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ABSENCE AND LEAVE

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This instruction implements the requirements of Title 5, United States Code (U.S.C.), Chapter 63 (Leave), and Title 5 of the Code of Federal Regulations (CFR), Part 630 (Absence and Leave). It implements and complies with DoD 1400.25-M, Subchapters 610, Hours of Duty and 630, Leave. It also implements AFPD 36-8, *Employee Benefits and Entitlements*. It contains information needed by supervisors of civilian employees paid from appropriated funds. It explains how much leave employees earn, when and under what conditions employees are granted annual leave, sick leave, leave without pay, and other specialized forms of leave and absence. The instruction outlines how to determine if a specific type of absence is charged to leave, excused without charge to leave, or considered official duty. It applies to full-time employees and employees with a regularly scheduled tour of duty who work less than full-time except (a) non-US citizens employed outside the 50 states and the District of Columbia, (b) employees serving in teaching positions in dependent schools overseas, (c) Section 6 Dependents School personnel, (d) Presidential appointees whose rate of basic pay is higher than the maximum rate of GS-15, and (e) employees hired on a temporary basis solely for the purpose of work on a specific construction project and paid at an hourly rate. It does not apply to Air National Guard technicians, but does apply to Air Force Reserve civilian employees, i.e., Air Reserve Technicians (ART). This instruction requires collecting and maintaining information protected by the Privacy Act of 1974. Records Disposition. Maintain and dispose of all records created as a result of processes prescribed in this instruction IAW AFMAN 37-139*, Records Disposition Schedule*.

(DOVER) AFI 36-815, 5 September 2002 is supplemented as follows: Implements and outlines Dover AFB procedures for requesting emergency annual leave, advance annual leave, restoration of annual leave, sick leave to care for a family member with a contagious disease, advance sick leave and leave without pay in excess of 30 days. The instruction identifies employees entitled to administrative leave and assigns the Civilian Personnel Officer and the Labor and Employee Management Relations Section as the approving official and office of primary responsibility for the Voluntary Leave Program.

SUMMARY OF REVISIONS

This revision incorporates Interim Change IC 2002-1 TO AFI 36-815. This interim change incorporates new changes to Office of Personnel Management (OPM) leave forms (paragraphs **1.1.**., **1.3.2.**., **2.3.1.**., **2.4.**., **2.4.1.**., **2.10.6.2.**., **6.5.**., **8.11.5.**, **9.3.1.8.**, **9.6.**, **9.6.2.**, **9.12.**); clarifies annual leave information for intermittent employees (paragraph **2.1.7.**); clarifies information concerning when annual leave is available for use and for procedures to request advancing annual leave (paragraph **2.3.**); adds paragraph on claim procedures if a request for restoration of annual leave is denied based on an exigency (paragraph **2.10.1.5.**); clarifies sick leave information for intermittent employees (paragraph **3.1.**); deletes reference to FFLA (paragraph **3.2.5.2.**); clarifies information concerning the prognosis and diagnosis of an employee on sick leave (paragraph **3.5.1.**); clarifies information when employees request LWOP (paragraph **4.1.**); adds information clarifying LWOP for seasonal employees (paragraph **4.1.2.3.**); changes PAR to RPA (paragraph **4.4.**); updates **Chapter 5**--MILITARY LEAVE and incorporates legislative changes to military leave (paragraphs **1.3. 5.3.**, **5.4.**, **5.8.**, **5.8.2.**, **5.8.3.**, **5.9.3.**, and **5.10.**); clarifies base closure guidance (paragraph **7.6.3.**); clarifies information on firefighter leave policies (paragraph **8.10.1.**); clarifies when medical evidence is required (paragraphs **9.3.1.7.**, **9.9.1.**, **9.9.3.**); corrects duplicate subtitle on the electronic version on the publications web site (paragraph **9.4.**); clarifies when the donation of annual leave may be waived (paragraph **9.7.2.**); clarifies use of transferred leave (paragraph **9.8.**); provides information on use of Form WH-380, **Certification of Health Care Provider,** from the U.S. Department of Labor, to satisfy the requirement to furnish a medical certification from a health care provider (paragraph **10.3.4.**); clarifies information when invoking FMLA (paragraph **10.4.**); and adds clarifying language relating to the indebtedness of home leave (paragraph **12.3.**) A "|" indicates revised material since the last edition.

(DOVER) Paragraph numbers were changed to correspond to the September 2002 version of AFI 36-815. Paragraph **2.4.1.** was updated to reflect current procedures for recording advance leave. Paragraph **2.10.** was updated to reflect correct form number and office designation. Paragraph 3.11b. changed "Civil Service Retirement" to "retirement" contributions and updated AFI reference. Paragraph **3.11.1.** combines former paragraphs 3-5a.(4) and (5) and eliminates the need for 4 copies of the request letter. Paragraph 4.4.a. updated AFI reference. Paragraph 4.4.b. clarifies process for Leave Without Pay (LWOP) greater than 30 days. Paragraph 4.4.c. updated paragraph number and eliminated the 4 copy requirement. Paragraph **4.5.** added guidance for Leave Without Pay-Uniformed Services (LWOP-US). Paragraph **7.6.4. (Added)** updated paragraph to include current designations. Paragraph **9.5.** eliminated "80 hour" reference, revised donated leave processing and updated office designation. Updated formats on **Attachment 5 (Added)** and **Attachment 6 (Added)**. **A bar (|) indicates a revision from the previous edition.**

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Chapter 1

GENERAL PROVISIONS

1.1. Air Force Policy. Leave is an important and significant benefit for all employees. There is a mutual employee-management responsibility to plan and schedule the use of annual leave throughout the year. The scheduling of leave is so important that by law it is a prerequisite to the restoration of annual leave that may be forfeited because of exigencies of the service or because of sickness. Managers must administer leave and excused absences on a uniform and equitable basis within the scope of applicable laws and regulations. They must base their decisions to deny leave requests and cancel approved leave on the necessity for the employee's services. Denial or cancellation of leave is not disciplinary in character and must not be used as a punitive measure. In granting leave, managers must consider the needs of the Air Force and the welfare of the employees. Authority to approve leave requests is normally delegated to the lowest supervisory level having personal knowledge of the work requirements and the employee's leave record. The OPM 71, **Request for Leave or Approved Absence** is available on the OPM web site (**http://www.opm.gov**) for the purpose of requesting leave.

1.2. Responsibilities of Installation Commanders, Heads of Serviced Organiza tions, Supervisors, and Employees.

1.2.1. Commander to Whom Appointing Authority Is Delegated (unless otherwise specified in a servicing agreement under AFI 36-105, *Civilian Personnel Servicing Arrangements*). *NOTE:* Installation commanders may designate the Civilian Personnel Officer to act for them in carrying out these functions.

1.2.1.1. Administer leave according to law and regulation.

1.2.1.2. Establish local policy as authorized in this instruction.

1.2.1.3. Ensure personnel are informed of their rights, responsibilities, and administrative requirements.

1.2.1.4. Assist operating officials in carrying out assigned responsibilities.

1.2.1.5. Identify and promptly correct sick leave abuses.

1.2.1.6. Ensure compliance with applicable directives in reporting and certifying time and attendance.

1.2.2. Installation Commanders or Heads of Serviced Organizations. Establish appropriate internal administrative procedures for requesting and receiving approval of leave, and specify those supervisory levels authorized to approve leave.

1.2.3. Supervisors or Team Leaders Authorized to Approve Leave:

1.2.3.1. Ensure that all employees under their supervision are informed of the procedure they must follow in requesting and using leave.

1.2.3.2. Ensure that all absences from duty are appropriately charged according to applicable laws and regulations.

1.2.3.3. Request advice and assistance from the servicing Civilian Personnel Flight (CPF) when there is a question concerning employee entitlements and the type of leave appropriate to the situation.

1.2.3.4. Establish leave schedules by 15 February of each year and verify them not later than 30 August to ensure that all employees are given a reasonable opportunity for a vacation and to use any leave they would otherwise forfeit at the end of the leave year.

1.2.3.5. Approve annual leave requests or projected annual leave when work schedules permit. When a request for annual leave cannot be initially approved or is subsequently denied, then make every effort to reschedule the annual leave commensurate with the needs of the organization and the desires of the employee.

1.2.4. Employees must:

1.2.4.1. Be dependable and regularly report for work.

1.2.4.2. IAW applicable procedures, request leave in advance, and cooperate in rescheduling leave when necessary.

1.2.4.3. Report unexpected absence to the supervisor and request approval for the absence according to established policies.

1.2.4.4. Comply with DOD 5200.2-R, *DoD Personnel Security Program* and AFI 31-501, *Personnel Security Program Management*, when planning travel to a foreign country during a period of approved leave.

1.3. Charges to Leave. The minimum charge for either annual or sick leave is 15 minutes and additional leave is charged in increments of 15 minutes. Absence in a nonpay status (Leave Without Pay (LWOP) and Absence Without Leave (AWOL)) is charged in increments of 15 minutes for the actual time absent. Leave is charged only on those days the employee would otherwise work and receive pay. Leave is not charged for an absence on holidays or other nonworkdays, except for when certain employees are paid additional compensation for standby duty (e.g., firefighters). Military leave is charged only for hours during which a civilian employee would otherwise have been scheduled to work and receive pay (see paragraph **5.8.**).

1.3.1. If an employee is unavoidably absent or tardy for less than 1 hour, for a reason that is acceptable to the supervisor, the employee may be excused without charge to leave. On the other hand, the supervisor may decide not to excuse the absence, and may charge the employee AWOL or approve an employee's request for leave to cover the absence. When an employee is charged leave for an unauthorized absence or tardiness, the supervisor may not require the individual to perform work for any part of the leave period charged against the leave account. If circumstances warrant, the supervisor can change the charge from AWOL to annual leave, sick leave, or LWOP.

1.3.2. When an employee has insufficient annual or sick leave available to cover an approved leave request (i.e., OPM 71, **Request for Leave or Approved Absence** or other appropriate form), the excess absence is charged in accordance with the precedence established in the Defense Finance and Accounting Service (DFAS) Leave Conversion Matrix. See DoD 7000.14-R, *Financial Management Regulation*, Volume 8, Chapter 5, Table 5-2. If an advance of sick leave is approved later, it may be substituted for the leave initially charged. However, the Comptroller General has consistently held that, when leave has been requested, approved, and used, retroactive substitution of one category of

leave for another category may be made only under the conditions of a specific law and/or regulation. If the approving supervisor does not approve any, or all, of a period of absence, the OPM 71, or other appropriate form, is annotated to show AWOL.

1.4. General Provisions Relating to Approval of Annual and Sick Leave. An employee serving under an appointment with a definite time limitation cannot be granted more leave than the amount that can be earned and credited before the appointment expires.

1.4.1. If an employee whose leave record is being transferred from another Air Force activity or another federal agency must take leave before the official leave record is received, the servicing civilian payroll office determines whether the employee has enough leave available to cover the absence. The leave balances on the last leave and earning statement are acceptable evidence. If necessary, the civilian payroll officer will request the employee's leave balance by telephone or message. If it is not possible to make such a determination, the absence will be charged to leave without pay pending receipt of leave records.

1.5. Refund for Unearned Leave. When an employee is separated before earning all the annual or sick leave that has been advanced, usually the value of the unearned leave must be deducted from any compensation due. A deduction from any compensation due is not required if the employee is separated for reasons of death, disability retirement, or resignation for physical disability that is evidenced by acceptable medical documentation.

1.6. Leave for Working Parents. It is Air Force policy that management be responsive and compassionate in leave policies for working parents.

1.6.1. Absence for Maternity Reasons. Absence from duty for reasons related to pregnancy and confinement is charged to sick leave, annual leave, or leave without pay, depending on the circumstances and availability of each type of leave. The employee is responsible for providing notice substantially in advance of the anticipated leave dates. Requests for sick leave are treated the same as any request for leave to cover a medically certified temporary disability. All sick leave requested which exceeds 3 days must be supported by medical documentation showing that the employee is incapacitated to perform the duties of her position for the period covered by the certificate, unless the supervisor specifically waives this requirement. (See **Chapter 3** for requests of advanced sick leave and **Chapter 10**, Family and Medical Leave.) If the employee requests additional annual leave or leave without pay following confinement in order to care for the infant, supervisors should make every effort to approve the request, work load permitting. See **Chapter 10** for requirements to invoke the Family and Medical Leave (FLMA) Act.

1.6.2. Absence for Paternity Reasons. A male employee may request sick leave, annual leave or leave without pay for the purpose of caring for his minor children or the mother of his newborn child during confinement or incapacitation due to complications arising from the delivery. In considering leave requests for these reasons, supervisors should follow the policies set forth in **Chapter 2**, **Chapter 3**, **Chapter 4**, and **Chapter 10**, and local policies and practices.

Chapter 2

ANNUAL LEAVE

2.1. Amount of Annual Leave Earned. The amount of annual leave employees earn depends on their length of service and their basic workweek. Employees are assigned to leave earning categories as follows.

2.1.1. Category 1. Employees with less than 3 years of service.

2.1.2. Category 2. Employees with 3 but less than 15 years of service.

2.1.3. Category 3. Employees with 15 or more years of service.

2.1.4. Full-time employees earn leave as shown in **Table 2.1.**:

Table 2.1. Full-time Employees Hours Credit.

Leave Category	40-Hour Basic Workweek		56-Hour Basic Workweek		60-Hour Basic Workweek		72-Hour Basic Workweek	
	First 25 Pay Periods in Calendar Year	Last Pay Period in Calendar Year	First 25 Pay Periods in Calendar Year	Last Pay Period in Calendar Year	First 25 Pay Periods in Calendar Year	Last Pay Period in Calendar Year	First 25 Pay Periods in Calendar Year	Last Pay Period in Calendar Year
Category 1	4	4	5-1/2	8	6	6	7	12
Category 2	6	10	8-1/2	11-1/2	9	15	11	13
Category 3	8	8	11	16	12	12	14	24

2.1.5. Part-time employees must have a regularly scheduled tour of duty to earn leave. However, credit is given for the time they are in a pay status (including the hours worked outside their scheduled tour of duty) not in excess of 80 hours in the pay period as follows (see paragraph **2.1.** for definition of categories):

2.1.5.1. Category 1. 1 hour for each 20 hours in pay status.

2.1.5.2. Category 2. 1 hour for each 13 hours in pay status.

2.1.5.3. Category 3. 1 hour for each 10 hours in pay status.

2.1.6. No annual leave is earned within a pay period where LWOP or AWOL reaches 80 hours.

2.1.7. Intermittent employees do not earn annual leave since by regulation (5 CFR 340.401(b)), they do not have a regularly scheduled tour of duty.

2.2. Maximum Annual Leave Accumulation. The maximum amount of annual leave that an employee may carry forward from one leave year to another is 30 days (240 hours), or the amount accumulated under earlier statute, whichever is greater. Any leave to the employee's credit at the end of the leave year that exceeds the maximum accumulation is either forfeited or restored according to paragraph **2.10.**

2.2.1. For employees on uncommon tours of duty, the following formula is applied: Multiply 240 times the number of hours in the workweek; then divide the result by 40. Using this formula, the maximum accumulation for an employee with a 72-hour standby workweek would be 432 hours. The maximum accumulation for an employee with a 56-hour workweek would be 336 hours.

2.2.2. For US citizens employed outside the United States (except for certain local hires), the maximum annual leave accumulation is 45 days (360 hours) or the amount to the employee's credit at the beginning of the leave year, whichever is greater. Employees eligible for 45 days of cumulative annual leave are normally those who are under a transportation agreement in the overseas area. Upon return from overseas, the maximum annual leave accumulation is 30 days (240 hours) or the amount carried over from the previous leave year, whichever is greater, not to exceed 45 days (360 hours).

2.2.3. For employees who are serving in a position in the Senior Executive Service, there is a maximum limitation on annual leave accumulation of 90 days (720 hours) or the amount accumulated under earlier statute, whichever is greater.

2.3. When Annual Leave Becomes Available for Use. All projected annual leave an employee will earn during the leave year will be available for planning purposes at the beginning of the leave year. See paragraph **2.4.1.** for guidance on approving annual leave that will be earned later in the leave year and for procedures to request advancing annual leave. Employees whose appointments are for 90 calendar days or more may use annual leave during the first 90 days of employment. If an appointment is for less than 90 calendar days, an employee is not entitled to annual leave until after being employed for a continuous period of 90 days under successive appointments without a break in service. If an employee has a series of successive appointments, without a break in service of 1 day or more, which then exceeds 90 days, the employee is credited with annual leave which would have accrued from the date of initial appointment.

2.3.1. Scheduling Annual Leave. Supervisors should establish annual leave schedules, in writing, by 15 February of each year. The OPM 71 or any other appropriate format may be used for this purpose. Supervisors should verify the established leave schedules not later than 30 August of each year to ensure that all employees are given a reasonable opportunity for a vacation and to use any leave they would otherwise forfeit at the end of the leave year. Positive action must be taken before the beginning of the third full pay period prior to the end of the leave year to schedule or reschedule canceled leave so as to avoid situations where employees approach the end of the leave year with a significant amount of annual leave that must be used or forfeited. Written leave schedules will be used to certify proper scheduling had been accomplished when requesting restoration of forfeited annual leave. Failure on the employee's part to schedule annual leave does not relieve management of its responsibility to assure that the leave is in fact scheduled for use. However, when employees choose not to request or use annual leave to avoid forfeiture, they are not entitled to have forfeited leave restored for later use.

2.4. When Annual Leave is Granted. Employees are granted annual leave to allow them time off for vacations and for personal and emergency purposes. The use of annual leave is a right of the employee in that the employee is either given an opportunity to use the annual leave, or to the extent permitted by law, is paid for it at the time of separation. Except in cases of emergency, annual leave must be requested by the employee and approved by the appropriate leave-approving official in advance of the absence. Supervisors must ensure that all employees are informed of the procedure to be followed in requesting and obtaining approval of leave. This includes requests for annual leave in advance of the absence as well as leave for emergencies. Supervisors should consider employees' desires and personal convenience as well as the work situation when granting leave. They must not make arbitrary decisions to deny leave. However, the final determination as to the scheduling and the amount of annual leave granted at any specific time is made by the supervisor authorized to approve leave. Requests for annual leave shall be submitted to the approving official on an OPM 71 or other appropriate form.

2.4. (DOVER) When Annual Leave is Granted. The employee's immediate supervisor is authorized to approve annual leave in normal situations. When emergency annual leave is needed, the employee must contact his/her immediate supervisor as soon as possible, but not later than the end of the first two hours of the assigned work shift. The employee must request emergency annual leave and must state when he/she expects to return to work. When the supervisor approves the leave, the approval is final, unless it is later shown that the basis for the request was not correct. If additional time is requested, the employee must again contact the immediate supervisor for approval.

2.4.1. Advancing Annual Leave. An employee may be granted all annual leave which will be earned during the current leave year. However, in advancing an employee annual leave in excess of the amount actually earned, the supervisor authorized to approve leave must have reasonable assurance that the employee will be in duty status long enough to earn the leave granted before the end of the leave year. (For making this determination, employee's current leave balance may be obtained by the supervisor accessing civilian personnel data systems (Civilian Servicing Unit (CSU) Application) at the work site or by contacting the local civilian payroll (liaison) office.) The certification of the OPM 71, or other appropriate form, by the leave-approving official will be accepted as evidence that any annual leave reported has been approved. If the employee's employment with the government discontinues prior to earning the advanced leave, the balance of the advanced leave upon separation is considered a debt, unless the employee dies, retires for disability, or resigns or is separated as a result of a disability that prevents him or her from returning to work.

2.4.1. (DOVER) Requests for advance annual leave (before it is earned) must be in writing and approved/disapproved by the immediate supervisor. The supervisor will retain a copy for his/her files and the timekeeper will attach a copy to the employee's Time and Attendance Form for appropriate retention. A copy of the advance annual leave approval letter is forwarded to the Civilian Pay Liaison Office. If annual leave granted in advance is not recorded on the Time and Attendance Form, payment will not be made. (See **Attachment 5 (Added)** for sample format used to request advance leave.)

2.4.2. Use of Annual Leave Before Separation. A supervisor may not grant an employee annual leave when the supervisor knows that the employee will not return from the leave of absence to federal service, except when the employee:

2.4.2.1. Is being separated because of reduction-in-force or declination of transfer of function used to extend the separation date to attain first eligibility for retirement annuity and/or Federal Employees Health Benefit (FEHB) annuitant coverage (5 U.S.C. 3502, 6302, 8905, and 5 CFR 351.608).

2.4.2.2. Is being carried in a leave status pending acceptance for active military duty.

2.4.2.3. Has made application for disability retirement.

2.4.2.4. Takes annual leave prior to separation, but is present for, and performs duty on the employee's last administrative workday (Comptroller General Decision (C.G.) B-223876). For example, an employee who is a military spouse must be present on the last duty day prior to his/her LWOP to accompany his/her spouse.

2.4.2.5. Takes accrued annual leave during the final hours of the last day of employment before separation, providing the employee substantially worked the entire final pay period, including part of the last day (C.G. B-190374). See example above.

2.4.3. Lump-Sum Payment Upon Separation. An employee is entitled upon separation to all accumulated and accrued annual leave credited to the employee which consists of the following: (1) the regular carry-over balances from the previous year, if any; plus (2) accrued and unused annual leave during the current leave year, if any; plus (3) any unused restored annual leave maintained in a separate leave account.

2.4.4. Use of Annual Leave During Active Military Duty. Members of the Reserve or National Guard may use annual leave during active military duty.

2.5. Requiring Employees To Take Leave . No employee may be placed on annual leave:

2.5.1. As a disciplinary measure.

2.5.2. Pending issuance of a notice of proposed adverse action, unless requested by the employee.

2.5.3. During the notice period before adverse action, unless requested by the employee.

2.5.4. Otherwise, employees may be placed on annual leave as the needs of the service require (for example, during a period of reduced or suspended operations or where an employee is instructed to take vacation leave at a time other than at the specific time initially requested). The required use of annual leave must be based on factors that are reasonable and equitable, which do not discriminate among employees, and which are not arbitrary. (See 5 CFR Part 752 for guidance on the use of enforced annual leave.)

2.6. Substitution of Annual Leave for Leave Without Pay. Substitutions may be made in the following circumstances:

2.6.1. When leave without pay is charged pending receipt of an employee's leave record from the former employing agency, credited annual leave is substituted for the leave without pay upon receipt of the leave record.

2.6.2. When leave without pay is granted to an employee pending a recredit of annual leave upon completion of a refund of a lump sum leave payment, the annual leave recredited upon completion of the refund may be substituted for the leave without pay, provided the employee requests the substitution at the time the leave without pay is requested.

2.7. Substitution of Annual Leave for Sick Leave. An employee on extended sick leave (including sick leave for maternity reasons) may be granted annual leave to cover any part of the absence, provided the request for leave is made in advance. Annual leave cannot be substituted retroactively for sick leave previously taken as a means of avoiding a forfeiture of annual leave at the end of the leave year. Advanced sick leave may be liquidated at the employee's request by a substitution of annual leave, provided the substitution is requested before the time the annual leave would be forfeited.

