

**Forest Service Handbook  
National Headquarters – Washington Office  
Washington, DC**

**Forest Service Handbook 6109.11 – Pay Administration, Attendance, and Leave Handbook  
Chapter 30 - Absence and Leave**

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**Digest:** Following is an explanation of the changes throughout the directive by section.

**37.62:** Clarified eligibility for Disabled Veteran Leave.

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### **30.1 – Authority**

1. The provisions of 5 U.S.C. 63 regulates leave administration for both General Schedule (GS) and Federal Wage System (FWS) employees. It also regulates annual and sick leave, other paid leave, voluntary transfers of leave, voluntary leave bank programs, and family and medical leave.
2. Title 5 CFR 630 regulates leave administration for GS and FWS employees.

### **30.2 – Objectives**

The objective of this chapter is to provide guidance on employee leave benefits and includes the maintenance of leave accounts for each employee in accordance with methods prescribed by the General Accountability Office (GAO).

### **30.3 – Policy**

It is Forest Service policy to:

1. Approve all annual leave and leave without pay (LWOP) requests, if the work program of the unit permits such absence.
2. Grant leave to employees with temporary disabling conditions, including for maternity reasons, to the extent the work program of the unit permits.
3. Grant sick leave and Family and Medical Leave Act (FMLA) leave when supported by administratively acceptable evidence.
4. Provide pregnant employees with the opportunity to work as long as they are not incapacitated and to make a reasonable effort to adjust working conditions when necessary.
5. Carry out a temporary leave transfer program where an employee may donate annual leave directly to another employee due to a personal or family medical emergency where the employee has exhausted their available paid leave.
6. Apply no more annual or sick leave to a given day than an employee, under a flexible work schedule, is scheduled to work on that day as recorded in the Time and Attendance (T&A) header.
7. Not require involuntary use of annual leave, sick leave, or LWOP, unless the employee is physically or mentally unfit for duty.

### **30.4 – Responsibility**

Line Officers, Unit Managers, and employees have distinct responsibilities related to leave requirements which are established by law, regulation, and agency policy.

### **30.41 – Managers and Supervisors**

It is the responsibility of Managers and Supervisors to:

1. Advise employees of types of leave available and the policies to request and use various types of leave.
2. Counsel employees, as needed, on the use of leave to protect their leave rights and to prevent leave abuse.
3. Approve or disapprove leave requests (see FSM 6100 for delegation authority).
4. Schedule leave to maintain the necessary workforce during heavy workload periods and prevent loss of leave.
5. Cancel scheduled annual leave only when an operational emergency/exigency prevents the effective accomplishment of public business, and there is no reasonable alternative. Leave must be rescheduled for a time when working conditions permit employee's absence.
6. Request, at their discretion, medical certificates or documentation for absences of 3 days or more, or when there is a valid reason to request a certificate for less than 3 days. Bargaining unit employees should see to their respective Collective Bargaining Agreement.
7. Review T&A's to certify the accuracy of leave use and guard against leave abuse.
8. Monitor employee compensatory leave balances and ensure employees use compensatory leave expeditiously to prevent impact on future budgets.

### **30.42 – Employees**

It is the responsibility of all employees to:

1. Learn and observe the policies to request and use leave.
2. Be aware of current leave entitlements.
3. Be aware of annual leave balance and properly schedule leave in excess of the annual leave ceiling to prevent forfeiture.
4. Submit leave applications to the Supervisor to request non-emergency leave in advance.
5. Notify the Supervisor or acting Supervisor as early as practicable on the first day of an unplanned absence, or if unable to for a legitimate reason, as soon as possible.
6. Notify the Supervisor or acting Supervisor as early as practicable on the first day of an unplanned absence from duty, or if unable to for a legitimate reason, as soon as possible and apply for the appropriate type of leave.

7. Provide medical certificates and/or other administratively acceptable evidence, as required for sick leave usage, during the application for the Voluntary Leave Transfer Program (VLTP), or when invoking rights under the FMLA.

8. Avoid scheduling excessive amounts of leave at the end of the leave year.

9. Manage and expeditiously use compensatory leave and compensatory leave for travel before the leave expires.

### 30.5 – Definitions

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

Accumulated Leave. The unused leave balance credited to an employee at the beginning of the leave year.

Administrative Leave. An authorized absence, without loss of pay and without charge to the employee's leave. Administrative leave is granted to employees for reasons determined to be in the Government's interest. An employee on administrative leave does not act within the employer-employee relationship and is not deemed to be subject to the control or responsibility of the Agency as an employer. Administrative leave is an approved leave status and is charged to Transaction Code (TC)-66 on the employee's T&A.

Administrative Workweek. The period of 7 consecutive calendar days designated by the Forest Service as Sunday through Saturday.

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

Advance Leave. Leave requested and granted before it is earned.

Application for Leave. The Office of Personnel Management (OPM)-71, Request for Leave or Approved Absence form, or other acceptable format, such as a memo from the employee used to request leave.

Available Paid Leave. An employee's accrued, accumulated, re-credited, and restored annual or sick leave. Available leave does not include annual or sick leave advanced to the employee or any annual or sick leave accrued while on donated leave that has not been transferred to the employee's regular leave accounts.

Basic Work Requirement. The number of hours, excluding overtime hours, that an employee is required to work or account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award. For a full-time employee, the basic work requirement is 80 hours per biweekly pay period.

Break in Service. A period of interrupted Federal employment that begins with a separation action and continues for 1 or more workdays off the rolls before reemployment in the Federal Service.

Calendar Year. The period from January 1 through December 31.

Contingency Operation. A military operation:

1. Designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the U.S. or against an opposing military force.
2. To call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. chapter 15, section 688, 12301(a), 12302, 12304, 12305, or 12406 or any other provision of law during a war or during a national emergency declared by the President or Congress.

Continuing Treatment by a Health Care Provider. A term used in the context of the Family and Medical Leave Act and refers to treatment by a “health care provider” for a “serious health condition” as defined in 5 CFR 630.1202.

Continuous Employment. A period of Federal service on the rolls that begins with an appointment and ends with the effective date of a separation action.

Domestic Partner. For leave purposes, a domestic partner is an adult in a committed relationship with another adult which includes both same-sex and opposite-sex relationships.

Emergency Employees. Employees who occupy critical positions that may be vital to public health, safety, welfare, national defense, or the operation of essential facilities or functions.

Emergency Leave Donor. A current employee whose voluntary written request for transfer of annual leave to an Emergency Leave Transfer Program is approved by the Forest Service.

Emergency Leave Recipient. A current employee for whom the Forest Service has approved an application to receive annual leave from the Emergency Leave Transfer Program.

Essential Functions. An employee's fundamental duties outlined in the official position description or defined by the Supervisor. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

Excused Absence. An authorized absence without loss of pay and without charge to the employee's leave. Excused absence is granted to employees for reasons determined to be in the Government's interest. An excused absence is granted to an employee who is performing or participating in officially sanctioned government activities not within the scope of their regular duties. Excused absence is charged to TC-01 on the employee's T&A.

Family and Medical Leave. An employee's entitlement to 12 or 26 administrative workweeks of unpaid leave for certain family and medical needs, as prescribed under 5 U.S.C. 6381 through 6387.

Family Member. The following relatives of the employee:

1. Under the sick leave regulations:

- a. Spouse and parents thereof.
- b. Sons and daughters, and spouses thereof.
- c. Parents and spouses thereof.
- d. Brothers and sisters, and spouses thereof.
- e. Grandparents and grandchildren, and spouses thereof.
- f. Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (2) through (5) of this definition; and
- g. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship including a foster child or the child of a domestic partner.

