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DEPARTMENT OF THE ARMY
Corps of Engineers, Omaha District
215 North 17th Street
Omaha, Nebraska 68102-4978

DR 690-1-630
Change 2

CEMRO-HR-E

Regulation
No. 690-1-630, Change 2

1 September 1995

Civilian Personnel
LEAVE ADMINISTRATION

1. This change to DR 690-1-630, 15 August 1993, updates the regulation to include information regarding the use of sick leave for family purposes, including adoption, and the granting of administrative leave for organ or bone marrow donors. Also included are minor editorial changes to existing material.

2. Substitute the attached pages as shown below:

Remove Pages

i thru 1-2
2-7 thru 3-7
4-3 thru 4-7
5-3 thru 5-4
8-1 thru 8-3
11-1 thru 11-5

Insert Pages

i thru 1-2
2-7 thru 3-9
4-3 thru 4-7
5-3 thru 5-4
8-1 thru 8-3
11-1 thru 11-5

3. File this change in front of the publication for reference purposes.

FOR THE COMMANDER:


ROBERT L. SUTHARD, JR.
LTC, EN
Deputy Commander

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DEPARTMENT OF THE ARMY
Corps of Engineers, Omaha District
215 North 17th Street
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DR 690-1-630
Change 1

CEMRO-HR-S

Regulation
No. 690-1-630, Change 1

1 September 1994

Civilian Personnel
LEAVE ADMINISTRATION

1. This change to DR 690-1-630, 15 August 1993, updates the regulation to include two new chapters; Chapter 11, Leave Under the Family and Medical Leave Act of 1993 (FMLA) and Chapter 12, Compensatory Time and Credit Hours Used as Leave. Included are minor changes to existing material.

2. Substitute the attached pages as shown below:

Remove Pages

iv
1-1 thru 1-2
4-3 thru 4-4
8-1 thru 8-2

Insert Pages

iv
1-1 thru 1-2
4-3 thru 4-4
8-1 thru 8-2
11-1 thru 12-1

3. File this change in front of the publication for reference purposes.

FOR THE COMMANDER:


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DR 690-1-630

CEMRO-HR-S

Regulation
No. 690-1-630

15 August 1993

Civilian Personnel
LEAVE ADMINISTRATION

Summary. This regulation implements policies and procedures regarding the use of leave. It explains the purposes for which different types of leave are intended and related eligibility requirements.

Applicability. This regulation applies to all personnel of the Omaha District and serviced activities.

Neutral Language Statement. In this regulation, the words "he," and "his," when used, represent both the masculine and feminine genders, unless otherwise specifically stated.

This regulation supersedes DR 690-1-1 dated 28 May 1980.

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Chapter 1

Introduction

1-1. Purpose

The purpose of this regulation is to provide information and guidance to supervisory and non-supervisory personnel in regard to leave and absences.

1-2. References and related publications

- a. Title 32, USC 502-505.
- b. 5 CFR 351.608.
- c. 5 CFR, Chapter 610.
- d. 5 CFR, Chapter 630.
- e. Department of Labor Publication CA-810.
- f. CPM Supplement 990-2 (Hours of Duty, Pay and Leave Annotated, Books 610 and 630).
- g. AR 690-990-2, Chapter 630 (Leave and Absence).
- h. ER 690-1-600 (Leave and Hours of Duty).
- i. DR 600-1-3 (Labor Management Relations).
- j. DR 690-1-3 (Hours of Work During Temporary Duty Status).
- k. DR 690-1-11 (Employee Assistance Program).
- l. DR 690-1-771 (Grievance and Appeal Procedures).
- m. DR 690-1-810 (Injury Reporting and Compensation).
- n. DM 690-1-620 (Flexible Work Schedule Plan).
- o. DM 690-1-632 (Voluntary Leave Transfer Program).

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1-3. Responsibilities

a. Supervisors are responsible for controlling the attendance and leave of the individuals who work under their supervision. They are responsible for assuring that general information regarding leave procedures is available to employees and for clearly disseminating any specific procedures applicable to their own office. Supervisors are expected to display good judgment in administering the leave program, approving or disapproving leave fairly and equitably.

b. It is the responsibility of all employees to become familiar with applicable attendance and leave procedures and to comply with guidelines contained in this regulation, as well as with supplemental guidance provided by their supervisors. Employees are expected to plan and request periods of leave as far in advance as is feasible, particularly when the anticipated absence will be for an extended period of time.

1-4. Approval authority

Except as specified elsewhere in this document, an individual's immediate supervisor is authorized to approve or disapprove requests for all types of leave, and requests are to be directed accordingly. Chiefs of divisions, offices, and/or directorates of the Omaha District and serviced activities, as well as local managers of field installations, are authorized to approve annual and sick leave for themselves up to a maximum of three days.

Chapter 2

Annual Leave

2-1. Definition

a. Annual leave is provided for two general purposes which are (1) to allow every employee an annual vacation period of leave for rest and recreation and (2) to provide periods of time off for personal and emergency purposes, i.e., death or illness in the employee's family, religious observances, attendance at non-work-related conferences or conventions, securing a driver's license, or any other personal business that an employee may need to accomplish during normal working hours. Excess travel time in connection with official travel resulting from using a mode of transportation other than that recommended, or from traveling by other than the most direct route, is generally chargeable to annual leave.

b. All employees who are appointed to a position for 90 days or longer, and for whom there has been established a regular tour of duty of one or more days in each administrative workweek, are eligible to earn and use annual leave. Employees on appointments of less than 90 days are not entitled to annual leave until after being employed for a continuous period of 90 days under consecutive appointments without a break in service of one workday or more.

2-2. Policy

a. Accrual and use of annual leave is a right of an employee that may not be denied. However, it is the prerogative of management to make the final decision on when and the extent to which annual leave is to be granted. Generally, the time and amount of annual leave granted should be based on mutual agreement between the employee and supervisor. When employees can be spared from their duties, annual leave will be granted freely for vacation, personal, or emergency purposes. To the extent permitted by local work conditions, management will plan to allow each employee, annually, a period of leave sufficient for rest and relaxation in order to assist in maintaining maximum efficiency and productivity.

b. Supervisors are responsible for counseling employees to prevent accumulations of annual leave in excess of the maximum carryover, knowing whether an employee has sufficient accumulated annual leave or has requested adequate advanced annual leave to cover the amount of leave time requested, and assuring leave is scheduled, in writing, as far in advance as possible. Supervisors are to assure that annual leave is scheduled early enough in the

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year to minimize both forfeitures and requests for restoration of forfeited annual leave, as well as to ensure an adequate work force at all times. ENG Form 3211, Vacation Schedule for 19xx, may be used for scheduling purposes.

c. Chiefs of staff elements or offices may, in limited circumstances, direct the use of annual leave when, in their judgment, an employee's services are not needed for short periods of time or when it is otherwise desirable to do so in terms of mission requirements. The Human Resources Office should be consulted before exercising this option.

d. Employees have the responsibility to plan and request leave as far in advance as feasible and to present proper documentation when requested. Employees are to cooperate with management when the considerations of work interfere with planned leave or cause some inconvenience. Employees are expected to make reasonable efforts to schedule annual leave throughout the year so as to avoid large accumulations in excess of the maximum carryover. Employees should attempt to limit requests for annual leave to a period of time which can be covered by accumulated annual leave. If an employee has insufficient accumulated leave to cover his request, advanced leave or leave without pay may be made available. Procedures for requesting advanced leave are found in paragraph 2-7.

e. Granting annual leave is generally not appropriate in situations where the employee is not expected to return to duty; i.e., immediately prior to retirement or other separation. Such "terminal leave" may be approved only when continuation of the individual's employment status beyond the anticipated last day in duty status will benefit the Government or the situation meets the criteria for an exception under reduction in force procedures as outlined in CFR 351.608.

2-3. Earning annual leave

a. An employee earns (accrues) annual leave during each full biweekly pay period he is on the rolls; i.e., a new employee begins to earn leave with the first full pay period he is on the rolls; a separating employee earns leave through the last full pay period on the rolls.

b. Full-time employees, those with a basic 40-hour workweek (or an alternative work schedule of 80 hours bi-weekly), who have less than 3 years of service, earn 4 hours of annual leave for each biweekly pay period; employees who have between 3 but less than 15

years of service earn 6 hours of annual leave for each pay period, except for the last full pay period of the calendar year, when they earn 10 hours of annual leave; those with 15 or more years of service earn 8 hours of annual leave for each full biweekly pay period.

c. Employees on a regularly scheduled part-time tour of duty of less than 40 hours per week earn leave each pay period based on the number of hours in a pay status (not to exceed 80 hours biweekly). Those with less than three years of service accrue one hour of annual leave for each 20 hours in pay status, those with three years but less than 15 years accrue one hour for each 13 hours and those with 15 or more years of service accrue one hour for each 10 hours. Remaining hours in pay status insufficient to credit one full hour of annual leave are carried over from one pay period to the next for accumulation toward future leave credit. The "carry-over hours" are reflected on ENG Form 3695, biweekly Leave Report, by a statement such as "part-time employee has 15.00 hours annual leave carryover and 15.00 hours sick leave carryover."

d. Leave category changes are effective at the beginning of the first pay period starting on or after the date that the service requirement is met. The change will be reflected on ENG Form 1599, employee's Earnings and Leave Statement, .

2-4. Requesting and using annual leave

a. Use of annual leave is always subject to the prior approval of the appropriate supervisor, normally the employee's immediate supervisor. The employee will normally request permission from his supervisor verbally or with an SF 71, Application for Leave, as far in advance as is feasible, but generally not less than 24 hours in advance unless precluded from doing so due to an emergency situation. Although retroactive approval may be given where circumstances warrant, it must not be assumed by the employee that a mere report of absence will result in approval. Failure to secure the proper approval may result in the period being charged to absence without leave (AWOL).

b. The minimum annual leave charge is 15 minutes with additional time charged in multiples thereof.

2-5. Documentation

Employees are generally expected to advise their timekeeper of approved leave so that the hours can be recorded appropriately on CETAL during the current pay period. Normally, periods of annual

leave taken will be officially documented by the employee initialing the CETAL time sheet or completing an SF 71. Standard Form 71 must be used when initialing the CETAL sheet is not practicable, and may, at supervisor's discretion, be required in all instances.

2-6. Accumulation of annual leave

Annual leave accrued, but not used at the end of a leave year, may be carried over for use in subsequent years to the extent that it does not exceed the authorized maximum carryover (normally 240 hours). The leave year does not coincide precisely with the calendar year; rather, each leave year begins on the first day of the first full pay period in the new calendar year and ends on the day preceding the beginning of the following leave year. Any annual leave in excess of the authorized carry-over balance (often referred to as "use or lose" leave) which remains to an employee's credit at the end of the leave year is subject to forfeiture (loss). The amount of "use or lose" leave, based on the current leave balance plus projected accruals for the remainder of the leave year, is printed each pay period on the employee's Earnings and Leave Statement. Paragraph 2-10 contains provisions for restoring forfeited annual leave under certain circumstances.