2.8. When Lump-Sum Payments Are Made. Normally, separated employees (including those overseas who are allowed a 45-day annual leave accumulation) are paid a lump sum for all their accumulated annual leave. There are certain exceptions to this general requirement, such as employees entering military service, those transferring to an international organization, those converted to a Nonappropriated Fund (NAF) position, and those who are removed from a position to which they were illegally appointed. An employee entering military service may elect to allow annual leave to remain in the leave account or to receive a lump-sum payment. Also if an employee dies, the lump-sum payment made to survivors

includes payment for all accrued and accumulated annual leave to the employee's credit at the time of death.

2.9. When a Refund of the Lump-Sum Payment Is Required. If an employee who has received a lump-sum leave payment is reemployed before the end of the period covered by the payment, the employee must refund an amount equal to the gross compensation received for the unexpired portion of the lump-sum leave period. This includes pay before deductions of any kind and, if applicable, differentials and allowances received.

2.10. Restoration of Forfeited Annual Leave. Annual leave which would otherwise be forfeited may be restored when it is lost because of exigencies of the service or sickness of the employee, if use of the leave was scheduled in advance. Leave may also be restored when an administrative error causes the loss of annual leave otherwise accruable. Before forfeited annual leave may be considered for restoration, use of the annual leave must have been requested, approved, and scheduled in writing before the start of the third biweekly pay period before the end of the leave year. Any leave lost by an employee subject to the Defense Base Closure and Realignment Act of 1990, during the period from 1 Oct 1992 to 31 Dec 1997, shall be restored to the employee and shall be credited to the employee's leave account. The closing of a base is an exigency of the service permitting employees to carry over use-or-lose leave without meeting the criteria for restoration explained below. See 5 U.S.C. 6304(d)(3).

2.10. (DOVER) Restoration of Forfeited Annual Leave. An employee who is unable to take scheduled excess annual leave must request that leave be restored or the leave will be forfeited. The employee's request must be in writing to the immediate supervisor and explain why the leave was not taken. The supervisor must verify the request. After verification, the supervisor will endorse or disapprove the request. Forward endorsed requests with a copy of the Leave Request, OPM-71, projected annual leave forecast (or any appropriate supporting documentation showing leave was scheduled), and the number of hours to be restored to the Labor and Employee Management Relations Section (436 MSS/DPCE) immediately following the end of the leave year.

2.10.1. Exigencies of the Service. Before forfeited annual leave is restored, there must be a determination that an exigency is of major importance and that an employee may not use scheduled annual leave. The following officials, or their designee, have authority to approve exigencies causing cancellation of leave:

2.10.1.1. The Administrative Assistant to the Secretary of the Air Force for all employees in the Office of the Secretary of the Air Force and other employees not within the purview of paragraphs **2.10.1.2.** through **2.10.1.4.**

2.10.1.2. The Assistant Vice Chief of Staff for all Air Staff employees not within the purview of paragraphs **2.10.1.3.** and **2.10.1.4.**

2.10.1.3. The Deputy Chiefs of Staff for their employees.

2.10.1.4. An Installation Commander, his designee, or head of serviced organization as referenced in paragraphs **1.2.1.** and **1.2.2.**

2.10.1.5. An employee may submit a claim to OPM if a request for restoration of annual leave based on an exigency is denied. See 5 CFR 178.102 for procedures for submitting claims. Note that 5 CFR 178.101 excludes claims subject to negotiated grievance procedures.

2.10.2. Exigency of the Service Approval Process. Normally, approval of an exigency is required in advance of cancellation of leave. In the event of an emergency, this determination must be made as soon after the occurrence of the emergency as possible. As soon as it is known that leave will be canceled and forfeiture will be unavoidable, the supervisor initiates a letter to the designated official explaining the exigency, and requesting approval to cancel the scheduled leave. The supervisor coordinates the letter with the CPF to ensure that the conditions for restoration in governing directives are met, and that documentation to support the request includes, as a minimum:

2.10.2.1. The specific beginning and ending dates of the exigency period, unless the suddenness or uncertainty of the circumstances prevents advance determination. (The dates are needed to establish the specific period within which the employee was prevented from using annual leave.)

2.10.2.2. The dates and number of hours scheduled which must be canceled, and when this leave was scheduled and approved.

2.10.2.3. A description of the exigency which shows that it is of such importance that the employee cannot be excused from duty.

2.10.2.4. A statement as to why there is no alternative to cancellation of the scheduled leave and why use of the leave cannot be rescheduled during the remainder of the year.

2.10.2.5. The designated official renders a decision on the request and returns it through the CPF to the originating supervisor for transmittal to the employee.

2.10.3. Establishing Restored Leave Account due to Exigency of the Service. Promptly after the leave year ends, the employee should submit a request for restoration of leave with the approval of exigency attached, stating the actual number of hours lost on specific dates that could not be rescheduled, and then forwards it through the supervisor for endorsement to the CPF. The CPF will review the request and upon determination that the documentation is adequate, will endorse it to the civilian payroll office which, in turn, sends it to DFAS for establishment of a Restored Annual Leave Account, with a copy to the employee.

2.10.4. Sickness of the Employee. The employee initiates the request for restoration of annual leave forfeited as a result of sickness as soon as the leave year ends and has the supervisor endorse it to the servicing CPF. The CPF will review the request and, upon determination that the documentation is adequate, will endorse it to the civilian payroll office and DFAS for establishment of a Restored Annual Leave Account, with a copy to the employee. The employee's request must include:

2.10.4.1. Specific beginning and, where known, ending dates of the period of illness or incapacity which interfered with the use of annual leave. The supervisor has the option of requiring medical documentation.

2.10.4.2. Dates and number of hours of annual leave scheduled which had to be canceled; and when this leave was scheduled and approved.

2.10.4.3. Information as to why canceled annual leave could not be rescheduled before the end of the leave year.

2.10.5. Administrative Error. When an administrative error causes loss of leave, all leave must be restored as long as the leave was accrued after 30 Jun 1960. Official leave records should be used to substantiate the amount of annual leave to be restored. If these records are not available, an estimate of the employee's leave account is acceptable if accompanied by required documentation to explain

the basis for the estimate. If the employee is separated before the error is discovered, the restored leave is subject to credit and liquidation by lump-sum payment if a claim is filed within 3 years immediately following the date of discovery of the error.

2.10.6. Using Restored Leave. Restored annual leave must be used by the end of the leave year ending two years after the termination date of the exigency of the public business that resulted in forfeiture of the annual leave; or the date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness; or the date of restoration of the annual leave forfeited because of administrative error.

2.10.6.1. Exceptions to the two-year rule apply for employees at Department of Defense (DoD) installations undergoing closure or realignment under the provisions of section 4434 of Public Law 102-484, *National Defense Authorization Act for Fiscal Year 1993*, October 23, 1992 and section 341 and 2816 of Public Law 103-337, October 5, 1994, *National Defense Authorization Act for Fiscal Year 1995*. A full-time employee shall schedule and use excess annual leave of 416 hours or less by the end of the leave year in progress 2 years after the date the employee is no longer subject to 5 U.S.C. 6304(d)(3). The agency shall extend this period by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof. A part-time employee shall schedule and use excess annual leave in an amount equal to or less than 20 percent of the number of hours in the employee's scheduled annual tour of duty by the end of the leave year in progress 2 years after the date the employee is no longer subject to 5 U.S.C. 6304(d)(3). The agency shall extend this period by 1 leave year for each additional number of hours of excess annual leave, or any portion thereof, equal to 10 percent of the number of hours in the employee's scheduled annual tour of duty.

2.10.6.2. Restored leave should be used before using regularly accrued leave, especially when small amounts (5 days or less) are involved. In the case of large amounts of restored leave it may be appropriate to prorate the use over the entire 2-year limit, or such lesser times as deemed warranted. In all cases, where requested annual leave is to be charged to the restored leave account, appropriate entry will be made on the OPM 71 or other appropriate form. The civilian payroll office may develop local guidelines for use of restored leave.

Chapter 3

SICK LEAVE

3.1. Amount of Sick Leave Earned. All full-time employees on a 40-hour basic workweek or an 80-hour biweekly work schedule, regardless of their length of service, earn 4 hours of sick leave for each full biweekly pay period. Employees on uncommon tours of duty, such as firefighters, earn sick leave at a proportionate rate. (See **Table 2.1.**., Category 1, for examples.) Part-time employees are credited with sick leave in an amount equal to the amount of annual leave credited to employees in Category 1 as outlined in paragraph **2.1.1.** No sick leave is accrued in a pay period where leave without pay (LWOP) or absence without leave (AWOL) reaches 80 cumulative hours, or multiples of 80 hours, e.g., 160 hours, 320 hours, or the total hours of a biweekly uncommon tour of duty. Intermittent employees do not earn sick leave since by regulation (5 CFR 340.401(b)), they do not have a regularly scheduled tour of duty.

3.2. Use of Sick Leave. Sick leave is a qualified right of the employee and may be used only for absences:

3.2.1. When incapacitated for performance of duties by physical or mental illness, injury, pregnancy, childbirth, or illness from immunizations or vaccinations (whether or not required as a condition of employment).

3.2.2. For medical, dental, or optical examination or treatment, including periodic physical examination for retention of status in a Reserve component of the Armed Forces or National Guard.

3.2.3. When a member of an employee's immediate family is afflicted with a contagious disease and requires the care and attendance of the employee, or when, through exposure to contagious disease, the presence at work of the employee would endanger the health of others.

3.2.4. To participate in drug or alcohol counseling programs.

3.2.5. To make arrangements for adoption-related activities, including appointments with adoption agencies, social workers and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. This includes periods during which the adoptive parent is home to care for the newly adopted child, as required by the adoption agency or by the court.

3.2.5.1. Leave for adoption can be sick leave, annual leave or leave without pay. Because prospective adoptive parents commonly must make a commitment that one parent will remain at home for several months in order to qualify for adoption, special consideration should be given to requests for leave for this purpose. Supervisors are encouraged to be responsive in granting leave to meet the needs of adoptive parents.

3.2.5.2. Deleted.

3.2.6. See paragraph **3.3.** below for an explanation of sick leave for general family care and bereavement purposes under the 13-day entitlement.

3.3. Limited Amount of Sick Leave Use for Family Care. Sick leave may be used to provide care for a family member as a result of physical or mental illness, injury, pregnancy, childbirth, or medical, dental, or optical examination or treatment; or to make arrangements necessitated by the death of a family member or attend the funeral of a family member. A full-time employee may use up to 40 hours (5 days) of his/her sick leave each leave year for family care and bereavement purposes. An additional 64 hours (8

days) may be used as long as the employee maintains a sick leave balance of at least 80 hours. Part-time employees and employees with uncommon tours of duty are also covered. They may use up to the average number of hours in their weekly scheduled tour of duty. An additional amount of leave—not to exceed the number of sick leave hours normally accrued by that employee in a leave year—may be used if the employee has retained an amount of sick leave which equals twice the average number of hours in the employee's scheduled tour of duty each week. For example, employees working an uncommon tour of duty will have an amount of sick leave available each year equal to the number of hours worked in an employee's weekly scheduled tour of duty (i.e., 56/60/72 hours). In addition, an employee may be entitled to use up to the amount of sick leave the employee accrues in a leave year provided they maintain a balance of 112, 120, or 144 hours based on a 56/60/72 hour per week schedule. The definition of a family member may be found at **Attachment 1** of this instruction.

3.4. Availability and Recredit of Sick Leave. Sick leave becomes available for use at the beginning of the pay period during which it is earned. There is no limitation on the amount of sick leave that may be carried forward from one year to another. Any sick leave to an employee's credit upon separation from federal service may be recredited if the individual is reemployed on or after 2 Dec 1994 unless the sick leave was used in the computation of an annuity. (See 5 CFR 630.502(1)).

3.5. How Sick Leave Is Requested and Approved. Sick leave for prearranged medical appointments (including dental or optical examinations or treatment and drug and alcohol counseling sessions) must be requested in advance of the absence. Sick leave for absence because of illness, injury, exposure to contagious disease, illness of a family member with a contagious disease or other circumstances of incapacity which are not known in advance must be requested as soon as possible after the beginning of the absence (normally within the first hour or two). For absences of 3 days or less, sick leave must be requested on the first day and on every additional day of absence, unless the supervisor expressly relieves the employee of this requirement. Requests for sick leave for nonemergency medical appointments, even though submitted with proper evidence, may be denied if it is determined that the employee's services are needed. If the employee fails to follow prescribed procedures for requesting or documenting either emergency or nonemergency sick leave, the request may be denied if the supervisor considers that there were insufficient extenuating circumstances to warrant approval.

3.5.1. Absences of More Than 3 Days. Sick leave of more than 3 consecutive workdays must be supported by medical documentation (or other administratively acceptable documentation for absence) unless the supervisor specifically waives this requirement. The medical documentation must be administratively acceptable to the supervisor, must cover all absence beyond the third workday and specify that the employee was incapacitated for duty for the entire period covered by the statement. As a minimum, the physician should be requested to provide a prognosis and diagnosis and an estimate of the expected date of full or partial recovery as provided in (3), (4), and (5) of the definition of medical documentation in **Attachment 1**. In cases of extended illness, medical documentation may be required periodically, if necessary to establish the employee's continued incapacity to return to duty. For employees on standby tours scheduled on a "24 hours on, 24 hours off" basis, sick leave for more than 2 consecutive 24-hour duty periods must be supported by medical documentation unless the supervisor specifically waives this requirement. If there is any doubt as to the validity or adequacy of the medical documentation presented to support a request for sick leave, the medical officer at the installation may be requested to review the documentation submitted and, with the employee's permission, to consult the employee's physician for additional information. Where evidence does not jus-

tify the approval of sick leave, the absence may be charged to annual leave or LWOP with the employee's consent, or AWOL.

3.5.2. Absences Due to Contagious Disease. Sick leave due to exposure to contagious disease or the illness of a member of the immediate family with a contagious disease must be supported by medical documentation regardless of the length of the absence. When an employee requests sick leave because a family member has a contagious disease, the employee must present a statement from the attending physician to show that the family member requires the employee's care and attendance as well as the fact that the disease is subject to quarantine or isolation of the patient by public health authorities having jurisdiction. (See definition of contagious disease in **Attachment 1.**)

3.5.2. (DOVER) When a member of an employee's family has a contagious disease and he/she submits a request for sick leave, the employee's supervisor will verify the information in the employee's request and forward the request to 436 MSS/DPCE. Based on the documentation, the Civilian Personnel Officer determines if the disease and situation require the employee to have sick leave to attend and care for the family member.

3.5.3. Absences of 3 Days or Less. Ordinarily, except as in paragraph **3.5.2.**, medical documentation is normally not required for absences of 3 days or less. An employee who is absent frequently for short periods of illness may be advised to visit a physician for physical checkup or, if civilian medical facilities are available at the installation, may be offered a physical examination. When there is reason to believe that an employee is abusing sick leave, medical documentation may be required for absences of 3 days or less. This requirement must be limited to cases of suspected abuse and can be imposed only when the employee has been specifically informed in writing of the requirement in advance. Do not establish practices which require submission of medical documentation by all employees for absences of 3 days or less, checkup visits to the homes of all absentees, or unduly complex procedures for the approval of sick leave.

3.6. Return to Duty After Illness. Any requirement for clearance with the medical facility before returning to work must be limited to those specific cases where there is reason to believe that presence at work would endanger the employee's health or would constitute a health hazard to others. The leave-approving official determines what is acceptable evidence of incapacity. If necessary, the medical officer at the installation may be asked for assistance in making this determination.

3.7. Substitution of Sick Leave for Annual Leave. If illness occurs during a period of annual leave, sick leave may be substituted contingent upon submission of supporting evidence acceptable to the supervisor, which may include the requirement for medical documentation.

3.8. Disabled Veterans. A disabled veteran who presents an administratively acceptable statement from a physician or other duly constituted medical authority showing that medical examination, treatment or absence in connection with the service-connected disability is required must be granted all sick leave (including advanced sick leave), and all annual leave permitted by law, plus any leave without pay that may be necessary to undergo treatment. Except for emergency treatment, the granting of such leave is contingent upon the veteran's giving prior notice of the definite periods of required absence so that arrangements can be made for carrying on the work during the absence.

3.9. Outside Employment During Sick Leave. As a general rule, sick leave is not approved for a period of absence during which an employee engages in outside employment. Exception is made when the

nature of the employee's illness or disability and the nature of the outside employment make it clearly evident that the employee is still incapacitated for the regular job while engaging in the outside employment. However, before engaging in outside employment during a period of sick leave, the employee must notify the leave-approving official of the nature of the employment and furnish acceptable evidence of incapacitation for duty. ***NOTE:*** Before allowing an individual to engage in outside employment during a period of sick leave, the supervisor must make every reasonable effort to furnish light duty or appropriate detail duties the employee can perform.

3.10. Treatment of Injury in Performance of Duty. On the date of injury, an employee injured in the performance of duty is considered to be in a duty status during the time required for initial examination or emergency treatment by a federal physician or by a facility officially authorized to treat employees injured on duty. An employee who suffers a traumatic on-the-job injury may elect to use sick leave and/or annual leave or 45 days continuation of pay (COP). If the claim is denied, the employee may request sick or annual leave to cover the period of absence. An employee also has the option to "buy back" sick leave used in relation to a job-related injury or illness. Employees are entitled to use any accrued and accumulated sick leave to their credit when they suffer a work-related illness or disease. While awaiting adjudication of a claim for compensation by the Office of Workers' Compensation Program (OWCP), the employee is entitled to use available sick or annual leave, or LWOP, as requested. However, disability for wage loss compensation benefits may only be paid to employees for periods of leave without pay. LWOP during OWCP determination and adjudication would be paid under 5 U.S.C. Chapter 81.

3.11. Use of Advance Sick Leave. An advance of sick leave is a privilege which may be extended to employees. It is not considered a routine or standard procedure and will be granted only after all circumstances have been carefully weighed. Advancing sick leave to an employee so he or she can maintain the 80-hour balance requirement is prohibited. In case of serious disability, illness, incapacitation, or confinement for childbirth, employees may be advanced up to 30 workdays of sick leave, or equivalent for uncommon tours of duty. To determine the maximum amount of sick leave that can be advanced for an employee on an uncommon tour of duty, multiply 240 hours by weekly hours in the uncommon tour and divide by 40 (240 x weekly uncommon tour/40=maximum hours). Employees requesting advanced sick leave to provide care for a family member or for bereavement purposes may be advanced sick leave in an amount not to exceed the maximum allowable (40 hours per leave year for full time employees). Requests for advanced sick leave may be made before or during the period of absence but no later than the employee's return to duty. See paragraph **3.3.** for additional information regarding sick leave for general family care and bereavement purposes.

3.11. (DOVER) Use of Advance Sick Leave. The employee must submit a separate written request for each period of advance sick leave to his/her immediate supervisor. The Civilian Personnel Officer is the final approving official for advance sick leave. Requests will contain the following: the amount of sick leave requested, the type of disability or ailment, and the length of time employed at Dover AFB; a statement that employee is aware that, should he/she separate before repaying this advance sick leave, monies owed will be deducted from employee's retirement contributions if no other unpaid compensation remains to employee's credit; a statement from the employee's attending physician must be attached, indicating the amount of time the employee is expected to be incapacitated and unable to perform the full range of assigned duties. (See **Attachment 6 (Added)** of this instruction for suggested format)

3.11.1. In granting advance sick leave consider: the employee's prior sick leave history; annual leave versus sick leave balance history; length of continuous employment; and whether all accumulated sick

leave to the employee's credit has been exhausted. Also consider requiring the employee to use any annual leave which may be subject to forfeiture.

3.11.1. (DOVER) If approval is recommended, the first-level supervisor will make a statement regarding the manner in which accumulated sick leave has been used by the employee and whether or not he or she believes the advance sick leave will serve to expedite the employee's return to duty. This endorsement letter will also include the employee's sick leave balance as of the end of the pay period immediately preceding the employee's request. This information may be obtained from the Supervisor's Leave Listing, the employee's Leave and Earning Statement, or from the Civilian Pay Liaison (FMFPC). (See **Attachment 6 (Added)** for sample format and information that must be provided to request advance sick leave.) Submit the request for advance sick leave to 436 MSS/DPCE. After final approval/disapproval by the Civilian Personnel Officer, one copy of the approval letter will be forwarded to FMFPC and two copies will be forwarded to the supervisor (one for the employee; the other retained with AF Form 971, **Supervisor's Employee Brief**).

3.11.2. When it is known that the employee is to be retired or otherwise separated, the total advance may not exceed an amount which can be liquidated by accrual before separation.

3.11.3. An application for advance sick leave must be supported by medical documentation signed by a physician or health care provider. The medical documentation should normally address items as defined in **Attachment 1**, and any other items, necessary for management to make a decision regarding the application. In all cases, a statement indicating the date the employee is expected to return to normal duties is required. ***NOTE:*** Supervisors are cautioned that only the information necessary to make a decision should be required. However, until the supervisor has sufficient information upon which to base a decision, no advance can be granted.

3.11.4. Advance sick leave is not granted if it is considered likely that the employee will not return to duty for a sufficient period of time to repay the advanced leave, or if there are insufficient funds in the retirement account to liquidate the indebtedness.

3.11.5. Advance sick leave is liquidated automatically through accrual of sick leave after the employee returns to work. Repayment is not required when separation is because of death, resignation for disability supported by acceptable medical documentation, or disability retirement.

3.11.6. An unliquidated advance is carried forward from pay period to pay period and from one leave year to the next until liquidated by subsequent accrual. If the employee requests, advanced sick leave may be liquidated by a charge against an equivalent amount of annual leave. When an employee separates from federal service before liquidating the advance, the balance is liquidated in the following order by:

3.11.6.1. Charge against available annual leave.

3.11.6.2. Setoff against earned salary or unapplied savings bond balances.

3.11.6.3. Request for retirement setoff.

3.12. Sick Leave to Care for a Family Member with a Serious Health Condition. An eligible employee may use a total of up to 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. If an employee has already used 12 weeks of sick leave to care

for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to a total of 12 weeks of sick leave each year for *all* family care purposes.

3.12.1. Definition of a Family Member. The definition of a family member may be found at **Attachment 1** of this instruction. The definition of a family member is the same as 5 CFR 630.201(b).

3.12.2. Serious Health Condition. A serious health condition has the same meaning as used in the Office of Personnel Management's regulations for administering the Family and Medical Leave Act of 1993 (FMLA) and may be found at **Attachment 1** of this instruction. (See 5 CFR 630.1202.) This definition includes, but is not limited to, such conditions as cancer, heart attacks, heart conditions requiring heart bypass or valve operations, back conditions requiring extensive therapy or surgical procedures, kidney dialysis, physical therapy, strokes, severe injuries, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, Alzheimer's disease, pregnancy, and childbirth. A serious health condition is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, the flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc., are not serious health conditions unless complications arise. Medical certification is required for a serious health condition.