2. Under the Family and Medical Leave Act:

- a. Spouse is a partner in any legally recognized marriage, regardless of the employee's state of residency. Spouse does not include unmarried domestic partners unless they meet the requirements of being spouses in a common-law marriage in States where such marriages are recognized.
- b. Son or daughter means biological, adopted, foster, step-child, legal ward, or a child of a person standing in *loco parentis*, who is:
  - (1) Under 18 years of age.
  - (2) 18 years of age or older and incapable of self-care because of a mental or physical disability.
- c. Parent is a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parent in-laws.

Fiscal Year. The period from October 1 through September 30.

Foster Care. At least twenty-four hour care or longer for children in substitution for, and away from, their parent or guardian. Such placement is made through an agreement with the State as a result of a voluntary agreement by the parent or guardian to remove the child from the home. The placement may also be pursuant to a judicial determination to require foster care and involve an agreement between the State and the foster family to take the child. Although foster care may be with the relatives of the child, State action is involved in the removal of the child from parental custody.

Full-Time. A regularly scheduled tour of duty that requires the employee to be in a leave and/or duty status for 80 hours each biweekly pay period.

Health Care Provider. As defined in 5 CFR 630.1202.

Home Leave. Leave authorized and earned by service abroad for use in the U.S., in the Commonwealth of Puerto Rico, or in the territories or possessions of the U.S.

Inactive Duty Training. Authorized training performed by members of a reserve component not on active duty and performed in connection with the prescribed activities of the reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training.

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

In Loco Parentis. An employee has day-to-day responsibility for the care or financial support of a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

Intermittent. Work based on sporadic and unpredictable requirements which prevents the advance scheduling of a regular tour of duty. Employees work on an as-needed basis, are paid only for those hours worked, and are not entitled to earn or use leave.

Intermittent Leave or Leave Taken Intermittently. Leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of less than one hour to several weeks.

Leave Donor. An employee who voluntarily donates annual leave to an approved leave recipient.

Leave Recipient. An employee whose application to receive donated annual leave has been officially approved.

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.

Lump Sum Payment. Cash payment for annual leave credited to an employee upon separation from Government service or change in work schedule to a non-leave earning position.

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

Maternity Leave. An unofficial term used for leave relative to pregnancy and confinement. The leave used may be a combination of sick leave, annual leave, and LWOP, as well as any accumulated hours of (nonreligious) compensatory time or credit time.

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

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

Military Furlough. An approved absence from duty without pay granted to an eligible employee while on active duty with the uniformed services.

Military Leave. Paid leave provided to reservists and members of the National Guard under 5 U.S.C. 6323.

Mixed Tour of Duty. A work schedule that consists of part-time work during a portion of the year and full-time and/or intermittent work during other times.

Part-Time. A regularly scheduled tour of duty that generally requires an employee to be on duty no less than 16 hours and no more than 32 hours per week.

Pay Period. The 2-week period begins on a Sunday and ends 14 days later on a Saturday.

Pay Status. Includes any period of time for which an employee receives pay for time worked and/or paid leave.

Permanent Seasonal Employee. Employees who are employed during identifiable periods of recurring work lasting less than 12 months each year.

Reduced Leave Schedule. A situation where an employee works less than their basic work requirement in a week or a pay period. The number of hours by which the scheduled work hours are reduced is counted as leave.

Serious Health Condition. As defined in 5 CFR 630.1202. The term is used in the context of employee entitlements under the FMLA.

Service-Connected. Refers to a disability that was incurred or aggravated in the line of duty in the active military, naval, or air service.

Substantial Loss of Income. Twenty-four (24) hours of unpaid absence, or the anticipation of the same, for full-time employees. For part-time employees, or those who work an uncommon tour, at least 30 percent of the average number of hours worked in the employee's biweekly scheduled tour is unpaid absence.

Transaction Code. Transaction Codes (TC), Prefix Codes (PC), and Shift Suffix Codes (SSC), control the rate and kind of pay an employee will receive. The codes are used to record all time and attendance data, including hours worked, absences, allowances, differentials, and other entitlements. An employee's take-home pay and leave balances are calculated at the National Finance Center (NFC) based on the accurate reporting of these codes in the Time and Attendance system. Descriptor Codes (DC) are used in conjunction with TCs in the NFC database to allow agencies to track the various use of certain TCs.

Unfit for Duty. Condition or inability often associated with the use of alcohol or illegal drugs, yet may also deal with an employee's general physical or mental readiness to perform in a particular position.

Unscheduled Leave. Leave taken due to an unforeseen circumstance, such as extreme weather, accident or illness, unavailability of childcare, transportation breakdown, and so forth, which prevents an employee from arriving to or departing from work as planned.

Unscheduled Telework. Allows telework-ready employees the option to choose to telework from home, to the extent practicable, when severe weather conditions or other circumstances disrupt or prevent the employee from commuting or reporting to work when the office announces the option of unscheduled telework.

Use or Lose Annual Leave. Annual leave above the maximum earning limitation (240 hours for most GS and FWS employees, 360 hours for employees stationed overseas, and 720 hours for Senior Executive Service Members) that must be used by the end of the leave year or forfeited, unless it meets one of the three conditions (exigency of the public business, sickness, or administrative error) for restoration.

Veteran. A person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

## **31 – Annual Leave**

1. Annual leave is a benefit and accrues automatically.
2. Supervisors shall approve when leave may be taken. The decision takes the needs of the Forest Service into consideration along with the employee's request. Annual leave requests may be disapproved when the Supervisor determines the work cannot wait or other employees cannot adequately cover the employee's work during the employee's absence.
3. The employee's annual leave must be requested and approved as far in advance as practical. Supervisors may require leave be requested and approved in writing.
4. Written documentation is required to request the restoration of forfeited annual leave. When an employee accumulates more than 240 hours of annual leave at the end of the leave year and is in a "use or lose" status, the employee shall request approval to take annual leave in writing prior to the end of the third pay period before the leave year ends pursuant to 5 CFR 630.308(a).

### **31.1 – Rights and Purposes**

Employees have the right to use annual leave, but Supervisors have the authority to approve or disapprove the time when annual leave may be taken.

The purpose of annual leave is to allow every employee time off for vacations, rest, relaxation, and personal business or emergencies.

#### **31.11 – Eligibility**

1. Tours of duty.
  - a. Employees who are on a prescheduled tour of duty (such as full-time or part-time) are eligible to earn leave.
  - b. Employees on an intermittent tour of duty do not earn leave.
2. Full-time and part-time employees are eligible to earn leave based on the length of their appointment.
  - a. Employees with an appointment of less than 90 days are not eligible to earn leave.
  - b. Employees must have an appointment of 90 days or more, without a break in service, in order to be eligible to earn leave immediately.
  - c. Employees are entitled to retroactive credit for annual leave from the date of initial appointment, when they are employed on consecutive appointments that extend beyond 90 days without a break in service.
  - d. Exhibit 01 summarizes the rules to determine when full-time and part-time employees are eligible to earn leave based on the length of their appointment.
3. Full-time and part-time employees may earn and use annual leave beginning with the first full pay period they are in pay status. Refer to the exhibits in sections 31.12a and 31.12b to determine a full-time and part-time employee's leave category and appropriate accrual rate.

**31.11 - Exhibit 01**

**Rules to Determine Eligibility to Earn Annual Leave**

<b>If:</b>	<b>Then:</b>
The <b>current</b> appointment is for 90 calendar days or more.	The employee is eligible to earn annual leave. Accrual is based upon completion of a full pay period. (If the appointment is over 90 days but the employee works less than 90 days, the employee is still eligible to earn annual leave).
The <b>current</b> appointment is for less than 90 calendar days.	The employee is <b>not</b> eligible to earn annual leave.
The <b>initial</b> appointment was for less than 90 days, but was later extended to total 90 days or more (as long as there was no break in service of 1 workday or more).	The employee is entitled to earn annual leave when the total period of employment reaches 90 days.  When employment reaches 90 days, annual leave must be credited retroactively to the beginning of the first full pay period after initial appointment.
Intermittent.	Not eligible for leave.