2-7. Advanced annual leave

a. Advanced annual leave is annual leave granted to an employee prior to it having been earned. Such advance may be appropriate when an employee needs additional leave time beyond that which has accrued to his leave account. Employees whose continued employment is expected may have advanced to them the accruals which will be earned during the remainder of the current leave year. Where it is known, or reasonably assured, that an employee is to be separated (for example, temporary appointment will end or employee is not likely to be retained beyond trial or probationary period) or employee plans to retire during the year, advance may not exceed the amount that will accrue prior to the anticipated separation or retirement.

b. The employee must prepare a written request, submitting it through supervisory channels, to the Omaha District Human Resources Officer. The request must include the following: the period of anticipated absence, the number of hours of advanced leave required, and the employee's current annual leave balance. The supervisor must recommend approval or disapproval, along with any reasons for the recommendation, and indicate whether or not the employee is expected to return to duty and remain employed long

enough to repay the advance. Requests for advance leave should be submitted to reach the Human Resources Office at least one week prior to the time the leave will be needed, if at all possible, or at the earliest opportunity. The Human Resources Officer will approve or disapprove the request, notify the Resource Management Office, Central Payroll Branch, the supervisor, and the employee.

2-8. Transfer of annual leave

Annual leave may be donated and credited to the annual leave account of another individual under the Voluntary Leave Transfer Program. The recipient must first have qualified and been accepted as a participant in the transfer program based on a personal or family medical emergency. Except in very unusual circumstances, the maximum amount of annual leave that may be donated by any one donor in a leave year is one-half the amount of his annual leave accrual for that year. For more information regarding the Voluntary Transfer Program, refer to DM 690-1-632.

2-9. Lump sum payments on separation

a. Upon separation, an employee is entitled to receive a lump-sum payment for any accumulated annual leave, including the regular carry-over balance from the previous year, any annual leave accrued and unused during the current leave year, and any unused restored annual leave. Lump sum payment will not be made for unused donated leave received by a leave recipient under the Leave Transfer Program.

b. An employee entering the armed forces may elect to be paid in a lump sum for annual leave or have it remain on credit until return from active duty.

2-10. Leave substitution

Annual leave may be used in lieu of sick leave if requested in advance by the employee and approved by the supervisor. However, substitution of annual leave for sick leave previously granted may not be made retroactive, except for the liquidation of advanced sick leave, and then only when the substitution is made before the time the annual leave would otherwise have been forfeited. Annual leave may not be substituted retroactively for sick leave for the purpose of avoiding a forfeiture of annual leave at the end of the leave year.

2-11. Restoration of annual leave

a. Annual leave in excess of the maximum permissible carryover is forfeited at the end of each leave year. When forfeiture occurs due to some type of administrative error, when a period of sickness (or injury or any other medical condition for which paid sick leave would be approved) interferes with the usage of scheduled annual leave, or when scheduled leave is cancelled as a result of an exigency of the public business, the leave so forfeited may be restored for use if certain conditions are met.

(1) Administrative error might include such situations as the following: improper leave credit resulting in forfeiture on adjustment of records; failure on the part of management to accomplish the rescheduling of leave upon cancellation or denial of an employee's leave request.

(2) When an employee is absent due to illness or injury during a period of scheduled annual leave, the employee has the option of using annual leave in place of sick leave. If substitution is not desired, annual leave subject to forfeiture may be restored provided that the leave was scheduled in writing at least three pay periods prior to the end of the leave year and the period of absence due to the sickness occurred at such time in the leave year, or was of such duration, that the annual leave could not be rescheduled for use before the end of the leave year. Workload considerations that are affected by an employee's absence due to illness may not be used as the basis for cancelling scheduled annual leave or for not rescheduling annual leave to avoid forfeiture under this paragraph. Such a situation may be processed as an exigency if it meets the criteria described in paragraph 2-11.a(3).

(3) Exigency of the public business may be cause to cancel scheduled leave. In order for annual leave to be restored under this provision, the leave must have been scheduled in writing prior to the exigency and at least three pay periods prior to the end of the leave year. The leave must have been cancelled due to an approved exigency where there was no reasonable alternative to the cancellation, and the leave could not be rescheduled for use prior to the end of the leave year so as to avoid forfeiture. The exigency must be described in writing, including specific beginning and ending dates, and approved by the District or Division Commander, as appropriate, in advance of the cancellation of the scheduled leave. In emergencies, the approval may be secured after the cancellation occurs.

(a) Long-term training, whether for academic studies or assignments requiring extended TDY, is not considered an exigency for this purpose.

(b) An exigency may not be approved by an individual who is also the leave-approving official. Therefore, in instances where the activity commander is the leave-approving official, the exigency request must be submitted to the next higher level for approval.

(c) The Comptroller General has ruled that there is no authority under the law to permit restoration of leave forfeited because federal offices have been closed; e.g., declaration of a holiday on the day the leave was scheduled.

b. Requests for restoration of forfeited annual leave will be processed as follows:

(1) Action to restore forfeited leave will be initiated by a written request submitted by the employee through supervisory channels to the Omaha District Human Resources Office, Employee/Labor Relations and Training Branch. Supporting documents must include:

(a) A copy of the approved form or document used to schedule leave; e.g., SF 71 or ENG Form 3211, Vacation Schedule for 19xx, showing the date(s) the leave was to be used, number of hours to be used, date the schedule was approved, and signature or initials of the approving official.

(b) Reason(s) for subsequent cancellation of approved leave. If leave is cancelled because of an exigency of the public business, the request must specify the beginning and ending dates of the exigency and must include a copy of the approval document as outlined in paragraph 2-11.a.(3).

(c) Statement explaining why the leave was not rescheduled for later use.

(2) Memorandum of approval or disapproval and copies of supporting documents will be furnished by the Human Resources Office to the appropriate supervisor, who will notify the employee involved. The Human Resources Office will also provide appropriate documentation to the servicing payroll office, including the date the restored leave will expire.

(3) Annual leave is restored for use within a limited period of time. If not scheduled and used within that period of time, the

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unused hours of leave are once again forfeited with no entitlement to further restoration. Unused restored annual leave expires at the end of the leave year ending two years after (1) the date of restoration of the annual leave; or (2) the date fixed by the Commander as the termination date of the exigency which resulted in forfeiture of the annual leave; or (3) the date the employee is determined to be recovered and able to return to duty if the leave is forfeited because of sickness.

c. Procedures for using restored annual leave are similar to those for requesting and using annual leave. Special provisions are as follows:

(1) An employee who has forfeited leave restored should schedule the usage of the leave in order to avoid further forfeiture. It is also recommended that employees use restored leave prior to using leave currently accruing.

(2) Restored annual leave is recorded in a separate leave account. Restored leave information will appear on the biweekly Leave Report and the employee's Earnings and Leave Statement.

(3) When requesting that annual leave be charged against the restored leave account, the employee must submit his request on SF 71, clearly indicating that the leave is to be charged to the restored leave account. Hours of restored annual leave will be recorded on CETAL as standard type hour code "RAL".

d. Any restored leave unused at expiration (the expiration date fixed at the time of restoration) is once again forfeited with no rights to further restoration. When an employee separates from federal service prior to the expiration of a restored leave account, a lump sum leave payment will be made for those hours along with any hours of regular leave to the employee's credit. Unused restored leave to an employee's credit is transferred along with regular leave accounts when an employee transfers to another federal agency (lump sum payment is not authorized).

Chapter 3

Sick Leave

3-1. Definition

Sick leave is provided primarily to cover periods of absence due to employee illness and/or incapacitation for duty. It may also be used for certain family-related purposes as described below. Its use is restricted to the following conditions:

a. Employee is receiving medical, dental, or optical examination or treatment.

b. Employee is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.

c. Employee provides care for a family member as a result of physical or mental illness, injury, pregnancy, childbirth, or for medical, dental, or optical examination or treatment.

d. Employee makes arrangements necessitated by the death of a family member or attends the funeral of a family member.

e. Employee's presence would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his presence on the job because of exposure to a communicable disease. (This applies only to serious diseases which may be carried by one who is not infected by the disease.)

f. Employee must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

g. When treatment by a specialist is required and such services are not available in the local area, a reasonable amount of sick leave may be granted to cover time spent in traveling for the specialized treatment. Similarly, necessary travel time will be included when traveling away from the immediate area to attend the funeral of a family member.

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3-2. Policy

a. The policy of the Omaha District is to grant sick leave whenever it is warranted. Supervisors are responsible for determining whether the reasons for absence warrant granting sick leave and for prescribing the kinds of evidence to be furnished to support sick leave charges in each individual case. Supervisors are also responsible for knowing whether an employee has accumulated sufficient leave or has requested advanced leave to cover the amount of leave requested.

b. Employees have the responsibility to request leave as far in advance as possible and to present appropriate documentation when requested. Medical examinations should be scheduled outside of working hours, when feasible. Requests for sick leave for non-emergency purposes should be made in advance. When an employee will be absent due to unexpected illness, the employee is responsible for notifying the supervisor as soon as is feasible (see paragraph 3-4). Employees should request the use of sick leave only if they have sufficient leave to cover their request. In case of serious illness or injury, advanced sick leave may be made available for use. Procedures for requesting advanced sick leave are outlined in paragraph 3-9.

3-3. Earning sick leave

All employees who are appointed to a position for which there has been established a regular tour of duty of one or more days in each administrative workweek are eligible for sick leave. Newly appointed employees begin to accrue sick leave at the beginning of the first full pay period, exclusive of holidays and nonworkdays, in which they are on the employment rolls. The earning of sick leave is not affected by the length of an employee's appointment as is annual leave.

a. Full-time Employees. All full-time employees earn sick leave at the rate of four hours for each full biweekly pay period of employment.

b. Part-time Employees. Employees on a regularly scheduled tour of duty of less than 40 hours per week earn leave each pay period based on the number of hours in a pay status exclusive of overtime. Sick leave is earned at the rate of one hour for each 20 hours in a pay status. Hours insufficient to credit one full hour of sick leave are carried over from one pay period to the next for accumulation toward future leave credit.

3-4. Requesting and using sick leave

a. Use of sick leave is subject to approval by the appropriate supervisor, normally the employee's immediate supervisor. When use of sick leave can be scheduled; i.e., for medical examination or treatment, the employee should request approval from his supervisor as far in advance as it is feasible, but generally no later than the close of the previous work-day. Such requests may be made verbally or by use of an SF 71.

b. Most often, absence due to illness or injury can not be anticipated and scheduled. In these instances, the employee is expected to notify the appropriate supervisor (normally, the immediate supervisor) no later than 9 a.m. on the first day of the absence. Individuals working on shifts are expected to call in within one hour of the time they would normally commence work. When absence extends beyond one day, the employee should assume that he will be required to call in on each subsequent day unless he is informed otherwise by his supervisor. During periods of extended illness, for example, arrangements may be made with the supervisor as to how frequently the employee will be expected to call in for approval of additional leave. Employees are normally expected to personally contact their immediate supervisor when calling due to illness. If the immediate supervisor cannot be reached, the employee must inform the next higher level supervisor in the chain of command, unless other arrangements have been authorized by the supervisor responsible for the approval of leave. Failure on the part of the employee to give such notice to the appropriate supervisor may result in a charge to AWOL. Failure to follow established procedures for requesting and using leave may also result in disciplinary action as the circumstances warrant.

c. The minimum charge for sick leave is 15 minutes and additional leave is charged in 15-minute increments. Leave is charged only for scheduled hours on regular workdays for which the employee is entitled to regular pay. Sick leave is not charged for hours absent on holidays, on nonworkdays, or for any other hours during which the employee is not scheduled to be on duty.