3.12.2.1. Medical Documentation. An employee must provide written medical certification to document the use of sick leave to care for a family member with a serious health condition. Requests shall be submitted to the approving official on a SF 71 or other appropriate form. The employee must provide written medical certification of a serious health condition, signed by the health care provider no later than 15 workdays after the date requested by the Air Force. (See definition of Medical Documentation at **Attachment 1** for guidance.) An additional written statement must be provided from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must certify that the family member requires psychological comfort and/or physical care, the family member would benefit from the employee's care or presence, and the specific length of time the employee is needed to care for the family member.

3.12.3. Use of Sick Leave for Family Care. The same limitations apply to the use of sick leave to care for a family member with a serious health condition as apply to the use of sick leave for general family care or bereavement purposes. (See paragraph **3.3.**) A covered full-time employee may use 40 hours (5 workdays) of sick leave each leave year for these purposes. An employee may use additional sick leave for general family care or bereavement purposes or to care for a family member with a serious health condition if he or she maintains a balance of at least 80 hours of sick leave in his or her account. Only the first 40 hours of sick leave (or a proportional amount for an employee on a part-time schedule or uncommon tour of duty) may be advanced. (See paragraph **3.11.**)

3.12.4. Relationship to Voluntary Leave Transfer Program. Employees approved for the voluntary leave transfer program are required to use their sick leave before using donated annual leave. Under this program, an employee may receive donated annual leave from other employees if he or she is affected by a personal or family medical emergency and has exhausted his or her available paid annual and sick leave. (See **Chapter 9**.)

3.12.4.1. An employee faced with a family medical emergency who has exhausted his or her entitlement to 12 weeks of sick leave for family care purposes (or a lesser amount if the employee has not accrued 12 weeks of sick leave) may receive donated annual leave. In addition, an employee who is using donated annual leave on the effective date of the new sick leave policy is required to use all of his or her sick leave available for family care purposes before he or she can continue to use donated annual leave.

3.12.5. Childbirth and Newborns. Pregnant employees are entitled to use sick leave for prenatal and postnatal medical appointments and any periods of incapacitation as a result of pregnancy and childbirth. A biological mother or father cannot use 12 weeks of sick leave to care for a healthy newborn, but only for one with a serious health condition. A parent may use annual leave or leave without pay to care for a healthy newborn.

Chapter 4

LEAVE WITHOUT PAY

4.1. When Leave Without Pay (LWOP) Is Granted. LWOP is a temporary nonpay status and an authorized absence from duty granted only upon the employee's request, in situations such as when the employee has insufficient annual or sick leave, or compensatory time available to cover an approved absence. An employee does not have to exhaust annual leave before requesting LWOP. LWOP cannot be imposed as a penalty, nor can an employee be required to apply for LWOP in lieu of suspension. It must not be confused with absence without leave (AWOL), which is charged for unauthorized absence, or absence for which the employee did not request and obtain approval of leave. Even though the reason for requesting LWOP is known to be legitimate, e.g., illness, injury, or personal emergency, the request may be denied if the employee's services are required or if the employee has not followed prescribed leave procedures. The granting of LWOP is a matter of administrative discretion except as specified below. Even though LWOP is a nonpay status, it is still approved leave and must be requested by the employee and approved by the supervisor. An employee must work an established regular tour of duty during the administrative workweek in order to qualify for leave benefits. (See 5 U.S.C. 6301(2)(B)(ii).) Regularly scheduled work is defined in 5 CFR 610.102 as work that is scheduled in advance of an administrative workweek under the agency's procedures for establishing workweeks.

4.1.1. LWOP Mandated by Law. LWOP must be granted in the following three circumstances to:

4.1.1.1. A disabled veteran to cover an absence for medical treatment related to a service-connected disability. (See Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).)

4.1.1.2. A member of the Reserve or National Guard to perform military training and/or active duty. (See USERRA.)

4.1.1.3. An employee who requests LWOP under the Family and Medical Leave Act (FMLA).

4.1.2. LWOP Mandated by Regulation. If the employee has followed leave procedures, the granting of LWOP is mandatory under the following circumstances:

4.1.2.1. For protecting an employee's status and benefits pending action by the Office of Workers' Compensation Programs (OWCP) on a claim resulting from a work-related illness or injury or during a period the employee is carried on the rolls while being compensated by the OWCP. NOTE: If an employee who is receiving compensation payments is separated, it is more administratively difficult to return them to duty than if they had been retained in a LWOP status. This is due largely to requirements imposed by OWCP. If the employee meets the requisite requirements for continued Federal Employees Health Benefits (FEHB) and Federal Employees' Group Life Insurance (FEGLI) enrollment, transfer FEHB to OWCP after 10 months of LWOP and transfer FEGLI to OWCP after 12 months of LWOP. (See FEHB and FEGLI Handbooks for additional guidance.) Employees receiving compensation should be retained in a LWOP status for 12 months rather than separated unless there is medical evidence of the employee being unable to return to work within that time. (See 5 CFR 353 for authority.)

4.1.2.2. To avoid a break in service for career and career-conditional employees who are dependents of a military member or a federal civilian employee or who are dependents of an individual who is employed by a public or private sector organization and who must relocate because of the

transfer of the head of the household. (Dependents of a public or private sector employee must provide acceptable evidence of the requirement to transfer. For DoD dependents, orders are acceptable evidence.) Such employees whose travel and transportation are covered by their sponsor's eligibility, are granted LWOP upon their request for a period of up to 150 days to allow an opportunity to secure federal employment. A resignation SF-52 must be submitted along with the request for LWOP. The losing supervisor may fill behind immediately as long as the projected resignation SF-52 has also been submitted by the departing employee. Additional LWOP, up to 12 months, may be granted at the option of the former leave-approving supervisor. Also eligible under this provision are former spouses of sponsors following death, divorce, or legal separation if they accompanied the sponsor on a permanent change of station to the current duty station. Because the purpose and conditions of appointment under the Schedule A dependent hire authority and under the overseas limited authority are meant only for employment in foreign areas, LWOP may not be granted to any employee serving under these authorities who is leaving that employment for return to the United States unless the employee has eligibility for appointment under Executive Order (EO) 12362 (as amended by EO 12721), i.e., 12 months service in the overseas area. An employee who is granted LWOP has to perform duty on the last duty day prior to the start of the LWOP. It is not appropriate to exhaust annual leave before LWOP in cases where the basis for LWOP is that the employee must relocate because of the transfer of the head of household. This means they are not expected to return to work. Annual leave is only appropriate in instances where the employee is expected to return to work. (See paragraph **2.4.2.** for additional guidance on terminal leave.)

4.1.2.3. Seasonal employees are placed in a nonpay status, not in a LWOP status, when released from duty due to workload requirements or seasonal nature of work. Seasonal employees may be granted LWOP from their regular scheduled tour of duty at their request IAW the provisions of this chapter.

4.1.3. LWOP in Other Circumstances. LWOP in other cases should be granted only when it is apparent that it will result in increased job capability, protection or improvement of the employee's health, or the retention of a desirable employee. Circumstances in which the approval of LWOP is discretionary include (but are not limited to) the following:

4.1.3.1. For educational purposes when the course of study is in line with work performed within the Air Force and completion of the course would serve the best interests of the Air Force.

4.1.3.2. For protecting the rights and benefits of employees who must relocate because of an emergency family situation.

4.1.3.3. For temporary service with a non-federal or private enterprise when it will contribute to the public welfare or when the experience to be gained will benefit the Air Force.

4.1.3.4. For service with a recognized employee organization.

4.1.3.5. For protecting an employee's status and benefits pending final action by the Office of Personnel Management (OPM) on a claim for disability retirement, after all sick and annual leave have been exhausted.

4.1.3.6. For recovery from illness or disability not of a permanent nature.

4.1.3.7. For protecting the rights and benefits of employees who request to remain at home to care for a newborn, newly adopted, or sick minor child. (See **Chapter 10** for more information on Family and Medical Leave.)

4.2. Amount of LWOP. There is no maximum prescribed by law or regulation on the amount of LWOP which can be granted. Costs and inconveniences to the Air Force as a result of granting extended LWOP include encumbrance of a position, loss of services, complication of retention registers in the event of reduction in force, obligation to provide active employment at the end of the approved leave period, credit of 6 months of each year towards retirement without employee contributions, eligibility for continued coverage under FEGLI (without cost to the employee for up to 1 year of nonpay status), and payment of the employer's share of health insurance premiums for LWOP up to 365 days.

4.3. When LWOP is Not Granted. LWOP is not granted to an employee who is being returned from overseas at government expense for separation.

4.4. Who Approves LWOP. Supervisors authorized to approve annual and sick leave determine (subject to any higher administrative approval required locally) when requests for LWOP for 1 year or less may be granted. LWOP of more than 30 consecutive days must be made a matter of record in the Official Personnel Folder. Supervisors are required to submit a Request for Personnel Action (RPA) through the CPF to the Air Force Personnel Center (AFPC) or a SF 52, **Request for Personnel Action**, to the local CPF prior to granting LWOP of more than 30 days. Initial grants of LWOP may not exceed 12 months. If an additional grant is deemed justified, the employee's request for extension must be submitted to the installation commander or designee for approval. An extension beyond 1 year may be approved only when it is in the interest of the federal service, or when it is determined that, because of unusual circumstances, the employee would be subjected to undue hardship if the extension were denied.

4.4. (DOVER) Who Approves LWOP. Supervisors may approve up to 30 days Leave Without Pay (LWOP). A request for LWOP of more than 30 days must be in writing and submitted to the employee's immediate supervisor for review and recommendation. (If the employee's request is for leave without pay to perform duty with the uniformed services (LWOP-US), follow the guidance in paragraph **4.5.** below). The Civilian Personnel Officer is the final approval authority for LWOP of more than 30 days. An employee's request will contain the reasons for requesting LWOP and amount requested. If due to illness, a physician's statement containing information as shown in AFI 36-815, paragraph **3.11.**, is required. The first-level supervisor will review employee's request to determine if approval is justified based on the requirements contained in AFI 36-815, **Chapter 4**. If the requested LWOP is more than 30 days, the first-level supervisor will endorse the employee's request recommending approval/disapproval and forward the request to 436 MSS/DPCE. Requests for LWOP in excess of 30 days will be distributed in accordance with paragraph **3.11.1.**

4.5. Leave Without Pay-Uniformed Services (LWOP-US). LWOP-US is leave of absence to perform duty with the uniformed services. When permanent civilian employees in the Reserve or the National Guard perform military duty, document all LWOP-US on the SF-50 including actions of 30 days or less. This will enable personnel/payroll offices to have a record of military service deposits for retirement purposes and will entitle employees to make up contributions to the Thrift Savings Plan (TSP).

4.5. (DOVER) Leave Without Pay-Uniformed Services (LWOP-US). A Request for Personnel Action (RPA) for LWOP-US will be submitted to the Civilian Personnel Flight for the Civilian Personnel

Officer's approval. The RPA must contain the employee's mailing address, special order number and date, and the length of the active duty tour. A copy of the special order will be provided to 436 MSS/ DPCE, Building 520, Room 120.

4.6. LWOP for Attendance at School Functions. Parents are authorized up to 24 hours of LWOP in a leave year for participation in school activities directly related to the educational advancement of their children. This includes, but is not limited to, parent-teacher conferences or meetings with child-care providers, interviewing for a new school or child-care facility, or participating in volunteer activities to support the child's educational advancement.

Chapter 5

MILITARY LEAVE

5.1. Military Leave Explained. Military leave is absence from duty in the employee's civilian position without loss of pay (including pay for regularly scheduled overtime) to perform military duty. Eligible employees must, upon request, be granted military leave to which entitled for performance of active duty, active duty for training, or inactive-duty training (as defined in section 101 of title 37). As a result of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), if an employee is ordered to an initial period of active duty for training or inactive-duty training with the Reserve or National Guard, the employee may be granted military leave, annual leave, previously-earned compensatory time off, previously-earned credit hours, or LWOP as requested. Military leave does not have to be exhausted first and may be intermingled with other appropriate types of leave to perform military duty. However, if the employee (except a temporary employee) is to continue on active duty for an extended period (usually more than 1 year), the employee must be placed in LWOP-US status unless the employee elects to use other leave or freely and knowingly provides written notice of intent not to return to a position of employment with the agency, in which case the employee can be separated. (See 5 CFR 353.106(a).)

5.2. Eligibility Criteria. Employees entitled to military leave must meet the following criteria:

5.2.1. Be a member of a Reserve or National Guard component.

5.2.2. Be a full-time, part-time, or indefinite employee who does not have an intermittent work schedule.

5.2.3. Be serving in an appointment that is not limited to 1 year or less. NOTE: Although an employee may serve longer than 1 year on successive temporary appointments, there is no eligibility until the employee serves under an appointment that is not limited to 1 year or less.

5.3. Military Leave Entitlement. An eligible full-time employee with a regularly scheduled 40-hour workweek or 80-hour pay period who is a member in the Reserve of the armed forces or a member of the National Guard accrues 15 days/120 hours (15 days x 8 hours) of military leave each fiscal year. Eligible part-time or uncommon tours of duty employees earn an equivalent of three workweeks of military leave each fiscal year based upon their schedule. For example, employees with a 53-hour workweek accrue 159 hours of military leave each fiscal year; employees with a 60-hour workweek accrue 180 hours, and employees with a 72-hour workweek accrue 216 hours of military leave. Any military leave (not to exceed 15 days/120 hours), which is unused at the end of a fiscal year, is carried forward to the next fiscal year and is available for use in addition to the days/hours credited for the new fiscal year. This means that an employee may have a maximum of the equivalent of 30 days military leave available for use during a fiscal year. An employee who is a member of the Reserve or National Guard who is not eligible for, or who has exhausted his or her military leave, must be granted annual leave, previously-earned compensatory time off, credit hours, or LWOP, as requested, in order to perform active or inactive duty for training. An employee on military duty cannot use sick leave (unless appropriate).

5.3.1. Part-Time Military Leave Entitlement. Part-time career or career-conditional employees who are on a regularly scheduled tour of duty of 16 to 32 hours a week accrue military leave at a rate determined by dividing 40 into the number of hours in the regularly scheduled workweek during the fiscal

year and multiplying by 15. (Example: A regularly scheduled part-time employee works 20 hours per week. That employee's entitlement to military leave is 20 divided by 40 x 15.) NOTE: Part-time employees who work less than 16 hours per week are not entitled to military leave.

5.4. How Military Leave Accumulates. On 1 October of each fiscal year, or upon appointment, military leave is credited to an eligible employee's account (prorated for part-time employees). Unused military leave remaining from the prior fiscal year, not to exceed 15 days/120 hours, is also credited.

5.5. Military Leave for Law Enforcement Purposes. When a member of the Reserve or the National Guard is ordered to perform full-time active duty for law enforcement (see 5 U.S.C. 6323(b)), military leave not to exceed 22 workdays in a calendar year is authorized. The 22 workdays are converted to 176 hours and may be charged hourly. This military leave can be granted only for absence during the employee's regularly scheduled tour of duty, including regularly scheduled overtime. It cannot be granted for military duty performed within a period of nonpay status. Any pay the employee receives for such military service (other than travel, transportation, or per diem allowance) must be turned into the finance office to be credited toward the pay received in the civilian position during the employee's absence to perform the military duty. (See 5 U.S.C. 5519.)

5.6. Military Leave for Parades or Encampments. Members of the National Guard of the District of Columbia, (see 5 U.S.C. 6323(c)) who are ordered to serve during a parade or encampment are entitled to unlimited military leave for all days on which such duty is performed. Any pay the employee receives while on military leave for parades or encampments (other than travel, transportation, or per diem allowance) will be credited against the pay received in the civilian position during the employee's absence to perform the military duty.

5.7. Conditions for Granting Military Leave. An eligible employee is granted any available military leave, annual leave, previously-earned compensatory time off, previously-earned credit hours, or LWOP when they perform active duty or inactive duty. When an employee is on active duty, a copy of the orders normally accompanies the request for military leave. Other types of military duty may be approved based on the employee's request. Supervisors may request additional documentation. The employee may be required to submit a certification by the appropriate military official that the military duty was performed. Normally, Reserve active and inactive duty is planned and announced in advance. Employees are encouraged to provide, if possible, copies of annual training schedules as well as advance notice of specific training dates.

5.8. How Military Leave Is Charged. Military leave granted is charged on an hourly basis. Employees will not be charged military leave for non-duty days (typically weekends and holidays) that occur within the period of military service. Employees requesting military leave for active duty or inactive duty training (sometimes less than 8 hours) will be charged only the amount of military leave necessary to cover the period of military duty or period of training and necessary travel. Hours in the civilian workday that are not chargeable to military leave must be worked or charged to another leave category, as appropriate. No charge is made for nonworkdays at the beginning and end of a period of absence on active military duty. In addition, no leave is charged for the first day of the active duty tour if the employee is not required to report for military duty until after the civilian duty day ends, and no leave is charged for the last day of the active duty tour if the employee is completely released from active duty prior to the start of the next civilian duty day. If the military tour or consecutive tours is completely covered by annual leave, LWOP, pre-

viously-earned compensatory time off, previously-earned credit hours, or any combination thereof, military leave is not charged.

5.8.1. When Used for Law Enforcement. Military leave granted for law enforcement purposes is charged on all days the employee would otherwise have worked and received pay, including days on which the employee was scheduled to work overtime on a regular basis. No charge is made to military leave for holidays or for any other day established by Executive or Administrative Order as a non-workday not chargeable to leave. Military leave for employees using the 22 days of military leave granted for law enforcement purposes is charged in units of hours. The 22 days of law enforcement leave are converted to 176 hours and charged on the same basis as annual and sick leave. For example, an employee with 22 additional days of military leave for law enforcement purposes works a 4-day workweek (10 hours per day), Tuesday through Friday. He or she is absent Tuesday and Wednesday to perform law enforcement duty. The employee would be charged 10 hours of military leave for law enforcement purposes on Tuesday and another 10 hours for Wednesday and have a balance of 156 hours remaining.

5.8.2. When Applied to Alternative Work Schedules. Military leave for employees on alternative work schedules accrues at the same rate as for employees on fixed work schedules, based on the number of hours worked per pay period. Employees working flexible or compressed work schedules of 80 hours per pay period accrue 120 hours of military leave each fiscal year. Military leave is still charged on an hourly basis. Ten hours of military leave will be charged for a full day of military duty on regularly scheduled 10-hour workdays, nine hours of military leave will be charged on regularly scheduled 9-hour workdays, etc.

5.8.3. When Applied to Active Duty Tours. Federal employees who are also reservists, to include Air Reserve Technicians (ARTs), who serve on an extended active duty tour that spans 2 or more fiscal years, may accrue and use 120 hours (or equivalent) of military leave at the beginning of the fiscal year. The requirement to submit two SFs-52 or RPAs to return the employee to duty on 1 Oct and place the employee back in LWOP-US on 16 Oct of each year is still in effect. This is a paper exercise only, and is accomplished to enable personnel/payroll offices to track military service deposits for retirement purposes and allow the employee to use their allotment of 15 days/120 hours of military leave for that fiscal year. A copy of the SF-50 should be forwarded to the civilian payroll office as usual. Timekeepers should reflect paid and unpaid military leave used, as appropriate, in the civilian pay system. Employees serving on an active duty tour of any length that spans not more than 2 fiscal years, e.g., 15 Sep – 15 Oct, are not required to apply the new allotment of military leave that accrues on 1 Oct to their current tour, but may choose to use it later in the second fiscal year.

5.9. Other Types of Absences Related to Military Duty.

5.9.1. Physical Examinations for Duty in the Armed Forces. An employee is excused without charge to leave or loss of pay for the time required for physical examination before induction or recall to active duty in the armed forces. (The term induction includes volunteering for military service.) An absence in excess of 1 day requires a justifying statement from the examining station. An employee required to report for periodic physical examinations for retention of status in any Reserve component or the National Guard is granted sick leave for the absence under regulations applicable to approval of sick leave for medical examination.

5.9.2. Entry into the Armed Forces. An employee who reports for induction or is recalled to extended active duty in the armed forces is carried in a leave status until the CPF is notified that the employee

has been inducted or accepted for extended active duty, or if the employee is rejected, until the employee returns to duty or separation action is effected. A member of the Reserve or National Guard is granted all military leave to which entitled before separation for military service. A Reservist called to active duty for training to satisfy an initial military obligation of at least 6 months in conjunction with a Reserve assignment is granted a leave of absence. An employee not eligible for military leave or who has exhausted his or her military leave is carried on annual leave, previously-earned compensatory time off, or LWOP, as the employee elects, pending acceptance or rejection for military duty. An employee other than a member of the Reserve or National Guard cannot be carried on leave during military service, but must be separated at the close of the day preceding the date the employee enters on active duty.

5.9.3. Funeral Honors Duty. An employee who is a member of the Reserve or National Guard may use military leave to perform military “funeral honors duty”. Military leave for this purpose should be charged for all hours of the civilian duty day necessary to cover the funeral honors duty and necessary travel. (Ref P.L. 107-107, Sections 562 and 563.)

5.10. Additional Leave for Military Technicians. In addition to the military leave available as described above, effective 10 Feb 1996, military technicians are entitled to 44 additional workdays of military leave in a calendar year when on active duty without pay for participation in operations outside the United States, its territories, and possessions. The active duty orders must cite 10 U.S.C. 12315, 12301(b), or 12301(d) to be eligible for this entitlement. This leave cannot be used while on active duty in support of a war or national emergency declared by the President or Congress. The 44 workdays are converted into hours and are charged on the same basis as annual leave. (Example: Military reserve technicians who work 80-hour pay periods (including those on flexible and compressed work schedules) are entitled to a maximum of 352 hours (8 x 44 = 352).) Those with uncommon tours of duty accrue the amount of authorized leave according to their work schedule. The 44 workdays or a portion thereof, cannot be carried over into the next calendar year. It is appropriate to use this leave on the day of deployment from home station, any intervening stops within the United States, its territories and possessions, and the day of return to home station as long as the ultimate destination on the military orders is an overseas location and any intermediate destinations/stops are part of the continuing mission. In order to receive any pay for a civilian non-workday, a change to "active duty with pay" status is required. This requires use of a separate AF Form 938 for each period of conversion. Changes to civilian duty status on workdays during the same military tour are also authorized, and require either the use of a DD Form 1610, AF Form 3956, or AF Form 40A. Use of this military leave is at the employee's discretion.

Chapter 6

COURT LEAVE

6.1. Court Leave Explained. Court leave is leave of absence from duty without loss of pay or charge to annual leave to perform jury duty in a federal, state, or municipal court or to serve as a witness for the United States, the District of Columbia, or state or local government. This includes absence during periods of regularly scheduled overtime as well as absence during the employee's regularly scheduled basic workweek. For the purpose of granting court leave, a military court is considered the same as a federal court.