### 31.12 – Earning Annual Leave

1. Full-time and part-time employees earn annual leave based on the amount of service creditable for leave accrual purposes. Creditable service includes:

a. Civilian Service.

(1) All civilian service that is potentially creditable for Civil Service Retirement System purposes, which includes service covered by the Federal Employee Retirement System.

(2) Potentially creditable service includes service that could be credited if the employee made deposits to the retirement fund.

b. Uniformed Service.

(1) Non-Retired Members. Full credit for uniformed service (including active duty and active duty for training) performed under honorable conditions is given for annual leave accrual purposes.

(2) Retirees. Annual leave accrual credit is given for:

(a) Actual service during a war declared by Congress (includes World War II during the period December 7, 1941, to April 28, 1952), or participation in a campaign or expedition for which a campaign badge is authorized.

(b) All active duty when retirement was based on a disability received as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war (such as World War II, the Korean conflict, Vietnam era, the Persian Gulf War) as defined in 38 U.S.C. 101(11).

(3) Non-Federal or Uniformed Service. A newly appointed or reappointed employee may receive service credit for prior non-Federal service or active duty uniformed service that otherwise would not be creditable for the purpose of determining employee's annual leave accrual for a hard-to-fill position under the conditions prescribed in 5 CFR 630.205.

2. After the completion of required years of service, an employee moves into a higher leave-earning category beginning with the next pay period. If the required years of service are completed on the first day of the pay period, the employee moves into the higher category in that pay period. Changes to an employee's leave-earning category appear on the biweekly leave and earnings statement in the pay period the change occurs.

3. To earn annual leave, an employee must be employed during the full biweekly pay period. The employee's leave account is credited at the beginning of each full biweekly pay period.

4. An employee is considered to be employed for the full biweekly pay period if they are employed during the days within that period, excluding holidays and non-workdays

established by Federal statute, Executive order, or administrative order, which fall within their basic administrative workweek.

### **31.12a – Full-Time Employees**

1. Employees with less than 3 years of Federal service earn 4 hours of annual leave each pay period (13 workdays of annual leave with pay each year).
2. Employees with 3 but not more than 15 years of Federal service earn 6 hours of annual leave each pay period except for the last full pay period of the calendar year in which they earn 10 hours (20 workdays of annual leave with pay each year).
3. Employees with 15 or more years of Federal service earn 8 hours of annual leave each pay period (26 days of annual leave with pay each year).
4. Exhibit 01 summarizes the rules to determine the annual leave category and appropriate accrual rate for a full-time employee.
5. An employee earns annual leave on a pro-rata basis if during continuous employment, the employee's leave earning status is interrupted for a fraction of a pay period by any one of the following circumstances:
  - a. Employee transfers to a position having different pay periods.
  - b. Employee is on LWOP for part of the pay period while receiving disability compensation from the Office of Workers' Compensation Programs (OWCP).
  - c. Employee is restored after service in the military or with a public international organization.
  - d. Employee is restored to full-time after a period of intermittent service, or vice versa.
  - e. Refer to exhibit 02 to determine the amount of annual leave that can be accrued by full-time employees during fractional pay periods.
6. The accumulation of non-pay status hours during a leave year can affect the accrual of annual leave and sick leave. See section 31.22 for the Effect of Extended LWOP or Other Non-pay Status on the Accrual of Annual and Sick Leave.

**31.12a - Exhibit 01****Rules to Determine Annual Leave Category**

Employee Type	Years of Creditable Service	Leave Category	Accrual Rate
Full-time	Less than 3	Category 4	4 hours (or ½ day) for each full pay period.
Full-time	At least 3 but less than 15	Category 6	6 hours (or ¾ day) each full pay period, except 10 hours (or 1¼ day) are earned in the last full pay period in the calendar year.
Full-time	15 or more	Category 8	8 hours (or 1 day) each full pay period.

**31.12a - Exhibit 02****Accrual Rates for Fractional Pay Periods**

Number of Workhours in the Pay Period	Hourly Annual Leave Accrual 4-Hour Leave-Earning Category	Hourly Annual Leave Accrual 6-Hour Leave-Earning Category	Hourly Annual Leave Accrual 8-Hour Leave-Earning Category
8	1	1	1
16	1	1	2
24	1	2	2
32	2	2	3
40	2	3	4
48	2	4	5
56	3	4	6
64	3	5	6
72	3	5	7

### 31.12b – Part-Time Employees

1. To earn annual leave, part-time employees shall have a regularly assigned tour of duty on at least 1 day of each week in the pay period.
2. Part-time employees with less than 3 years of service earn 1 hour of annual leave for each 20 hours in pay status.
3. Part-time employees with 3 but less than 15 years of service earn 1 hour of annual leave for each 13 hours in pay status.
4. Part-time employees with 15 or more years of service earn 1 hour of annual leave for each 10 hours in pay status.
5. Exhibit 01 summarizes the rules to determine how much annual leave can be accrued by part-time employees:
6. All hours of work in excess of the basic work requirement for a part-time employee, including overtime, count toward the biweekly accrual of annual leave up to a maximum of 80 hours in pay status per pay period. Hours in excess of 80 are not considered for leave accrual purpose and are not carried forward.
7. Hours in pay status which total less than the number required for credit of 1 hour of annual leave are considered unapplied hours and are carried over to the next pay period to accumulate toward future credit.
8. If a part-time employee is converted to full-time or intermittent work, any unapplied hours are dropped.

#### **31.12b – Exhibit 01**

##### **Annual Leave Accrual Rates for Part-Time Employees**

Employee Type	Years of Creditable Service	Leave Category	Accrual Rate
Part-time	Less than 3 years	Category 4	1 hour for each 20 hours in pay status.
Part-time	At least 3 years but less than 15 years	Category 6	1 hour for each 13 hours in pay status.
Part-time	15 years or more	Category 8	1 hour for each 10 hours in pay status.

### **31.12c – Intermittent Employees**

Employees without a prescribed tour of duty do not earn leave.

### **31.12d – Permanent Seasonal Employees with a Mixed Tour of Duty**

1. Employees who have alternating mixed tours of duty established in advance earn leave in accordance with section 31.12a while in a full-time tour of duty status. Employees do not earn or use annual leave while in non-pay or non-duty status.
2. Part-time hours of service in a pay status that do not equal the number necessary for a minimum annual leave credit of 1 hour are held and restored once the employee resumes a part-time status, upon return from a period of full-time or non-pay status.

### **31.12e – Temporary and Term Appointments**

An employee whose current employment is limited to less than 90 days is entitled to earn annual leave only after being employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90 day period, the employee is entitled to a retroactive credit of leave that would have been accrued.

### **31.12f – Senior Executive Service and Scientific Employees**

Members of the Senior Executive Service (SES) and Scientific (ST) positions accrue annual leave at the rate of 1 day (8 hours) for each full biweekly pay period, regardless of the length of Federal service. (Federal Workforce Flexibility Act 2004 section 202(b) - [Public Law 108-411], which amends 5 U.S.C. 6303 and 5 CFR 630.301(a).)

## **31.2 – Applying for Annual Leave**

1. Employees shall request annual leave as far in advance as practical. Supervisors may require that leave be requested and approved in writing.
2. Employees shall notify their Supervisor, orally or in writing, on the first day of any unscheduled leave or unplanned absence from duty. A written application must be submitted within the pay period the employee returns to duty if required by the Supervisor.