3-5. Documentation

a. Employees are expected to document scheduled sick leave absence on their ENG Form 4704, Alternate Work Schedule Time Record, prior to the absence. When the period of absence will

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be of short duration (3 days or less) and the employee will be available to initial the time sheet for the pay period involved, use of an SF 71 is not generally required unless individual office policy so dictates.

b. Normally, the employee's initials on the time sheet or signature on the SF 71 are sufficient to support a charge to sick leave for absences of three working days or less. For absences of more than three days, an employee may, at the discretion of his leave-approving supervisor, be required to furnish medical documentation as to the reason for the absence. The employee should be notified of such a requirement during the early portion of an absence, if possible. If such a requirement will be applied routinely within a specific office or division, all employees should be so advised. Pre-notification of this requirement will increase the likelihood of the employee being able to arrange for a medical examination and the doctor being able to provide meaningful documentation. An employee who did not know of the requirement and was not examined by a doctor during the period of absence obviously will not be able to provide meaningful medical documentation.

c. Adequate medical certification will always be required to support requests for sick leave of more than three days for care of a family member. See paragraph 3-6 for further information about using sick leave to care for family members.

d. All requests for sick leave for adoption purposes must be supported by documentation acceptable to the leave approving official. See paragraph 3-7 for additional information regarding sick leave for adoption purposes.

e. When there is reason to believe sick leave privileges have been abused, leave-approving supervisors should exercise the prerogative of requiring administratively acceptable evidence for each absence, regardless of length. In such cases, the employee will be advised in writing that medical certification will be required to support any future grant of sick leave.

f. In those cases where a medical certificate is required, but not available at the time the leave is tentatively granted, the employee is expected to furnish one upon return to duty or within three days after return to duty. During this time, the employee may be carried on sick leave, annual leave or leave without pay pending determination of the appropriate leave to be charged.

g. Medical documentation, when required, must be in the form of a written statement signed by a physician or other medical practitioner certifying to examination, treatment, and period of incapacitation during which the employee was receiving professional treatment. The medical statement may be made on the reverse side of the SF 71. When a separate medical certification is furnished, it should be attached to the SF 71. Supervisors are responsible for determining the adequacy of the medical documentation furnished.

3-6. Sick leave for family illness, funeral, bereavement

a. Family members for this purpose include the following: spouse and his parents; children and their spouses; parents and step-parents; brothers and sisters and their spouses; any individual related by blood or affinity whose close association to the employee is the equivalent of a family relationship (some examples include foster children, step children, or an individual unrelated by blood who has shared the same household in a family-like relationship for a substantial period of time).

b. Basically, it is appropriate for an employee to use sick leave to care for or provide assistance to a family member in connection with the same types of activities for which personal sick leave may be used. Included would be such things as care for an ill family member, taking a family member to a doctor, consulting with the family member's doctor, picking up a sick child from school, making arrangements for a parent's funeral, and travel to a funeral of a family member who lives in another state.

c. The total amount of sick leave an employee may use in a leave year for care of family members and for arranging for and attending the funeral of a family member is limited to the following:

(1) Full-time employees. The basic limit for full time employees is 40 hours. An additional 64 hours can be used if the use of that leave does not cause the amount of sick leave to the employee's credit to fall below 80 hours. Sick leave may not be advanced for the purpose of maintaining an 80-hour balance.

(2) Part-time employees or those with uncommon tours of duty. The basic limit for these employees is an amount equal to the average number of hours of work in the employee's scheduled tour of duty each week. Additional sick leave, up to the amount accrued during a leave year, can be used if use of that leave does not cause the employee's sick leave balance to fall below twice the

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basic limit amount. For example, a part-time employee on a 20-hour weekly tour earns 52 hours of sick leave in a leave year. The employee's basic limit is 20 hours (the average number of hours of work in the employee's scheduled tour of duty each week). An additional 32 hours (52-20=32) can be used if the use of that leave does not cause the amount of sick leave to the employee's credit to fall below 40 hours (twice the basic limit amount).

d. General procedures for request and approval of sick leave apply in cases of sick leave for family purposes. However, all requests for sick leave under this provision are to be in writing and directed to the immediate supervisor using an SF-71 or memo. Include family member relationship and general purpose of the leave (illness, doctor visit, funeral, etc.). Requests for sick leave of more than three days for care of a family member must be supported by certification from a health care provider.

3-7. Sick leave for adoption

In general, sick leave may be used for any required activity relating to the adoption of a child. Included might be such things as meetings with adoption agency officials, attorneys, birth parents, court appointments, along with travel time associated with these activities. If an adoption agency or court orders or requires the adoptive parent(s) to take a period of time off from work to bond with the child, sick leave may be granted to cover the required absence. There is no specific limit on the amount of sick leave that can be granted in connection with an adoption. Sick leave can not be used for absence required in connection with placement of a foster child. All requests for sick leave under this provision must be supported by documentation acceptable to the leave approving official.

3-8. Accumulation

Any balance of sick leave which remains unused at the close of a leave year may be carried forward to the next leave year. Sick leave may accumulate from pay period to pay period and from year to year with no ceiling restriction.

3-9. Advanced sick leave

a. Advanced sick leave is sick leave which has been granted for use and credited to an employee's sick leave account prior to its having been earned. Advanced sick leave is appropriate only in cases of serious disability or illness. Applicability of advanced

sick leave to pregnancy and post-delivery recovery should be determined based on the same criteria as would be used for an illness or injury. It is not normally appropriate to advance sick leave for periods of short-term absence due to common health problems such as cold or flu, headache, upset stomach, or other minor illnesses. The following will be considered in recommending or granting advanced sick leave:

(1) All available accumulated sick leave to the employee's credit must be exhausted. The employee should consider using any annual leave which might otherwise be forfeited.

(2) The amount of sick leave advanced to an employee's account may never exceed 30 days at any time. In the case of employees serving under temporary appointments, under probationary or trial periods, or in any case where it is anticipated that the employee will retire or be separated, the total advance may not exceed an amount that can be repaid by accrual during the current appointment or prior to anticipated separation.

(3) There must be a reasonable assurance that the employee will return to duty and repay the sick leave borrowed.

(4) The employee must furnish medical certification sufficient to establish that he is (or will be) incapacitated for duty and specifying the period of time during which he will be unable to work.

(5) Once the period of absence covered by the advanced sick leave has passed and as long as the employee has a negative sick leave balance, any future absence must be charged to leave other than sick leave unless a new, additional sick leave advance is approved. Each new request must meet established criteria as explained in this directive.

(6) Advancing sick leave for use up to the basic limit (40 hours for full-time) for family purposes is not prohibited. Sick leave may not be advanced, however, for the purpose of maintaining the minimum balance required for using family leave in excess of the basic amount. Refer to paragraph 3-6 for further information.

b. The employee must prepare a written request, submitting it through supervisory channels to the Omaha District Human Resources Officer. The request must identify the period of anticipated absence, the number of hours of advanced leave required, and the employee's current sick leave balance. Appropriate medical certification from the doctor must be attached, including a

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diagnosis, a brief description of the treatment required, and the period of anticipated incapacitation. The supervisor must recommend approval or disapproval, along with any reasons for the recommendation, and indicate whether or not the employee is expected to return to duty and continue employment sufficient to repay the advance. The request for advanced sick leave should be forwarded in sufficient time to reach the Omaha District Human Resources Office, Employee/Labor Relations and Training Branch (CEMRO-HR-E), at least seven days prior to the beginning date of the advanced leave. If due to extenuating circumstances it is not possible to initiate the request in advance, it may be submitted after the fact by the most expeditious means possible. The Omaha District Human Resources Officer will approve or disapprove the request, notify the employee through his supervisor, and forward a copy of the approved request to the servicing payroll office.

3-10. Leave substitution

When sickness occurs during a period of approved annual leave, sick leave may be substituted for annual leave during the period of illness. Annual leave may be used in lieu of sick leave if requested in advance by the employee and approved by the supervisor. Substitution of annual leave for sick leave previously granted may not be made retroactively, except for the liquidation of advanced sick leave, and then only when the substitution is made before the time the annual leave would otherwise have been forfeited. Annual leave may not be substituted retroactively for sick leave for the purpose of avoiding forfeiture of annual leave at the end of the leave year. Sick leave may not be substituted retroactively for a period of LWOP previously granted. However, when an employee is carried on annual leave or LWOP pending return to duty and determination of the appropriate leave to be charged, the period of absence may be converted to sick leave, provided the absence is properly substantiated by acceptable evidence of illness.

3-11. Restrictions of outside employment during sick leave

If an employee is unable to perform the duties of the position because of illness or injury, he is generally considered too ill or injured to work elsewhere. In the rare instance when injury or incapacitation prevents an employee from performing the duties of his position, but does not incapacitate him for other employment, the employee may engage in outside employment during a period of sick leave upon securing prior approval from the Division or District Commander, or the local commander of a serviced activity, as appropriate.

3-12. On-the-job injury

a. When an employee is injured in the performance of duty, he is entitled as a matter of right to apply for benefits under the Federal Employees' Compensation Act, administered by the Department of Labor, Office of Workers' Compensation Programs (OWCP). An employee who sustains a disabling, job-related traumatic injury may have regular pay continued (commonly referred to as COP) for the period of disability (not-to-exceed 45 calendar days, including nonworkdays and holidays) or the employee may opt to have the absence from duty covered by a charge to sick leave, annual leave or LWOP. COP is not applicable in connection with an occupational disease. If the employee's claim is denied by OWCP, any COP previously granted must be converted to some other appropriate type of leave.

b. When an employee is placed in a nonpay status pending action by the OWCP on any claim for disability compensation, and the claim is disallowed, the nonpay status may be retroactively converted to sick leave or annual leave to the extent it was available to his credit at the time of the absence. (Refer to Publication CA-810 for detailed guidance regarding injury compensation.)

c. Policies and procedures for requesting and approving leave as established in this regulation apply to on-the-job injury cases, the same as for any other situation.

Chapter 4

Excused Absence

4-1. Definition

An excused absence is an administratively authorized absence during a regularly scheduled duty period without loss of pay and without charge to leave or credit hours (excused absence is not applicable to an employee who works on an intermittent basis since there is no scheduled tour of duty). Ordinarily, excused absences are authorized on an individual basis, except when an activity is closed, or when a group of employees are excused from work for various purposes. Group dismissal is addressed in chapter 10.