6.2. Who Is Eligible. A permanent or temporary employee with a regularly scheduled tour of duty (part-time or full-time) is eligible for court leave. Employees serving on an intermittent or when-actually-employed basis are not eligible for court leave.

6.3. Granting Court Leave. Court leave is granted for absence during an employee's regularly scheduled tour of duty including regularly scheduled overtime. It can be granted only for those days and hours the employee would otherwise be in a pay status. An employee cannot be granted court leave for jury or witness duty performed within a period of nonpay status. If the employee's absence is properly chargeable to court leave, the employee cannot elect to have the absence charged to annual leave. If an employee is on annual leave when called for jury duty or witness service, court leave shall be substituted. No charge shall be made to annual leave for the court service.

6.3.1. Jury Duty. Because of the importance of trial by jury as an American system of justice, it is Air Force policy not to request that an employee be excused from jury service on the basis of Air Force employment, except in cases of extreme necessity. Effective administration of court leave also requires the exercise of good judgment in order to avoid imposing hardship on employees. Employees assigned to night shifts or standby tours of duty are granted court leave comparable with employees assigned to regular day shift work. Since jury or witness duty generally requires an employee's presence in court during daytime hours, an employee who is scheduled to work at night is granted court leave during the day on which the night shift begins or ends. If the employee works during part of the regularly scheduled night shift, only that part of the regularly scheduled shift during which the employee is absent is charged to court leave. If the employee works a full, regular night shift, no court leave is charged, see paragraph **6.4.**

6.3.2. Witness Service. Court leave is granted for employees who are summoned as a witness on behalf of any party in connection to any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. *NOTE:* An employee who is summoned by the courts or assigned by the Air Force to testify in an official capacity or to produce official records on behalf of any party in any judicial proceeding is performing official duty and is not entitled to court leave, but is in an official duty status for the time involved.

6.3.3. Leave for Participation in Suits Between Private Individuals and Companies. Court suits between private individuals or companies in which the United States, the District of Columbia, or a state or local government is not an involved party do not entitle employees to court leave. Therefore, the time the employee-plaintiff spends testifying in his or her own behalf does not meet the requirement of having been summoned; therefore, granting court leave is not appropriate.

6.3.4. Employee as Plaintiff in Suit Against the Government. When an employee-plaintiff has been deposed (called to give a deposition) or otherwise summoned to testify in a case in which a party in the proceeding is the United States, the District of Columbia, or a state or local government, the employee-plaintiff is a "witness" and is entitled to court leave for the time involved in giving a deposition or being a witness. When an employee is a party in a suit against the government, the time the employee-plaintiff spends in preparation for the trial and answering the government's interrogatories, as well as the time spent observing the conduct of the trial do not qualify as court leave. Annual leave or LWOP is appropriate for such periods. However, if and when the employee-plaintiff prevails in a civil action against the government which is related to or caused by a violation of the Civil Rights Act of 1964, then the employee is entitled to restoration of leave charged. (See 42 U.S.C. 2000e-16.)

6.3.5. Testimony in Title VII Proceedings. In a proceeding under Title VII of the Civil Rights Act of 1964, federal employees are in an official duty status when they appear as witnesses or are required to provide sworn statements. Witnesses who are Air Force employees and who are summoned to testify on behalf of the plaintiff in a civil action under Title VII against the Air Force are entitled to the same benefits with respect to pay status while attending court as persons who testify on behalf of the Air Force. Similarly, Air Force employees who are plaintiffs in such cases are entitled to official time for attendance in court at their trial. These entitlements flow from Title VII, which takes precedence over any contrary provision of any collective bargaining agreement or other regulation.

6.4. Return to Duty Upon Release by Court. An employee properly summoned by a state or federal court to serve on a jury is under the jurisdiction and control of the court for the term of the jury service. However, an employee is expected to return to duty during periods when the employee is excused from jury duty unless this would be impractical. An employee excused or discharged by the court either for an indefinite period in excess of 1 day or a substantial portion thereof, is not entitled to court leave, but must report to duty. As a general rule, if there are 4 or more hours remaining in the employee's workday, exclusive of reasonable travel time, the employee should report for duty. If the employee fails to report for duty as directed, annual leave, previously-earned compensatory time off, LWOP, or absence without leave is charged for the excess time involved.

6.5. Procedure for Recording Court Leave. When an employee is called for jury or witness duty, the court order, subpoena, summons, or official request is given to the supervisor as soon as possible. The days and hours of court leave are entered on the OPM 71 or other appropriate form. When the employee returns to duty, the employee submits written evidence of attendance in court showing the dates and hours, if possible. If required, the supporting documents are forwarded to the payroll office with the time and attendance report that includes the court leave entry.

6.6. Witness and Jury Fees and Expenses. An employee is entitled to receive and retain expenses paid for services rendered and reimbursement for travel expenses. When a state or local court characterizes jury and witness fees as expenses, there is no requirement for the employee to turn in such fees to the agency. The employee cannot retain fees received in most circumstances. The certificate of attendance should separately identify fees and expenses/allowances. Fees received by the employee are collected while the expenses are not. If the certificate of attendance does not identify expenses separately, all monies are considered fees and shall be collected. The employee must submit fees received for jury or witness services by money order or personal check to the servicing DFAS office. The employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned and may keep fees that exceed the employee's compensation for the days of service. An employee

serving on a jury in a state or local court who waives or refuses to accept fees is still liable to the U.S. Government for the fees he or she would have received. Fees not submitted in a timely manner are subject to payroll deduction. Payroll deductions to collect the fees will be made in the next regular pay period. If fees are erroneously paid to an employee by the court, the fees paid cannot be retained by the employee and must be turned in to the employing activity. When a holiday occurs during the time an employee is on jury duty or witness service, the employee can keep the jury duty or witness service fee for the holiday. If an employee is called to jury duty on a nonworkday, or during a non-pay status, the employee may keep the fees paid. **Table 6.1.** is a guide to be used in connection with court and court-related services. It indicates the varying conditions for absences and the proper time and attendance recording for each. It also indicates an employee's right to retention of fees for services rendered. The employee must turn in any fees or compensation that cannot be retained to the civilian payroll office.

Table 6.1. Employee Absences for Court or Court-Related Services.

Nature of Service				Type of Absence			Fees[1]			Government Travel Expenses	
				Court Leave	Official Duty	Annual Leave or LWOP	No	Retain	Turn in to Agency	No	Yes[2]
Jury Service	U.S. or D.C. Court			X			X			X	
	State or Local Court			X					X	X	
Witness Service	On behalf of U.S. or D.C. government				X		X				X
	On behalf of state or local government	In official capacity			X				X		X
		Not in official capacity		X					X	X	
	On behalf of private party	In official capacity			X				X		X
		Not in official capacity	When a party is U.S., D.C. or state of local government	X					X	X	
			When a party is not U.S. or D.C., or state or local government			X		X		X	

NOTES:

1. Monies paid to an employee as an expense reimbursement by the court are retained by the employee.

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

Chapter 7

ADMINISTRATIVE DISMISSAL

7.1. Administrative Dismissal. Administrative dismissal is an absence from duty when employees are released from duty because all or part of an activity is closed, or it is in the public interest. Employees affected by these actions are generally excused without charge to leave and without loss of pay. In some instances, employees are placed on annual leave.

7.2. Closing an Activity. The installation commander is authorized to close all or part of an activity and to excuse employees administratively consistent with the policy outlined in this subchapter. This authority does not extend to periods of interrupted or suspended operations that can be anticipated enough in advance to permit arranging for assignment to other work or the scheduling of annual leave.

7.3. Authority to Grant Absence Due to Emergency Conditions or for Mana gerial Reasons. The installation commander may issue administrative orders as prescribed in DoD 1400.25-M*, DoD Civilian Personnel Manual*, Subchapter 610, *Hours of Duty* and Subchapter 630, *Leave* relieving employees:

7.3.1. For managerial reasons.

7.3.2. When emergency conditions exist.

7.3.3. When normal operations are interrupted by events beyond the control of management or employees.

7.3.4. When it is in the public interest to relieve employees from duty.

7.4. Group Dismissal. When normal operations of an activity are interrupted by events beyond the control of management or employees, employees (except certain temporary wage employees) may be excused or their absence charged to available annual leave. The authority to excuse employees under administrative dismissal orders is used sparingly and only for short periods of time. However, employees cannot be excused without charge to leave when operations are suspended for managerial reasons known enough in advance to permit the scheduling of leave. Normally, employees are notified 24 hours in advance that they will be placed in a leave status, but where this is impractical, employees may be placed on annual leave if they are notified by the close of the preceding workday. In arriving at a decision to close all or part of an activity, the commander must:

7.4.1. Consider the practice of private employers in the community.

7.4.2. Provide for liberal use of annual and sick leave in individual cases. For example, before considering any group dismissal because of temperature extremes, grant leave to employees with chronic medical conditions which, according to the written advice of their attending physician, could be aggravated by temperature extremes.

7.4.3. Assure that group dismissals of employees in connection with extreme weather conditions are authorized only in exceptional instances where working or commuting conditions are unusually severe and health of employees is endangered.

7.4.4. When, because of planned managerial reasons, the closing of all or part of an activity is required for short periods of time, notify employees no less than one full work shift in advance and

require them to take annual leave, unless leave without pay is requested. Employees may be advanced annual leave to cover such an absence.

7.4.5. Ensure group dismissal authority is not used to create a holiday or as a reward for performance. For example, it should not be used to grant a "day off" for the Friday following Thanksgiving or a "down day" commensurate with those granted for active duty military members.

7.5. Absence Due to Environmental Conditions. Dismissals due to environmental conditions, which cause an adverse work environment such as temperature extremes and plumbing and lighting malfunctions, should be rare. These conditions must be corrected as soon as possible. Employees are expected to work if conditions of the workplace are reasonably adequate. Individual employees affected by environmental conditions may be granted leave. Management should consider alternate work sites. Before administrative excusal may be granted, it must be clearly established by reasonable standards of judgment that the conditions are such as to actually prevent working. When early dismissal is authorized, affected employees in a duty status at the time set for dismissal are excused without charge to leave. For employees who are 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. Employees who leave before the scheduled dismissal time, or who are already in a leave status and scheduled to be in a leave status during the time of dismissal, continue to be charged leave.

7.6. Absence Due to Hazardous Weather Conditions or Disasters. Group dismissals of employees without charge to leave because of severe storm, snow or icing conditions, or disasters occurring during or outside regular duty hours may be authorized in accordance with the guidelines in DoD 1400.25-M. These guidelines must be followed by installation commanders in making group dismissal determinations. To ensure orderly evacuation of employees who can be released from duty, and continued maintenance of essential operations, establish local procedures for official notification of group dismissals to all activities and the designation of those functions which must continue to be manned under all weather conditions for reasons of health, safety, and national security. In geographical areas (defined as areas within which employees normally commute to work) where the conditions affect more than one Defense activity, the commander of the activity employing the largest number of civilian employees must make the determination if an emergency exists and assess its impact on the employees, using the guidelines in DoD 1400.25-M. Decisions by other individual commanders within the geographical area at variance with the decision of the major geographical commander must be coordinated with the latter. Group dismissal announcements for Air Force activities in the Washington DC area are controlled by procedures developed by OPM. Under group dismissal conditions, employees are excused or charged leave as follows:

7.6.1. Early Dismissal. Only employees who are in a duty status (not on leave) or who are expected to return from leave to duty status at the time the early dismissal takes effect are excused without charge to leave. Employees who are absent on leave that day continue to be charged leave.

7.6.2. Late Reporting. Depending on hazardous weather conditions, tardiness not in excess of 2 hours may be excused. Tardiness in excess of 2 hours may also be excused because of an unavoidable delay resulting from adverse weather or from disruption of public or private transportation in individual cases which are personally reviewed by appropriate supervisors. In case of employees who do not report for duty during hazardous weather, annual leave is charged for the full duty day, unless the supervisor concerned determines, after personal review of the facts in each case, that the employee made every reasonable effort to get to work, but was unable to do so because of the weather condi-

tions. Determining factors for consideration in the decision include: Distance between the employee's residence and place of work, and mode of transportation.

7.6.3. Base Closure. Workdays in which federal activities are closed for hazardous weather conditions or disasters are nonworkdays for leave purposes. All regular employees, except those required to perform mission essential duties, are excused without charge to leave. This includes those on scheduled annual, sick leave, or telework, but does not include those in a nonpay/LWOP status on the days immediately before and after the day(s) the activity was closed. These employees remain in a nonpay/LWOP status. In addition, it does not apply to employees on military duty or suspension on the day of the closure. Employees who are assigned to other activities but are TDY at the closed activity are entitled to excusal without charge to leave. Employees who are assigned to the affected activity but are TDY elsewhere, are not entitled to excusal without charge to leave.

7.6.4. (Added-DOVER) An Emergency services employee who is unable to get to work because of weather conditions may be granted annual leave or leave without pay the same as permitted when the base is open for normal operations. Administrative leave laws do not apply to Emergency services employees.

7.7. Miscellaneous Provisions:

7.7.1. Labor Disputes in Private Plants. When employees are prevented from working because of temporary shutdowns due to labor disputes at a private plant to which they are assigned, every effort must be made to assign them to other work. If that is not possible, such employees may be dismissed without charge to leave for a maximum of 5 days.

7.7.2. Planned Shutdowns in Private Plants. When private plants are to close based on a planned shutdown such as Christmas or other scheduled holiday period, employees should not be dismissed without charge to leave, but should be carried in an appropriate leave status, i.e., annual leave, previously-earned compensatory time off, or leave without pay.

Chapter 8

EXCUSED ABSENCES

Section 8A—General Types of Absence

8.1. Excused Absence. There are numerous instances when employees are absent from their normal assignments to perform acts or services officially sanctioned by management. In performing these acts or services, employees remain under management control or jurisdiction and are considered to be in a duty status. Supervisors are authorized to make individual determinations that the act or service is job-related and not chargeable to leave and to place reasonable limits on the length of such absences from normal assignments. Excused absence is an administratively authorized absence from duty without loss of pay or charge to leave. The leave approving supervisor may excuse employees only for the periods and the reasons specified in this chapter. The installation commander or head of serviced organizations is authorized to excuse employees for brief periods for any other reasons that are deemed to be in the best interest of the public or the Air Force. A "brief period" normally means not more than 4 hours per day. Excused absence differs from administrative dismissal in that it normally addresses individual employees being excused for non-mission related emergency reasons, or for reasons the government encourages such as voting. Excused absence is not authorized for non-duty periods such as crew rest, nor, as in the case of ARTs for the purposes of accomplishing military requirements or military training, e.g., haircuts, chemical defense training, etc.

8.2. Emergency Rescue or Protective Work. An employee who can be spared without interference to essential operations or obligations may be excused to participate as a volunteer in emergency rescue or protective work during an emergency such as fire, flood, or search operations. Normally, such participation is limited to a maximum of 5 days per year. An employee cannot be excused from duty without charge to leave for the purpose of performing rescue, Reserve, or National Guard duty which would otherwise be covered by military leave. (See **Chapter 5**.)

8.2.1. Employees called to emergency duty as members of the Civil Air Patrol, or a similar organization, are excused without charge to leave. After 5 workdays, any further absence is charged to available annual leave, previously-earned compensatory time off, or the employee is granted leave without pay.

8.2.2. Except as authorized above, employees participating in emergency rescue or protective work are charged leave or carried in a nonpay status for the total period of absence. Employees engaged in protective services, i.e., community "volunteer" firefighting, for which pay is received would not qualify for excused absence, but may be granted annual leave, LWOP, etc.

8.3. Absence for Brief Periods or Tardiness. Unavoidable absences, brief periods of early dismissal, and brief periods of tardiness of less than 1 hour may be excused by the supervisor or he/she may provide the employee opportunity to request approved leave, earned credit hours, or previously-earned compensatory time off. If the absence or tardiness is charged to annual leave, the charge is in multiples of ¼ hour. If the leave charged exceeds the period of absence or tardiness, the employee is not required to work the additional time covered by the leave charge. Unauthorized absence during the workday also may be charged as absence without leave (AWOL) if the circumstances do not justify excusing the absence or approving leave. The charge of AWOL is not, itself, a disciplinary action. However, tardiness or an

unauthorized absence that is charged to AWOL may serve as the basis for disciplinary action. Such cases should be discussed with representatives of the CPF to determine whether to take disciplinary action and what type.

8.3. (DOVER) Absence for Brief Periods or Tardiness. Brief periods of early dismissal of less than 1 hour (sometimes referred to as the "59 minute rule") may only be granted with explicit approval of the Installation Commander. This authority is not further delegated.

8.4. Absence for Voting or Registration. Activities should assemble and maintain up-to-date information as to voting hours in all political subdivisions in which their employees reside. This information should be made available to employees. On the basis of this information, activities must determine the amount of excused absence to be permitted and must inform employees of these determinations.

8.4.1. As a general rule, employees requesting time off to vote are excused without charge to leave for the amount of time necessary to permit them to report to work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever requires the least amount of time off. Normally, where the polls are open either 3 hours before or 3 hours after the employee's regular duty hours, no time off is granted. (This is the case in most jurisdictions.) Employees on flexible work schedules can be excused only for those hours which cannot be accommodated by their flexible schedule.

8.4.2. Because of special circumstances, the general rule stated above may not permit sufficient time for voting, in which case the employee is excused for the additional time necessary, but not more than 1 workday.

8.4.3. Where the employee's voting place is beyond normal commuting distance, and voting by absentee ballot is not permitted, the employee is granted sufficient time off to make the trip. Time off in excess of 1 day is charged to annual leave, previously-earned compensatory time off, or leave without pay.

8.4.4. The employee voting in jurisdictions where registration in person is required is granted time off to register on substantially the same basis as for voting. However, no time off is granted without charge to leave if the employee can register on a nonworkday and round-trip travel reasonably can be accomplished in 1 day.

8.5. Blood Donations. The Air Force encourages its employees to volunteer as blood donors without compensation. An employee should be excused from work without charge to leave for the time necessary to donate blood or blood products, such as platelets or plasma, for recuperation following blood donation, and for necessary travel to and from the donation site. The maximum excusable time should not exceed 4 hours, except in unusual cases. When the employee must travel a long distance or when unusual need for recuperation occurs, up to an additional 4 hours may be authorized. This does not cover an employee who gives blood for the employee's own use or receives compensation for giving blood. Employees who volunteer but are rejected as donors for that visit must return to duty or elect paid leave.

8.6. Taking Examinations. Examinations specified as a qualification requirement for competitive appointment to the position in which the employee is serving or required to establish eligibility for assignment to another position, and given by, or taken at the request of the activity, are considered as official duty and no leave is charged for the time off required to take the examination. This applies to examinations administered by boards of the various states or other jurisdictions and specified as satisfying the qualification requirements for competitive appointment to a position in the federal service as well as

examinations administered by the OPM or a federal agency. Absence to take examinations other than those specified above is charged to annual leave, previously-earned compensatory time off, or leave without pay.

8.7. Consultation With Operating Officials, EEO Counselor, Civilian Person nel Flight Staff, and Employment Interviews. Do not charge an employee leave:

8.7.1. For the time required to consult with operating officials, EEO Counselor, or the staff of the CPF on matters relating to their employment provided that arrangements satisfactory to the employee's supervisor and the official to be consulted are made in advance.

8.7.2. While representing a labor organization, if use of official time is authorized by management pursuant to an applicable collective bargaining agreement. Official time for union-related representational activities will be recorded as required by appropriate directives.

8.7.3. Who is specifically requested to report for an interview in connection with an application or referral through the centralized referral system for a position at the same activity is not charged leave for the time required for the interview. If the interview is at another Air Force activity, within the local commuting area, leave is not charged for the time required to make the trip for the interview. This also applies when competition is for a position within the Department of Defense.

8.7.4. When an individual is employed by an activity scheduled for closure or major reduction or under notice of separation or change to lower grade for any reason, except personal cause, may be excused without charge to leave for any placement interview. Such a placement interview may be with another federal agency, a local organization, or a private business concern in the commuting area. Except as provided above, absence for placement interviews is charged to annual leave, previously-earned compensatory time off, or LWOP.

8.8. Medical Examination for Federal Service. An employee required to take a medical examination to determine the employee's fitness for the federal service, or who obtains chest x-rays or similar medical services administered as part of the health program at the activity, is considered in duty status during the time necessary to obtain the examination or treatment. When an employee is absent because of administratively required vaccinations or immunizations, the absence is considered an excused absence without charge to leave or loss of pay, provided the medical officer administering the vaccinations or immunizations certifies to the necessity for the absence.

8.9. Attending Meetings and Conferences:

8.9.1. Absence, including required travel time, during normal duty hours to attend meetings or conferences determined to be training, or absence to attend other meetings for which travel is authorized at government expense is considered official duty and no charge is made to leave.

8.9.2. Except as provided in paragraphs **8.9.4.** and **8.9.5.**, employees may be excused to attend conferences or conventions at no expense to the government when it is determined that such attendance is in the best interest of the federal service. An excused absence of this type must be limited to those situations where the employee is an official representative of the organization involved or an active, scheduled participant in the program, and must be limited to 5 work days per calendar year.

8.9.3. Officers or delegates of an association of management officials or supervisors with which an official consultative relationship has been established may be excused to attend conventions of the association.

8.9.4. Guidance concerning the excusal of employees in connection with activities of labor organizations, including attendance at their conventions and at training conferences sponsored by them, is contained in AFI 36-701, *Labor Management Relations*.

8.9.5. Employees shall not be excused to attend conferences or conventions of political parties or partisan political groups or committees. However, leave may be granted in cases where excused absence is not appropriate.

8.10. Holiday Observance:

8.10.1. Legal Holidays. Employees are not required to work on a legal holiday unless their services are required to carry out essential operations. However, unauthorized absence on a holiday on which the employee was assigned to work results in loss of holiday premium pay for that day, and could result in disciplinary action. The following applies to employees receiving annual premium pay under 5 U.S.C. 5545(c)(1) and firefighters covered by the Federal Firefighters Overtime Pay Reform Act of 1998 (P.L. 105-277), effective 11 Oct 98. The use of excused absence is <u>not</u> appropriate for employees receiving annual premium pay under 5 U.S.C. 5545(c)(1) and firefighters covered by the Federal Firefighters Overtime Pay Reform Act. These employees who are absent on holidays, which occur within their regular tours of duty, must be charged leave for those absences. They are not entitled to holiday time off because they receive a type of premium pay that includes pay for holidays. When such an employee is scheduled to work on a holiday and the employee is granted the day off for personal reasons, the employee is charged annual leave, previously-earned compensatory time off, LWOP, sick leave, etc., as appropriate.

