of Defense; such instances are extremely rare. Examples of when administrative leave may be authorized include:

1. Excused Absence of 59 Minutes or Less. Generally, a leave-approving official has discretion to grant an employee up to 59 minutes of excused absence in a duty day (e.g., for brief periods of excused tardiness, excused extension of the authorized lunch period, or excused early departure). Unexcused absences should be charged to the employee's time as AWOL.

2. Voting. Excused absence may be granted to permit an employee to report to work 3 hours after the polls open or leave work 3 hours before the polls close, whichever involves less time away from work, if the employee's reporting to work would prohibit the employee from being able to vote otherwise. For example, if polls are open 6:30 a.m. to 6:30 p.m., an employee with duty hours of 9:00 a.m. to 5:30 p.m. may report to work at 9:30 a.m. The 30 minutes of excused absence would permit the employee to report to work 3 hours after the polls open. If polls are open 6:00 a.m. to 7:00 p.m., an employee with duty hours of 7:30 a.m. to 4:00 p.m. would be required to report to work for his or her full duty day, unless he

or she requested and received approval for leave.

3. Blood Donation. An employee who donates blood may be granted excused absence to cover travel to and from the donation site, the actual donation of blood, and recovery as medically necessitated. This provision does not cover an employee who gives blood for his or her own use or receives compensation for giving blood.

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

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

6. Counseling. Excused absence may be granted to permit an employee to attend the first counseling session (e.g., stress, alcohol, financial) resulting from a referral under the Employee Assistance Program. This provision does not extend to employees who are not in a pay and duty status on the day of the initial referral appointment. Annual or sick leave may be requested for subsequent appointments.

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

8. Wellness or Fitness Activities. If provided for by the employing organization, a limited amount of administrative leave (wellness) may be approved in accordance with approved agency instruction.

9. Return from Active Duty

a. Federal employees returning from active duty are entitled to 5 days of excused absence, within a 12-month period, in recognition of the sacrifices activated civilian employees have made. An employee called to active duty on multiple occasions is entitled to receive 5 days of excused absence any time he or she returns from at least 42 consecutive days of

active military service and the employee has not received 5 days of excused absence during the previous 365 days. The 5 days must be taken all at once. The 5 days of excused absence for an employee on an uncommon tour of duty or a part-time work schedule will be prorated according to the number of hours in the employee's regularly scheduled workweek.

b. This excused absence applies to those employees who were activated for military service in connection with Operations NOBLE EAGLE, ENDURING FREEDOM, and IRAQI FREEDOM, or any other military operations subsequently established pursuant to E.O. 13223 (Reference (n)). The employee's military orders should denote the specific campaign.

10. Excused Absence Related to Official Duty or Mission. An employee may be excused from duty when the employee's absence is not specifically prohibited by law and is:

- a. Directly related to the DoD mission;
- b. Officially sponsored by the WHS-serviced Component Head;
- c. Determined to enhance the professional skills of the employee in his or her current position; or
- d. Brief and determined to be in the interest of the WHS-serviced Component.

(2) Requesting Administrative Leave

(a) Requests for administrative leave for an absence of 59 minutes or less may be submitted verbally or in writing in accordance with supervisory instruction.

(b) To request administrative leave over 59 minutes, an employee must submit a completed OPM Form 71 or electronic equivalent to his or her leave-approving official in advance of the requested absence; requests should be submitted as far in advance as possible to minimize potential scheduling conflicts and allow for the agency to make arrangements to cover work requirements during the employee's absence.

(3) Approving or Disapproving Administrative Leave

(a) Supervisors may approve or grant administrative leave for an employee absence of 59 minutes or less verbally or in writing. This should occur on a rare occasion when warranted to promote the efficiency of the service.

(b) Approval or disapproval of administrative leave over 59 minutes must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

(c) The leave-approving official will promptly approve or disapprove an employee request for leave. This will usually occur within 10 workdays of receiving an employee request

or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval.

(4) Impact of Administrative Leave on Employee Pay, Benefits, or Other Eligibilities. Administrative leave is an approved, paid non-duty status that does not affect an employee's pay, benefits, or other eligibilities.

b. Court Leave

(1) Appropriate Use of Court Leave

(a) In accordance with chapter 63 of Reference (f), an employee is entitled to paid time off without charge to personal leave under one of the following circumstances:

1. An employee is summoned to serve as a juror in a judicial proceeding.
2. An employee is summoned as a witness in a judicial proceeding in which the Federal, State, or local government is a party.
  - a. When an employee is the defendant in such a proceeding, he or she must request annual leave or LWOP to attend the proceeding.
  - b. An employee who is summoned as a witness in a judicial proceeding in which the Federal, State, or local government is NOT a party and who is not testifying in his or her official capacity, must request annual leave or LWOP to attend the proceeding.
  - c. An employee who is summoned as a witness in his or her official capacity is on official duty, not court leave.

(b) If an employee is released from jury or witness service for 1 day or more or for a substantial part of a day, the employee may be required to return to duty or be charged annual leave or LWOP for his or her absence. If there is no actual jury or witness service, there is no court leave. In situations where the court notifies prospective jurors the night before service, the employee is expected to report to duty if not called to serve.

(2) Requesting Court Leave. An employee must submit a completed OPM Form 71 or electronic equivalent to his or her leave-approving official in advance of the requested court leave, accompanied by the court summons and confirmation of service; requests should be submitted as far in advance as possible.

(3) Approving or Disapproving a Request for Court Leave

(a) Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee; a copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.



(b) The leave-approving official will promptly approve or disapprove an employee request for excused absence for court leave. This will usually occur within 10 workdays of receiving an employee request or before the requested absence, whichever occurs first.