4-2. Policy

Generally, there must be a legal or regulatory authority for an absence from duty during the basic workweek to be excused without charge to the employee's leave or credit hour balance. Supervisors and managers in cooperation with the appropriate local commanding official (Commander, Omaha District; Commander, Missouri River Division; or local commander of a serviced activity) are responsible for seeing that all absences from duty which may not be properly excused under the following provisions or do not clearly serve the best interest of the service, as compared to the personal interests of the employee, are charged to the appropriate type of leave or against a credit hour balance, as available.

4-3. Applicability of excused absence

The Office of Personnel Management (OPM) has established that certain activities are supportive of a function of government or in some other way serve the best interests of the government. These include registration and voting, certain civil defense activities, and participation in military funerals. Department of Defense (DOD) and U.S. Army Corps of Engineers (USACE) headquarters have identified a number of other common and not-so-common activities that warrant excused absences for participating individuals. Guidelines for approval of excused absence under some of the most common situations are as follows:

a. Registration and voting. As a general rule, where the polls are not open at least three hours either before or after an employee's regular hours of work, employees may be allowed to report for work up to three hours after the polls open or leave work up to three hours before the polls close, whichever requires the lesser amount of time off. Since polls are normally open for

at least three hours after the close of working hours (particularly where a flexible work schedule is in effect) excused absence for voting is very rarely applicable. There may be individual circumstances, however, where excused absence is warranted; e.g., the voting place is beyond normal commuting distance and vote by absentee ballot is not permitted. Up to one day of excused absence may be granted in such a case, and where more than one day is required to make the trip to the voting place, flexibility should be exercised in granting the necessary leave for this purpose. Voter registration is normally available at convenient locations so that employees need not be absent from work for this purpose. However, in the rare instance that registration cannot be accomplished on a nonworkday and round trip to the place of registration cannot be accomplished within a reasonable one-day period, excused absence may be granted on substantially the same basis as for voting. Absence for voting as covered by this paragraph is to be reported as administrative leave (other paid leave).

b. Civil defense activities. Employees who participate in certain Federally recognized civil defense programs may be excused for a reasonable amount of time without charge to leave up to a maximum of 40 hours in any calendar year. Specifically, this applies to employees assigned by the Corps or a serviced activity to participate in pre-emergency training programs and at test exercises in cooperation with a state or political subdivision thereof. Excused absence for this purpose is considered to be hours of work to the extent that it occurs during scheduled duty time.

c. Participation in military funerals. An employee who is a veteran of war, or a campaign or expedition for which a campaign badge has been authorized (or is a member of an honor or ceremonial group of an organization of those veterans), may be excused from duty without loss of pay or charge to leave for the time necessary, not to exceed four hours in any one day, to enable him to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States. Report such absence as administrative leave (other paid leave). See chapter 9 for guidance on leave for attendance at the funeral of a deceased member of the Armed Forces.

d. Administrative discretion. Some of the more common activities for which the granting of excused absence is within the discretion of leave-approving supervisors are as follows:

(1) Blood donation. All employees who volunteer to donate blood, without compensation, will be excused from work without charge to leave for a period of time sufficient for necessary travel to and from the donation site, for donation of blood and for necessary recuperation time, not to exceed a total of four hours. Employees who are able to resume normal activities; e.g., traveling, shopping, moderate physical activity, etc., should return to work. Routine excusal of four hours is not authorized. The amount of time excused should be based on the needs of the individual blood donor. When the employee must travel a long distance, or when unusual need for recuperation occurs, up to an additional four hours may be authorized when explanation by the employee is acceptable to the supervisor. Such absence is considered to be duty time. Evidence of donation may be required.

(2) Utilizing services of Human Resources Office. Absence from the work site during which an employee is utilizing the services of the Human Resources Office will be considered official duty time and will be excused without charge to leave or loss of pay. If the period of absence will be other than short duration, employees should notify their supervisor as to their whereabouts.

(3) Employee Assistance Program (EAP). Employee initiated use of EAP services during working hours is generally chargeable to annual or to leave without pay. In some instances, circumstances may be such that sick leave is appropriate. When an employee is referred by his supervisor to use the EAP and the employee voluntarily accepts the referral, the time used to fulfill an appointment is considered duty time and is not charged to leave. (Refer to DR 690-1-11.)

(4) Tardiness and brief absence. Excusal for tardiness and brief absence during the workday should normally be limited to an occasional period of less than 15 minutes (periods less than the minimum leave charge, which are to be reported as duty time). An absence of 15 minutes or more must be accounted for by a charge to an appropriate type of leave or credit hours. A supervisor has the discretion to charge any unscheduled, unapproved absence of 15 minutes or more to absence without leave (AWOL), which may become the basis for disciplinary action. An employee may not be required to work during any period covered by a leave charge. Under flexitime, an employee is not considered tardy unless arrival occurs after the latest possible starting time (usually 8:30 a.m. under the Omaha District's flexitime plan). Excusal under this provision does not extend to early dismissal of groups of

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individuals for such reasons as celebration of a holiday. Refer to chapter 10 for guidance regarding group dismissal. Paragraph 10-5 contains detailed guidance regarding inclement weather dismissal procedures.

(5) Taking examinations. Employees will be considered to be on official duty for the time necessary to (1) complete noncompetitive examinations for promotion at the request of the employing activity, (2) take examinations for their present jobs, including reexaminations, and (3) participate in tests administered under the merit promotion program. These employees will be granted excused absence for the time necessary to complete the examination. The time required to take examinations for state licenses or certification in the profession in which the employee is serving is also considered duty time. Travel time is not included in either of these situations. Absence for the purpose of taking any other kind of examination must be charged to annual leave, leave without pay, or credit hours.

(6) Absence to serve on state boards of registration for professional engineers and architects. Upon request of appropriate state authorities, highly qualified civilian engineers or architects of the Corps of Engineers may be authorized to serve on State Boards of Registration for professional engineers and architects, provided no remuneration is received from the state other than an allowance for transportation and travel expenses. While serving on such boards, the employee will be considered in a duty status, normally not to exceed five working days per year. Any request to serve on other mission-related certification boards will be handled on a case-by-case basis.

(7) Attending conferences or conventions. Employees may be excused to attend conferences or conventions without loss of pay or charge to leave whenever it is determined by the Commander that such attendance will serve the best interest of the Government. Affirmative determinations should be reserved to those situations where the employee is designated as an official representative or consultant, or where a direct relationship between items on the agenda and the employee's official duty assignments make it necessary or desirable that the employee attend. In these cases, employees will be considered to be in official duty status. When employees desire to attend a conference or convention which in some way relates to their employment and excused absence is not appropriate, any combination of annual leave, leave without pay, or credit hours may be authorized to the maximum extent permitted by

working conditions. District policy on excusal of employees in connection with activities of labor organizations and at training conferences sponsored by them is set forth in DR 600-1-3, Labor Management Relations.

(8) An employee may, under certain circumstances, be allowed a limited amount of duty time in connection with such things as grievances, appeals, and discrimination complaints. Guidance regarding excusal of employees in connection with these activities is set forth in DR 690-1-771.

(9) Medical examinations. When directed by appropriate authorities, time spent for medical and x-ray examinations to determine an employee's physical fitness for duty in the Federal service will be considered duty time. This includes necessary travel time involved. An employee may be excused (administrative leave status) for up to eight hours while reporting for and undergoing a physical examination to determine his eligibility for enlistment into the Armed Forces. Approval of excused absence beyond one day is dependent on the employee furnishing a statement from the induction station establishing that the requirement for additional time was for reasons beyond the employee's control. Absence of reservists for taking examination for various purposes is to be charged to sick leave unless the individual has been called to active duty for that purpose, in which case the absence will be documented as military leave. All absences for the purpose of medical and dental examinations taken at the option of the employee as well as medical examinations directed by the Armed Services in connection with periodic physical examinations of retired military personnel (while serving as civilian employees) are chargeable to sick leave.

(10) Employment interviews. Employees may be excused without charge to leave or loss of pay to participate in interviews when competition is for a position within the Department of Defense or when the individual is under notice of separation or change to lower grade for any reason except personal cause.

(11) Absence for relocation purposes. Time spent on an advance house-hunting trip is considered to be accomplished on duty time. Travel time required to report for duty at the new duty station may also be accomplished on duty time. In addition, an employee may be excused for up to eight hours (official duty time) for the purpose of making personal arrangements and to transact personal business directly related to a permanent change of station, provided that such business or arrangements cannot be transacted during off duty time. When an employee of a DOD agency

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has been authorized a house-hunting trip, the employee's spouse, if also a DOD employee, may be excused on administrative leave from duty for the trip.

(12) Illness caused by required vaccination or immunization. When an employee is absent because of illness from administratively required vaccinations or immunizations, the absence will be considered duty time and will be excused without charge to leave or loss of pay. A certification from the medical officer administering the vaccination or immunization is required.

(13) On-the-job injuries. An employee injured in the performance of duty will be considered to be in a duty status and will receive pay without charge to leave for the time required to obtain emergency treatment on the day of the injury, to the extent that the time falls within his prescribed hours of work for that day. Refer to Department of Labor Publication CA-810 for more comprehensive guidance regarding on-the-job injuries.

(14) Emergency rescue and protective work. Employees who can be spared without interference with essential agency operations and obligations may be excused to participate in rescue or protective work during an emergency such as fire, flood, or search operations. Such participation shall normally be limited to a maximum of five workdays per year and will be considered official duty status. Employees may not be excused without charge to leave while performing duties which would otherwise be chargeable to military leave.

(15) After prolonged overtime or travel. When it is not possible or reasonable to reschedule an employee's duty or travel time and regular scheduling would require the employee to travel and/or serve in a duty status for more than 16 hours, the employee may be excused without charge to leave or loss of pay for a reasonable time (normally not more than four hours) to recuperate from fatigue or loss of sleep. The employee is considered to be in official duty status during this time. In determining the time to be allowed, consideration should be given to any adverse effect on work performance, health, or well-being, and any safety hazard which might result from working while fatigued.

(16) Official time for labor organization activities. Excused absence is not authorized for participation in internal business of the union such as solicitation of members, securing signatures, handing out literature, or for meeting of union members since these activities must be handled during nonduty time (after work hours, during lunch breaks or while in annual leave or leave

without pay status). Certain representational functions may be performed during official duty time. Refer to DR 600-1-3 for further guidance. Questions regarding specific situations should be referred to the Omaha District Human Resources Office, Employee/Labor Relations and Training Branch.

(17) Incentive awards programs. Attendance at official incentive awards ceremonies is considered official duty time. However, excused absence is not permitted for social functions (luncheons, retirement celebrations, etc.).

(18) Professional luncheons. Absence due to attendance beyond 30 minutes at professional luncheons such as SAME or at meetings such as Toastmasters (viewed as training/developmental) will be considered official duty time.