8.10.2. Religious Observance. There are no official observances of religious holidays. Insofar as practicable, allow employees wishing to observe religious holidays time off for that purpose and charge the absence to annual leave, previously-earned compensatory time off, or leave without pay. If circumstances permit, work schedules may be rearranged to provide substituted work time. An employee may also request to perform compensatory overtime work for the purpose of compensatory time off, in lieu of annual leave when the employee's personal religious beliefs require absence from work during certain periods of the workday and/or workweek. An employee may work compensatory time before or after the grant of compensatory time off. The advanced compensatory time off should be repaid within a reasonable time. An unliquidated advance religious compensatory balance is collected at the time of separation, except death, from compensatory balances, if available, or annual leave, or both.

8.10.3. State and Local Holidays. State and local holidays, including local holidays in foreign areas, are treated as regular workdays, unless all or part of the activity is closed by administrative order because employees are actually prevented from working due to lack of transportation services, eating facilities, etc. Employees in activities so closed cannot be charged leave for absence on that day. This applies to employees on previously scheduled annual or sick leave as well as to those who would have been present for duty had the activity remained open. However, employees working on such a day receive only their regular pay and are not entitled to holiday premium pay. When the activity remains open, as many employees as possible are allowed to take leave on the holiday, depending on the type of operation, the workload, and the significance of the holiday.

8.11. Off-the-Job Training During Regularly Scheduled Duty Hours:

8.11.1. No charge is made to leave for off-the-job training whether conducted on or off the installation which is approved under AFI 36-401, *Employee Training and Development* as directly related to the employee's present official duties, or those which the employee could reasonably be expected to perform in the future, and which is paid for from Air Force funds.

8.11.2. No charge is made to leave for off-the-job training whether conducted on or off the installation which is approved under AFI 36-401 as directly related to the employee's present official duties or those which the employee could reasonably be expected to perform in the future, when the training is approved and paid under 38 U.S.C. 1781, Veterans' Administration educational assistance allowance, or when the employee pays all expenses of such training.

8.11.3. Training taken by an employee on personal initiative for personal advancement must either be taken outside of scheduled duty hours, as credit hours, or during periods of approved leave or leave without pay. (See AFI 36-807, *Weekly and Daily Scheduling of Work and Holiday Observances* for variations of work schedules for educational purposes.)

8.11.4. Mission-related courses approved for Air Force funded tuition assistance will normally be taken on a voluntary off-duty basis. Such courses may be taken during duty hours subject to approval by the employee's supervisor.

8.11.5. Employees who are assigned to an educational institution on long-term training (LTT) must report any leave usage (i.e., annual, sick or other leave) to his/her supervisor or leave-approving official at their home duty station for accurate recording. Leave requests should be submitted to the seminar leader or course instructor and an OPM 71, **Request for Leave or Approved Absence** or other appropriate form, forwarded to the person maintaining the employee's leave record at their home station. Before departing for LTT, an employee should make arrangements to use annual leave that may otherwise be lost because of training. Due to the nature of the assignment, ordinary leave will be approved only during Thanksgiving, Christmas and spring breaks; emergency leave is approved throughout the LTT, as needed. During extended periods in which the school is in recess (e.g., Christmas holidays and spring break), the employee is required to be on leave or returned to a duty status at an organization at the training location, the nearest Air Force, Air National Guard or Air Force Reserve activity.

8.12. Military Funerals:

8.12.1. An Air Force civilian employee who is a veteran of the armed forces and who participates as a pallbearer, a member of a firing squad, or a member of an honor guard in funerals for members of the armed forces who lost their lives on active duty is excused from duty without charge to leave, but not in excess of 4 hours in 1 day.

An employee is excused for not more than 3 days to make arrangements for or to attend the funeral or memorial service of an immediate relative who died as the result of wounds, disease, or injury incurred while serving in the armed forces in a combat zone.

Section 8B—Absences Relating to Travel

8.13. Absences in Connection with Travel.

8.13.1. Permanent Duty Travel. An employee with permanent change of duty station (PCS) orders may be granted excused absence to make personal arrangements and transact personal business directly related to the permanent change in duty station, provided that such business or arrangements cannot be transacted outside regular working hours. This includes such things as closing and opening personal bank accounts, or obtaining a driver's license and auto tags. This provision does not cover time involved in complying with PCS requirements such as obtaining passport and vaccinations, adhering to government housing authority requirements, or being present for packing and receiving of household goods. Such tasks required by the PCS are considered to be official duties. For an assignment to or return from, overseas employment, official duties further include time spent to deliver or reclaim privately owned vehicle (POV) to or from the port facility, obtain required physical examination, vaccination and inoculation, or passport, or to comply with other special requirements imposed because of the overseas assignment, including absence to obtain travel orders. An employee required to report to another activity to comply with overseas processing requirements is not charged leave for any absence necessary to make the trip. Excused absence or official duty time only applies to the employee for whom PCS orders has been authorized and not to any civilian employees who may be listed on the orders as dependents.

8.13.2. When extensive permanent change of duty travel outside of regularly scheduled hours of duty is required, employees are authorized to be absent from work without charge to leave or loss of pay for a reasonable time to recuperate from fatigue or loss of sleep. In determining "reasonable time" the supervisor considers the adverse effect on work performance, health, or well-being, and any safety hazard which might result from working while fatigued. Normally, this should not exceed 4 hours. When the total elapsed travel time exceeds 20 consecutive hours, as in the case of travel between the continental United States and either Pacific or European bases, up to 8 hours of duty time may be excused for recuperation.

8.13.3. Privately Owned Conveyance. When a privately owned conveyance is authorized or approved for permanent duty travel, except for renewal agreement travel, travel time for salary payment purposes is computed on the basis of 350 miles a calendar day. Any time in excess of the computed number of days which falls within the employee's regularly scheduled basic workweek is charged to leave. No charge is made to leave if an employee arrives at the new duty station before the reporting date, computed on the basis of 350 miles of travel a calendar day.

8.13.4. Temporary Duty Travel. When privately owned conveyance is authorized or approved as being advantageous to the government for temporary duty travel, the employee is considered in travel status, without charge to leave, during the actual time required for official travel. In computing the actual time required, any excess time required because of a delay enroute or circuitous routing specifically determined to be for the employee's convenience is deducted from the total elapsed time and the employee is required to take leave.

8.13.4.1. When an employee is allowed to use the employee's privately owned conveyance for the employee's own convenience on temporary duty travel, the employee is considered in travel status for the scheduled travel time by common carrier or usual mode of transportation that otherwise would be required. Any time in excess of this period which falls within the employee's scheduled basic workweek is charged to leave.

8.13.4.2. When an employee begins or ends temporary duty travel by commercial carrier during regularly scheduled hours of duty, supervisors may excuse the employee for up to 3 hours without charge to leave.

8.13.4.3. When extensive temporary duty travel outside of regularly scheduled hours of duty is required, employees are authorized to be absent from work without charge to leave or loss of pay for a reasonable time to recuperate from fatigue or loss of sleep. This provision does not apply to employees who are performing work while traveling and being compensated by compensatory time off, paid overtime, or credit hours, e.g., ART aircrew members. In determining "reasonable time" the supervisor considers the adverse effect on work performance, health, or well being, and any safety hazard which might result from working while fatigued. Normally, this should not exceed 4 hours. When the total elapsed travel time exceeds 20 consecutive hours, as in the case of travel between the continental United States and either Pacific or European bases, up to 8 hours of duty time may be excused for recuperation

8.14. Absences Resulting From Hostile Action Abroad. A civilian employee who is injured as the result of war, insurgency, mob violence, or similar action while serving in the CONUS or serving abroad is not charged leave for absence up to 1 year resulting from the injury. The injury must not have been the result of vicious habit, intemperance, or willful misconduct of the employee.

Chapter 9

VOLUNTARY LEAVE TRANSFER PROGRAM

9.1. Purpose and Applicability. The purpose of this chapter is to set forth procedures and requirements for the Voluntary Leave Transfer Program. This program allows an employee who has a medical emergency and is without the availability of paid leave, to receive transferred annual leave directly from other employees with the concurrence of the respective management officials. This chapter applies to all employees covered by 5 U.S.C. 6301(2) and 5 CFR 630.906.

9.2. Administrative Procedures. The appointing official or designee should establish appropriate supplemental procedures to approve or disapprove the receipt of transferred annual leave for the Voluntary Leave Transfer Program at the installation level.

9.3. Application To Be A Leave Recipient. An employee who has been affected by a medical emergency may make written application to his/her first level supervisor or leave approving official to become a leave recipient. If such an employee is not capable of making application, due to physical or mental impairment, the leave applicant or immediate family member may designate a personal representative in writing to make the application.

9.3.1. Application Requirements. Each application must include the following:

9.3.1.1. The name, position title, pay plan, grade/step, hourly/annual rate of pay of the applicant, specific organization, and office symbol of employment.

9.3.1.2. Social security number.

9.3.1.3. Annual and sick leave balance as of the date of application. (Applicant should attach a copy of the latest leave and earnings statement to reflect current leave balances.)

9.3.1.4. Expected date on which available paid leave will run out.

9.3.1.5. Accrual rate for annual leave.

9.3.1.6. Expected duration of the hardship.

9.3.1.7. Description of the hardship (include physician(s) certification and/or any attachments that may be used as evidence that will assist the approving official in making a decision). Medical evidence must be provided by the employee/applicant and is necessary for the employee to become a leave recipient. The employee must consent in writing to the release of this information to officials involved in the review process.

9.3.1.8. The applicants must agree to the use of their names and approve the public release of the existence of a hardship for any publicized efforts to collect donated leave. If the employee chooses anonymity, he/she should be advised that anonymity would likely result in minimal leave donations. (***NOTE***: OPM 630, **Application to Become A Leave Recipient Under the Voluntary Leave Transfer Program**, has a block for the employee to check for anonymity. Anonymity should not preclude the Air Force from receiving donations for the leave recipient as in the case of donations from relatives and close friends.)

9.3.1.9. Telephone number during the period of hardship.

9.3.1.10. Name, address, and telephone number of the person to contact on behalf of the applicant, if applicable.

9.3.2. The completed application will be forwarded to the first level supervisor for verification of the employment data and endorsed to the approving official.

9.4. Approval of the Application to Become a Leave Recipient. Upon receipt of an application to receive transferred annual leave, the first level supervisor will verify and validate the employment information contained in the application. The application must be returned to the applicant if correction or additional information is required. The supervisor must determine that the employee's absence from duty without available paid leave because of the medical emergency is or is expected to be at least 24 hours and is likely to result in a substantial loss of income to the employee because of the unavailability of paid leave. ***Note***: In the case of a part-time employee or an employee with an uncommon tour of duty, at least 30% of the average number of hours in the employee's bi-weekly scheduled tour of duty will be the determining factor. Once the application receives supervisory endorsement, it is forwarded to the approving official within 5 workdays from the date of receipt of the application. The supervisor will provide informal notice to the CPF that the employee has filed an application to receive transferred annual leave. The supervisory endorsement will include the following:

9.4.1. A statement acknowledging and verifying as correct, the employment information contained in the application.

9.4.2. An acknowledgment that if approved, the supervisor will validate the continuing nature of the hardship each pay period and upon termination of the hardship, stop the allocation of transferred leave.

9.4.3. An acknowledgment that if approved, the supervisor is responsible to properly annotate time and attendance records to insure that all available paid leave is exhausted before any transferred annual leave is used by the applicant. The supervisor must work closely with the civilian payroll office to monitor the use of transferred leave.

9.4.4. A recommendation to the approving official indicating approval or disapproval of the employee's absence from the workplace.

9.4.5. A recommendation for the approval or disapproval of the application based on the hardship as described by the applicant.

9.5. Approving Official's Responsibilities . The approving official or designee will complete the following applicable actions within 10 calendar days after receipt of the application from the supervisor.

9.5. (DOVER) Approving Official's Responsibilities. The Approving Official at Dover AFB is the Civilian Personnel Officer. The Office of Primary Responsibility at Dover AFB is the Labor and Employee Management Relations Section (436 MSS/DPCE).

9.5.1. If the application is disapproved, provide direct written notice to the applicant that the application has been disapproved and the reasons for disapproval. Copies of the disapproval will be furnished to the first level supervisor.

9.5.2. A copy of the approved application will be provided to the applicant with copies to the first level supervisor, the civilian payroll office, and the servicing CPF. For approved leave recipients who have agreed to the release of their names, instruct the first level supervisor to arrange appropriate pub-

licity to employees of the recipient's organization of assignment to canvass the desire to transfer annual leave to the recipient. Publicity efforts must be consistent for all employees who have approval to receive transferred annual leave. If insufficient donations are received to cover the period without pay, the supervisor with assistance from the CPF may expand the publicity effort to other offices within the leave recipient's organization of assignment. If the donations remain insufficient, the supervisor in cooperation with the CPF, may expand publicity in the following order:

9.5.2.1. Other organizations on the installation.

9.5.2.2. Parent MAJCOM of applicant.

9.5.2.3. Other AF installations.

9.5.2.4. Other federal agencies.

9.6. Transfer of Annual Leave. A leave recipient's employing organization may accept the transfer of annual leave from leave donors employed by the same organization and, if necessary, the transfer of approved donations by employees of other organizations. Every effort should be made to exhaust all available donated leave within the leave recipient's organization of assignment before using approved transferred annual leave from other organizations. The OPM 630, 630-A, 630-B, and 630-C are available on the OPM web site (**http://www.opm.gov**) for transfer and receipt of annual leave in the Voluntary Leave Transfer Program.

9.6.1. A first level supervisor is prohibited from receiving donated leave from a subordinate employee.

9.6.2. An employee may submit to his/her first level supervisor or leave approving official a voluntary, irrevocable request on the OPM 630-A or the OPM 630-B to transfer a specific number of whole hours of accrued annual leave to the leave account of a specified approved leave recipient as follows:

9.6.2.1. Name, position title, pay plan, grade/step, hourly/annual rate of pay and specific organization and office symbol of employment.

9.6.2.2. Social security number.

9.6.2.3. Annual leave balance as of the date of the request to donate leave.

9.6.2.4. Accrual rate for annual leave.

9.6.2.5. Number of hours to be earned during the remainder of the leave year.

9.6.2.6. Number of hours designated as "use or lose".

9.6.2.7. An acknowledgment that the request to donate leave is fully voluntary without personal reservations, coercion, or intimidation.

9.6.2.8. An acknowledgment that the donation of annual leave is irrevocable.

9.6.2.9. An acknowledgment that the donor expects nothing in return, to include receipt of transferred annual leave.

9.6.2.10. An acknowledgment that unused transferred annual leave will be returned on a pro-rata basis determined by the approving authority (see paragraph **9.10.**).

9.6.2.11. The name and employing activity of the approved leave recipient, designated to receive the donation.

9.6.3. Approval of the Donation. The leave-approving official of the donor may forward the documented, approved donation to the servicing CPF of the leave recipient. The documented donation will be quality reviewed, validated, and forwarded to the servicing civilian payroll office.

9.6.4. Substitution of Transferred Annual Leave. Annual leave transferred under this authority may be substituted retroactively for absence without pay or used to liquidate an indebtedness for advanced annual or sick leave as a result of an approved medical emergency. (Note: The current pay system will not replace LWOP coding. If an employee's time and attendance sheet is marked as LWOP, transferred leave cannot "automatically" replace that period of unpaid absence until it is deleted. For this reason, the civilian payroll office recommends that even when an employee has no sick leave or annual leave balance, the time sheet should be marked either SL (for personal illness) or AL (for family member's illness) to prevent the need to have corrected time sheets.)

9.7. Limitations on Donations of Annual Leave. A potential leave donor must have a sufficient number of hours of accrued annual leave in order to donate leave. Donating leave earned in future pay periods is prohibited.

9.7.1. The maximum donation of leave is no more than a total of one-half of the amount of annual leave an employee would be entitled to accrue during the leave year in which the donation is made (Example: An employee who earns 104 hours of annual leave may donate a maximum of 52 hours.) The limitation on donating annual leave may be waived, in writing, by the installation commander or their designee, provided the employee has extenuating circumstances and it has been documented as such.

9.7.2. A leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under 5 U.S.C 6304(a) may donate no more than the number of hours remaining in the leave year (as of the date of transfer) for which the leave donor is scheduled to work and receive pay. (Example: If two weeks before the end of the leave year, a leave donor has 100 hours of use or lose leave and is scheduled to work for only 60 hours, up to 60 hours may be donated.) The limitation on donating annual leave subject to forfeiture may be waived, in writing, by the installation commander or their designee, provided the employee has extenuating circumstances and it has been documented as such. See 5 CFR 630.908(b) and (c).

9.8. Use of Transferred Annual Leave. An employee in a shared leave status using transferred leave under the Voluntary Leave Transfer Program may use the donated leave only for the purpose of the medical emergency for which the recipient was approved. A separate account is established for accruals earned on donated leave. Employees are allowed to accumulate up to 40 hours of annual and sick leave while using transferred annual leave. (See 5 CFR 630.907(a)(1) and (2)).

9.8.1. The approval and use of transferred annual leave by an approved leave recipient shall be subject to all the conditions and requirements imposed by 5 U.S.C. Chapter 63. Upon approval, transferred annual leave received by an approved leave recipient may be accumulated without regard to the limitation imposed by (normally, 30 days or 240 hours) 5 U.S.C. 6304(a). The leave recipient's servicing civilian payroll office must monitor the transfer of donated leave. The balance of the transferred leave will be posted to the leave recipient's account the following leave year, if necessary.

9.8.2. Transferred annual leave may not be used as follows:

9.8.2.1. Transferred to another leave recipient under this regulatory authority.

9.8.2.2. Transferred to another employing activity upon the leave recipient's transfer of employment.

9.8.2.3. Included in a lump-sum payment under 5 U.S.C. 5551 or 5552.

9.8.2.4. Made available for recredit under 5 U.S.C. 6306 upon reemployment by a federal agency.

9.9. Termination of Medical Emergency.

9.9.1. Based on medical documentation or other appropriate action, the entitlement to receive transferred leave shall terminate as follows:

9.9.1.1. When the leave recipient's employment is terminated by the same agency which approved the application to become a leave recipient.

9.9.1.2. At the end of the bi-weekly pay period in which the leave recipient's approving official or designee determines that the leave recipient is no longer affected by a medical emergency.

9.9.1.3. At the end of the bi-weekly pay period in which the leave recipient's employing activity receives notice from the OPM of an approved application for disability retirement.

9.9.2. The leave recipient's first level supervisor or leave approving official shall continually monitor (each pay period) the nature and extent of medical emergency affecting the leave recipient. Senior management officials must develop and maintain internal procedures to insure supervisory biweekly review of the medical emergency.

9.9.3. When it is determined that the medical emergency or hardship affecting the leave recipient has terminated (based on medical evidence), and the leave recipient has had the opportunity to respond, the following actions are required: (See 5 CFR 630.910(a)(3).)

9.9.3.1. No further donations will be accepted.

9.9.3.2. No further transfers of annual leave will occur.

9.9.3.3. The supervisor or leave approving official will provide written notice to the Voluntary Leave Transfer Program approving official and the civilian payroll office with a copy to the leave recipient as follows:

9.9.3.3.1. Include the name, employee's social security number, and organization of assignment of the leave recipient.

9.9.3.3.2. Approval date of the leave recipient's application.

9.9.3.3.3. Initial date of receipt of transferred annual leave and the date the emergency ended as determined by the appropriate official.

9.9.3.3.4. Total number of transferred annual leave hours used, total number of transferred hours donated, and unused transferred leave remaining.

9.9.3.3.5. Date the leave recipient returned to work or separated from employment.

9.9.3.3.6. A statement that unused transferred leave will not be used to compute lump sum leave payment upon separation.

9.10. Restoration of Transferred Annual Leave.

9.10.1. Restoration of unused transferred annual leave is computed by the civilian payroll office. Upon receipt of the supervisory notice indicating the termination of the leave recipient's emergency or hardship, the servicing civilian payroll office will compute appropriate restoration of transferred annual leave as follows:

9.10.1.1. Divide the number of hours of unused transferred leave by the total number of hours of annual leave transferred to the leave recipient.

9.10.1.2. Multiply the ratio obtained in paragraph **9.10.1.1.**, by the number of hours of annual leave transferred by each leave donor eligible to receive restoration of unused transferred annual leave. The leave shall be restored to the annual leave accounts of the leave donors who, on the date leave restoration is made, are employed by a federal agency and subject to Chapter 63 of 5 U.S.C. (See 5 CFR 630.911(a)). The civilian payroll office will receive assistance from the CPF which will validate the donor's eligibility to receive unused transferred annual leave.

9.10.1.3. Round down the result obtained in paragraph **9.10.1.2.**, to the nearest increment of whole hours of annual leave.

9.10.2. If the total number of eligible leave donors exceeds the total number of hours of annual leave to be restored, no unused transferred annual leave shall be restored. In no case shall the amount of annual leave restored to the leave donor exceed the amount transferred to the leave recipient by the leave donor.

9.10.3. Transferred annual leave restored to the account of a leave donor before the beginning of the third bi-weekly pay period before the end of the leave year is subject to the limitation imposed by 5 U.S.C 6304(a).

9.10.4. Transferred annual leave restored to the account of a leave donor after the beginning of the third bi-weekly pay period before the end of the leave year shall not be subject to the limitations imposed by 5 U.S.C. 6304(a) until the end of the leave year following the leave year in which the transferred annual leave was restored.

9.11. Prohibition of Coercion. An individual may not directly or indirectly intimidate, threaten, or coerce any other individual for the purpose of interfering with any right an employee may have to donate, not to donate, receive, or use annual leave under this chapter.

9.11.1. Adequate publicity will be provided by management officials when an application to receive transferred annual leave is approved. Therefore, the leave recipient is discouraged from expressing any personal solicitations to procure transferred annual leave from other employees.

9.11.2. For the purposes of this chapter the term "intimidate, threaten, or coerce" includes a prohibition of promise to confer any benefit associated with employment (such as appointment, promotion, compensation, hours of work, or assignment of duties). Effecting or threatening reprisal for not donating leave or donating leave to a specific employee is strictly forbidden.

9.12. Emergency Leave Transfer Program. Authorized by Section 6391 of title 5 U.S.C. (as added by section 9004 of P.L. 105-18, *Leave Transfer in Disasters and Emergencies*, dated June 12, 1997), Air Force employees are allowed to make leave donations of annual leave to employees in their own agencies or other agencies who are affected by major disasters and other emergencies. Employees affected by

major disasters may also be able to use leave donated under the Voluntary Leave Transfer Program. This also allows employees receiving such donated leave to use it before exhausting their own accumulated annual and sick leave. OPM 1637, **Application to Become a Leave Recipient Under the Emergency Leave Transfer Program** and OPM 1638, **Request to Donate Annual Leave under the Emergency Leave Transfer Program**, may be used for receiving donated annual leave or donating annual leave under this program. (See 5 U.S.C. 6391.) OPM 1639, **Transfer of Donated Annual Leave To or From the Emergency Leave Transfer Program** must be used for the purpose of donating or receiving annual leave from other agencies.