(4) Impact of Court Leave on Employee Pay, Benefits, or Other Eligibilities

(a) Court leave is an approved, paid non-duty status that does not affect an employee's pay, benefits, or other eligibilities.

(b) If an employee receives payment for jury duty or witness service and the employee is on court leave, the employee must turn this payment over to the agency. (If an employee is on annual leave or LWOP, the employee may keep the payment, if any.) However, monies paid to jurors or witnesses that are in the nature of expenses (e.g., transportation, parking) do not have to be turned over to the agency.

c. Military Leave

(1) Appropriate Use of Military Leave

(a) In accordance with chapter 63 of Reference (f), any full-time Federal civilian employee whose appointment is not limited to less than 1 year is entitled to military leave as follows:

1. 15 calendar days per fiscal year for active duty, active duty training, and inactive duty training (to include funeral honors duty). A maximum of 15 days can be carried over into the next fiscal year.

2. 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service because of a call or order to active duty in support of a contingency operation.

3. Reserve and National Guard technicians only are entitled to 44 workdays of military leave for duties overseas under certain conditions.

(b) Military leave for part-time career employees and employees on an uncommon tour of duty is pro-rated.

(2) Requesting Military Leave

(a) An employee shall request military leave on an OPM Form 71 or electronic equivalent and attach an official copy of his or her military orders. He or she shall submit the OPM Form 71 or electronic equivalent and orders to his or her leave-approving official as far in advance as circumstances permit.

(b) On return to duty from military leave, an employee shall furnish an official copy of his or her orders indicating completion of military duty.

(3) Approving or Disapproving a Request for Military Leave

(a) General

1. Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

2. The leave-approving official will promptly approve or disapprove an employee request for leave. This will usually occur within 10 workdays of receiving an employee request or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval.

(b) Factors to Consider in Approving or Disapproving Military Leave

1. An employee shall be granted military leave consistent with the terms of his or her military orders and to the extent that release from civilian duty status shall not unreasonably interfere with mission accomplishment. In the event that the release of the employee would unreasonably interfere with mission accomplishment and the military leave cannot be rescheduled or cancelled, the employee shall be released for military duty.

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

3. Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves or National Guard will not be charged military leave for weekends and holidays that occur within the period of military service.

(4) Impact of Military Leave on Employee Pay, Benefits, or Other Eligibilities

(a) An employee's civilian pay remains the same for periods of military leave under section 6323(a) of Reference (f), including any premium pay (except Sunday premium pay) an employee would have received if not on military leave. For military leave under sections 6323(b) and (c) of Reference (f), an employee's civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave, compensatory time off for travel, or sick leave, if appropriate, in order to retain both civilian and military pay.

(b) An employee shall be restored to the position he or she held prior to being ordered to military duty.

## 5. DONATED LEAVE PROGRAMS

a. Emergency Leave Transfer. The following shall occur in accordance with section 630 of Reference (d):

### (1) Appropriate Use of Donated Emergency Leave

(a) The OPM establishes an emergency leave transfer program when directed by the President and notifies Executive agencies or a judicial branch entity of its establishment for a specific disaster or emergency as declared by the President. Employees who are adversely affected by such a major disaster or emergency and, subsequently, need time off from work may request the use of leave donated by other Federal employees; an approved emergency leave recipient is not required to exhaust his or her accrued annual and sick leave before receiving donated emergency leave.

(b) After the Secretary of Defense receives notification of the establishment of an emergency leave transfer program, the Secretary of Defense, or designee, will determine whether, and how much, donated annual leave is needed by affected employees; facilitate the distribution of donated annual leave from approved emergency leave donors to approved emergency leave recipients within the Department of Defense; and determine the period of time for which donated annual leave may be accepted for distribution to approved emergency leave recipients.

(c) An emergency leave recipient must use the donated annual leave for purposes related to the disaster or emergency for which it was approved. The donated leave may be used to liquidate a period of LWOP or advanced annual or sick leave used because of the adverse effects of the disaster or emergency.

### (2) Donating Emergency Leave

#### (a) Requesting to Donate Emergency Leave

1. An employee may apply to be an emergency leave donor by completing OPM Form 1638, "Request to Donate Annual Leave Under the Emergency Leave Transfer Program," located at [https://www.opm.gov/forms/pdf\\_fill/opm1638.pdf](https://www.opm.gov/forms/pdf_fill/opm1638.pdf), and submitting it to his or her leave-approving official.

2. Under the Federal Emergency Leave Transfer Program, a full-time employee may donate no less than 1 hour and no more than 104 hours of annual leave to assist other Federal employees adversely affected by a major disaster or emergency. A part-time employee or an employee with an uncommon tour of duty may donate no more than twice the average number of hours in the donor's scheduled tour of duty each week.

3. For employees with “use or lose” annual leave, the employee may donate the lesser of one-half of the annual leave he or she would accrue in a leave year or the number of hours remaining in the leave year for which the employee is scheduled to work and receive pay (i.e., be in a paid duty status).

4. The Head of a WHS-serviced Component may waive the ceiling on leave donations on a case-by-case basis due to unusual circumstances described by a leave donor, the extended duration of the emergency, or the shortfall in donations from other donors. For example, if a leave recipient has not garnered sufficient leave donations and it is close to the end of the leave year, this may be an appropriate situation in which to waive the ceiling for the leave donor.

(b) Limitations on Donating Emergency Leave

1. Annual leave transferred to an emergency leave transfer program may not be included in a lump-sum payment for annual leave; made available for recredit to an emergency leave recipient’s account upon reemployment by a Federal agency; or used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement.