### **31.21 – Leave Charges**

1. The minimum amount that can be charged when annual leave is used is 15 minutes or a multiple thereof.
2. Do not charge employees annual leave for more than their daily, weekly, or biweekly basic work requirement.
  - a. Employees on flexible work schedules (such as variable day, variable week, or maxiflex), the maximum amount of annual leave that may be charged for a day is the

number of hours they were scheduled to work, as indicated in the Established Workweek and Hours field on the T&A in the Paycheck system. If no schedule has been established for the pay period, the amount of leave charged will be based on the employee's regular pattern of arrival and departure. If no regular pattern can be established, charge 8 hours.

b. Employees on fixed work schedules (such as standard, 5-4/9, or 4/10) are charged for the number of hours scheduled to work on the day leave is taken.

c. Part-time employees are charged for the number of hours scheduled to work on the day leave is taken. This also includes mixed-tour employees when assigned to a part-time schedule.

d. Do not charge more than 8 hours of leave for a day for employees on first 40-hour tours of duty.

### **31.22 – Situations When Leave Will Not Be Charged**

1. An employee scheduled to be on pre-approved leave will not be charged leave when:

a. The employee is on scheduled annual leave and all other employees are excused from performance of their duties because a non-workday has been established by Executive Order.

b. The official in charge of the program determines that local conditions prevent employees from reporting to work due to local, State, territorial holidays, or National holidays of foreign countries.

c. Conditions such as floods, storms, or other disasters prevent employees from performing their duties or reporting to work. Employees shall resume normal duties when it is determined that normal work hours can be resumed. A charge to leave is appropriate following this determination if an employee does not return to work.

2. No leave with pay will be granted while an employee is receiving compensation for injury under the Federal Employee's Compensation Act (FECA). (See FSH 6109.12 for additional information). However, an employee may elect to take sick leave in-lieu of receiving compensation under FECA.

### **31.3 – Maximum Accumulation**

1. GS and FWS employees stationed in the contiguous U.S. may accumulate unused annual leave up to 30 days (240 hours) to use in later years. The employee forfeits any accumulation in excess of 240 hours at the end of the leave year, but may be eligible for leave restoration as described in section 31.7.

2. If an employee transfers from an agency that allows him or her to maintain an annual leave balance higher than 240 hours, the employee will retain the higher balance when they

transfer to the Forest Service. The employee's leave balance will be reviewed by the HRM each year to determine the leave ceiling for the next year. This will continue until the employee's leave balance falls to 240 hours. For example, a new employee transfers to the Forest Service with a leave ceiling of 540 hours. The employee's leave balance at the end of the leave year is 480 hours. The employee's new leave ceiling is 480 hours. At the end of the next year, the employee has a leave balance of 360 hours. The employee's leave ceiling will now be set at 360 hours. This will continue until the employee's leave ceiling is reduced to 240 hours.

3. A GS or FWS employee who is assigned overseas (outside the 50 States) may accumulate unused annual leave up to 45 days (360 hours) for use in later years provided the following criteria are met:

a. The employee was recruited or transferred by the U.S. Government or its territories or possessions for employment outside the area of recruitment. For example:

(1) An employee from Michigan selected for assignment in Puerto Rico is entitled to the 45-day leave accumulation.

(2) If a resident of Puerto Rico is selected, who had not been previously recruited from outside Puerto Rico, the resident is not entitled to the 45-day leave accumulation.

b. Individuals employed outside the U.S., but are:

(1) Recruited by the U.S. (including territories or possessions) to a location outside the original area of employment.

(2) Employed under continuous Federal service or other employment in which the U.S. participates (such as United Nations Foreign Agricultural Organization).

(3) Provided return transportation to the U.S. or its territories and possessions as a condition of employment.

c. Individuals who are not normally residents of the area concerned and are discharged from the Armed Forces to accept employment with an agency within the Federal government.

d. The maximum 45-day annual leave accumulation is the employee's personal leave ceiling. The employee may continue to carry that annual leave balance until it is reduced at the end of the leave year.

e. The employee retains an accumulation above the 240 hour ceiling until the balance at the end of the leave year is less than 360 hours when an employee, who is eligible for the 360 hour accumulation, moves to a location where the employee is ineligible for that accumulation. When this happens, the new balance, or 240 hours (whichever is greater), becomes the new leave ceiling.

4. When an employee is appointed to the SES from a GS position, any annual leave accumulated prior to that move remains credited to the employee. However, if the annual leave balance is in excess of the amount allowed under the former position (such as 240 or 360 hours) and it is not used by the end of the current leave year, it is subject to forfeiture. SES Members are subject to a 90-day (720 hours) limitation on accumulation of annual leave. SES Members who have accumulated annual leave in excess of 720 hours as of the first day of the pay period beginning after October 13, 1994, is entitled to retain that leave as a personal leave ceiling. The leave in excess of 720 must be subject to reduction until the employee's accumulated annual leave is equal to or less than 720 hours.

### **31.31 – Advancing Unearned Annual Leave**

Advanced annual leave should be granted to the maximum extent practicable, in accordance with annual leave laws and regulations and consistent with mission needs.

1. Supervisors may advance employees annual leave not to exceed the amount the employee can earn in the remainder of the current leave year or the appointment, whichever is less. If the employee does not earn the leave during the remainder of the leave year (due to excess LWOP), the employee must refund the amount of the leave.  
(See FSM 6100 for delegation authority.)
2. Supervisors shall not authorize advanced annual leave when it is known (or reasonably expected) that the employee will not return to duty, such as in situations where the employee has applied for disability retirement, submitted a resignation, is under a limited appointment with a not-to-exceed date, or received notice of separation or furlough.  
(See FSM 6100 for delegation authority.)

### **31.32 – Refund of Unearned Leave**

1. When an employee is indebted for unearned leave and separates from the Forest Service, the Forest Service shall:
  - a. Require the employee to refund the amount paid for the covered period of leave for which the employee is indebted through a single or series of salary deductions.
  - b. Deduct that amount from any pay due the employee (such as a final salary payment for an employee who separates from Government service).
2. This section does not apply when an employee:
  - a. Dies.
  - b. Retires for disability.
  - c. Enters military service with restoration rights.
  - d. Resigns or separates because of a disability that prevents the employee from returning to duty.

### **31.33 – Substitution of Annual Leave for Sick Leave**

Annual leave may be retroactively substituted for sick leave when:

1. The purpose of the substitution is to liquidate advanced sick leave.
2. The substitution occurs before the time the employee would otherwise have forfeited the annual leave.
3. If requested, the Forest Service would have granted the employee time off for annual leave purposes.

### **31.4 – Terminal Annual Leave**

An employee shall be separated rather than granted extended annual leave (for example terminal leave) when it is known in advance that the employee does not intend to return to duty at the conclusion of the leave period. Terminal leave, which is prohibited, is annual leave taken immediately before separation or retirement and after the employee has performed their last day of active duty. The employee is not deemed to be covered under the terminal leave restriction when an employee is present for duty and performs duty on the last workday before their separation or retirement.

1. Employees may not use annual leave prior to separation from Federal service.
2. Employees shall be in paid work status on the last day prior to retirement.
3. The retirement date of an employee is pushed back to the last day in work status if an employee retires while on leave status.
4. Credit hours, compensatory<sup>51</sup> time, and annual leave must be paid in a lump-sum payment.
5. When it is known that an employee is separating from Federal service, annual leave may be granted immediately prior to separation only when:
  - a. The exigency of the service requires such action.
  - b. The initial eligibility for retirement in reduction-in-force (RIF) and other restructuring situations must be established.

An employee who has received a specific notice of termination in a RIF situation may use annual leave past the date the employee would otherwise have been separated in order to establish initial eligibility for immediate retirement, including discontinued service or voluntary early retirement.