Chapter 10

FAMILY AND MEDICAL LEAVE

10.1. Purpose. This chapter implements the Family and Medical Leave Act of 1993 (FMLA) and 5 CFR Part 630, Subpart L, Family and Medical Leave. It entitles Federal employees to a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs as specified in 5 CFR 630.1203(a).

10.2. Coverage. This chapter applies to employees covered by 5 U.S.C. 6381(1).

10.3. Leave Entitlement. A covered employee is entitled to a total of 12 administrative workweeks of unpaid leave (leave without pay) during any 12-month period for:

10.3.1. The birth of a son or daughter and care of the newborn.

10.3.2. The placement of a son or daughter with the employee for adoption or foster care.

10.3.3. The care of a spouse, son, daughter, or parent of the employee with a serious health condition.

10.3.4. A serious health condition, as defined in 5 CFR 630.1202, of the employee that makes the employee unable to perform duties of his or her position. ***NOTE:*** An employee may elect to substitute paid leave IAW paragraph **10.9.**. An employee must provide written medical certification of a serious health condition, signed by the health care provider no later than 15 calendar days after the date requested by the Air Force. Form WH-380, **Certification of Health Care Provider**, from the U.S. Department of Labor, may be used by employees to satisfy this mandatory requirement to furnish a medical certification from a health care provider, including second or third opinions and recertification (See 29 CFR 825.306). This form is available for use on the OPM web site (**http://www.opm.gov**).

10.4. Requirement to Invoke FMLA. An employee must invoke his or her entitlement to family or medical leave subject to proper notification and medical certification requirements in 5 CFR 630.1206 and 5 CFR 630.1207. Request for FMLA must be supported by evidence that is administratively acceptable to the Air Force. If an employee does not comply with the request for sufficient medical certification, the employee is not entitled to leave under FMLA. However, if the employee is unable to provide the requested medical certification before leave begins, or if there is a question about the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, provisional leave will be granted pending final written medical certification. Barring emergency situations not known in advance, an employee must provide the employing agency 30-days advance notice of intent of the need for FMLA and may not retroactively invoke his or her entitlement to FMLA. However, if an employee and his/her personal representative are physically or mentally incapable of invoking the employee's entitlement to FMLA leave during the entire period in which the employee is absent from work, the employee may retroactively invoke his/her entitlement to FMLA leave within two workdays after returning to work. (See 5 CFR 630.1203(b)). An employee may take up to 12 administrative work weeks of family and medical leave necessary for the circumstances that prompted the need for FMLA. This leave may be taken intermittently. If an employee who is in a LWOP status (even to accompany a military spouse or civilian sponsor) invokes FMLA, the employee still has the entitlement to FMLA.

Since the agency allowed the employee to go on LWOP instead of separating the employee, the employee is still on the roles of the agency and has the entitlement to FMLA.

10.5. Effective Date of FMLA. The 12-month period referred to in paragraph **10.3.** begins on the date an employee first takes leave for a family or medical need and continues for 12 months. An employee is not entitled to 12 additional workweeks of leave until the previous 12-month period ends and an event occurs that entitles the employee to another period of family or medical leave. (This may include a continuation of a previous situation.)

10.6. Covered Employees. FMLA is available to full-time and part-time employees. An employee must have completed 12 months of service (not required to be recent or consecutive if applying for FMLA under 5 CFR 630.1201(b)(ii)). A total of 12 administrative workweeks will be made available equally for full-time or part-time employees in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek. The 12 administrative workweeks of leave will be calculated on an hourly basis and will equal 12 times the average number of hours in the employee's regularly scheduled administrative workweek. If the number of hours in an employee's workweek varies from week to week, a weekly average of the hours scheduled over the 12 weeks prior to the date leave begins will be used as the basis for the calculation.

10.7. Protection of Employment and Benefits. Upon return from FMLA leave, the employee must be returned to the same position held when the leave began or an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. An equivalent position must be in the same commuting area and must have the same or substantially similar duties and responsibilities of the position held when the leave began.

10.8. Health Benefits. While on FMLA leave, the employee is entitled to maintain health benefits coverage under the FEHB Program. If the employee is on leave without pay under the FMLA, the employee is responsible for paying the employee share of the health benefits premium.

10.9. Substitution of Paid Leave. An employee may choose to substitute annual leave for unpaid leave under the FMLA. Substitution of paid leave for FMLA cannot be done retroactively. An employee may also substitute sick leave in those situations in which the use of sick leave is permitted and made in advance. (See 5 CFR 630.1205(3).) Advanced annual or sick leave and/or leave made available to an employee under the Voluntary Leave Transfer Program may also be available.

10.10. Expanded Family and Medical Leave Policies. Employees may schedule and take up to 24 hours of leave without pay each leave year for participation in school activities, routine family medical appointments, and elderly relatives' health needs.

Chapter 11

LEAVE FOR BONE-MARROW OR ORGAN DONATION

11.1. Absence to Serve as a Bone-Marrow or Organ Donor. An employee is entitled to use 7 days of paid leave each calendar year (in addition to annual or sick leave) to serve as a bone-marrow donor and an employee may use up to 30 days of paid leave as an organ donor. Bone-marrow or organ donor leave may be used, but is not limited to, such situations as blood testing, tissue testing, counseling, physical examinations, travel time, surgery, and recuperation. Employees who are screened, but not accepted as donors, are entitled to bone-marrow or organ donor leave for their absences in conjunction with their attempt to be donors. Medical procedures and recuperation depend on the circumstance of each case. Record this type of leave on the time and attendance documentation under administrative or other leave category. (See 5 U.S.C. 6327.)

11.2. Absence of Employee Having Bone-Marrow Removed. An individual having bone-marrow removed and stored for future use is not a "donor," and the benefit of 7 days of paid time off was not intended for someone who is undergoing such a procedure for his or her own needs. Sick leave, annual leave, and advanced annual and sick leave are available to an employee facing this type of medical procedure. In addition, leave donated under the Voluntary Leave Transfer Program and LWOP under the FMLA may be used if the condition meets the requirements of these programs.

Chapter 12

HOME LEAVE

12.1. Home Leave Entitlement. Home leave is authorized after an employee has completed 24 months of continuous service abroad. Service abroad means service on and after 6 September 1960, by an employee at a post of duty outside the United States and outside the employee's place of residence if his place of residence is in the Commonwealth of Puerto Rico or a territory or possession of the United States. Home leave is earned at a rate of 5, 10, or 15 days based on the number of months of service abroad and criteria in 5 CFR 630.604. (See 5 CFR 630.605(a) for Home Leave-Earning Table.)

12.2. Subsequent Service Abroad. In accordance with 5 CFR 630.606(c)(2) and DoD 1400.25-M, *DoD Civilian Personnel Manuel,* Subchapter 1260, *Home Leave*, home leave may be granted only when an employee has completed 24 months of continuous service abroad. Home leave not granted during an employee's period of service abroad, or within a reasonable period after returning from service abroad when it is contemplated that the employee will return to service abroad immediately or on completion of an assignment in the United States, may be granted only when the employee has completed a further substantial period of service abroad. This further substantial period of service abroad may not be less than the tour of duty prescribed for the employee's post of assignment, except when the responsible Major Command/DPC, or designee, determines that an earlier and shorter grant of home leave is warranted on a case-by-case basis.

12.3. Refund for Home Leave. An employee is indebted for the home leave used by him/her when he/she fails to return to service abroad after the period of home leave, or after the completion of an assignment in the United States. However, a refund for this indebtedness is not required when (1) the employee has completed not less than 6 months' service in an assignment in the United States following the period of home leave; (2) the agency determines that the employee's failure to return was due to compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health or circumstances over which the employee has no control; or (3) the agency which granted the home leave determines that it is in the public interest not to return the employee to his overseas assignment.

DONALD L. PETERSON, Lt General, USAF
DCS/Personnel

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

Public Law 102-484, *National Defense Authorization Act for Fiscal Year 1993,* October 23, 1992

Public Law 103-337, *National Defense Authorization Act for Fiscal Year 1995,* October 5, 1994

Public Law 103-353, *Uniformed Services Employment and Reemployment Rights Act of 1994,* October 13, 1994

Public Law 105-18, *Leave Transfer in Disasters and Emergencies*, June 12, 1997

Public Law 105-277, *Federal Firefighters Overtime Pay Reform Act of 1998*, October 11, 1998

Public Law 106-65, *National Defense Authorization Act for Fiscal Year 2000*, October 5, 1999

Title 5, United States Code, *Government Organization and Employees*, current edition

Title 5, Code of Federal Regulations, *Administrative Personnel*, current edition

Title 7, Civil Rights Act of 1964, July 2, 1964

Title 38, United States Code, *Veterans' Benefits*, current edition

Title 42, United States Code, Section 2000e-16, *Employment by Federal Government*, current edition

DoD 1400.25-M, *Civilian Personnel Manual*, current edition

DoD 5200.2-R, *DoD Personnel Security Program*, current edition

DoD 7000.14-R, *Financial Management Regulation*, current edition

AFPD 36-8, *Employee Benefits and Entitlements*

AFI 31-501, *Personnel Security Program Management*

AFI 36-105, *Civilian Personnel Servicing Arrangements*

AFI 36-401, *Employee Training and Development*

AFI 36-701, *Labor Management Relations*

AFI 36-807, *Weekly and Daily Scheduling of Work and Holiday Observances*

Abbreviations and Acronyms

AFI—Air Force Instruction

AFPD—Air Force Policy Directive

ART—Air Reserve Technician

AWOL—Absence Without Leave

CFR—Code of Federal Regulations

COP—Continuation of Pay

CPF—Civilian Personnel Flight

DFAS—Defense Finance and Accounting Service

DoD—Department of Defense

FEGLI—Federal Employees' Group Life Insurance

FEHB—Federal Employees Health Benefit

FMLA—Family and Medical Leave Act of 1993

LWOP—Leave Without Pay

LWOP-US—Leave Without Pay-Uniformed Services

MAJCOM—Major Command

OPM—Office of Personnel Management

OWCP—Office of Workers' Compensation

P.L.—Public Law

SF—Standard Form

TSP—Thrift Savings Plan

U.S.C.—United States Code

USERRA—Uniformed Services Employment and Reemployment Rights Act of 1994

Terms

Absence Without Leave (AWOL)—An absence from duty which was not authorized or for which leave has been denied. Neither the denial of leave nor the time and attendance reporting of AWOL is punitive, and neither means that the employee has insufficient reason for requesting leave. *Note:* Rather, it means that the employee's presence is required and that the reason for requesting it is not one for which leave must be approved. The employee's failure to honor the leave denial and the unauthorized absence may form the basis for disciplinary or adverse action.

Accrued Leave—Leave earned by an employee during the current leave year that is unused at any given time in that leave year.

Accumulated Leave—Unused leave remaining to the credit of an employee at the beginning of a leave year.

Administrative Workweek—A period of 7 consecutive calendar days designated in advance by the head of an agency under 5 U.S.C. 6101.

Agency—Agency is defined as the Air Force.

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

Approving Official—The individual or designated representative who acts as the approving/disapproving official for civilian absence and leave programs, e.g., for receipt of transferred annual leave.

Armed Forces—The Army, Navy, Air Force, Marine Corps, and Coast Guard.

Available Paid Leave—Accrued or accumulated annual or sick leave and recredited and restored annual

or sick leave. Available paid leave does not include annual or sick leave advanced to an employee or any annual leave transferred and accrued under the Voluntary Leave Transfer Program provisions.

Contagious Disease—A disease which is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period, as prescribed by health authorities having jurisdiction. Childhood diseases such as measles and chicken pox that require isolation meet this definition.

Employee—An individual who meets the definition under 5 U.S.C. 6301(2).

Essential Functions—The fundamental job duties of an employee's position. An employee who must be absent from work to receive medical treatment for a serious health condition is considered unable to perform the essential functions of the position during the absence for treatment.

Family and Medical Leave—An employee's entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs.

Family Member—The following relatives of the employee: Spouse, and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. The definition of a family member under the FMLA is more restrictive. Under FMLA, the definition of a family member is spouse, son, daughter, or parent. For more information on FMLA, see **Chapter 10**.

Foster Care—24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

Funeral Leave—Leave authorized in connection with funerals of immediate relatives in the Armed Forces.

Health Care Provider—Any physician who is board-certified in a medical specialty, or a physician serving on active duty in the uniformed services who is board-eligible and who is designated by the uniformed service to perform examinations. Also includes other appropriate practitioners such as: physician assistants, chiropractors, psychologists, nurse practitioners, licensed occupational and physical therapists, dieticians, Christian Science practitioners, Native Americans who practice traditional healing methods, etc.

Immediate Relative or Immediate Family—The following relatives of a deceased member of the Armed Forces: Spouse, and parents thereof; children, including adopted children, and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

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

Leave Donor—An employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by the employee's own CPF or organization of assignment.

Leave Recipient—A current employee for whom the employing agency has approved an application to

receive annual leave from the annual leave accounts of one or more leave donors.

Leave Without Pay (LWOP)—An absence from duty in a nonpay status. Leave without pay may be taken only for those hours of duty comprising an employee's basic workweek. A temporary status and absence from duty granted upon the employee's request. Except where specifically authorized by law or this instruction as a matter of right, granting of leave without pay is a matter of administrative discretion. The fact that it is a scheduled absence requiring approval distinguishes it from absence without leave, which is an absence without permission that may serve as the basis for disciplinary action.

Leave Year—The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

Medical Certificate—A written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

Medical Documentation—"Medical documentation" or "documentation of medical condition" is a written statement signed by a licensed physician or health care provider which provides the following information, or the parts identified by the activity as necessary and relevant: (1) The history of the medical conditions, including references to findings from previous examinations, treatment, and responses to treatment. (2) Clinical findings from the most recent medical evaluation, including any of the following which have been obtained: Findings of physical examination; results of laboratory tests; X-rays; EKGs and other special evaluations or diagnostic procedures; and, in the case of psychiatric evaluation of psychological assessment, the findings of a mental status examination and the results of psychological tests, if appropriate. (3) Diagnosis, including the current clinical status. (4) Prognosis, including plans for future treatment and an estimate of the expected date of full or partial recovery. (5) An explanation of the impact of the medical condition on overall health and activities, including the basis for any conclusion that restrictions or accommodations are or are not warranted, and where they are warranted, an explanation of their therapeutic or risk avoiding value. (6) An explanation of the medical basis for any conclusion which indicates the likelihood that the individual is or is not expected to suffer sudden or subtle incapacitation by carrying out, with or without accommodation, the tasks or duties of a specific position. (7) Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized and the likelihood that the individual may experience sudden or subtle incapacitation as a result of the medical condition. In this context, "static or well-stabilized medical condition" means a medical condition which is not likely to change as a consequence of the natural progression of the condition, specifically as a result of the normal aging process, or in response to the work environment or the work itself. "Subtle incapacitation" means gradual, initially imperceptible impairment of physical or mental function whether reversible or not which is likely to result in performance or conduct deficiencies. "Sudden incapacitation" means abrupt onset of loss of control of physical or mental function.

Medical Documentation Review—Means assessment of medical documentation by, or in coordination with, a physician to ensure that the following criteria are met: (1) The diagnosis or clinical impression is justified according to established diagnostic criteria. (2) The conclusions and recommendations are not inconsistent with generally accepted medical principles and practice. If the physician believes the "permanent" medical condition and attending restrictions pose a significant risk to the employee's health and safety, the physician should indicate this in the medical documentation.

Medical Emergency—A medical condition of an employee or a family member of an employee that is likely to require an employee's absence from duty for a prolonged period of time and would result in a substantial loss of income to the employee because of the unavailability of paid leave.

Paid Leave Status—The administrative status of an employee while the employee is using accrued or accumulated annual or sick leave.

Parents—A biological parent or an individual who stands or stood *in loco parentis* (refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child) to an employee when the employee was a son or daughter. This does not include parents "in law."

Physician—A licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations.

Serious Health Condition—An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuous treatment by a health care provider.

Shared Leave Status—The administrative status of an employee while the employee is using transferred leave under the Voluntary Leave Transfer Program.

Static or Well-Stabilized Medical Condition—A medical condition which is not likely to change: (1) As a consequence of the natural progression of the condition. (2) Specifically as a result of the normal aging process. (3) In response to the work environment or the work itself.

Subtle Incapacitation—Gradual, initially inapparent impairment of physical or mental function which is likely to result in a performance failure, whether reversible or not.

Sudden Incapacitation—Abrupt onset of loss of control of physical or mental function.

United States—The 50 states and the District of Columbia.

Attachment 2

INTERIM CHANGE 2000-1 TO AFI 36-815

IC 2000-1 TO AFI 36-815, ABSENCE AND LEAVE

30 MARCH 2000

SUMMARY OF REVISIONS

This interim change updates DODD to DOD 5200.2-R (paragraph **1.2.4.4.**); deletes references to refund from compensation due (paragraph **1.5.**); incorporates new legislative changes to military leave for inactive-duty training (paragraphs **5.1.** and **5.7.**); clarifies information on firefighter leave policies (paragraph **8.10.1.**); changes unpaid to paid (paragraph **9.4.**); and updates appropriate references (**Attachment 1**). A bar (|) indicates revision from the previous edition.

1.2.4.4. Comply with DOD 5200.2-R, *DoD Personnel Security Program* and AFI 31-501, *Personnel Security Program Management*, when planning travel to a foreign country during a period of approved leave.

1.5. Refund for Unearned Leave. When an employee is separated before earning all the annual or sick leave that has been advanced, usually the value of the unearned leave must be deducted from any compensation due. A deduction from any compensation due is not required if the employee is separated for reasons of death, disability retirement, or resignation for physical disability that is evidenced by acceptable medical documentation.

5.1. Military Leave Explained. Military leave is absence from duty in the employee's civilian position without loss of pay (including pay for regularly scheduled overtime) to perform military duty. Eligible employees must, upon request, be granted military leave to which entitled for performance of active duty, active duty for training, or inactive-duty training (as defined in section 101 of title 37). As a result of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), if an employee is ordered to an initial period of active duty for training or inactive-duty training with the Reserve or National Guard, the employee may be granted military leave, annual leave, previously-earned compensatory time off, previously-earned credit hours, or LWOP as requested. Military leave does not have to be exhausted first and may be intermingled with other appropriate types of leave to perform military duty. However, if the employee (except a temporary employee) is to continue on active duty for an extended period (usually more than 1 year), the employee must be placed in LWOP-US status unless the employee elects to use other leave or freely and knowingly provides written notice of intent not to return to a position of employment with the agency, in which case the employee can be separated. (See 5 CFR 353.106(a).)

5.7. Conditions for Granting Military Leave. An eligible employee is granted any available military leave, annual leave, previously-earned compensatory time off, previously-earned credit hours, or LWOP when they perform active duty or inactive duty. When an employee is on active duty, a copy of the orders normally accompanies the request for military leave. Other types of military duty may be approved based on the employee's request. Supervisors may request additional documentation. The employee may be required to submit a certification by the appropriate military official that the military duty was performed. Normally, Reserve active and inactive duty is planned and announced in advance. Employees are encouraged to provide, if possible, copies of annual training schedules as well as advance notice of specific training dates.

8.10.1. Legal Holidays. Employees are not required to work on a legal holiday unless their services are required to carry out essential operations. However, unauthorized absence on a holiday on which the employee was assigned to work results in loss of pay for that day, and could result in disciplinary action. The following applies to employees receiving annual premium pay under 5 U.S.C. 5545(c)(1) and firefighters covered by the Federal Firefighters Overtime Pay Reform Act of 1998 (P.L. 105-277), effective 11 Oct 98. These employees may be excused without charge to leave by the leave-approving supervisor on holidays falling within their regularly scheduled tour of duty, only when the installation commander administratively determines that an employee's services are not required on a particular holiday (i.e., excused absence). When an employee's services are administratively required on a holiday and the employee is granted the day off for personal reasons, the employee is charged annual leave, previously-earned compensatory time off, LWOP, or sick leave, as appropriate.

9.4. Approval of the Application to Become a Leave Recipient. Upon receipt of an application to receive transferred annual leave, the first level supervisor will verify and validate the employment information contained in the application. The application must be returned to the applicant if correction or additional information is required. The supervisor must determine that the employee's absence from duty without available paid leave because of the medical emergency is or is expected to be at least 24 hours and is likely to result in a substantial loss of income to the employee because of the unavailability of paid leave. *Note*: In the case of a part-time employee or an employee with an uncommon tour of duty, at least 30% of the average number of hours in the employee's bi-weekly scheduled tour of duty will be the determining factor. Once the application receives supervisory endorsement, it is forwarded to the approving official within 5 workdays from the date of receipt of the application. The supervisor will provide informal notice to the CPF that the employee has filed an application to receive transferred annual leave. The supervisory endorsement will include the following:

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

Public Law 102-484, *National Defense Authorization Act for Fiscal Year 1993,* October 23, 1992

Public Law 103-337, *National Defense Authorization Act for Fiscal Year 1995,* October 5, 1994

Public Law 103-353, *Uniformed Services Employment and Reemployment Rights Act of 1994,* October 13, 1994

Public Law 105-18, *Leave Transfer in Disasters and Emergencies*, June 12, 1997

Public Law 105-277, *Federal Firefighters Overtime Pay Reform Act of 1998*, October 11, 1998

Public Law 106-65, *National Defense Authorization Act for Fiscal Year 2000*, October 5, 1999

Title 5, United States Code, *Government Organization and Employees*, current edition

Title 5, Code of Federal Regulations, *Administrative Personnel*, current edition

Title 7, Civil Rights Act of 1964, July 2, 1964

Title 38, United States Code, *Veterans' Benefits*, current edition

Title 42, United States Code, Section 2000e-16, *Employment by Federal Government*, current edition

DoD 1400.25-M, *Civilian Personnel Manual*, current edition

DoD 5200.2-R, *DoD Personnel Security Program*, current edition

DoD 7000.14-R, *Financial Management Regulation*, current edition

AFPD 36-8, *Employee Benefits and Entitlements*

AFI 31-501, *Personnel Security Program Management*

AFI 36-105, *Civilian Personnel Servicing Arrangements*

AFI 36-401, *Employee Training and Development*

AFI 36-701, *Labor Management Relations*

AFI 36-807, *Weekly and Daily Scheduling of Work and Holiday Observances*

Attachment 3

INTERIM CHANGE 2000-2 TO AFI 36-815

IC 2000-2 TO AFI 36-815, ABSENCE AND LEAVE

13 OCTOBER 2000

SUMMARY OF REVISIONS

This interim change updates **Chapter 3**--SICK LEAVE in the Table of Contents to include a new paragraph (paragraph **3.12.**) on sick leave to care for a family member with a serious health condition; deletes all references to FFLA (paragraphs **3.2.6.**, **3.3.**, **3.5.1.**, and **3.11.**); incorporates new Office of Personnel Management final regulations to expand the use of sick leave for family care purposes (paragraph **3.12.**); incorporates new legislative changes to additional leave for military technicians (paragraph **5.10.**); and deletes appropriate acronyms and terms to FFLA and clarifies the definition of a family member (**Attachment 1**). A bar (|) indicates revision from the previous edition.