2. Annual leave donated to an emergency leave transfer program for a specific disaster or emergency may not be transferred to another emergency leave transfer program established for a different disaster or emergency.

3. An employee may donate annual leave to an emergency leave transfer program, but not to a specific emergency leave recipient in the Department of Defense or another Federal agency for which an emergency leave transfer program has been established.

(c) Prohibition on Coercion. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce (as defined in the Glossary) another employee for the purpose of interfering with any rights the employee may have with respect to donating, receiving, or using annual leave under an emergency leave transfer program.

(3) Processing Requests to Donate Emergency Leave

(a) Approval or disapproval must be annotated on the OPM Form 1638 submitted by the employee. A copy of the approved or disapproved OPM Form 1638 should be provided to the employee by the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

(b) The leave-approving official will promptly approve or disapprove an employee request to donate leave. This must occur within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) of receiving an employee’s request.

(c) If WHS-serviced Components do not receive a sufficient amount of donated leave for their approved emergency leave recipients, the Human Resources Chief Officer, HRD, may

complete OPM Form 1639, "Transfer of Donated Annual Leave To/From the Emergency Leave Transfer Program," located at [https://www.opm.gov/forms/pdf\\_fill/opm1639.pdf](https://www.opm.gov/forms/pdf_fill/opm1639.pdf), and fax the completed form to OPM's Pay and Leave Administration Division. OPM will reach out to other Federal agencies and facilitate the transfer of the donated leave.

(4) Requesting the Use of Donated Emergency Leave

(a) An employee who has been adversely affected by a disaster or emergency may apply to be an emergency leave recipient via an OPM Form 1637, "Application to Become a Leave Recipient Under the Emergency Leave Transfer Program," located at [https://www.opm.gov/forms/pdf\\_fill/opm1637.pdf](https://www.opm.gov/forms/pdf_fill/opm1637.pdf), and submit it to his or her leave-approving official. The applicant shall describe the need for leave from the emergency leave transfer program and provide supporting documentation.

(b) An employee is responsible for requesting his or her own leave. However, an employee may designate in writing an individual to serve as his or her personal representative in the rare event the employee is unable to make the leave request.

(5) Approving or Disapproving Requests to Use Donated Emergency Leave

(a) General

1. Approval or disapproval must be annotated on the OPM Form 1637 submitted by the employee. A copy of the approved or disapproved OPM Form 1637 should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

2. The leave-approving official will promptly approve or disapprove an employee's request for leave. This must occur within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) of receiving an employee's request or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval. The leave-approving official will seek guidance, assistance, and coordination of all applications to become a leave donor recipient with BWD to ensure consistency with established laws, regulations, and policies.

(b) Factors to Consider in Approving or Disapproving Requests to Use Donated Emergency Leave

1. The leave-approving official must determine that the potential emergency leave recipient is or has been affected by the major disaster or emergency.

2. An emergency leave recipient may receive a maximum of 240 hours of donated emergency annual leave at any one time for each disaster or emergency.

3. The leave-approving official shall continuously monitor the status of the major disaster or emergency affecting the emergency leave recipient to ensure that he or she continues

to be eligible as an emergency leave recipient.

4. A leave-approving official may approve advance sick or annual leave, as appropriate, for an approved emergency leave recipient (even if the leave recipient has available annual and sick leave), so that the emergency leave recipient is not forced to use his or her accrued leave before donated annual leave becomes available.

(6) Impact of Donated Emergency Leave on Employee Pay, Benefits, or Other Eligibilities

(a) Emergency donated leave does not adversely affect an employee's pay, benefits, or other eligibilities.

(b) While using donated emergency annual leave, an emergency leave recipient accrues annual and sick leave at the same rate as if he or she were in a regular paid leave status.

(7) Required Record Keeping. WHS-serviced Components administrative staff, as designated by the Component Head, shall maintain records on the amount of leave donated by each emergency leave donor to the emergency leave transfer program (for the purpose of restoring unused transferred annual leave) and any additional information that may be required by the OPM or the BWD Division, HRD, WHS.

b. Voluntary Leave Transfer. The following shall occur in accordance with part 630 of Reference (d) and chapter 63 of Reference (f):

(1) Appropriate Use of Donated Voluntary Leave

(a) Employees experiencing personal or family medical emergencies who have exhausted their own leave may request the use of annual leave donated by other Federal employees. A leave recipient may use annual leave donated to him or her only for the purpose of the medical emergency for which the leave recipient was approved.

(b) A medical emergency normally will require an employee's absence from duty for a prolonged period resulting in a substantial loss of income to the employee because of the unavailability of paid leave. The criterion used to determine whether there is likely to be a substantial loss of income is whether the employee's absence from duty without available paid leave is (or is expected to be) at least 24 hours (or in the case of a part-time employee or an employee with an uncommon tour of duty, at least 30 percent of the average number of hours in the employee's biweekly scheduled tour of duty).

(c) Employees covered by this AI may receive annual leave donations from leave donors in other Federal agencies and donate annual leave to approved leave recipients in other Federal agencies eligible to participate in the program.

(d) A supervisor may not receive donated annual leave from subordinate employees.

(e) Transferred annual leave may be substituted retroactively for any period of LWOP or used to liquidate a debt for any period of advanced sick or annual leave that began on or after the date determined by the leave-approving official as the beginning of the medical emergency.

(f) Transferred annual leave may not be transferred to another leave recipient, included in a lump-sum payment to the leave recipient, or made available for recredit upon reemployment of the leave recipient by a Federal agency.