### **31.5 – Leave Charges During Travel Status**

When an employee is in travel status, charge annual leave for any time within the prescribed hours of duty the employee does not spend:

1. Performing assigned duties.
2. In official travel.
3. In some other type of authorized leave of absence.

#### **31.51 – No Leave Charged During Periods of Reconstructed Travel**

Refer to chapter 10 when employees depart early or late for official travel. Entitlements are determined on a constructive basis as if the employee had traveled by the mode authorized and at the proper time. For example, when an employee was authorized to travel on Monday but traveled on Sunday instead, it would be acceptable to:

1. Construct the travel as if it occurred on Monday.
2. Not charge the employee leave for any time the employee would have spent constructively in travel status.

#### **31.52 – Annual Leave in Connection With Foreign Travel**

Supervisors must use the following guidelines to determine whether to grant an employee request for annual leave while on foreign travel:

1. Authorize annual leave in connection with foreign travel only if such leave does not detract from or intrude upon the primary purpose of the foreign travel. Consider the impact the annual leave will have upon domestic job-related responsibilities and demands.
2. Annual leave may be approved in an amount equal to the length of time required for the official trip. An employee request for leave in excess of the length of time required for the official trip requires a strong justification statement (indicating the educational/training benefits or savings to the Government). The statement, if approved after consultation with the appropriate Line Officers and Deputy Chief, must be attached to form AD-202, Travel Authorization.

### **31.6 – Creditable Service for Annual Leave Accrual for Non-Federal Work Experience and Experience in the Uniformed Service**

Sections 31.6a through 31.6e provide guidance to grant creditable service for annual leave accrual.

### **31.6a – Qualifying Experience**

1. Newly appointed or reappointed employees covered under the Federal annual and sick leave program established under 5 U.S.C chapter 63 may be given service credit for prior non-Federal experience that otherwise would not be creditable for the purpose of determining the biweekly annual leave accrual rate. Employees may receive credit toward the determination of their annual leave accrual rate for prior non-creditable work experience upon receipt of their first appointment (regardless of tenure) or upon reappointment following a break in service of at least 90 calendar days after their last period of civilian Federal employment. The skills and work experience the employee possesses must meet three basic requirements; it must:

a. Be essential to the new position.

b. Have been acquired through performance in a non-Federal position or active duty uniformed service that directly relate to the duties of the position to which the employee is being appointed.

c. Be necessary to achieve an important agency mission or performance goal as determined in writing by the Director, HRM, or designee, and the credit of service, to provide a higher annual leave accrual rate, is necessary to recruit an individual with the skills and experience needed.

2. Credit may be granted for any period of active duty service during the time a retired uniformed service member performed duties directly related to the position to which one is being appointed.

3. The Director, HRM, or designee, must approve all written documentation and make determinations to grant service credit prior to the effective date of the employee's entry on duty; the determination cannot be made retroactively.

4. Employees receive credit for non-Federal service or active duty uniformed service upon the effective date of initial appointment or reappointment to Federal service.

5. Once an employee completes 1 full year of continuous employment with USDA, the period of service for which they were granted service credit is permanently creditable for the purpose of determining their annual leave accrual rate for the duration of the employee's career.

### **31.6b – Amount of Service Credit**

The amount of credit for non-Federal service or active duty in the uniformed service:

1. May not exceed the actual amount of service during which the employee performed duties directly related to the position to which the employee is being appointed.

2. May be granted for the full length of time the employee performed the directly related duties (for example, full-time credit for full-time service, part-time credit for part-time service, and so forth).
3. Service credit for less than full-time service must be based on the number of hours and the percentage of time the employee actually performed the duties.
4. In no case should an employee be granted double credit for service that is otherwise creditable under existing leave regulations.

### **31.6c – Service Credit Documentation**

1. Written Documentation. The employee shall provide acceptable written documentation of their prior work experience to demonstrate the non-Federal or uniformed service work experience related to the duties of the position to which the employee is being appointed. The documentation must sufficiently describe duties the employee performed, the time period of performance, and whether the duties were full-time or part-time (part-time duties should include the number of hours worked per week). The HRM is required to document all service credit calculations, in writing, to justify the use of this flexibility and include appropriate backup documentation sufficient for audit purposes. Backup documentation should include the skills and experience the employee possesses that are essential to the new position and the duties the employee performed in the non-Federal position or uniformed service that are directly related to the duties of the position to which the employee is being appointed, to include:

- a. Written documentation from the military service to obtain service credit for the uniformed service.
- b. Letters from Supervisors to indicate duties and time periods the employee performed the duties.
- c. Resumes and employment records.
- d. A justification letter from the selecting official to indicate why the use of this authority is necessary to achieve an important agency mission or goal. The justification statement should include a brief description of the position to be filled and a brief description to explain how the candidate's high level of unique qualifications and/or experience benefits the Forest Service in such a position, along with brief description of the candidate's prior work experience, and how it is directly related to the current position to be filled.
- e. The inclusive dates of the covered time period for the experience to be credited.
- f. A copy of the position description or statement of duties the employee is expected to perform.

g. A narrative assessment which includes claimed experience based upon appropriate backup documentation of all service credit calculations and any other pertinent information sufficient to verify the creditable service.

h. Other documentation that the HRM deems sufficient to verify the creditable service.

2. Personnel Action Documentation. Prior service or active duty uniformed service must be documented on the Standard Form (SF) 144A, Statement of Prior Federal Service Worksheet, or equivalent document. Credit is to be granted in terms of years and months. The exact number of years and months of credit being granted must be recorded in Part I, Column B, of the SF-144A. A reference in the “Remarks” section of the SF-144A must indicate the Service Computation Date-Leave (SCD-Leave) and include creditable non-Federal service or active duty uniformed service work experience that otherwise would not be credited. The period of non-Federal or active duty uniformed service being credited to the employee must be included in Block 31 (Service Computation Date) of the SF-50, Notification of Personnel Action, upon appointment. The SF-144A, or equivalent, and the supporting documents must be filed in the employee’s Official Personnel Folder (OPF).

### **31.6d – Effect of Non-pay Status**

If an employee is placed in a LWOP status during the 1-year period of continuous employment required by this section, the 1-year period of continuous employment must be extended by the amount of time the employee is in a LWOP status unless:

1. The employee separates or is placed in a LWOP status to perform service in the uniformed services (as defined in 38 U.S.C 4303 and 5 CFR 353.102) and later returns to civilian service in the Forest Service through the exercise of a reemployment right provided by law, Executive order, or regulation.
2. The employee separates or is placed in a LWOP status because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. chapter 81 and later recovers sufficiently to return to work.

### **31.6e – Failure to Complete 1 Full Year of Continuous Employment**

If an employee separates from Federal service or transfers to a Federal agency outside of the USDA prior to the completion of 1 full year of continuous employment, then:

1. The employee is not entitled to retain service credit for prior non-Federal service or active duty uniformed service.
2. The additional service credit must be subtracted from the employee’s total creditable service, and a new service computation date for leave must be established before the employee’s separation or transfer. The SF-50 documenting the change in service credit must be coded with remark code B75 that states “Changes SCD-Leave from (date) because employee failed to complete 1 full year of continuous employment with the appointing agency”.

3. Any annual leave accrued or accumulated by the employee remains to the employee's credit.
4. The annual leave balance must be transferred to the new employing agency if the employee is transferring to a position to which annual leave may be transferred, or a lump-sum payment must be made for unused annual leave if the employee separates from Federal service or moves to a new position to which annual leave cannot be transferred.

### **31.7 – Restoration of Forfeited Annual Leave**

Restoration of forfeited annual leave due to:

1. An administrative error which caused the loss of annual leave otherwise accruable.
2. Exigencies of Forest Service official business when annual leave was scheduled in advance.
3. Sickness of the employee when annual leave was scheduled in advance.
4. A national emergency or other reason (such as jury duty or ordered military leave) that would involuntarily preclude an employee from using leave scheduled in accordance with this section.