3.2.6. See paragraph **3.3.** below for an explanation of sick leave for general family care and bereavement purposes under the 13-day entitlement.

3.3. Limited Amount of Sick Leave Use for Family Care. Sick leave may be used to provide care for a family member as a result of physical or mental illness, injury, pregnancy, childbirth, or medical, dental, or optical examination or treatment; or to make arrangements necessitated by the death of a family member or attend the funeral of a family member. A full-time employee may use up to 40 hours (5 days) of his/her sick leave each leave year for family care and bereavement purposes. An additional 64 hours (8 days) may be used as long as the employee maintains a sick leave balance of at least 80 hours. Part-time employees and employees with uncommon tours of duty are also covered. They may use up to the average number of hours in their weekly scheduled tour of duty. An additional amount of leave—not to exceed the number of sick leave hours normally accrued by that employee in a leave year—may be used if the employee has retained an amount of sick leave which equals twice the average number of hours in the employee's scheduled tour of duty each week. For example, employees working an uncommon tour of duty will have an amount of sick leave available each year equal to the number of hours worked in an employee's weekly scheduled tour of duty (i.e., 56/60/72 hours). In addition, an employee may be entitled to use up to the amount of sick leave the employee accrues in a leave year provided they maintain a balance of 112, 120, or 144 hours based on a 56/60/72 hour per week schedule. The definition of a family member may be found at **Attachment 1** of this instruction.

3.5.1. Absences of More Than 3 Days. Sick leave of more than 3 consecutive workdays must be supported by medical documentation (or other administratively acceptable documentation for absence) unless the supervisor specifically waives this requirement. The medical documentation must be administratively acceptable to the supervisor, must cover all absence beyond the third workday and specify that the employee was incapacitated for duty for the entire period covered by the statement. As a minimum, the physician should be requested to provide a diagnosis and an estimate of the expected date of full or partial recovery as provided in (4) and (5) of the definition of medical documentation in **Attachment 1**. In cases of extended illness, medical documentation may be required periodically, if necessary to establish the employee's continued incapacity to return to duty. For employees on standby tours scheduled on a "24 hour on, 24 hours off" basis, sick leave for more than 2 consecutive 24-hour duty periods must be supported by medical documentation unless the supervisor specifically waives this requirement. If there is any doubt as to the validity or adequacy of the medical documentation presented to support a request for

sick leave, the medical officer at the installation may be requested to review the documentation submitted and to consult the employee's physician for additional information. Where evidence does not justify the approval of sick leave, the absence may be charged to annual leave or LWOP with the employee's consent, or AWOL.

3.11. Use of Advance Sick Leave. An advance of sick leave is a privilege which may be extended to employees. It is not considered a routine or standard procedure and will be granted only after all circumstances have been carefully weighed. Advancing sick leave to an employee so he or she can maintain the 80-hour balance requirement is prohibited. In case of serious disability, illness, incapacitation, or confinement for childbirth, employees may be advanced up to 30 workdays of sick leave, or equivalent for uncommon tours of duty. To determine the maximum amount of sick leave that can be advanced for an employee on an uncommon tour of duty, multiply 240 hours by weekly hours in the uncommon tour and divide by 40 (240 x weekly uncommon tour/40=maximum hours). Employees requesting advanced sick leave to provide care for a family member or for bereavement purposes may be advanced sick leave in an amount not to exceed the maximum allowable (40 hours per leave year for full time employees). Requests for advanced sick leave may be made before or during the period of absence but no later than the employee's return to duty. See paragraph **3.3.** for additional information regarding sick leave for general family care and bereavement purposes.

3.12. Sick Leave to Care for a Family Member with a Serious Health Condition. An eligible employee may use a total of up to 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to a total of 12 weeks of sick leave each year for *all* family care purposes.

3.12.1. Definition of a Family Member. The definition of a family member may be found at **Attachment 1** of this instruction. The definition of a family member is the same as 5 CFR 630.201(b).

3.12.2. Serious Health Condition. A serious health condition has the same meaning as used in the Office of Personnel Management's regulations for administering the Family and Medical Leave Act of 1993 (FMLA) and may be found at **Attachment 1** of this instruction. (See 5 CFR 630.1202.) This definition includes, but is not limited to, such conditions as cancer, heart attacks, heart conditions requiring heart bypass or valve operations, back conditions requiring extensive therapy or surgical procedures, kidney dialysis, physical therapy, strokes, severe injuries, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, Alzheimer's disease, pregnancy, and childbirth. A serious health condition is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, the flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc., are not serious health conditions unless complications arise. Medical certification is required for a serious health condition.

3.12.2.1. Medical Documentation. An employee must provide written medical certification to document the use of sick leave to care for a family member with a serious health condition. Requests shall be submitted to the approving official on a SF 71 or other appropriate form. The employee must provide written medical certification of a serious health condition, signed by the health care provider no later than 15

workdays after the date requested by the Air Force. (See definition of Medical Documentation at **Attachment 1** for guidance.) An additional written statement must be provided from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must certify that the family member requires psychological comfort and/or physical care, the family member would benefit from the employee's care or presence, and the specific length of time the employee is needed to care for the family member.

3.12.3. Use of Sick Leave for Family Care. The same limitations apply to the use of sick leave to care for a family member with a serious health condition as apply to the use of sick leave for general family care or bereavement purposes. (See paragraph **3.3.**) A covered full-time employee may use 40 hours (5 workdays) of sick leave each leave year for these purposes. An employee may use additional sick leave for general family care or bereavement purposes or to care for a family member with a serious health condition if he or she maintains a balance of at least 80 hours of sick leave in his or her account. Only the first 40 hours of sick leave (or a proportional amount for an employee on a part-time schedule or uncommon tour of duty) may be advanced. (See paragraph **3.11.**)

3.12.4. Relationship to Voluntary Leave Transfer Program. Employees approved for the voluntary leave transfer program are required to use their sick leave before using donated annual leave. Under this program, an employee may receive donated annual leave from other employees if he or she is affected by a personal or family medical emergency and has exhausted his or her available paid annual and sick leave. (See **Chapter 9**.)

3.12.4.1. An employee faced with a family medical emergency who has exhausted his or her entitlement to 12 weeks of sick leave for family care purposes (or a lesser amount if the employee has not accrued 12 weeks of sick leave) may receive donated annual leave. In addition, an employee who is using donated annual leave on the effective date of the new sick leave policy is required to use all of his or her sick leave available for family care purposes before he or she can continue to use donated annual leave.

3.12.5. Childbirth and Newborns. Pregnant employees are entitled to use sick leave for prenatal and postnatal medical appointments and any periods of incapacitation as a result of pregnancy and childbirth. A biological mother or father cannot use 12 weeks of sick leave to care for a healthy newborn, but only for one with a serious health condition. A parent may use annual leave or leave without pay to care for a healthy newborn.

5.10. Additional Leave for Military Technicians. In addition to the military leave available as described above, effective 10 Feb 1996, military technicians are entitled to 44 additional workdays of military leave in a calendar year when on active duty without pay for participation in operations outside the United States, its territories, and possessions. The active duty orders must cite 10 U.S.C. 12315, 12301(b), or 12301(d) to be eligible for this entitlement. The 44 workdays are converted into hours and charged on the same basis as annual leave. Example: Military reserve technicians who work 80 hour pay periods (including those on flexible and compressed work schedules) are entitled to a maximum of 352 hours (8 x 44 = 352). Those with uncommon tours of duty have the amount of authorized leave according to their work schedule. The 44 workdays or a portion thereof, cannot be carried over into the next calendar year. If the employee performs active duty over any intervening nonworkdays, traditional military leave is charged for all nonworkdays, holidays, or scheduled days off under a compressed work schedule. (Ref P.L. 104-106, Section 1039 and P.L. 106-65, Section 1105.)

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

Abbreviations and Acronyms

AFI—Air Force Instruction

AFPD—Air Force Policy Directive

ART—Air Reserve Technician

AWOL—Absence Without Leave

CFR—Code of Federal Regulations

COP—Continuation of Pay

CPF—Civilian Personnel Flight

DFAS—Defense Finance and Accounting Service

DoD—Department of Defense

FEGLI—Federal Employees' Group Life Insurance

FEHB—Federal Employees Health Benefit

FMLA—Family and Medical Leave Act of 1993

LWOP—Leave Without Pay

LWOP-US—Leave Without Pay-Uniformed Services

MAJCOM—Major Command

OPM—Office of Personnel Management

OWCP—Office of Workers' Compensation

P.L.—Public Law

SF—Standard Form

TSP—Thrift Savings Plan

U.S.C.—United States Code

USERRA—Uniformed Services Employment and Reemployment Rights Act of 1994

Terms

Absence Without Leave (AWOL). An absence from duty which was not authorized or for which leave has been denied. Neither the denial of leave nor the time and attendance reporting of AWOL is punitive, and neither means that the employee has insufficient reason for requesting leave. *Note:* Rather, it means that the employee's presence is required and that the reason for requesting it is not one for which leave must be approved. The employee's failure to honor the leave denial and the unauthorized absence may form the basis for disciplinary or adverse action.

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

Accumulated Leave. Unused leave remaining to the credit of an employee at the beginning of a leave year.

Administrative Workweek. A period of 7 consecutive calendar days designated in advance by the head of an agency under 5 U.S.C. 6101.

Agency. Agency is defined as the Air Force.

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

Approving Official. The individual or designated representative who acts as the approving/ disapproving official for civilian absence and leave programs, e.g., for receipt of transferred annual leave.

Armed Forces. The Army, Navy, Air Force, Marine Corps, and Coast Guard.

Available Paid Leave. Accrued or accumulated annual or sick leave and recredited and restored annual or sick leave. Available paid leave does not include annual or sick leave advanced to an employee or any annual leave transferred and accrued under the Voluntary Leave Transfer Program provisions.

Contagious Disease. A disease which is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period, as prescribed by health authorities having jurisdiction. Childhood diseases such as measles and chicken pox that require isolation meet this definition.

Employee. An individual who meets the definition under 5 U.S.C. 6301(2).

Essential Functions. The fundamental job duties of an employee's position. An employee who must be absent from work to receive medical treatment for a serious health condition is considered unable to perform the essential functions of the position during the absence for treatment.

Family and Medical Leave. An employee's entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs.

Family Member. The following relatives of the employee: Spouse, and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. The definition of a family member under the FMLA is more restrictive. Under FMLA, the definition of a family member is spouse, son, daughter, or parent. For more information on FMLA, see **Chapter 10**.

Foster Care. 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

Funeral Leave. Leave authorized in connection with funerals of immediate relatives in the Armed Forces.

Health Care Provider. Any physician who is board-certified in a medical specialty, or a physician serving on active duty in the uniformed services who is board-eligible and who is designated by the uniformed service to perform examinations. Also includes other appropriate practitioners such as: physician assis-

tants, chiropractors, psychologists, nurse practitioners, licensed occupational and physical therapists, dieticians, Christian Science practitioners, Native Americans who practice traditional healing methods, etc.

Immediate Relative or Immediate Family. The following relatives of a deceased member of the Armed Forces: Spouse, and parents thereof; children, including adopted children, and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

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

Leave Donor. An employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by the employee's own CPF or organization of assignment.

Leave Recipient. A current employee for whom the employing agency has approved an application to receive annual leave from the annual leave accounts of one or more leave donors.

Leave Without Pay (LWOP). An absence from duty in a nonpay status. Leave without pay may be taken only for those hours of duty comprising an employee's basic workweek. A temporary status and absence from duty granted upon the employee's request. Except where specifically authorized by law or this instruction as a matter of right, granting of leave without pay is a matter of administrative discretion. The fact that it is a scheduled absence requiring approval distinguishes it from absence without leave, which is an absence without permission that may serve as the basis for disciplinary action.

Leave Year. The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

Medical Certificate. A written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

Medical Documentation. "Medical documentation" or "documentation of medical condition" is a written statement signed by a licensed physician or health care provider which provides the following information, or the parts identified by the activity as necessary and relevant: (1) The history of the medical conditions, including references to findings from previous examinations, treatment, and responses to treatment. (2) Clinical findings from the most recent medical evaluation, including any of the following which have been obtained: Findings of physical examination; results of laboratory tests; X-rays; EKGs and other special evaluations or diagnostic procedures; and, in the case of psychiatric evaluation of psychological assessment, the findings of a mental status examination and the results of psychological tests, if appropriate. (3) Diagnosis, including the current clinical status. (4) Prognosis, including plans for future treatment and an estimate of the expected date of full or partial recovery. (5) An explanation of the impact of the medical condition on overall health and activities, including the basis for any conclusion that restrictions or accommodations are or are not warranted, and where they are warranted, an explanation of their therapeutic or risk avoiding value. (6) An explanation of the medical basis for any conclusion which indicates the likelihood that the individual is or is not expected to suffer sudden or subtle incapacitation by carrying out, with or without accommodation, the tasks or duties of a specific position.
(7) Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized and the likelihood that the individual may experience sudden or subtle incapacitation as a result of the medical condition. In this context, "static or well-stabilized medical condition" means a medical condition which is not likely to change as a consequence of the natural progres-

sion of the condition, specifically as a result of the normal aging process, or in response to the work environment or the work itself. "Subtle incapacitation" means gradual, initially imperceptible impairment of physical or mental function whether reversible or not which is likely to result in performance or conduct deficiencies. "Sudden incapacitation" means abrupt onset of loss of control of physical or mental function.

Medical Documentation Review. Means assessment of medical documentation by, or in coordination with, a physician to ensure that the following criteria are met: (1) The diagnosis or clinical impression is justified according to established diagnostic criteria. (2) The conclusions and recommendations are not inconsistent with generally accepted medical principles and practice. If the physician believes the "permanent" medical condition and attending restrictions pose a significant risk to the employee's health and safety, the physician should indicate this in the medical documentation.

Medical Emergency. A medical condition of an employee or a family member of an employee that is likely to require an employee's absence from duty for a prolonged period of time and would result in a substantial loss of income to the employee because of the unavailability of paid leave.

Paid Leave Status. The administrative status of an employee while the employee is using accrued or accumulated annual or sick leave.

Parents. A biological parent or an individual who stands or stood *in loco parentis* (refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child) to an employee when the employee was a son or daughter. This does not include parents "in law."

Physician. A licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations.

Serious Health Condition. An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuous treatment by a health care provider.

Shared Leave Status. The administrative status of an employee while the employee is using transferred leave under the Voluntary Leave Transfer Program.

Static or Well-Stabilized Medical Condition. A medical condition which is not likely to change: (1) As a consequence of the natural progression of the condition. (2) Specifically as a result of the normal aging process. (3) In response to the work environment or the work itself.

Subtle Incapacitation. Gradual, initially inapparent impairment of physical or mental function which is likely to result in a performance failure, whether reversible or not.

Sudden Incapacitation. Abrupt onset of loss of control of physical or mental function.

United States. The 50 states and the District of Columbia.

Attachment 4

IC 2002-1 TO AFI 36-815, ABSENCE AND LEAVE

5 SEPTEMBER 2002

SUMMARY OF REVISIONS

This revision incorporates Interim Change IC 2002-1 TO AFI 36-815. This interim change incorporates new changes to Office of Personnel Management (OPM) leave forms (paragraphs **1.1.**., **1.3.2.**., **2.3.1.**., **2.4.**., **2.4.1.**., **2.10.6.2.**., **6.5.**., **8.11.5.**, **9.3.1.8.**, **9.6.**, **9.6.2.**, **9.12.**); clarifies annual leave information for intermittent employees (paragraph **2.1.7.**); clarifies information concerning when annual leave is available for use and for procedures to request advancing annual leave (paragraph **2.3.**); adds paragraph on claim procedures if a request for restoration of annual leave is denied based on an exigency (paragraph **2.10.1.5.**); clarifies sick leave information for intermittent employees (paragraph **3.1.**); deletes reference to FFLA (paragraph **3.2.5.2.**); clarifies information concerning the prognosis and diagnosis of an employee on sick leave (paragraph **3.5.1.**); clarifies information when employees request LWOP (paragraph **4.1.**); adds information clarifying LWOP for seasonal employees (paragraph **4.1.2.3.**); changes PAR to RPA (paragraph **4.4.**); updates **Chapter 5**--MILITARY LEAVE and incorporates legislative changes to military leave (paragraphs **1.3. 5.3.**, **5.4.**, **5.8.**, **5.8.2.**, **5.8.3.**, **5.9.3.**, and **5.10.**); clarifies base closure guidance (paragraph **7.6.3.**); clarifies information on firefighter leave policies (paragraph **8.10.1.**); clarifies when medical evidence is required (paragraphs **9.3.1.7.**, **9.9.1.**, **9.9.3.**); corrects duplicate subtitle on the electronic version on the publications web site (paragraph **9.4.**); clarifies when the donation of annual leave may be waived (paragraph **9.7.2.**); clarifies use of transferred leave (paragraph **9.8.**); provides information on use of Form WH-380, Certification of Health Care Provider, from the U.S. Department of Labor, to satisfy the requirement to furnish a medical certification from a health care provider (paragraph **10.3.4.**); clarifies information when invoking FMLA (paragraph **10.4.**); and adds clarifying language relating to the indebtedness of home leave (paragraph **12.3.**) A "|" indicates revised material since the last edition.

1.1. Air Force Policy. Leave is an important and significant benefit for all employees. There is a mutual employee-management responsibility to plan and schedule the use of annual leave throughout the year. The scheduling of leave is so important that by law it is a prerequisite to the restoration of annual leave that may be forfeited because of exigencies of the service or because of sickness. Managers must administer leave and excused absences on a uniform and equitable basis within the scope of applicable laws and regulations. They must base their decisions to deny leave requests and cancel approved leave on the necessity for the employee's services. Denial or cancellation of leave is not disciplinary in character and must not be used as a punitive measure. In granting leave, managers must consider the needs of the Air Force and the welfare of the employees. Authority to approve leave requests is normally delegated to the lowest supervisory level having personal knowledge of the work requirements and the employee's leave record. The OPM 71, **Request for Leave or Approved Absence** is available on the OPM web site (**http://www.opm.gov**) for the purpose of requesting leave.

1.3. Charges to Leave. The minimum charge for either annual or sick leave is 15 minutes and additional leave is charged in increments of 15 minutes. Absence in a nonpay status (Leave Without Pay (LWOP) and Absence Without Leave (AWOL)) is charged in increments of 15 minutes for the actual time absent. Leave is charged only on those days the employee would otherwise work and receive pay. Leave is not charged for an absence on holidays or other nonworkdays, except for when certain employees are paid additional compensation for standby duty (e.g., firefighters). Military leave is charged only for hours during which a civilian employee would otherwise have been scheduled to work and receive pay (see paragraph **5.8.**).

1.3.2. When an employee has insufficient annual or sick leave available to cover an approved leave request (i.e., OPM 71, **Request for Leave or Approved Absence** or other appropriate form), the excess absence is charged in accordance with the precedence established in the Defense Finance and Accounting Service (DFAS) Leave Conversion Matrix. See DoD 7000.14-R, *Financial Management Regulation*, Volume 8, Chapter 5, Table 5-2. If an advance of sick leave is approved later, it may be substituted for the leave initially charged. However, the Comptroller General has consistently held that, when leave has been requested, approved, and used, retroactive substitution of one category of leave for another category may be made only under the conditions of a specific law and/or regulation. If the approving supervisor does not approve any, or all, of a period of absence, the OPM 71, or other appropriate form, is annotated to show AWOL.

2.1.7. Intermittent employees do not earn annual leave since by regulation (5 CFR 340.401(b)), they do not have a regularly scheduled tour of duty.

2.3. When Annual Leave Becomes Available for Use. All projected annual leave an employee will earn during the leave year will be available for planning purposes at the beginning of the leave year. See paragraph **2.4.1.** for guidance on approving annual leave that will be earned later in the leave year and for procedures to request advancing annual leave. Employees whose appointments are for 90 calendar days or more may use annual leave during the first 90 days of employment. If an appointment is for less than 90 calendar days, an employee is not entitled to annual leave until after being employed for a continuous period of 90 days under successive appointments without a break in service. If an employee has a series of successive appointments, without a break in service of 1 day or more, which then exceeds 90 days, the employee is credited with annual leave which would have accrued from the date of initial appointment.

2.3.1. Scheduling Annual Leave. Supervisors should establish annual leave schedules, in writing, by 15 February of each year. The OPM 71 or any other appropriate format may be used for this purpose. Supervisors should verify the established leave schedules not later than 30 August of each year to ensure that all employees are given a reasonable opportunity for a vacation and to use any leave they would otherwise forfeit at the end of the leave year. Positive action must be taken before the beginning of the third full pay period prior to the end of the leave year to schedule or reschedule canceled leave so as to avoid situations where employees approach the end of the leave year with a significant amount of annual leave that must be used or forfeited. Written leave schedules will be used to certify proper scheduling had been accom-

plished when requesting restoration of forfeited annual leave. Failure on the employee's part to schedule annual leave does not relieve management of its responsibility to assure that the leave is in fact scheduled for use. However, when employees choose not to request or use annual leave to avoid forfeiture, they are not entitled to have forfeited leave restored for later use.

2.4. When Annual Leave is Granted. Employees are granted annual leave to allow them time off for vacations and for personal and emergency purposes. The use of annual leave is a right of the employee in that the employee is either given an opportunity to use the annual leave, or to the extent permitted by law, is paid for it at the time of separation. Except in cases of emergency, annual leave must be requested by the employee and approved by the appropriate leave-approving official in advance of the absence. Supervisors must ensure that all employees are informed of the procedure to be followed in requesting and obtaining approval of leave. This includes requests for annual leave in advance of the absence as well as leave for emergencies. Supervisors should consider employees' desires and personal convenience as well as the work situation when granting leave. They must not make arbitrary decisions to deny leave. However, the final determination as to the scheduling and the amount of annual leave granted at any specific time is made by the supervisor authorized to approve leave. Requests for annual leave shall be submitted to the approving official on an OPM 71 or other appropriate form.

2.4.1. Advancing Annual Leave. An employee may be granted all annual leave which will be earned during the current leave year. However, in advancing an employee annual leave in excess of the amount actually earned, the supervisor authorized to approve leave must have reasonable assurance that the employee will be in duty status long enough to earn the leave granted before the end of the leave year. (For making this determination, employee's current leave balance may be obtained by the supervisor accessing civilian personnel data systems (Civilian Servicing Unit (CSU) Application) at the work site or by contacting the local civilian payroll (liaison) office.) The certification of the OPM 71, or other appropriate form, by the leave-approving official will be accepted as evidence that any annual leave reported has been approved. If the employee's employment with the government discontinues prior to earning the advanced leave, the balance of the advanced leave upon separation is considered a debt, unless the employee dies, retires for disability, or resigns or is separated as a result of a disability that prevents him or her from returning to work.