(2) Donating Voluntary Leave

(a) Requesting to Donate Voluntary Leave

1. An employee may donate annual leave to an approved leave recipient in his or her own component or in another component covered by this AI by submitting a completed OPM Form 630-A, "Request to Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program (Within Agency)," to his or her leave-approving official. This form is located at [https://www.opm.gov/forms/pdf\\_fill/opm630a.pdf](https://www.opm.gov/forms/pdf_fill/opm630a.pdf). If the employee wants to donate annual leave to an approved leave recipient in another agency covered by the provisions of the Federal Voluntary Leave Transfer Program, he or she must submit OPM Form 630-B, "Request to Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program (Outside Agency)," to the leave donor's authorizing official. This form is located at [https://www.opm.gov/forms/pdf\\_fill/opm630b.pdf](https://www.opm.gov/forms/pdf_fill/opm630b.pdf).

2. The WHS-Service Component administrative personnel, as designated by the Component Head, of an employee covered by this AI who wants to donate annual leave to a leave recipient employed by another Federal agency shall verify the availability of annual leave in the leave donor's annual leave account. The administrative personnel shall also ensure that the amount of annual leave to be donated does not exceed the limitations in subparagraph 5.b.(2)(b) of this enclosure, and determine if the leave recipient's employer has made the requisite determinations about the transfer of annual leave from outside the recipient's agency. When these requirements have been met, the administrative personnel shall forward the employee's leave donation to the point of contact at the leave recipient's employing agency and provide a copy of the leave donation to the timekeeping official for entry into the Defense Civilian Pay System.

(b) Limitations on Donating Annual Leave. An employee may donate no more than one-half of the annual leave the donor would accrue during the leave year. For employees with "use or lose" annual leave, the employee may donate the lesser of one-half of the annual leave he or she would accrue in a leave year or the number of hours remaining in the leave year at the time of the contribution.

(c) Prohibition on Coercion. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce (as defined in the Glossary), any other employee for the purpose of interfering with any right the employee may have with respect to donating, receiving, or using annual leave under the Voluntary Leave Transfer Program.

(3) Approving or Disapproving Requests to Donate Voluntary Leave

(a) Approval or disapproval must be annotated on the applicable OPM Form 630-A or 630-B submitted by the employee. A copy of the approved or disapproved OPM form should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

(b) The leave-approving official will promptly approve or disapprove an employee request to donate leave. This will usually occur within 10 workdays of receiving an employee request.

(4) Requesting the Use of Donated Voluntary Leave. An employee may apply to be a leave recipient before, during, or after a medical emergency. To do so, he or she must complete an OPM Form 630, "Application to Become a Leave Recipient Under the Voluntary Leave Transfer Program," and submit it to his or her leave-approving official. The OPM 630 Form is located at [https://www.opm.gov/forms/pdf\\_fill/opm630.pdf](https://www.opm.gov/forms/pdf_fill/opm630.pdf). On the completed form, the applicant must describe the medical emergency, the duration (or expected duration), the approximate frequency (if recurring), and attach administratively acceptable medical documentation to substantiate the need for donated voluntary leave.

(5) Approving or Disapproving Requests to Use Donated Voluntary Leave

(a) General

1. Approval or disapproval must be annotated on the OPM Form 630 submitted by the employee. A copy of the approved or disapproved OPM 630 should be provided to the employee and the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

2. The leave-approving official will promptly approve or disapprove an employee's request for leave. This must occur within 10 calendar days (excluding Saturdays, Sundays, and legal public holidays) of receiving an employee's request or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval. The leave-approving official will seek guidance, assistance, and coordination of all applications to become a leave donor recipient with BWD to ensure conformance with established laws, regulations, and policies.

(b) Factors to Consider in Approving or Disapproving Requests to Use Donated Voluntary Leave

1. The leave approving official must determine that the absence from duty of a leave recipient applicant because of a medical emergency is (or is likely to be) or was at least 24 duty hours without available paid leave for full-time employees. The period of absence without paid leave for part-time employees and employees on uncommon tours of duty is prorated.



2. The leave-approving official shall continuously monitor the status of the medical emergency affecting the leave recipient to ensure that he or she continues to be an eligible leave recipient.

(c) Administratively Acceptable Medical Documentation. Administratively acceptable documentation consists of a signed and dated original certificate from a licensed physician or other health care provider on his or her letterhead that includes a statement that the medical problem renders the employee incapacitated for the performance of duties. The certificate must also state the duration of incapacitation and the nature of the medical condition.

(6) Termination. The leave recipient's medical emergency terminates when:

(a) The leave recipient's Federal service terminates;

(b) The leave recipient informs the WHS-serviced Component in writing that he or she is no longer affected by a medical emergency;

(c) The WHS-serviced Component determines, after written notice to the leave recipient and an opportunity to respond orally or in writing, that the leave recipient is no longer affected by a medical emergency; or

(d) OPM notifies a WHS-serviced Component that it has approved the leave recipient's application for disability retirement, either under the Civil Service Retirement System or the Federal Employees' Retirement System.

(7) Impact of Donated Voluntary Leave on Employee Pay, Benefits, or Other Eligibilities

(a) Voluntary donated leave does not adversely affect an employee's pay, benefits, or other eligibilities.

(b) While using donated voluntary leave, a leave recipient accrues annual and sick leave at the same rate as if he or she were in a regular paid leave status.

(c) If the leave recipient transfers to another federal agency without a break in service, the WHS-serviced Component must complete OPM Form 630-C, "Transfer of Leave Records for Leave Recipient Covered by the Voluntary Leave Transfer Program," located at [https://www.opm.gov/forms/pdf\\_fill/opm630c.pdf](https://www.opm.gov/forms/pdf_fill/opm630c.pdf). The completed form must be sent to the gaining Federal agency.