#### **31.71 – Administrative Error**

1. When an error is discovered in an employee's leave balance, credit the employee's regular leave account with any additional leave that is not in excess of the maximum accumulation at the end of a leave year. Leave in excess of the maximum accumulation may be considered for restoration and, if approved, must be restored to a separate leave account.
2. If an annual leave account is erroneously credited with more leave than the employee is entitled to because of an incorrect service computation date, take the following action:
  - a. Reduce the annual leave balance based on the correct service computation date.
  - b. Ensure that the reduction does not put the employee in a negative leave balance.
3. If the employee used erroneously credited leave, repayment of the resulting overpayment of pay may be waived if it appears the employee did not know, or have reason to know, of the error.
4. Unjustified or unwarranted personnel actions are not considered administrative errors to qualify for restoration of leave in excess of allowable maximum under the leave restoration provision. A re-credit in excess of the maximum leave accumulation for employees who have undergone an unjustified or unwarranted personnel action may be processed under the back pay provision.

5. An administrative report with the following information must be prepared to approve a restoration of forfeited annual leave due to an administrative error:

- a. Determine if the employee still works for the Forest Service and their current location. If separated, show the date of separation.
- b. Prepare a leave audit to cover the affected period.
- c. Show the corrective action through the provision of supporting evidence, (such as T&As and annual leave status reports) and attach an investigative report or other documents made at the time the error was discovered.
- d. Provide an estimate of the employee's leave account accompanied by official statements, which clearly reflect the factors that form the basis for the estimate, if official records are not available to substantiate the amount of annual leave to be restored.

### **31.72 – Exigency of the Public Business**

1. Operational demands may result in employees being unable to take scheduled leave even with the best planning and scheduling of annual leave throughout the year. The exigency, or operational demand, must be of such importance as to preclude the use of scheduled annual leave. Managers shall consider other alternatives to accomplish the work in cases where a bona-fide exigency exists.

2. Employees cannot cancel their own leave and have the forfeited leave restored.

3. Certain requirements must be met for forfeited annual leave to qualify for restoration. If the requirements are not met, the leave must not be restored. The HRM must remind Supervisors and employees of the following requirements for annual leave restoration on an annual basis:

- a. The employees leave must be scheduled in advance and approved in writing. The schedule, in all cases, must be approved prior to the beginning of the third pay period before the end of the leave year.
- b. Leave scheduled and canceled due to work exigency early in the year must be rescheduled. If the rescheduled leave is again canceled due to exigency, the second exigency must also fully support the case for restoration.
- c. The unit head or delegated acting unit head (Forest Supervisor, District Ranger) shall make the decision that an exigency exists and shall have concurrence of the next higher organizational level.
- d. The decision that an exigency exists must be documented in writing, be given to the employee, and must include:

(1) An exigency of such importance exists that it is not possible to excuse employee(s) from duty.

- (a) A description of the importance of the exigency or operational demand.
- (b) The reasons why it was not possible to delay the work into the new annual leave year, such as due dates or other requirements.
- (c) A detailed specification of the facts surrounding the exigency.

(2) Proof there is no reasonable alternative to the cancellation of scheduled leave.

- (a) A description of the alternatives considered.
- (b) An explanation as to why they were not reasonable.

(3) The specific beginning and ending dates of the exigency period.

e. Supervisors may cancel an employee's scheduled annual leave based on the determined exigency. The cancellation letter must include:

- (1) The name(s) of employee(s) whose leave is canceled.
- (2) By whom it is canceled.
- (3) Dates of the canceled scheduled leave.

f. During the exigency, annual leave subject to forfeiture must be used before any other type of leave not subject to forfeiture (such as compensatory time off). Sick leave may be used when appropriate (section 32.13).

g. The decision that an exigency exists and that leave must be canceled must have the approval of the unit head (or delegated acting) of the next higher organizational level.

The Regional Forester, Station Director, and Area Director may approve the decisions to affect any employees under their authority, with the exception of themselves or their immediate subordinates.

h. If a bona-fide emergency precludes advance decision-making, document the exigency or cancellation decision in writing as soon as possible. The statement must also describe the circumstances that prevented a proper advance decision.

i. The decision that it is necessary to cancel leave does not ensure its restoration. The official who has been delegated authority to approve restoration of forfeited annual leave shall make the decision to restore leave based on the documented facts.

4. Requests for restoration of annual leave forfeited during a leave year due to exigency of Forest Service business must be submitted after the beginning of the following leave year but prior to April 1. Submit cases for approval to the HRM. Include the following:

- a. The leave schedule showing the leave scheduled or rescheduled for actual use, the amount of leave (day/hours) that was scheduled for use, and the calendar date on which the employee's Supervisor approved the leave schedule. This may be on form OPM-71, Request for Leave or Approved Absence, or other written record.
- b. The decision and the higher organizational level approval of the decision that an exigency does exist and a copy of the leave cancellation letter.

### **31.73 – Sickness or Other Reasons**

1. Annual leave that was forfeited because the employee was precluded from using the scheduled leave due to illness, injury, jury duty, or military duty may be restored for later use provided the:
  - a. Annual leave was scheduled in advance.
  - b. Period of absence due to the sickness or other reasons occurred so late in the leave year or was of such duration that it was not possible to reschedule the annual leave for use before the end of the year to avoid forfeiture.
2. Sickness, that is, a medical or physical condition that warrants sick leave, is not in itself a basis that permits an employee to forfeit annual leave for subsequent restoration for later use. Management has the responsibility in all situations to schedule or reschedule the use of annual leave to avoid forfeiture, even though an absence due to sickness occurs during the year. This is especially true if the employee knows in advance that a medical or physical condition requires an absence prior to the end of the leave year.
3. Unless the situation meets the requirements for exigencies of Forest Service, employee absence due to illness may not be used to:
  - a. Cancel scheduled annual leave.
  - b. Not reschedule the use of annual leave to avoid forfeiture.
4. Submit cases for approval to the HRM. Include the following:
  - a. A copy of the approved leave schedule showing the leave scheduled or rescheduled for actual use, the amount of leave (days/hours) scheduled for use, and the calendar date on which the employee's Supervisor approved the leave schedule. This may be form OPM-71, or other written record.
  - b. The specific beginning and ending dates of the period of illness or injury that prevented the employee from using scheduled annual leave or the period that precluded the employee from using scheduled annual leave for other reasons. Documentation of other reasons that precluded annual leave from being used as scheduled.
  - c. Include a statement explaining why it was not possible to reschedule the use of the annual leave to avoid forfeiture.

**31.74 – Exhibits**

Use the checklist in exhibit 01 in the preparation of requests for restoration of annual leave forfeited due to exigencies of the public business (operational emergencies) or illness. Incomplete requests may delay action by the HRM.

**31.74 - Exhibit 01****Employee's Checklist for Requesting Restored Annual Leave**

Item 1:	_____ <b>Memo</b> from the employee to the HRM requesting approval for restoration of forfeited annual leave. (See the <u>HRM Leave webpage</u> for sample memos)
Item 2:	<p><u>Supporting Documentation:</u></p> <p>_____ <b>Form(s) OPM-71</b>, or equivalent, that:</p> <ul style="list-style-type: none"> <li>• Request approval of annual leave;</li> <li>• Are approved by Supervisor; and</li> <li>• Indicate both a request and approval date before the start of the third pay period before the end of the leave year.</li> </ul> <p>_____ <b>Cancellation/Exigency Letter</b>. Cancellation letter; written cancellation of leave by Supervisor and concurrence of higher-level management official. Exigency letter; the decision that an exigency exists and that leave must be cancelled must have the approval of the unit head (or delegated acting) of the next higher organizational level. The cancellation letter and exigency letter can be combined into one letter but must include:</p> <ul style="list-style-type: none"> <li>• An exigency of such importance exists that it is not possible to excuse employee from duty.</li> <li>• Specific beginning and ending dates of the exigency period.</li> <li>• Specific dates of the canceled scheduled leave.</li> <li>• Description of the importance of the exigency, specific details of the facts surrounding the exigency, and why work could not be delayed until the new year.</li> <li>• Description of alternatives considered and specific reasons as to why there is no alternative to the cancellation.</li> <li>• The letter must have signatures from <u>both</u> your immediate Supervisor and your Supervisor's higher level management official.</li> </ul>
Item 3:	_____ If due to illness: medical certificate, or other acceptable <b>medical documentation</b> , as applicable, which clearly indicates the period of incapacitation or illness
Item 4:	_____ <b>Leave audit</b> for the year leave restoration is being requested, as necessary.
Item 5:	_____ <b>Completed package</b> forwarded through established administrative channels to the HRM (attach to CRM case). Submit exigency requests to the HRM no earlier than pay period 1 and no later than April 1, to be considered.