2.10.1.5. An employee may submit a claim to OPM if a request for restoration of annual leave based on an exigency is denied. See 5 CFR 178.102 for procedures for submitting claims. Note that 5 CFR 178.101 excludes claims subject to negotiated grievance procedures.

2.10.6.2. Restored leave should be used before using regularly accrued leave, especially when small amounts (5 days or less) are involved. In the case of large amounts of restored leave it may be appropriate to prorate the use over the entire 2-year limit, or such lesser times as deemed warranted. In all cases, where requested annual leave is to be charged to the restored leave account, appropriate entry will be made on the OPM 71 or other appropriate form. The civilian payroll office may develop local guidelines for use of restored leave.

3.1. Amount of Sick Leave Earned. All full-time employees on a 40-hour basic workweek or an 80-hour biweekly work schedule, regardless of their length of service, earn 4 hours of sick leave for each full biweekly pay period. Employees on uncommon tours of duty, such as firefighters, earn sick leave at a proportionate rate. (See **Table 2.1.**., Category 1, for examples.) Part-time employees are credited with sick leave in an amount equal to the amount of annual leave credited to employees in Category 1 as outlined in paragraph **2.1.1.** No sick leave is accrued in a pay period where leave without pay (LWOP) or absence without leave (AWOL) reaches 80 cumulative hours, or multiples of 80 hours, e.g., 160 hours, 320 hours, or the total hours of a biweekly uncommon tour of duty. Intermittent employees do not earn sick leave since by regulation (5 CFR 340.401(b)), they do not have a regularly scheduled tour of duty.

3.2.5.2. Deleted.

3.5.1. Absences of More Than 3 Days. Sick leave of more than 3 consecutive workdays must be supported by medical documentation (or other administratively acceptable documentation for absence) unless the supervisor specifically waives this requirement. The medical documentation must be administratively acceptable to the supervisor, must cover all absence beyond the third workday and specify that the employee was incapacitated for duty for the entire period covered by the statement. As a minimum, the physician should be requested to provide a prognosis and diagnosis and an estimate of the expected date of full or partial recovery as provided in (3), (4), and (5) of the definition of medical documentation in **Attachment 1**. In cases of extended illness, medical documentation may be required periodically, if necessary to establish the employee's continued incapacity to return to duty. For employees on standby tours scheduled on a "24 hours on, 24 hours off" basis, sick leave for more than 2 consecutive 24-hour duty periods must be supported by medical documentation unless the supervisor specifically waives this requirement. If there is any doubt as to the validity or adequacy of the medical documentation presented to support a request for sick leave, the medical officer at the installation may be requested to review the documentation submitted and, with the employee's permission, to consult the employee's physician for additional information. Where evidence does not justify the approval of sick leave, the absence may be charged to annual leave or LWOP with the employee's consent, or AWOL.

4.1. When Leave Without Pay (LWOP) Is Granted. LWOP is a temporary nonpay status and an authorized absence from duty granted only upon the employee's request, in situations such as when the employee has insufficient annual or sick leave, or compensatory time available to cover an approved absence. An employee does not have to exhaust annual leave before requesting LWOP. LWOP cannot be imposed as a penalty, nor can an employee be required to apply for LWOP in lieu of suspension. It must not be confused with absence without leave (AWOL), which is charged for unauthorized absence, or absence for which the employee did not request and obtain approval of leave. Even though the reason for requesting LWOP is known to be legitimate, e.g., illness, injury, or personal emergency, the request may be denied if the employee's services are required or if the employee has not followed prescribed leave procedures. The granting of LWOP is a matter of administrative discretion except as specified below. Even though LWOP is a nonpay status, it is still approved leave and must be requested by the employee and approved by the supervisor. An employee must work an established regular tour of duty during the administrative workweek in order to qualify for leave benefits. (See 5 U.S.C. 6301(2)(B)(ii).) Regularly

scheduled work is defined in 5 CFR 610.102 as work that is scheduled in advance of an administrative workweek under the agency's procedures for establishing workweeks.

4.1.2.3. Seasonal employees are placed in a nonpay status, not in a LWOP status, when released from duty due to workload requirements or seasonal nature of work. Seasonal employees may be granted LWOP from their regular scheduled tour of duty at their request IAW the provisions of this chapter.

4.4. Who Approves LWOP. Supervisors authorized to approve annual and sick leave determine (subject to any higher administrative approval required locally) when requests for LWOP for 1 year or less may be granted. LWOP of more than 30 consecutive days must be made a matter of record in the Official Personnel Folder. Supervisors are required to submit a Request for Personnel Action (RPA) through the CPF to the Air Force Personnel Center (AFPC) or a SF 52, **Request for Personnel Action**, to the local CPF prior to granting LWOP of more than 30 days. Initial grants of LWOP may not exceed 12 months. If an additional grant is deemed justified, the employee's request for extension must be submitted to the installation commander or designee for approval. An extension beyond 1 year may be approved only when it is in the interest of the federal service, or when it is determined that, because of unusual circumstances, the employee would be subjected to undue hardship if the extension were denied.

5.3. Military Leave Entitlement. An eligible full-time employee with a regularly scheduled 40-hour workweek or 80-hour pay period who is a member in the Reserve of the armed forces or a member of the National Guard accrues 15 days/120 hours (15 days x 8 hours) of military leave each fiscal year. Eligible part-time or uncommon tours of duty employees earn an equivalent of three workweeks of military leave each fiscal year based upon their schedule. For example, employees with a 53-hour workweek accrue 159 hours of military leave each fiscal year; employees with a 60-hour workweek accrue 180 hours, and employees with a 72-hour workweek accrue 216 hours of military leave. Any military leave (not to exceed 15 days/120 hours), which is unused at the end of a fiscal year, is carried forward to the next fiscal year and is available for use in addition to the days/hours credited for the new fiscal year. This means that an employee may have a maximum of the equivalent of 30 days military leave available for use during a fiscal year. An employee who is a member of the Reserve or National Guard who is not eligible for, or who has exhausted his or her military leave, must be granted annual leave, previously-earned compensatory time off, credit hours, or LWOP, as requested, in order to perform active or inactive duty for training. An employee on military duty cannot use sick leave (unless appropriate).

5.4. How Military Leave Accumulates. On 1 October of each fiscal year, or upon appointment, military leave is credited to an eligible employee's account (prorated for part-time employees). Unused military leave remaining from the prior fiscal year, not to exceed 15 days/120 hours, is also credited.

5.8. How Military Leave Is Charged. Military leave granted is charged on an hourly basis. Employees will not be charged military leave for non-duty days (typically weekends and holidays) that occur within the period of military service. Employees requesting military leave for active duty or inactive duty training (sometimes less than 8 hours) will be charged only the amount of military leave necessary to cover the period of military duty or period of training and necessary travel. Hours in the civilian workday that are

not chargeable to military leave must be worked or charged to another leave category, as appropriate. No charge is made for nonworkdays at the beginning and end of a period of absence on active military duty. In addition, no leave is charged for the first day of the active duty tour if the employee is not required to report for military duty until after the civilian duty day ends, and no leave is charged for the last day of the active duty tour if the employee is completely released from active duty prior to the start of the next civilian duty day. If the military tour or consecutive tours is completely covered by annual leave, LWOP, previously-earned compensatory time off, previously-earned credit hours, or any combination thereof, military leave is not charged.

5.8.2. When Applied to Alternative Work Schedules. Military leave for employees on alternative work schedules accrues at the same rate as for employees on fixed work schedules, based on the number of hours worked per pay period. Employees working flexible or compressed work schedules of 80 hours per pay period accrue 120 hours of military leave each fiscal year. Military leave is still charged on an hourly basis. Ten hours of military leave will be charged for a full day of military duty on regularly scheduled 10-hour workdays, nine hours of military leave will be charged on regularly scheduled 9-hour workdays, etc.

5.8.3. When Applied to Active Duty Tours. Federal employees who are also reservists, to include Air Reserve Technicians (ARTs), who serve on an extended active duty tour that spans 2 or more fiscal years, may accrue and use 120 hours (or equivalent) of military leave at the beginning of the fiscal year. The requirement to submit two SFs-52 or RPAs to return the employee to duty on 1 Oct and place the employee back in LWOP-US on 16 Oct of each year is still in effect. This is a paper exercise only, and is accomplished to enable personnel/payroll offices to track military service deposits for retirement purposes and allow the employee to use their allotment of 15 days/120 hours of military leave for that fiscal year. A copy of the SF-50 should be forwarded to the civilian payroll office as usual. Timekeepers should reflect paid and unpaid military leave used, as appropriate, in the civilian pay system. Employees serving on an active duty tour of any length that spans not more than 2 fiscal years, e.g., 15 Sep – 15 Oct, are not required to apply the new allotment of military leave that accrues on 1 Oct to their current tour, but may choose to use it later in the second fiscal year.

5.9.3. Funeral Honors Duty. An employee who is a member of the Reserve or National Guard may use military leave to perform military “funeral honors duty”. Military leave for this purpose should be charged for all hours of the civilian duty day necessary to cover the funeral honors duty and necessary travel. (Ref P.L. 107-107, Sections 562 and 563.)

5.10. Additional Leave for Military Technicians. In addition to the military leave available as described above, effective 10 Feb 1996, military technicians are entitled to 44 additional workdays of military leave in a calendar year when on active duty without pay for participation in operations outside the United States, its territories, and possessions. The active duty orders must cite 10 U.S.C. 12315, 12301(b), or 12301(d) to be eligible for this entitlement. This leave cannot be used while on active duty in support of a war or national emergency declared by the President or Congress. The 44 workdays are converted into hours and are charged on the same basis as annual leave. (Example: Military reserve technicians who work 80-hour pay periods (including those on flexible and compressed work schedules) are entitled to a

maximum of 352 hours (8 x 44 = 352).) Those with uncommon tours of duty accrue the amount of authorized leave according to their work schedule. The 44 workdays or a portion thereof, cannot be carried over into the next calendar year. It is appropriate to use this leave on the day of deployment from home station, any intervening stops within the United States, its territories and possessions, and the day of return to home station as long as the ultimate destination on the military orders is an overseas location and any intermediate destinations/stops are part of the continuing mission. In order to receive any pay for a civilian non-workday, a change to "active duty with pay" status is required. This requires use of a separate AF Form 938 for each period of conversion. Changes to civilian duty status on workdays during the same military tour are also authorized, and require either the use of a DD Form 1610, AF Form 3956, or AF Form 40A. Use of this military leave is at the employee's discretion.

6.5. Procedure for Recording Court Leave. When an employee is called for jury or witness duty, the court order, subpoena, summons, or official request is given to the supervisor as soon as possible. The days and hours of court leave are entered on the OPM 71 or other appropriate form. When the employee returns to duty, the employee submits written evidence of attendance in court showing the dates and hours, if possible. If required, the supporting documents are forwarded to the payroll office with the time and attendance report that includes the court leave entry.

7.6.3. Base Closure. Workdays in which federal activities are closed for hazardous weather conditions or disasters are nonworkdays for leave purposes. All regular employees, except those required to perform mission essential duties, are excused without charge to leave. This includes those on scheduled annual, sick leave, or telework, but does not include those in a nonpay/LWOP status on the days immediately before and after the day(s) the activity was closed. These employees remain in a nonpay/LWOP status. In addition, it does not apply to employees on military duty or suspension on the day of the closure. Employees who are assigned to other activities but are TDY at the closed activity are entitled to excusal without charge to leave. Employees who are assigned to the affected activity but are TDY elsewhere, are not entitled to excusal without charge to leave.

8.10.1. Legal Holidays. Employees are not required to work on a legal holiday unless their services are required to carry out essential operations. However, unauthorized absence on a holiday on which the employee was assigned to work results in loss of holiday premium pay for that day, and could result in disciplinary action. The following applies to employees receiving annual premium pay under 5 U.S.C. 5545(c)(1) and firefighters covered by the Federal Firefighters Overtime Pay Reform Act of 1998 (P.L. 105-277), effective 11 Oct 98. The use of excused absence is **not** appropriate for employees receiving annual premium pay under 5 U.S.C. 5545(c)(1) and firefighters covered by the Federal Firefighters Overtime Pay Reform Act. These employees who are absent on holidays, which occur within their regular tours of duty, must be charged leave for those absences. They are not entitled to holiday time off because they receive a type of premium pay that includes pay for holidays. When such an employee is scheduled to work on a holiday and the employee is granted the day off for personal reasons, the employee is charged annual leave, previously-earned compensatory time off, LWOP, sick leave, etc., as appropriate.

8.11.5. Employees who are assigned to an educational institution on long-term training (LTT) must report any leave usage (i.e., annual, sick or other leave) to his/her supervisor or leave-approving official at their

home duty station for accurate recording. Leave requests should be submitted to the seminar leader or course instructor and an OPM 71, **Request for Leave or Approved Absence** or other appropriate form, forwarded to the person maintaining the employee's leave record at their home station. Before departing for LTT, an employee should make arrangements to use annual leave that may otherwise be lost because of training. Due to the nature of the assignment, ordinary leave will be approved only during Thanksgiving, Christmas and spring breaks; emergency leave is approved throughout the LTT, as needed. During extended periods in which the school is in recess (e.g., Christmas holidays and spring break), the employee is required to be on leave or returned to a duty status at an organization at the training location, the nearest Air Force, Air National Guard or Air Force Reserve activity.

9.3.1.7. Description of the hardship (include physician(s) certification and/or any attachments that may be used as evidence that will assist the approving official in making a decision). Medical evidence must be provided by the employee/applicant and is necessary for the employee to become a leave recipient. The employee must consent in writing to the release of this information to officials involved in the review process.

9.3.1.8. The applicants must agree to the use of their names and approve the public release of the existence of a hardship for any publicized efforts to collect donated leave. If the employee chooses anonymity, he/she should be advised that anonymity would likely result in minimal leave donations. (***NOTE***: OPM 630, **Application to Become A Leave Recipient Under the Voluntary Leave Transfer Program**, has a block for the employee to check for anonymity. Anonymity should not preclude the Air Force from receiving donations for the leave recipient as in the case of donations from relatives and close friends.)

9.4. Approval of the Application to Become a Leave Recipient. Upon receipt of an application to receive transferred annual leave, the first level supervisor will verify and validate the employment information contained in the application. The application must be returned to the applicant if correction or additional information is required. The supervisor must determine that the employee's absence from duty without available paid leave because of the medical emergency is or is expected to be at least 24 hours and is likely to result in a substantial loss of income to the employee because of the unavailability of paid leave. ***Note***: In the case of a part-time employee or an employee with an uncommon tour of duty, at least 30% of the average number of hours in the employee's bi-weekly scheduled tour of duty will be the determining factor. Once the application receives supervisory endorsement, it is forwarded to the approving official within 5 workdays from the date of receipt of the application. The supervisor will provide informal notice to the CPF that the employee has filed an application to receive transferred annual leave. The supervisory endorsement will include the following:

9.6. Transfer of Annual Leave. A leave recipient's employing organization may accept the transfer of annual leave from leave donors employed by the same organization and, if necessary, the transfer of approved donations by employees of other organizations. Every effort should be made to exhaust all available donated leave within the leave recipient's organization of assignment before using approved transferred annual leave from other organizations. The OPM 630, 630-A, 630-B, and 630-C are available on the OPM web site (**http://www.opm.gov**) for transfer and receipt of annual leave in the Voluntary Leave Transfer Program.

9.6.2. An employee may submit to his/her first level supervisor or leave approving official a voluntary, irrevocable request on the OPM 630-A or the OPM 630-B to transfer a specific number of whole hours of accrued annual leave to the leave account of a specified approved leave recipient as follows:

9.7.2. A leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under 5 U.S.C 6304(a) may donate no more than the number of hours remaining in the leave year (as of the date of transfer) for which the leave donor is scheduled to work and receive pay. (Example: If two weeks before the end of the leave year, a leave donor has 100 hours of use or lose leave and is scheduled to work for only 60 hours, up to 60 hours may be donated.) The limitation on donating annual leave subject to forfeiture may be waived, in writing, by the installation commander or their designee, provided the employee has extenuating circumstances and it has been documented as such. See 5 CFR 630.908(b) and (c).

9.8. Use of Transferred Annual Leave. An employee in a shared leave status using transferred leave under the Voluntary Leave Transfer Program may use the donated leave only for the purpose of the medical emergency for which the recipient was approved. A separate account is established for accruals earned on donated leave. Employees are allowed to accumulate up to 40 hours of annual and sick leave while using transferred annual leave. (See 5 CFR 630.907(a)(1) and (2)).

9.9.1. Based on medical documentation or other appropriate action, the entitlement to receive transferred leave shall terminate as follows:

9.9.3. When it is determined that the medical emergency or hardship affecting the leave recipient has terminated (based on medical evidence), and the leave recipient has had the opportunity to respond, the following actions are required: (See 5 CFR 630.910(a)(3).)

9.12. Emergency Leave Transfer Program. Authorized by Section 6391 of title 5 U.S.C. (as added by section 9004 of P.L. 105-18, *Leave Transfer in Disasters and Emergencies*, dated June 12, 1997), Air Force employees are allowed to make leave donations of annual leave to employees in their own agencies or other agencies who are affected by major disasters and other emergencies. Employees affected by major disasters may also be able to use leave donated under the Voluntary Leave Transfer Program. This also allows employees receiving such donated leave to use it before exhausting their own accumulated annual and sick leave. OPM 1637, **Application to Become a Leave Recipient Under the Emergency Leave Transfer Program** and OPM 1638, **Request to Donate Annual Leave under the Emergency Leave Transfer Program**, may be used for receiving donated annual leave or donating annual leave under this program. (See 5 U.S.C. 6391.) OPM 1639, **Transfer of Donated Annual Leave To or From the Emergency Leave Transfer Program** must be used for the purpose of donating or receiving annual leave from other agencies.

10.3.4. A serious health condition, as defined in 5 CFR 630.1202, of the employee that makes the employee unable to perform duties of his or her position. ***NOTE:*** An employee may elect to substitute paid leave IAW paragraph **10.9.**. An employee must provide written medical certification of a serious health condition, signed by the health care provider no later than 15 calendar days after the date requested by the Air Force. Form WH-380, **Certification of Health Care Provider**, from the U.S. Department of Labor, may be used by employees to satisfy this mandatory requirement to furnish a medical certification from a health care provider, including second or third opinions and recertification (See 29 CFR 825.306). This form is available for use on the OPM web site (**http://www.opm.gov**).

10.4. Requirement to Invoke FMLA. An employee must invoke his or her entitlement to family or medical leave subject to proper notification and medical certification requirements in 5 CFR 630.1206 and 5 CFR 630.1207. Request for FMLA must be supported by evidence that is administratively acceptable to the Air Force. If an employee does not comply with the request for sufficient medical certification, the employee is not entitled to leave under FMLA. However, if the employee is unable to provide the requested medical certification before leave begins, or if there is a question about the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, provisional leave will be granted pending final written medical certification. Barring emergency situations not known in advance, an employee must provide the employing agency 30-days advance notice of intent of the need for FMLA and may not retroactively invoke his or her entitlement to FMLA. However, if an employee and his/her personal representative are physically or mentally incapable of invoking the employee's entitlement to FMLA leave during the entire period in which the employee is absent from work, the employee may retroactively invoke his/her entitlement to FMLA leave within two workdays after returning to work. (See 5 CFR 630.1203(b)). An employee may take up to 12 administrative work weeks of family and medical leave necessary for the circumstances that prompted the need for FMLA. This leave may be taken intermittently. If an employee who is in a LWOP status (even to accompany a military spouse or civilian sponsor) invokes FMLA, the employee still has the entitlement to FMLA. Since the agency allowed the employee to go on LWOP instead of separating the employee, the employee is still on the roles of the agency and has the entitlement to FMLA.

12.3. Refund for Home Leave. An employee is indebted for the home leave used by him/her when he/she fails to return to service abroad after the period of home leave, or after the completion of an assignment in the United States. However, a refund for this indebtedness is not required when (1) the employee has completed not less than 6 months' service in an assignment in the United States following the period of home leave; (2) the agency determines that the employee's failure to return was due to compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health or circumstances over which the employee has no control; or (3) the agency which granted the home leave determines that it is in the public interest not to return the employee to his overseas assignment.

Attachment 5 (Added-DOVER)

SAMPLE MEMO FOR REQUEST FOR ADVANCE ANNUAL LEAVE

Date: _____

MEMORANDUM FOR (FIRST-LEVEL SUPERVISOR)

FROM: (EMPLOYEE)

SUBJECT: Request for Advance Annual Leave

1. Request I be granted _____ hours advance annual leave. I am requesting the advance annual leave because

_____

_____

_____

_____

_____

_____

_____

2. If this leave is granted, it is with the understanding that I have no intention of resigning before the advance leave granted is earned back.

Signature of Employee
Typed/Printed Name
Position Title

1st Ind, _____ (SUPERVISOR) Date: _____

MEMORANDUM FOR FMFPC

Approved/Disapproved. I am aware of the employee's current annual leave status (any questions can be checked with the Civilian Pay Liaison at Ext. 4500) and I am not aware of any action which would preclude the employee from earning sufficient leave to cover the amount of advance annual leave granted.

Signature of Supervisor
Typed/Printed Name
Functional Title

Attachment 6 (Added-DOVER)

SAMPLE MEMO FOR ADVANCE SICK LEAVE

Date: _____

MEMORANDUM FOR (FIRST-LEVEL SUPERVISOR)

FROM: (EMPLOYEE)

SUBJECT: Request for Advance Sick Leave

1. Request I be granted _____ hours advance sick leave. I am requesting the advance sick leave because _____
_____.
My records show that I will be carried in a pay status through _____ (date). The attached statement from my physician indicates that I will probably be able to return to my position on _____ (date). I have been employed at this installation since _____ (date).

2. I authorize any advance sick leave remaining against me, should I retire or resign, to be withheld from my retirement system or unpaid compensation.

3. Your consideration of this request is sincerely appreciated.

Signature of Employee
Typed/Printed Name
Position/Title

Attachment
Physician's Statement

1st Ind, _____ (Supervisor's Office Symbol) Date: _____

MEMORANDUM FOR 436 MSS/DPCE

1. Mr/Ms _____ has an exemplary record insofar as use of sick leave is concerned. During his/her _____ (number of years with organization) of employment with this organization, he/she has used sick leave on infrequent occasions. His/her total accumulation once reached approximately ____ hours; however, it has been practically exhausted due to _____. I believe that this forthcoming treatment will rectify the problem and that _____ (employee) will soon be able to repay the requested advance sick leave.

2. I feel that _____'s (employee's name) request fully meets the intent of the portion of the Annual and Sick Leave Act relative to advance sick leave, and I recommend that it be approved. His/her leave balance as of _____ (date of last pay period immediately preceding date of request) is _____ hours of sick leave, _____ hours of annual leave, _____ hours of compensatory time/credit hours, as ascertained from the employee's leave and earnings statement.

Signature of Supervisor
Typed/Printed Name
Functional Title