(19) Bone marrow or organ donor. An employee is entitled to seven days of administrative leave each calendar year to serve as a bone marrow or organ donor. Adequate supporting documentation must be provided. Supervisors are responsible for monitoring usage to be sure the seven-day limit is not exceeded. Time off required beyond seven days may be charged to sick or annual leave or to leave without pay.

Chapter 5

Leave Without Pay

5-1. Definition

Leave without pay (LWOP) is a temporary nonpay status and absence from duty based upon the employee's request and management's approval. It is often used to cover a period of approved absence for which the employee has insufficient paid leave available. LWOP must not be confused with absence without leave (AWOL) which is charged for unauthorized absence or absence for which the employee's leave request was denied. AWOL is not disciplinary but it could be basis for future disciplinary action.

5-2. Policy

a. The granting of LWOP is a matter of administrative discretion. Employees cannot demand leave without pay as a matter of right except for (1) disabled veterans who are members of the National Guard who are entitled to leave, under certain conditions, for active duty or training activities. Refer to Chapter 7, Military and Law Enforcement Leave, for guidance regarding absences for various types of military duty.

b. It is Department of the Army (DA) policy to grant 90 calendar days of LWOP to career and career-conditional employees or excepted service employees with competitive status who are relinquishing their positions because the family or the head of household is moving from one area to another and who intend to seek Federal employment in the new area. The initial grant of 90 days may be extended upon the request of the employee, based on merits of the request.

c. LWOP should be granted only when the benefits to the activity offset the costs and inconveniences resulting from retaining an employee in a LWOP status. This becomes increasingly important when acting on employee requests for extended periods of LWOP.

d. There is no maximum limit prescribed by law or general regulation on the amount of leave without pay which can be granted. Normally, the initial grant of leave without pay will not exceed six months except in a case where it is obvious from the start that a full year is appropriate.

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e. If an employee applies for and is granted leave without pay, the period of LWOP may not be retroactively converted to annual or sick leave, except for disability retirements and employee compensation cases when claims are disallowed.

5-3. Matters to be considered in acting on requests for LWOP

Each request for LWOP must be examined thoroughly to determine whether or not the value to the Government offsets the costs and inconveniences.

a. Matters to be considered as costs or inconveniences include, but are not limited to, the following:

(1) Loss of services which may be needed in the organization.

(2) Encumbrance of a position.

(3) Overtime required to accomplish duties of the absent employee.

(4) Obligation to provide active employment at the end of the approved leave period.

(5) Credit for up to six months each year toward retirement.

(6) Eligibility for continued coverage under the Federal Employees' Group Life Insurance (FEGLI) for up to one year at no cost to the employee.

(7) Eligibility for continued coverage under the Federal Employees' Health Benefits Program for up to one year (with applicable government contributions).

b. Matters to be considered as benefits include such things as the following:

(1) Increased job ability.

(2) Protection or improvement of employee's health.

(3) Retention of a desirable employee.

(4) Furtherance of a program of interest to the Government.

c. The following are examples of types of cases and considerations for which approval of LWOP would be appropriate, all other factors being favorable:

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

(2) Temporary assignment of employees between executive agencies and states, local governments, and institutions of higher education.

(3) For service with a non-Federal public or private enterprise when the job is of temporary character. In this situation, consideration must be given to whether or not there is reasonable expectation the employee will return with enhanced experience which will serve the interest of the public welfare or the agency. Otherwise, leave without pay will not normally be permitted to accept private employment or non-Federal public employment.

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

(5) To protect employee status and benefits during any period pending final action by the Office of Personnel Management on a claim for disability retirement.

(6) Parental and family responsibilities. See chapter 8.

5-4. Request and approval procedures

a. Employee requests for LWOP of 30 calendar days or less should normally be made using an SF 71, Application for Leave, in advance. Such requests may be approved by the immediate supervisor. When absence is for a very short period of time and approval is granted without the use of an SF 71, the employee must initial the Employee Time and Attendance printout from CETAL. The supervisor's certification on the Employee Time and Attendance printout (as well as on the SF 71 when used) serves as a permanent record of approval.

b. Employee requests for LWOP of over 30 calendar days must be submitted to the Omaha District Human Resources Officer for

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approval or disapproval. LWOP of over 30 days must be permanently documented with a personnel action in the employee's Official Personnel Folder (OPF). The following procedures apply:

(1) The employee is to prepare a written request for LWOP, submitting it through supervisory channels to reach the Human Resources Office at least seven days before the date the LWOP is to begin. When, due to unusual circumstances, the request cannot be submitted until later, it should be accomplished as soon as possible. The request must specify the dates during which the employee intends to be absent, the total number of calendar days involved, and the reasons for requesting the LWOP. If the LWOP is requested to seek Federal employment in a different geographical location, the employee must prepare a resignation statement on an SF 52, Request for Personnel Action, showing resignation to be effective at the end of the period of LWOP. If the employee has not found Federal employment and has not requested and received approval of an extension of the LWOP period by the date LWOP expires, the resignation will be processed.

(2) The immediate supervisor is to make written recommendation (including rationale) regarding approval or disapproval of the request. The immediate supervisor is responsible for initiating an SF 52 for placing the employee in a LWOP status. The original request, supervisory recommendations, and the SF 52 are to be forwarded through supervisory channels to the Human Resources Office, Employee/Labor Relations and Training Branch.

(3) The Omaha District Human Resources Officer will approve or disapprove the request, notify both the servicing payroll office and the employee, and submit documentation of the request and approval for filing in the employee's OPF.

(4) Upon the employee's return to duty, the immediate supervisor must initiate an SF 52 officially returning the employee to duty status.

Chapter 6

Court Leave for Witness and Jury Service

6-1. Definition

Court leave is the authorized absence of an employee from work, without charge to leave or loss of pay, for jury duty or to attend judicial proceedings in a nonofficial capacity as a witness on behalf of a state, a local government, or a private party where the United States, a state, or a local government is also a party. A "judicial proceeding" is any action, suit or other procedure of judicial nature (including any condemnation, preliminary, informational or other such proceeding), but does not include an administrative proceeding. All stages of such proceeding are covered. Court leave is not applicable to witness service performed in an official capacity or in an unofficial capacity on behalf of the Federal government since, in these situations, the employee is considered to be on official duty. Court leave is not authorized for strictly voluntary witness service, nor for serving as witness on behalf of a private party, unless the United States, the District of Columbia, a state or a local government is also a party.

6-2. Policy

The Department of the Army considers it a civic responsibility of all employees to participate when called for jury or other court service and encourages them to respond accordingly. Management should request that employees be excused from jury duty only when their services are required to meet essential work schedules such that the public interest is better served by the employee remaining on duty.

6-3. Eligibility

a. All employees for whom there has been established a regularly scheduled tour of duty (full-time or part-time) are eligible for court leave. Absence of an employee is to be recorded as court leave when, but for the jury duty or witness service, the employee would be on duty or in a paid leave status.

b. When an eligible employee is on annual leave at the time of call to court service, court leave will be substituted for annual leave for the days on which court service is performed (annual leave cannot be substituted for authorized court leave as a means of retaining jury fees). An employee on leave without pay (LWOP), although otherwise eligible, may not be granted court leave in lieu

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of LWOP when called for court service because court leave is available only to employees who, except for jury duty, would be on duty or on leave with pay.

c. An employee on annual leave under advance notice of separation from the Federal civilian service due to a reduction-in-force, and who is summoned as a juror, is entitled to have otherwise proper court leave substituted for annual leave but not to extend beyond the date administratively fixed for his separation.

d. An employee scheduled to work at night is entitled to court leave for his regularly scheduled night tour when called to serve in court during the day (an employee should not normally be expected to work his scheduled shift and perform court service the same day; hours of court duty during the day will be substituted for regularly scheduled night shift hours). An employee in this situation is entitled to be paid any night differential or shift pay to which he would have been entitled had he worked his normal duty hours. Should an employee choose to work his regular night shift as well as perform court duty during the day, he may be permitted to do so. In such a case, court leave will not apply.

6-4. Duration of court leave

An eligible employee under proper summons from a court should be granted court leave from the date stated in the summons for reporting to court through the time discharged from the court. If, in the interim, the employee is excused or released from the court for a day or a substantial part of a day, he is expected to return to duty, provided that the return would not cause him hardship because of the distance between home, duty station, and the court. When only a short time remains in the daily tour (employee would be available for less than one hour of work), the employee should not be expected to return to duty. Failure to return to duty as prescribed may result in a charge of annual leave, leave without pay, credit hours, or absence without leave.

6-5. Documentation

When an employee is called for court service, he should present a copy of the court order, subpoena, or summons to his supervisor as far in advance as possible. A second copy is to be forwarded to the Finance and Accounting Branch (F&A), Collections Section (CEMRO-RM-FC). Upon completion of the court service, it is the responsibility of the employee to furnish to his supervisor written

evidence of attendance at court, showing the dates (and hours if possible) of the service to serve as basis for approval of the absence. A copy of the documentation must also be furnished to the employee's timekeeper for retention with other payroll-related documents and to the F&A Collections Section. Court leave is posted on CETAL using code CRT.

6-6. Fees

a. The term "fee" includes all amounts paid to an employee for service as a witness or juror. Amounts paid to cover travel expenses or per diem for remaining overnight in connection with the court service are not considered to be fees for this purpose. Employees who serve as jurors or witnesses are expected to collect from the court all fees and allowances to which they are entitled as a result of that service. As a general rule, employees are not entitled to retain the fees and must turn them in to the F&A Collections Section upon return to duty. Criteria for determining entitlement to retain fees is as follows:

(1) Fees paid for court service for which the employee's absence is charged to court leave must be turned in. If fees are in excess of the usual salary paid during the period of court service, the employee is permitted to keep the excess of the court fee over the gross amount of salary due.

(2) A full-time or part-time employee who performs court service on a nonworkday for which no Federal salary is paid is entitled to keep the fees.

(3) A full-time or part-time employee who performs court service on a regularly scheduled workday during hours that do not conflict with his employment may keep the fees for that period of court service. For example, an employee on night shift who opts (with supervisory concurrence) to perform court service during the day and work his entire night shift as well, would be entitled to retain jury fees. However, if he performs any court service during any of the hours he is in a pay status in his Federal position, he may not keep any portion of the fees for that day.

(4) Fees received for court service on a holiday falling within the employee's basic tour of duty may be retained, provided that, had the employee not been on jury, the employee would have been excused from his regular duties due to the holiday.

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(5) An employee who is in leave without pay status when called for court service (and consequently is not entitled to court leave) may retain fees.

(6) Fees paid for witness service performed while in official duty status must be turned in.