Exhibit 02 is a checklist that is provided as a guide for the HRM office to review and act on requests for restoration of annual leave forfeited due to exigencies of the public business (operational emergencies).

### **31.74 – Exhibit 02**

#### **The HRM's Checklist for Reviewing Requests for Restored Annual Leave**

Item 1:	<b>Timeliness</b> of request (not earlier than pay period 1 of current leave year).
Item 2:	<b>Request from employee contains:</b> <ul style="list-style-type: none"> <li>_____ Name, social security number, title, grade, and duty station.</li> <li>_____ Amount of leave forfeited.</li> <li>_____ Date(s) leave was requested, approved, and canceled.</li> <li>_____ Beginning and ending dates of the exigency (operational emergency).</li> <li>_____ Details on why the leave cannot be rescheduled and used during the remainder of the leave year</li> </ul>
Item 3:	<b>Supporting documentation</b> contains: <ul style="list-style-type: none"> <li>_____ Signed documents (OPM-71[s] or equivalent) indicating employee's request for and Supervisor's approval of annual leave.</li> <li>_____ Both signatures must be dated before the beginning of the third pay period before the end of the leave year. (<b>This requirement is based on statute and cannot be waived.</b>)</li> <li>_____ Statement signed by Supervisor canceling annual leave. Statement includes specific reasons as to why the exigency of the public business (operational emergency) is so important that no alternative exists to the cancellation.</li> <li>_____ Concurrence of the cancellation and the existence of the exigency by a higher level management official. This concurrence shall not be made by anyone whose leave would be affected by the decision (5 CFR 630.305).</li> <li>_____ Official T&amp;A reports and logs for pay period(s) leave was canceled and for remainder of the leave year.</li> <li>_____ Leave audit for the year leave restoration is being requested.</li> </ul>
Item 4:	<b>Action on Request:</b> <ul style="list-style-type: none"> <li>_____ Submission incomplete: return to employee and reference section 31.7 for information on making proper application.</li> <li>_____ Request disapproved: does not meet all requirements for restoration of annual leave. Notify employee by letter, providing explanation of disapproval.</li> <li>_____ Request approved: issue form AD-582, Authorization for Restored Annual Leave.</li> </ul>

### 31.75 – Restored Leave Records

1. Recording Restored Leave. Use form AD-582, Authorization for Restored Annual Leave. Record restored leave approvals on form AD-582, which can be located on the USDA forms Web site. Prepare three copies of the form and distribute as follows:
  - a. Original. File in official T&A folder after entry into the database at the NFC.
  - b. Electronic Official Personnel Folder (eOPF) Copy. File in the OPF.
  - c. Employee Copy. Forward to employee with letter of approval in addition to instructions for recording and use of restored annual leave.
2. Restored Leave Account. A separate account will be established at the NFC. The balance will decrease as the employee uses the leave.
3. Record Retention. Retain the above documentation records for leave restoration until:
  - a. The employee has used the restored leave.
  - b. The time limit has expired.
  - c. The restored leave is included in a lump-sum payment when the employee is separating.
  - d. The length of time required for record retention as specified for similar financial documents by the General Accounting Office (GAO) has been met.

### 31.76 – Use of Restored Annual Leave

1. Restored leave may not be used until the employee has received a signed form AD-582 and the restored leave account has been established on the NFC database by the HRM.
2. The employee must schedule and use restored annual leave no later than the end of the leave year ending 2 years after one of the following:
  - a. The date the annual leave was restored to correct an administrative error.
  - b. The date fixed by the approving official as the termination of the exigency of the Forest Service business that resulted in forfeiture of the annual leave.
  - c. The date the employee is determined to be recovered and able to return to duty if the employee forfeited the leave because of sickness.
3. Maintain restored leave in a separate account. The amount of the restored leave does not increase or change an employee's normal maximum permissible carryover of annual leave into a new leave year or the regular leave account. The normal annual leave ceiling remains in effect for all employees.

4. The employee forfeits any restored leave unused at the expiration of the 2 year limit with no further right to restoration. Show the expiration date on form AD-582.

5. Management and employees have a mutual obligation to plan and schedule the restored leave for use as expeditiously as circumstances permit within the specified 2-year limit. Each Supervisor in conjunction with employees must develop an annual leave plan to use the restored leave within a time limit that avoids forfeiture. This plan must be in writing, and must take into account the fact that it is also necessary to schedule regular annual leave and compensatory time during the leave year to avoid forfeiture.

## **32 – Sick Leave**

1. Sick leave is a benefit and accrues automatically.
2. Sick leave may be used only for those circumstances specified in law and regulation (5 CFR 630.401(a)).
3. Sick leave usage must be supported by administratively acceptable evidence that the absence is appropriate for sick leave.

### **32.1 – Purpose of Sick Leave**

Sick leave is for use when the employee:

1. Receives medical, dental, or optical examination or treatment.
2. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.
3. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by their presence on the job because of exposure to a communicable disease or to care for a family member who has been similarly exposed.
4. Provides care for a family member who is incapacitated as a result of physical or mental illness; injury; pregnancy; childbirth; or who receives medical, dental, or optical examination or treatment.
5. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member.
6. Must be absent from duty for purposes related to the adoption of their child including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. Sick leave for adoption-related purposes does not count towards the 13 day (104 hour) limit of sick leave each leave year for family care and bereavement purposes or the overall limit of 12 weeks of sick leave each leave year for all family care purposes.
7. Provides care for a family member with a serious health condition.

8. Sick leave may not be used for caring for or bonding with a healthy newborn baby or newly adopted child.

### 32.11 – Eligibility

1. There is no qualifying period (in terms of length of appointment) for full-time and part-time employees to earn sick leave.

2. Full-time and part-time employees are credited with and may be granted sick leave, beginning with the first full pay period in duty status.

### 32.12 – Earning Sick Leave

1. There is no limitation on the amount of sick leave that can be accumulated.

2. Full-time employees earn 4 hours sick leave each biweekly pay period, or 13 days of sick leave each year.

3. Part-time employees earn 1 hour of sick leave for each 20 hours in pay status.

4. The following is a summary of the rules to determine the sick leave accrual rate for full-time and part-time employees:

<b>Full-time Employees</b>	1/2 day (4 hours) for each biweekly pay period.
<b>Part-time Employees</b>	1 hour for each 20 hours in a pay status.

5. Intermittent employees do not earn sick leave.

6. A full-time employee earns sick leave on a pro-rata basis if, during continuous employment, the employee's leave earning status is interrupted for a fraction of a pay period by any one of the following circumstances:

- a. Employee transfers to a position having different pay periods.
- b. Employee is on LWOP for part of the pay period while receiving disability compensation from the OWCP.
- c. Employee is restored after service in the military or with a public international organization.
- d. Employee is restored to full-time after a period of intermittent service, or vice versa.

Refer to exhibit 01 to determine how much leave may be accrued during fractional pay periods.