(8) Required Record Keeping. WHS-serviced Components shall maintain:

(a) Records concerning the administration of the Voluntary Leave Transfer Program and may be required to produce such information as may be necessary to evaluate the effectiveness of the program.

(b) The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member.

(c) The grade or pay-level of each leave recipient and leave donor, the sex of each leave recipient, and the total amount of transferred annual leave used by each leave recipient.

(d) Any additional information that may be required by the OPM or the BWD, HRD, WHS.

ENCLOSURE 4

CREDITABLE SERVICE TOWARD ANNUAL LEAVE ACCRUAL

1. CREDITABLE SERVICE. In accordance with chapter 63 of Reference (f):

a. Federal civil service in the executive, judicial, and legislative branches of the Federal Government is creditable service for annual leave accrual.

b. Regular duty time, leave with pay, and time on the rolls in a non-pay status (e.g., LWOP, furlough, suspension, and AWOL) that does not exceed 6 months total in any calendar year is creditable service. LWOP that exceeds 6 months in any calendar year is creditable service if the LWOP is due to the employee:

(1) Receiving worker's compensation from the Department of Labor; or

(2) Serving with the Military Services during a period of war or national emergency.

c. A Reservist ordered to active duty for training normally receives credit for that duty period. However, no credit is given for scheduled weekly or monthly assemblies or drills.

d. Most active duty military service ended by honorable discharge or by transfer to inactive Reserve under honorable conditions is creditable.

e. Although retired members of the uniformed services only receive credit for active service in the Military Services during wartime, or in any campaign or expedition for which a campaign badge has been authorized, the following employees receive credit for all their military service:

(1) Employees whose military retirement was based on a disability resulting from injury or disease received in the line of duty during a period of war either as a direct result of an armed conflict or caused by an instrumentality of war.

(2) Employees who were employed in November 1964 in a Federal civilian position to which the annual and sick leave law applied and who have continued to be employed without a break in service from the Federal Government of more than 30 days.

f. Newly appointed or reappointed employees may be granted creditable service based on prior non-Federal work or active duty uniformed service that would otherwise not be creditable if all of the following criteria are met:

(1) The skills and experience the employee possesses are essential to the new position and were acquired through performance in a non-Federal position having duties that directly relate to the position to which the employee is being appointed.

(2) It is determined by the head of the employing activity that this authority is necessary

to achieve an important agency mission or performance goal.

(3) The employee provides acceptable written documentation of the qualifying service such as a position description, performance award or rating that describes the duties the employee performed, evidence of an honorable discharge from the military, etc.

## 2. CREDITABLE SERVICE ACCUMULATION

a. Full- and part-time employees whose appointments are for 90 days or longer earn annual leave beginning with the first day of duty after appointment. An employee initially appointed for less than 90 days who serves on successive appointments that total 90 days or more without a break in service will be entitled to full leave accrual for the 90 days on the 91st day of service. An employee initially appointed for less than 90 days whose current appointment is for 90 days or more begins to accrue annual leave with the current appointment; however, if there is no break in service between the appointments, the employee will be credited with the leave that would have accrued from the initial appointment.

b. Employees earn and are credited with leave during each full biweekly pay period they are in a pay status or in a combination of a pay status and a non-pay status.

c. Employees do not earn leave during a pay period if the number of hours in a non-pay status equals the number of hours of the employee's biweekly tour of duty.

ENCLOSURE 5

RESTORATION OF FORFEITED ANNUAL LEAVE

1. GENERAL. In accordance with chapter 63 of Reference (f) and part 630 of Reference (d), forfeited annual leave may be restored if it was formally requested and approved prior to the beginning of the third pay period before the end of the leave year and it is unable to be used because of administrative error, exigency of the public business, or employee illness or injury (this may include any annual leave forfeited due to the employee substituting sick leave or being placed on continuation of pay).

2. DECLARING AN EXIGENCY OF THE PUBLIC BUSINESS

a. When the head of a WHS-serviced Component approves an exigency of the public business, he or she must write a statement to be filed with employee requests for restoration of leave. Such statements must include language that:

(1) Establishes the beginning and ending dates of the exigency and identifies the affected employees. The statement should be prepared before the beginning of the exigency unless the suddenness or uncertainty of the circumstances prevents an advance decision.

(2) Specifies that the exigency determination is of such importance that the employees cannot be excused from duty to use the leave and thus preclude the forfeiture of all, or portions of, the unused annual leave in excess of the maximum accumulation for the leave year.

(3) Asserts there is no alternative to the cancellation of the scheduled leave, such as postponing the work or assigning the work to another employee.

b. If the annual leave was lost by an employee whose position is realigning or whose duty station is closing pursuant to Reference (g), then the base realignment and closure is deemed to create an exigency of the public business, and any leave that is lost by an employee of such installation (regardless of whether such leave was scheduled) shall be restored to the employee.

3. REQUESTS FOR RESTORATION OF LEAVE. Requests for restoration of forfeited annual leave must be submitted in writing by the employee to the head of his or her WHS-serviced Component through the supervisory chain. The request must include:

a. The number of hours of annual leave the employee is requesting be restored.

b. The original approved OPM Forms 71 that show the dates the leave was requested, the periods during which the leave was requested to be used, the amount of leave that was scheduled for use, the dates the leave was approved for use, and the signatures of the employee and of the leave-approving official.

c. Documentation that the leave was disapproved or cancelled and the reasons therefore (including the exigency statement identified in paragraph 2.a, of this enclosure); the dates the leave was rescheduled for use, if appropriate; and the amount of leave (number of hours) that was rescheduled for use.

d. Copies of the employee's leave and earnings statements for the last pay period of the leave year when the leave was forfeited and for the first pay period of the subsequent leave year.