(7) Court fees may be retained by the employee when an absence for court service is not chargeable to court leave and for this reason is charged to annual leave or leave without pay (for example, when serving as a witness for a private party in a car accident trial).

b. A check is normally issued to the witness or juror at the time service is completed or within 10 days thereof. Amounts included for per diem, allowances and travel expenses will normally be identified. The payment received from the court should be held by the employee and reconciled to the jury duty bill (Collection Letter) sent to him by the F&A Collection Section. It is suggested that the employee deposit the entire amount in his checking account and submit a personal check to the F&A Collection Section for the exact amount of the bill. If bills for jury duty are not paid in full within 30 days of billing date, further collection actions will be implemented.

6-7. Official duty status

An employee is considered to be in official duty status when summoned by the court or assigned by the employing office to testify in his official capacity on behalf of a state or local government or a private party or to produce official records pertaining to the position currently held or to a former position held in the Federal service. When summoned to testify on behalf of the United States, he is considered to be in official duty status whether appearing in an official or non-official capacity. The employee will not be placed on court or annual leave. When performing witness service in official duty status, an employee is entitled to travel expense reimbursement at the rate regularly authorized by the agency, offset to the extent paid by the court, authority or any other party which caused the employee to be summoned.

6-8. Reference Chart

The chart on the following page provides a handy reference for determining entitlement to court leave, retention of court fees, and government travel expenses. For further assistance, contact your servicing specialist in the Human Resources Office, Services Branch.

EMPLOYEE ABSENCES FOR COURT OR COURT-RELATED SERVICES

| Nature of Service | Type of Absence | | | Fees | | | Government Travel Expenses | |
|--|-----------------|---------------|----------------------|--------|------------------|----|----------------------------|------|
| | Court Leave | Official Duty | Annual Leave or LWOP | Yes | | No | No | Yes* |
| | | | | Retain | Turn Into Agency | | | |
| I JURY SERVICE | | | | | | | | |
| (A) U.S. or D.C. court | X | - | - | - | - | X | - | - |
| (B) State or local court | X | - | - | - | X | - | X | - |
| II WITNESS SERVICE | | | | | | | | |
| (A) On behalf of U.S. or D.C. government | - | X | - | - | - | - | - | X |
| (B) On behalf of State or local government: | | | | | | | | |
| (1) In official capacity | - | X | - | - | - | - | X | - |
| (2) Not in official capacity | X | - | - | - | - | - | X | - |
| (C) On behalf of private party: | | | | | | | | |
| (1) In official capacity | - | X | - | - | - | - | - | X |
| (2) Not in official capacity | - | - | - | - | - | - | - | - |
| (a) When a party is U.S., D.C., or State or local government | X | - | - | - | - | - | X | - |
| (b) When a party is not U.S., D.C., or State or local government | - | - | X | - | - | - | - | - |

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

Chapter 7
Military Leave

7-1. Definition

Military leave is absence from civilian duty without loss of pay, time, or efficiency rating for a reservist called to active military duty or engaged in field or coast defense training under Title 32, United States Code, Section 502-505. Actual active duty and active duty for training (full-time training, annual training, and attendance at service schools) fall within this category.

7-2. Policy

- a. It is Department of the Army policy to extend full cooperation to all reserve components of the Armed Forces by granting leave of absence to civilian employees for active military duty or training purposes when attendance is required to maintain their reserve status in good standing. An employee must provide his supervisor as much advance notice as possible so that arrangements can be made to cover his work during his absence. Employees who volunteer to attend additional training or active duty are expected to obtain advance approval from their immediate supervisor before committing to the training or active duty or obtaining orders.
- b. An employee who is a member of the Reserve or National Guard has a dual obligation - to the military and to his employer. To the extent that he has influence upon the timing, frequency, or duration of military training or duty, he is expected to use that influence to minimize the burden upon the agency. A good faith effort on the part of both the employee and supervisory officials is necessary in order to minimize conflicts that may arise.
- c. Where the requested absence would be burdensome for the agency, the supervisor may contact the commander (or other authority) of the employee's military unit to discuss the possibility of rescheduling or cancelling the period of military training or duty at issue. Such action may be particularly appropriate when the requested leave is for an extended period of time, during a period of acute need, or when, in light of previous leave, absences are becoming cumulatively burdensome. If the training or duty cannot be rescheduled or cancelled, the agency is required to permit the employee to take the necessary leave, whether the duty is voluntary or involuntary.

7-3. Employee eligibility

a. Members of reserve components who are full-time or part-time (16-32 hours per week) career employees with permanent, TAPER, or term appointments, or temporary appointments not limited to one year or less are eligible for military leave. Those with temporary appointments limited to one year or less and those on intermittent work schedules are excluded.

b. Entitlement to military leave is dependent on a determination that, but for the military duty, the employee would have been in a civilian pay status. Pay status immediately prior to the beginning of the military duty or return to pay status immediately following the military duty is generally the test used to make such a determination. However, the facts of each case must be considered. For example, when an employee, after receiving definite military orders, requests a short period of leave without pay immediately preceding the period of military duty, the occurrence of LWOP does not alter the fact that, but for the military duty, the employee would have been in a civilian pay status during the period of military duty. Likewise, a short period of LWOP requested by an employee immediately following a period of military duty would not negate his entitlement to military leave.

7-4. Covered military service

Military leave may be granted in connection with active duty or active duty for training with the following armed forces reserve components: Army National Guard of the United States, Army Reserve, Naval Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve, and the Coast Guard Reserve. Military leave is not authorized for the following types of service: inactive duty for training, summer training as a member of Reserve Officers Training Corps, temporary Coast Guard Reserve, Civil Air Patrol (established as a civilian auxiliary of the United States Air Force), active duty as a commissioned officer in the Reserve Corps of the U.S. Public Health Service, participation in parades by members of the state National Guard, training with a state defense or military organization which is not part of the National Guard (or an organization created by the state in the absence of the National Guard during an emergency).

7-5. Accrual and use

a. Military leave accrues at a rate of 15 calendar days per fiscal year for a full-time employee. The accrual rate is prorated

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for a part-time employee based on the ratio of his scheduled tour of duty to that of a full-time employee. For example, a part-time employee scheduled to work 32 hours per week would accrue 12 days military leave ($32/40 \times 15$) per fiscal year. If a part-time employee's scheduled tour of duty changes during the year, the schedule in effect at the time the military leave occurs is the schedule used to compute the prorated accrual. Proration does not apply to a full-time employee under any circumstances.

b. Military leave is credited to each eligible employee's account on 1 October, the beginning of new fiscal year. Any unused military leave from the prior fiscal year is carried over for use in the current year to the extent that total available military leave does not exceed 30 days.

c. Military leave may be used in one continuous period or intermittently during the year as directed under orders issued by the appropriate military authority. The minimum charge is one day. Since military leave is granted on a calendar-day basis, nonworkdays (including holidays) falling within a period of military duty are charged against available military leave. Nonworkdays or holidays occurring at the beginning or the end of a military duty period are not charged.

d. Absence for military duty which is not chargeable to military leave may be charged to annual leave or leave without pay. It is intended that military leave be used to the extent available before some other type of leave is granted. Military leave days may not be scheduled alternately with annual leave (or LWOP) days so as to avoid charging military leave on nonworkdays.

e. While on military leave, an employee will receive the same compensation as he would normally have received but for the military leave. This will include night differential or shift pay to which he is normally entitled, as well as regularly scheduled overtime which would have been worked. An employee is considered to be under military orders from the time ordered to active duty until released. He may not perform work for overtime compensation in his regular civilian position during that time.

f. National Guardsmen who are ordered into the active military service of the United States with the pay and allowances of their grades may not be employed in an active civilian capacity under the Government and receive pay without specific statutory authority. Military leave status is appropriate to the extent available, or they may be carried in an annual leave or LWOP status.

7-6. Leave for injured reservists

A reservist who is injured while on authorized training duty is entitled to active duty pay and allowances plus the compensation of his civilian position while on annual or sick leave during periods of hospitalization resulting from such injury. For periods not actually confined to the hospital, sick leave should be approved only after a determination that the injury has resulted in an inability to perform the duties of the civilian position.

7-7. Law enforcement leave

Members of reserve units or the National Guard are authorized up to 22 workdays of law enforcement leave when called to active duty to provide military aid and to enforce the law, or for alleviating the results of natural disasters such as floods, earthquakes, and tornadoes. Law enforcement leave is a paid leave category separate from, and in addition to, military leave for active duty and active duty training. It differs from regular military leave in that civilian pay must be reduced by the amount of any military pay received for days when law enforcement leave is granted. Annual leave or military leave may not be substituted for the available law enforcement leave, even though annual leave may be forfeited. After expiration of available law enforcement leave, military leave (if available) or annual leave may be granted.

7-8. Documentation

A copy of the military orders calling the employee to active military duty is sufficient evidence for the initial authorization of military leave. Since each order states the authority under which the employee is being called, a determination can be made as to whether the type of military service qualifies the employee for military leave (refer to paragraph 7-1). Upon return to civilian duty, each employee is required to furnish official proof of performance of the military duty.

Chapter 8

Leave for Parental and Family Responsibilities

8-1. Definition

Leave for parental and family reasons is granted in connection with childbirth, child care, adoption, foster care, elderly care and other parental or family responsibilities. Leave under this chapter consists of appropriate combinations of annual leave, sick leave, credit hours and leave without pay, including advances of annual and sick leave.

8-2. Policy

It is understood that employees occasionally find it necessary to request absence from duty to take care of family matters. Parenthood, in particular, carries with it numerous responsibilities that may require attention during scheduled duty periods. Obviously, frequent or prolonged absence of an employee may make it hard to reach organizational goals. However, responsiveness to family needs may, in the long run, work to the advantage of the organization. In order to strike a reasonable balance between the needs of the organization and the needs and welfare of the employee (and family), all aspects must be considered. It is the policy of the Omaha District that requests for leave for family reasons be considered with flexibility and compassion and that leave be granted to the extent that mission accomplishment is not severely hampered. Employees are responsible for requesting leave for parental or family reasons as far in advance as possible, particularly if the absence is to be prolonged, so that necessary adjustments may be made to cope with the absence. Refer to Chapter 11 for details regarding entitlements under the Family and Medical Leave Act of 1993 (FMLA).

8-3. Childbirth

Prospective mothers may request leave for periods of physical incapacitation and recuperation as well as for additional time beyond the recuperation period to care for the infant and adjust to a new family member. Employees are expected to request leave for childbirth as far in advance as possible, since a prolonged absence is involved. Tentative dates and expected duration of absence are sufficient for this purpose. An employee who does not intend to return to work following childbirth is not required to resign in advance, but is expected to submit a resignation at the expiration of her period of incapacitation.

a. Physical incapacitation and recuperation. There is no specific period established for absence for pregnancy and confinement. Pregnancy must be treated in the same manner as a short-term disability. Many women prefer to continue working as long as possible and are able to work virtually up to their expected due date of delivery. Other women may need to stop work at some point before that date for their own health or that of their unborn child. Sick leave may be used when it is necessary for health reasons to stop work prior to the delivery date. Sick leave is also appropriate for the period of confinement and recuperation following delivery, as directed by the physician. Six to eight weeks is commonly recommended although this, too, varies with the physical condition of the mother. Recuperation from Caesarean delivery will usually take longer than recovery from natural childbirth. Sick leave may also be appropriate for a spouse/father when he is required to be absent from work to care for the mother and new born child following delivery. Refer to Chapter 3, paragraph 3-6, for information regarding use of sick leave for family care. Such absences may be charge to annual leave, credit hours, or leave without pay when requested by the employee.

b. Infant care. A new mother may need time beyond her recuperation period to adjust to a new family member and bond with the infant. Additional responsibilities may fall upon a father who may be needed at home during and after a mother's hospitalization to help with household duties or to care for other children. Fathers, too, need time to bond with the newborn. Parents may need time to make arrangements for the care of children before they can return to work. Use of annual leave, credit hours, or leave without pay is appropriate to meet these needs.