#### 4. APPROVING OR DISAPPROVING REQUESTS FOR RESTORATION OF LEAVE

a. The head of a WHS-serviced Component will notify the employee in writing of his or her approval or disapproval of the employee's request.

b. For approved requests, the approval letter must include the following information:

(1) The number of hours that have been approved for restoration.

(2) A statement that restored leave will be credited to a separate leave account.

(3) A statement that the use of restored leave must be requested in the same manner as accrued annual leave.

(4) A statement that the use of restored leave must be coded differently in the time and attendance system in order for the leave to be deducted from the separate account.

(5) The period during which the restored leave is available for use.

(6) The disposition of restored leave upon departure or expiration of the period for use.

(7) A statement that a copy of the memorandum is being provided to the timekeeping official for entry into the timekeeping system.

#### 5. TIMEFRAMES BY WHICH RESTORED LEAVE MUST BE USED

a. Restored leave must be scheduled and used no later than the end of the leave year ending 2 years after:

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

(2) The date fixed by the head of the WHS-serviced Component as the date of termination of the exigency of the public business;

(3) The date the employee is determined to be recovered and able to return to duty from

sickness or injury that gave rise to the forfeiture; or

(4) The date the employee is no longer subject to base realignment or closure.

b. If an employee subject to base realignment or closure has annual leave in excess of 416 hours, the 2-year period will be extended by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof.

c. Restored leave that is not used within the established time limit is forfeited with no further right to restoration. Administrative error may not serve as the basis to extend the time limit in which to use restored annual leave. Administrative error may be caused by the WHS-serviced Component forgetting to establish a separate leave account; failure to fix the date for the expiration of the time limit; or failure to properly advise the employee about the rules for using restored annual leave.

ENCLOSURE 6

LUMP-SUM PAYMENT FOR UNUSED ANNUAL LEAVE

1. GENERAL. Upon request, an employee is entitled to a lump-sum payment for accrued annual leave when he or she separates from Federal service or enters on active duty in the Military Services. A lump-sum payment is considered pay for taxation purposes only.

2. ELIGIBLE LEAVE

a. In accordance with part 550 of Reference (d), included in a lump-sum payment for annual leave are:

- (1) Rate of basic pay.
  - (2) Locality pay or other special geographic adjustment.
  - (3) Within-grade increase.
  - (4) General Schedule adjustments.
  - (5) Federal Wage System (FWS) pay adjustments.
  - (6) Administratively uncontrollable overtime.
  - (7) Availability pay.
  - (8) Night differential (FWS).
  - (9) Standby duty pay.
  - (10) Overtime entitled by the Fair Labor Standards Act (regularly scheduled for employees on uncommon tours of duty).
  - (11) Cost-of-living allowance (non-foreign areas).
  - (12) Supervisory differential, post differential (non-foreign areas), and post allowance (foreign areas), as applicable.
- b. The lump-sum payment must equal the pay (excluding any foreign area post differential and any foreign area danger pay allowance) the employee would have received had he or she remained employed until expiration of the period of annual leave.



3. INELIGIBLE LEAVE/LIMITATIONS

a. An employee is not entitled to a lump-sum payment for annual leave upon transfer to another Federal agency, since the employee's annual leave is transferred to the new employing agency.

b. The period of leave used for calculating the lump-sum payment may not be extended due to any holiday occurring after separation. An employee may not earn leave for the period covered by the lump-sum payment.

ENCLOSURE 7

FMLA LEAVE

1. APPLICABILITY OF FMLA LEAVE. In accordance with chapter 63 of Reference (f) and part 630 of Reference (d):

a. Full- and part-time employees who have completed at least 12 months of Federal service are eligible for FMLA leave.

b. In accordance with section 825.110 of title 29, CFR (Reference (o)), intermittent employees and employees serving under a temporary appointment with a time limitation of 1 year or less may be eligible for FMLA leave if at least 12 months of Federal service has been accumulated after a break of 7 years or longer.

c. The FMLA leave period begins on the date an employee first takes FMLA leave for a family or medical need and continues for 12 months.

d. FMLA leave entitlement for either the birth of a son or daughter or the placement of a son or daughter with an employee through adoption or foster care expires at the end of the 12-month period beginning on the date of birth or placement of the child. The leave entitlement period may begin prior to the date of birth or placement on a case-by-case basis.

e. For purposes of this enclosure and the FMLA the term “family member” only includes the employee’s spouse, son or daughter, or parent.

2. APPROPRIATE USE OF FMLA LEAVE

a. General. FMLA leave is generally taken on a continuous basis, but may be taken intermittently when medically necessary. If an employee takes leave intermittently and such a need is foreseeable based on planned medical treatment or recovery from a serious health condition, the leave-approving official may temporarily place the employee in an available alternative position for which the employee is qualified and that can better accommodate recurring periods of leave.

b. FMLA Entitlements

(1) Serious Health Condition of Self or Family Member or Adoption. The FMLA entitles an employee to 12 administrative workweeks of LWOP during any 12-month period for one or more reasons:

(a) The birth of a son or daughter of the employee and the care of the son or daughter;

- (b) The placement of a son or daughter with the employee for adoption or foster care;
- (c) The care of a spouse, son, daughter, or parent of the employee, if the spouse, son, daughter, or parent has a serious health condition; or
- (d) A serious health condition of the employee that makes the employee unable to perform any one or more of the essential function of his or her position.

(2) Serious Injury or Illness of Family Member Incurred on Active Duty. FMLA also provides 26 weeks of LWOP during a 12-month period for employees to care for a covered family member who suffers a serious injury or illness on active duty. This includes the 12 weeks of regular FMLA leave and is not in addition to it.

c. Limitations. An employee may take only the amount of FMLA leave that is necessary to manage the circumstances that prompted the need for family and medical leave.

### 3. REQUESTING OR INVOKING FAMILY AND MEDICAL LEAVE

#### a. General

(1) An employee must submit a completed OPM Form 71 or electronic equivalent to his or her leave-approving official in advance of the requested absence; requests should be submitted as far in advance as possible to minimize potential scheduling conflicts and allow for the agency to make arrangements to cover work requirements during the employee's absence.

(2) Employees may be required to submit administratively acceptable medical documentation to substantiate the FMLA entitlement. If requested, medical documentation must be submitted no later than 15 calendar days after the date of request. If it is not practical to provide medical certification within 15 calendar days after the date requested, despite the employee's diligent, good-faith efforts, the employee may request up to an additional 15 calendar days.

b. Requesting Non-emergency or Anticipated Medical, Dental, or Optical Examination or Treatment. If the need for FMLA leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice to the leave-approving official of his or her intention to take leave not less than 30 days before the date the leave is to begin. If the circumstances that necessitate the need for FMLA leave require leave to begin within 30 days, the employee shall provide such notice as is practicable.

#### c. Requested Emergency Medical, Dental, or Optical Examination or Treatment

(1) Even during emergencies, the use of FMLA leave is subject to the leave-approving official's approval.

(2) If the employee is expected to be absent for an extended period, the employee may be

directed to submit the OPM Form 71 or electronic equivalent via mail, e-mail, or fax.

(3) An employee is responsible for requesting his or her own leave. However, an employee may designate in writing an individual to serve as his or her personal representative in the rare event the employee is unable to make the leave request.

d. Substituting Paid Leave for LWOP. FMLA entitles an employee to LWOP; however, an employee may request to substitute accrued annual leave or sick leave or donated leave for LWOP.

#### 4. APPROVING OR DISAPPROVING REQUESTS TO USE OR INVOKE FMLA LEAVE

##### a. General

(1) Approval or disapproval must be annotated on the OPM Form 71 or electronic equivalent submitted by the employee. A copy of the approved or disapproved OPM Form 71 or electronic equivalent should be provided to the employee and a copy should be kept by the leave-approving official. If approved, a copy should also be provided to the timekeeping official.

(2) The leave-approving official will promptly approve or disapprove an employee's request for leave. This will usually occur within 10 workdays of receiving an employee request or before the requested absence, whichever occurs first. However, unique circumstances may warrant delay in approval or disapproval.

##### b. Factors to Consider in Approving or Disapproving Requests to Use FMLA Leave

(1) A leave-approving official may require that a request for FMLA leave be supported by administratively acceptable medical documentation. An employee must provide the written medical certification required, signed by the health care provider, no later than 15 calendar days after the date of request. If it is not practical to provide medical certification within 15 calendar days after the date requested, despite the employee's diligent, good-faith efforts, the employee will have up to 30 calendar days after the WHS-serviced Component requests such documentation to submit the medical certification. If the employee is unable to provide the requested medical certification before leave begins, or if the leave-approving official questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, the leave-approving official shall grant provisional leave pending final written medical certification.

(2) FMLA leave may not be delayed or denied when the need for it is not foreseeable and the employee is unable, due to circumstances beyond his or her control, to provide 30 calendar days' notice of his or her need for leave.

(3) If an employee requests to substitute accrued or donated paid leave for unpaid leave prior to the date the paid leave commences, a leave-approving official may not deny the request.

Leave approving officials should follow the provisions of this AI for approval of advanced sick or annual leave to substitute for LWOP under FMLA.

c. Administratively Acceptable Medical Documentation

(1) Requirements

(a) Administratively acceptable medical documentation consists of a signed and dated original certificate from a licensed physician or other health care provider (as established by section 630.1202 of Reference (d)) on his or her letterhead that includes a statement with the following information:

1. The date the serious health condition commenced.
2. The probable duration of the serious health condition or specify that the serious health condition is a chronic or continuing condition with an unknown duration, and whether the employee is presently incapacitated.
3. The likely duration and frequency of episodes of incapacity.
4. The appropriate medical facts within the knowledge of the employee's health care provider regarding the serious health condition, including a general statement as to the incapacitation, examination, or treatment that may be required by a health care provider.

(b) An employee must provide the written, signed medical certification by the health care provider no later than 15 calendar days after the date of request. If it is not practical to provide medical certification within 15 calendar days after the date requested, despite the employee's diligent, good-faith efforts, the employee will have up to 30 calendar days to submit medical certification.

(2) Consequences of Failure to Provide Administratively Acceptable Medical Documentation

(a) If the employee is unable to provide the requested medical certification before leave begins, or if the leave-approving official questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, the leave-approving official shall grant provisional leave pending final written medical certification.

(b) If, after the leave has commenced, the employee fails to provide the requested medical certification, the leave-approving official may:

1. Charge the employee as AWOL; or
2. Allow the employee to request that the provisional leave be charged as LWOP or paid leave, as appropriate.