8-4. Adoption and foster care

Adoption is often a long and difficult process for a prospective parent. Numerous arrangements must be made, and a prospective parent(s) may even need to make a commitment to stay home with the adopted child for some initial period of time. Likewise, employees who are foster parents may require leave for handling activities associated with the foster care program and to care for foster children who may have special needs. Annual leave, leave without pay, or credit hours may be used for such purposes. Sick leave may be used in arranging for an adoption, but not for foster care, as explained in Chapter 3, paragraph 3-7.

8-5. Child care

Parents take babies to the pediatrician periodically for check-ups to make sure the baby is developing normally and is otherwise healthy. These check-ups continue through childhood at decreasing

intervals, normally taking only a few hours at a time. These are responsibilities that cannot be postponed as readily as other leave plans. Children also suffer a number of minor illnesses such as ear infections, colds, stomach ailments, and mysterious rashes. As a result, supervisors may find that parents take more unscheduled leave than other employees. There is often nothing a working parent can do other than stay home with the child. Fortunately, these routine illnesses are usually short-term. Annual leave, sick leave, credit hours, or leave without pay are appropriate for this purpose. Refer to Chapter 3, paragraph 3-6, for information regarding the use of sick leave for family care.

8-6. Other parental and family responsibilities

From time to time, parents are obligated to attend events such as teacher conferences and other school activities. Many of these events occur during normal work hours, and in order to attend, parents must ask for time off from work. Most young children of working parents are placed in some kind of day-care situation, some with a private sitter. Sitters and care givers get sick, need time off for personal reasons, and have emergencies. This means that a working parent may have no alternative but to stay home with the child. Some employees care for an elderly or infirm parent or other family member. They occasionally need time off to attend to the medical and personal needs of these dependents. Flexibility is urged in granting leave in these situations. Annual leave, leave without pay, or credit hours are appropriate. Sick leave may be appropriate when required to give care to a family member due to illness. Refer to Chapter 3, paragraph 3-6, for more information regarding the use of sick leave for family care.

Chapter 9

Funeral Leave

9-1. Definition

Funeral leave is provided for use by an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as the result of a wound, disease, or injury which incurred while serving as a member of the Armed Forces in a combat zone. Immediate relative, for this purpose, means: a parent, spouse and parents thereof; child (including adopted) and spouse thereof; brother or sister and spouse thereof; or any other individual related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

9-2. Policy

All employees on regularly scheduled tours of duty are eligible for funeral leave as defined in paragraph 9-1. A maximum of three work days funeral leave will be granted as needed and requested. Normally, these days will be consecutive work days. If three non-consecutive work days are needed, the employee shall furnish his immediate supervisor satisfactory reasons justifying a grant of funeral leave for nonconsecutive days.

9-3. Approval and documentation procedures

A request for funeral leave is to be submitted by the employee to his immediate supervisor for approval. An SF 71 will be used if initialing the CETAL sheet is not practicable. The absence should be reported in CETAL as "FNL".

Chapter 10

Group Dismissal or Closure of Activity

10-1. Definition

Group dismissal is the dismissal of an entire group of employees of an activity or a portion of an activity. Such a dismissal is appropriate when activity operations must be curtailed due to a planned event or an emergency situation. Included are natural phenomenon such as earthquakes, floods, snowstorms, severe air pollution and interruption of building services resulting from power failure, malfunctioning equipment, or breakdown of transportation and communication facilities. During renovation of facilities, building services may be disrupted to the extent that dismissal is necessary for a brief period of time. Group dismissal is most commonly associated with inclement weather.

10-2. Authority

It is within the administrative authority of the Commander or his designee(s) to close all or part of the District Office, and dismiss the employees involved when he deems it to be in the best interests of the Government and/or the employees. The same authority extends to managers of area offices, resident offices, project offices, lake offices, and other field offices for all or part of their activities. A closure decision made by an Omaha District field office manager should be reported to the official to whom he reports at the District Office as soon as is practicable. Employees thus dismissed may be excused without charge to leave, when appropriate, or placed on annual leave or in a LWOP status as outlined in paragraph 10-5. Chiefs of staff elements and offices do not have authority to dismiss groups of employees for any reason.

10-3. Eligibility

All employees paid on a per annum basis; e.g., General Schedule, irrespective of their tenure of appointment, may be excused without charge to leave or loss of pay. This also applies to Wage Grade employees (those paid on an hourly basis) who are serving on appointments not limited to 90 days or less and to those who have been currently employed for a continuous period of 90 days under one or more appointments without a break in service. Individuals on intermittent work schedules are not eligible to be excused without loss of pay.

10-4. Policy

Group dismissal is to be authorized only after review of available options and a determination that dismissal is the most appropriate alternative. Dismissal of a group is appropriate only when the safety and health of employees is in jeopardy or the work place is so severely disrupted that employees cannot be productive. Procedures for handling inclement weather dismissal are described in detail in paragraph 10-5. Dismissal in other situations should be handled similarly.

10-5. Inclement Weather Dismissal

a. All employees are to presume, unless otherwise notified, that their office or activity is open and that they are expected to report for duty at the usual time (no later than 8:30 a.m. for those under the Omaha District Flexible Work Schedule Program or normal start time for those on a fixed work schedule). Office closure or delayed start times for Omaha-area offices will be announced via local radio stations (specific stations to be announced locally by separate issuance). Unless closure has been announced, employees should pursue all reasonable alternatives for getting to work.

b. Generally, the Omaha-Lincoln Federal Executive Association (FEA) president determines the need for closure of Federal offices, delayed arrival of employees, or early dismissal of employees in the Omaha/Lincoln metropolitan areas. The activity commander may, however, act in the absence of an FEA decision or preempt an FEA decision regarding early dismissal when he considers a different course of action to be appropriate. On-site managers of field installations will make such a determination based on local conditions, taking into account advisories from local weather authorities, traffic advisories, and closure determinations of other local Federal agency officials. Local managers of project and lake offices should confer and come to a mutual agreement.

c. A decision to allow for delayed reporting is to be based on a determination that poor road conditions will make travel slow, difficult and/or hazardous, but not to the extent that closure for the entire day is warranted. The intent is to provide additional time for employees to report for work if unable to report as usual. This does not preclude employees from reporting earlier if conditions permit. The period of absence due to inclement weather, beginning with the employee's normal arrival time and ending with the employee's actual arrival time, is recorded by timekeepers as "Other Paid Leave" in the amount not to exceed the number of hours authorized in the delayed reporting decision.

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d. When a delayed arrival situation is announced, a liberal leave policy (approval of annual leave, credit hours, or LWOP without obtaining advance approval or providing detailed justification) will also be in affect. Normal requirements for an employee to notify his supervisor within prescribed time limits are suspended. The liberal leave policy will also apply to individual cases where an employee opts, for any one of a variety of reasons, not to attempt to come to work that day. For example, individuals who opt to live outside the metropolitan area or outside the immediate vicinity of the field installation may experience more difficulty in getting to work than do some of their co-workers. Special consideration in the form of excused absence is not authorized, but liberal approval of annual leave or LWOP is appropriate.

e. Some operations are considered critical; e.g., power plant operation, and cannot be suspended or interrupted even though it may be necessary generally to excuse employees for all or part of a day. Supervisors must identify employees in critical positions and notify them of their status, preferably in writing. Such employees are expected to report for work, if at all possible, regardless of a general dismissal. Each division or office chief who supervises such an operation is responsible for having a plan in place for providing coverage under adverse weather conditions.

f. When an emergency situation arises during nonworking hours which warrants the use of inclement weather policy and procedures, the following course of action will be implemented.

(1) Closure or delayed opening will be determined by the local manager at the installation involved. Field installation managers will advise personnel of a closure or delayed arrival determination by the most expeditious means. In the Omaha/Lincoln vicinity, such a decision will be announced on radio/TV stations using one of two messages, depending on whether closure is for the entire day or only for the early part of the day. One message states that Federal offices will be closed all day. The other states that Federal offices are open, but that employees may, if necessary, report up to __ (number of) hours later than their normal arrival time. Employees will be informed annually as to which stations will make the announcements.

(2) When delayed arrival is permitted, employees will be expected to account for a designated number of work hours. For example, under an announcement allowing up to two hours for delayed arrival, up to two hours of excused absence will be granted, as needed, and at least six hours of work time must be accounted for

on that day. Individual supervisors are authorized to excuse tardiness beyond the latest start time under the Omaha District Flexible Work Schedule Plan (8:30 a.m.) or beyond an announced delayed arrival allowance if the tardiness is less than 15 minutes. Under liberal leave policy, employees may be granted additional time off (annual, credit hours, or LWOP) at the beginning or end of the day as needed.

(3) Workdays on which Federal offices do not open are considered to be nonworkdays for leave purposes. Employees with regularly scheduled work hours on that day are excused without charge to leave for the number of work hours scheduled (whether or not leave was previously scheduled) except for the following: those employees on an intermittent tour-of-duty, on LWOP pending disability retirement, in non-pay-status both the day before and the day after the dismissal, on OWCP rolls, on military leave or on suspension remain in their current leave status. Absence excused without charge to leave is to be recorded by timekeepers as "Other Paid Leave."

g. Some emergency situations arise after the workday has begun and may be cause for dismissing employees immediately or on a staggered basis. In the Omaha District Office, such a decision will be communicated to chiefs of divisions and offices, as well as supervisors of affected MRD employees; i.e., those in the downtown area. These supervisors will inform affected employees. An early dismissal decision will be disseminated similarly within field installations and serviced activities. Individual employees may or may not be charged leave for an absence when dismissal occurs during the workday, based on the following criteria:

If an employee is on active duty and is excused, there is no charge to leave for the remaining hours of the work shift following dismissal (excluding individuals on intermittent work schedules who cannot be granted excused absence with pay).

If an employee is on duty and departs on leave after official word is received but before the time set for dismissal, leave is charged from the time the employee departs until the time set for dismissal.

If an employee is scheduled to report for duty after an initial period of leave and dismissal is given before the employee can report, leave is charged until the time set for dismissal.