**5. IMPACT OF FMLA LEAVE ON EMPLOYEE PAY, BENEFITS, OR OTHER ELIGIBILITIES**

a. An employee on FMLA leave is entitled to maintain health benefits coverage and must arrange to pay the employee's share of the premium while on family and medical leave or when he or she returns to work.

b. Upon return from FMLA leave, an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

**6. REQUIRED RECORD KEEPING.** WHS-serviced Component administrative personnel, as designated by the Component Head, shall maintain records concerning the administration of FMLA and may be required to produce such information as necessary to evaluate the use of this entitlement. These records shall include:

a. The employee's rate of basic pay.

b. The occupational series for the employee's position.

c. The number of hours of leave taken including any paid leave substituted for LWOP.

d. The reason the FMLA leave was used.

e. Any additional information that may be required by the OPM or the BWD Division,-HRD, WHS.

## GLOSSARY

### PART I. ABBREVIATIONS AND ACRONYMS

AI	Administrative Instruction
AWOL	absence without leave
BWD	Benefits and Worklife Division
CFR	Code of Federal Regulations
E.O.	Executive Order
FMLA	Family and Medical Leave Act
FWS	Federal Wage System
HRD	Human Resources Directorate
LWOP	leave without pay
NCR	National Capital Region
OPM	Office of Personnel Management
PCS	Permanent Change of Station
RIF	reduction-in-force
SES	Senior Executive Service
SL	senior level
U.S.C.	United States Code
WHS	Washington Headquarters Services

### PART II. DEFINITIONS

These terms and their definitions are for the purposes of this AI.

accrued leave. The leave earned by an employee during the current leave year that is unused at any given time in that leave year.

administrative error. An agency error that adversely affects an employee's ability to

use forfeited leave (e.g., agency miscalculated annual leave balance).

administrative workweek. Any period of seven consecutive 24-hour periods designated in advance by the head of the agency consistent with chapter 61 of Reference (f).

adoption. A legal process in which an individual becomes the legal parent of another's child.

advanced leave. Chargeable leave (either annual or sick leave) given to an employee, after being approved by their leave-approving official, that has yet to be earned.

compensatory time. Time off from work without charge to leave in lieu of paid compensation for an equal amount of irregular or occasional overtime work.

contagious disease. A disease that is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period, as prescribed by the health authorities having jurisdiction.

contingency operation. A military operation designated by the Secretary of Defense as an operation in which members of the Military Services are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services during war or during a national emergency declared by the President or Congress.

disaster or emergency. A major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees (e.g., loss of life or property, serious injury, or mental illness because of a direct threat to life or health).

employee. An individual to whom this AI applies.

essential functions. The fundamental duties of the employee's position.

excused absence. An authorized absence from duty without loss of pay or charge to leave, when the employee's absence is directly related to the agency's mission, officially sponsored by the agency head, determined to enhance the professional skills of the employee in his or her current position, and determined to be in the interest of the Department of Defense.

family member. For sick leave, funeral leave, and leave sharing programs, this includes an individual with any of the following relationships to the employee: spouse (and his or her parents); children including adopted children, parents, brothers and sisters, grandparents and grandchildren (and the spouse of any of the aforementioned family members), and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. For FMLA entitlements, this includes only the employee's spouse, son, daughter, or parent.

foster care. 24-hour care for children in substitution for, and away from, their parents, or



guardian. Such placement is made by or with the agreement of the State because of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

in loco parentis. A situation in which an individual has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, had such responsibility for the employee when the employee was a child. A biological or legal relationship may or may not be necessary.

incapacitation. The inability to work, attend school, or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition.

intermittent leave. Leave taken in separate blocks of time, rather than for one continuous period and may include leave periods of 15 minutes to several weeks.

intimidate, threaten, or coerce. Includes promising to confer or conferring any benefit (e.g., an appointment, promotion, or compensation); or effecting or threatening to effect any reprisal (e.g., deprivation of appointment, promotion, or compensation).

leave-approving official. The agency official, and normally the first level supervisor, who receives and acts on employees' leave requests.

leave year. The period beginning with the first day of the first full biweekly pay period in a calendar year and ending with the day immediately before the first day of the first full biweekly pay period in the following calendar year.

medical emergency. A medical condition of the employee or a family member of such an employee that is involuntary and beyond the control of the leave recipient and is likely to 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 that is appropriate to the medical emergency.

month. A period that runs from a given day in one month through the date preceding the numerically corresponding day in the next month.

paid leave status. The administrative status of an employee while the employee is using annual or sick leave, accrued or advanced, under the applicable provisions of law.

parent. A biological or adoptive parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter. This term does not include parents "in law". Individuals may be "in loco parentis" when they have day-to-day responsibility for the care and financial support of a child, or who did when the employee was a child; a biological or legal relationship is not necessary to establish this relationship.

regularly scheduled. Work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks.

regularly scheduled administrative workweek. For a full-time employee, the period within an administrative workweek, established in accordance with part 610 of Reference (d), in which the employee is regularly scheduled to work. For a part-time employee, the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

serious health condition. An illness, injury, impairment, or physical or mental condition that involves inpatient care; continuing treatment by a health care provider; any period of incapacity due to pregnancy or prenatal care; incapacity or treatment of chronic health condition; conditions of a permanent or long-term nature that are under the supervision of a health care provider; and any period of absence to receive multiple treatments and to recover.

shared leave status. The administrative status of an employee while the employee is using transferred leave under a Federal Leave Transfer Program.

son or daughter. A biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability. Individuals may be in loco parentis when they have day-to-day responsibility for the care and financial support of a child, or who did when the employee was a child; a biological or legal relationship is not necessary to establish this relationship.

spouse. An individual who is a husband or wife by virtue of entry into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

Was entered into in a State that recognizes such marriages; or

If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

tour of duty. The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.