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If an employee departs on approved leave prior to a dismissal announcement or does not report for work because he is in an approved leave status for the entire day, the entire absence is charged to appropriate leave; i.e., annual, sick, credit hours, or LWOP.

h. Refer to Figure 10-1, "Hazardous Weather Dismissal Leave Determination Chart," on page 10-6 for making leave determinations in connection with hazardous weather dismissals.

FOR THE COMMANDER:


WILLIAM S. PAVLICK
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Deputy Commander

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HAZARDOUS WEATHER DISMISSAL LEAVE DETERMINATION CHART

Winter storms raise numerous questions concerning the use of administrative leave, excused absence, and charges of leave. The following chart provides general guidance for employees and supervisors. Determinations for employees on part-time work schedules will be based on the individual's scheduled tour of duty for that day.

If the office was open as usual. You made every attempt to report for work on time, but due to extreme weather conditions, you were late.

Then your supervisor may excuse tardiness of less than 15 minutes* and charge a longer period of absence to annual leave or LWOP.

If delayed reporting was announced for up to two hours due to weather/road conditions. You usually arrive at 7:00 a.m. but today arrived at 8:00 a.m.

Then you will be granted administrative leave for one hour and will be expected to work until 3:30 p.m. Earlier departure will require a charge to leave.

If you departed before early dismissal is announced.

Then you will be charged leave for the remainder of the work day.

If you were on duty and departed after official notice of dismissal was received, but prior to the time set for dismissal.

Then you will be charged leave from the time you leave until the time set for dismissal.*

If the office was closed for the day and you are nonessential.

Then you will be granted administrative leave for the entire day, even if you had previously scheduled leave.

If the office was closed for the day and you are mission essential.

Then your supervisor will coordinate your arrival and/or departure time and you will be placed on administrative leave accordingly.

If the office was open but closed early. You were unable to report because of road conditions.

Then you will be charged leave for the entire day.

If you took leave for the early part of the day and the office closed prior to your scheduled arrival (or return) time.

Then you will be charged leave for the period scheduled and granted administrative leave as of the time of dismissal.

If delayed reporting was allowed and the office closed early. You were unable to report to work because of road conditions.

Then you will be charged leave for the entire day.

* Supervisors are authorized to excuse absences of less than one full leave increment (15 minutes). Therefore, when an absence is not in exact increments of 15 minutes, the remaining period of 1 to 14 minutes will generally be excused. For example, an absence of one hour and five minutes will normally be charged as one hour. The five minutes will be excused.

Chapter 11

Leave Under the Family and Medical Leave Act of 1993 (FMLA)

11-1. Definition

The FMLA provides entitlement for up to 12 calendar weeks of leave without pay in a given calendar year for the purpose of birth or adoption/foster care of a child, due to serious illness of the employee, or for care of a child, spouse, or parent afflicted by a serious illness. Provisions of the FMLA are in addition to those contained in other chapters of this regulation.

11-2. Policy

The intent of the FMLA is to allow employees to balance their work and family life by taking reasonable amounts of leave for medical reasons, for the birth or adoption/foster care of a child, and for the care of a child, spouse or parent who has a serious health condition. The Act is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote the national interest in preserving family integrity. By treating employees fairly and equitably, with concern and understanding of the stressful situations they face, and with a minimum of unnecessary requirements, employers will find employees to be more loyal, dedicated, and productive, and a greater asset to their organization.

11-3. Eligibility

All Omaha District employees and those of serviced activities are covered by FMLA provisions. Title II covers those who have completed 12 months of Federal employment, except those serving under intermittent work schedules and temporary appointments limited to one year or less. Title I covers those not covered by Title II.

11-4. Entitlement

a. An employee is entitled to a total of 12 administrative workweeks of unpaid leave during a 12-month calendar period for one or more of the following reasons:

(1) The birth of a son or daughter of the employee and the care of such son or daughter (option expires one year following date of birth).

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(2) The placement of a child with the employee for adoption or foster care (option expires one year following date of placement).

(3) The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

b. A father and mother are each entitled to 12 administrative workweeks of unpaid leave for a birth, adoption, placement of a child for foster care, or care of a son or daughter with a serious health condition. Title I of the FMLA (which applies to any employee who has not completed 12 months of Federal service and to all temporary and intermittent employees) limits FMLA leave for married couples working for the same agency. FMLA leave taken by both may not exceed an aggregate of 12 weeks for the purpose of birth, adoption, foster care placement, or care of a parent.

c. A part-time employee is entitled to 12 weeks leave based on his/her regularly scheduled tour of duty; e.g., 12 weeks @ 32-hours per week if the employee is on a 32-hour schedule.

d. Employees are not entitled to FLMA to care for a parent-in-law, only for care to a biological parent, adoptive parent, or one who stood "in loco parentis" to the employee when the employee was a child (a person who raised the employee as their own child).

e. Leave under FMLA is in addition to any other leave made available to an employee under normal agency procedures (leave transfer program, compensatory time off, annual leave, sick leave, credit hours available).

f. An employee may elect to substitute paid leave for all or part of the unpaid leave under FMLA. The election must be made prior to the beginning of the paid leave period. Paid leave cannot be substituted retroactively. Under Title I, an employee may be required to substitute any accrued annual or sick leave, as appropriate, for any part of the 12-week period of FMLA.

g. LWOP under the FMLA is treated the same as other LWOP for purposes of leave accrual, within grade credit, length of service, etc.

11-5. Serious Health Condition

The FMLA defines a "serious health condition" as "an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider." The condition must require an absence from work, school, or other regular daily activities of more than 3 calendar days and must require continuing treatment. FMLA is not intended to cover short-term conditions for which treatment and recovery are very brief. For example, minor illnesses that last only a few days and surgical procedures that typically do not involve hospitalization and require only a brief recovery period. It is expected such conditions will fall within the scope of our normal sick leave policy.

11-6. Health Care Provider

The term "health care provider" has been defined to include a Doctor of Medicine, a Doctor of Osteopathy, or a physician serving on active duty in the uniformed services; a health care practitioner certified by a national organization and licensed by the State; or a Christian Science practitioner listed with the First Church of Christ Scientist, in Boston, Massachusetts.

11-7. Using FMLA Leave

a. When it is an employee's intent to take leave under the FMLA, he must make that intent clear. Otherwise, a request for leave will automatically be considered under the District's normal leave policy. When the need for FMLA leave is foreseeable, an employee must provide notice to the supervisor of his or her intent to take leave not less than 30 days before the date leave is to commence. If a birth, placement for adoption or foster care, or medical treatment must begin within less than 30 days, the employee must provide such notice as practicable. Employees are encouraged to give as much notice as possible so that the agency has ample opportunity to plan the handling of the employee's work during his/her absence.

b. An employee's notice of his or her intention to take leave may be provided in person, in writing, or by telephone, FAX, telegraph, or other electronic means. Of course, in emergency situations, notice from an employee's spouse, domestic partner, family member, or other responsible party would suffice until the employee is able to contact the agency to provide additional information.

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c. When medically necessary (due to employee's family member's serious illness), an employee may obtain approval from his or her employing agency to take leave on an intermittent basis or under a reduced leave schedule. The agency and the employee are to work together in developing a schedule that meets both the employee's family or medical needs and the agency's need to manage work. The anticipated duration of the intermittent leave or leave under a reduced leave schedule must be clearly understood by both the employee and the agency.

11-8. Medical Certification

a. FMLA in connection with a serious health condition of the employee or family member must be supported by certification issued by the health care provider.

b. The medical certification supporting the need for leave to care for an employee's spouse, son, daughter, or parent must include a statement that the employee is "needed to care for" the individual and the probable duration of the need. The medical certification must include a statement that the patient requires assistance for basic medical, hygiene, nutritional, safety, or transportation needs, or the employee's presence would be beneficial or desirable for the care of the individual. The employee is required to indicate the care he or she will provide and an estimate of the time period during which care will be provided.

c. The medical certification supporting the need for leave for the employee's serious health condition must include a statement that the employee is unable to perform the essential functions of his or her position.

d. The agency may require a second medical examination when the certification furnished by the employee in support of a serious health condition does not appear adequate. Such examination will be at agency expense. While an employee is on FMLA, the agency may require, at agency expense, subsequent medical recertification from the health care provider. In order to remain entitled to FMLA leave, the employee or family member must comply with any agency requirements to submit to examination for a second or third medical certification from a health care provider other than the individual's health care provider.

e. An employee who, after commencing FMLA leave in connection with a "serious health condition", fails to provide adequate medical documentation in support of the absence, could be placed on AWOL or allowed to request the leave be charged to his/her sick or annual leave account, as appropriate.

11-9. Employment and Benefits Protection

An employee who takes family and medical leave is entitled, upon return from the leave, to be returned to the same position or to an equivalent position with equivalent benefits, pay, status, responsibilities, and other terms and conditions of employment. An employee will be returned to the same position unless doing so would impose extreme hardship on the agency. Since under the Federal Employees Health Benefit Program, coverage continues for up to 365 days in a nonpay status, health benefits coverage will continue while on FMLA. The employee must pay his/her share of the premium during any period of nonpay status.

11-10. Human Resources Office Notification and Assistance

For statistical reporting purposes, please notify the Omaha District Human Resources Office, CEMRO-HR-E, when leave is taken under the FMLA. For further information or assistance with this program, please contact your servicing specialist in the Human Resources Office, Employee/Labor Relations and Training Branch.

Chapter 12

Compensatory Time and Credit Hours Used as Leave

12-1. Compensatory Time

a. Compensatory hours to an employee's credit result from overtime work for which the employee has been required, or has elected, to take compensatory time off in lieu of overtime pay. Once credited, these hours are to be used as paid leave to account for absence from the work place. Procedures for requesting and using compensatory time are similar to those for using annual leave.

b. Compensatory time should be scheduled and used as soon as practicable. If not used within 13 pay periods of the time it is worked, the balance will automatically be paid as overtime at the rate in effect when the work was performed. When compensatory time is approved, the intent is for it to be used, not converted to overtime pay. Compensatory time should be allowed to convert to paid overtime only when the employee could not be permitted to use it within the prescribed period. Unused compensatory time must be used before annual leave is approved, except when, during the later portion of the leave year, the employee is faced with forfeiture of annual leave due to his/her use-or-lose balance. Supervisors are responsible for monitoring the use of compensatory time to ensure compliance with this policy.

12-2. Credit Hours

a. Credit hours accumulated under the Flexible Work Schedule Program are available for use as paid leave to account for absence from the work place. As in the case of compensatory hours, procedures for requesting and usage are similar to those for annual leave.

b. There is no requirement that credit hours be used before other types of leave. Credit work must always be performed before credit hours can be used; i.e., credit hours cannot be advanced. A maximum of 24 credit hours can be carried over from one pay period to the next. Credit hours are not transferred when an employee moves from the current employing office. Upon separation or when credit hours cannot be transferred, unused credit hours will be paid in a lump sum to the extent they do not exceed the maximum allowable carryover (24 hours for full-time and 1/4 the scheduled bi-weekly tour of duty for part-time). Refer to DM 690-1-620 for further guidance regarding earning and using credit hours.