7. The accumulation of non-pay status hours during a leave year can affect the accrual of sick leave and annual leave. See section 31.22 for the Effect of Extended LWOP or Other Non-pay Status on the Accrual of Annual and Sick Leave. Refer to exhibit 01, "Pro-Rata Accrual Rates for Full-time Employees."

### **32.12 - Exhibit 01**

#### **Pro-Rata Accrual Rates for Full-time Employees**

<b>Number of Hours Paid in Pay Period</b>	<b>Hours Accrued</b>
8	1
16	1
24	1
32	2
40	2
48	2
56	3
64	3
72	3

### **32.13 – Requirements for Granting Sick Leave**

#### **1. Prompt Notification.**

- a. Employees shall request advanced approval for sick leave for reasonably foreseeable absences, such as their own or a family member's medical, dental, or optical examination or treatment.
- b. An employee who is absent due to unforeseeable illness or injury shall notify their Supervisor or acting Supervisor as early as practicable on the first day of such absence, or, if unable for a legitimate reason, as soon as possible, thereafter.
- c. Failure to provide prompt notification could result in the absence being charged to absence without leave (AWOL).

2. Requesting Approval of Sick Leave. The employee shall request sick leave in writing, within the pay period in which the employee returns to duty. The employee shall apply in advance for leave for prearranged medical, dental, or optical examination or treatment.

3. Evidence Needed. Sick leave may be granted only when supported by administratively acceptable evidence, which may simply be the employee's signature on a properly coded timesheet.

4. Medical Certificates. Supervisors may, at their discretion, request medical certificates or documentation for absences of 3 days or more, or when there is a valid reason to request a certificate for less than 3 days. Bargaining unit employees should see their respective Collective Bargaining Agreements regarding medical certification requirements.

- a. When a Supervisor requests medical certificates or documentation, employees shall provide the information within 15 days of the Supervisor's request. If the employee is unable to provide evidence, despite the employee's diligent, good-faith efforts, they must provide it within a reasonable period of time, but no later than 30 calendar days after the Supervisor makes the request.
- b. If the employee fails to provide the required evidence within 30 days, they are not entitled to sick leave.
- c. Leave may be granted when the Supervisor is aware (or should be aware) that the employee is too ill to request leave and is unable provide the required evidence within 30 days.

5. Sick Leave Usage Limits per Leave Year.

- a. For all employees, there is no limitation for an employee's own personal medical needs.

b. Full-Time Employees:

(1) Up to 13 days (104 hours) of sick leave may be used for general family care and bereavement purposes each leave year.

(2) Up to 12 weeks (480 hours) of sick leave may be used to care for a family member with a serious health condition each leave year.

c. Part-Time Employees:

(1) May use up to the number of sick leave hours they normally accrue in a year for general family care and bereavement purposes.

(2) May use up to 12 times the average number of hours in their scheduled tour of duty each week to care for a family member with a serious health condition.

**32.14 – Sick Leave Usage to Care for a Family Member**

See exhibit 01 for leave flexibilities to care for a family member.

1. Sick Leave for General Family Care Purposes. Full-time employees may use up to 13 days (104 hours) of sick leave and part-time employees may use up to the number hours of leave that they normally accrue in a year for the general family care and bereavement purposes described in section 32.1.

2. Sick Leave to Care for a Family Member with a Serious Health Condition.

- a. Limitation on hours:

(1) Full-time employees may use up to a total of 12 administrative workweeks (480 hours) of sick leave each leave year to care for a family member with a serious health condition.

(2) Part-time employees or any employee with an uncommon tour of duty, may not use more than an amount of sick leave equal to 12 times the average number of hours in the employee's scheduled tour of duty each week.

3. Interaction of Sick Leave for General Family Care and Sick Leave for a Serious Health Condition.

a. If a full-time 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 for leave usage to care for a family member with a serious health condition. Employees who have already used 12 weeks of sick leave to care for a family member with a serious health condition cannot use an additional 13 days in the same leave year for general family care or bereavement. A full-time employee is entitled to no more than a combined total of 12 weeks of sick leave each year for all family care purposes.

b. If a part-time employee previously has used any portion of their allotment of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the entitlement for leave usage to care for a family member with a serious health condition. Employees who have already used the maximum number of hours of sick leave to care for a family member with a serious health condition cannot use additional time in the same leave year for general family care or bereavement. A part-time employee is entitled to no more than an amount of sick leave equal to 12 times the average number of hours in the employee's scheduled tour of duty each week for all family care purposes.

4. Medical Certification for Care of a Family Member with a Serious Health Condition. Care of a family member includes psychological comfort and/or physical care, including being with the family member during a hospital stay or while being examined in a doctor's office. Supervisors may, at their discretion, request medical certificates or documentation from a health care provider to certify:

- a. The family member requires psychological comfort and/or physical care;
- b. The family member would benefit from the employee's care or presence; and
- c. The employee is needed to care for the family member for a specified period of time.

5. Recordkeeping. A Supervisor shall maintain records of the amount of sick leave used by an employee for general family care and bereavement, and for care of a family member with a serious health condition. The records must be sufficient to ensure that an employee does not exceed the limits placed on sick leave usage per leave year outlined in section 32.13.

6. Time Coding. Record time on the employee's T&A to Transaction Code 62 with Descriptor Code 03 (TC 03-62) for general family care or bereavement, and to TC 04-62 for sick leave to care for a family member with a serious health condition.

### **32.14 - Exhibit 01**

#### **Leave Flexibilities to Care for a Family Member**

<b>Entitlement</b>	<b>Amount and Purpose</b>	<b>Individuals for Whom Leave May be Taken</b>
<p><u>Sick leave for general family care or bereavement purposes.</u></p> <p>Employees may be advanced up to 104 hours of sick leave each leave year (or a proportional amount for an employee on a part-time schedule or uncommon tour of duty) for family care or bereavement purposes.</p>	<p>13 days (104 hours) to:</p> <p>Provide care for a family member who is incapacitated by a medical or mental condition;</p> <p>Attend to a family member receiving medical, dental, or optical examination or treatment; or</p> <p>Make arrangements necessitated by the death of a family member or attend the funeral of a family member.</p>	<p>May be taken for a family member. Family member means the following relatives of the employee:</p> <ol style="list-style-type: none"> <li>1. Spouse, and parents thereof;</li> <li>2. Sons and daughters, and spouses thereof;</li> <li>3. Parents, and spouses thereof;</li> <li>4. Brothers and sisters, and spouses thereof;</li> <li>5. Grandparents and grandchildren, and spouses thereof;</li> <li>6. Domestic partner and parents thereof, including domestic partners of any individual in paragraphs 2 through 5 of this definition; and</li> <li>7. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.</li> </ol>
<p><u>Sick leave to care for a family member with a serious health condition.</u></p> <p>Employees may be advanced a maximum of 240 hours of sick leave (or a proportional amount for an employee on a part-time schedule or uncommon tour of duty) to provide care for a family member with a serious health condition.</p>	<p>12 weeks (480 hours) to care for a family member with a serious health condition.</p> <p>A serious health condition includes such conditions as; cancer, heart attacks, strokes, severe injuries, Alzheimer disease, pregnancy, childbirth, and includes chronic conditions, such as asthma, diabetes, and conditions requiring multiple treatments, such as chemotherapy or kidney dialysis.</p>	<p>May be taken for a family member. See definition of family member above.</p>

**32.14 - Exhibit 01--Continued**

Entitlement	Amount and Purpose	Individuals for Whom Leave May be Taken
<p><u>FMLA (basic) to care for spouse, son, daughter, or parent with a serious health condition.</u></p>	<p>12 weeks (480 hours) of unpaid leave during any 12-month period for:</p> <ol style="list-style-type: none"> <li>1. The birth of a son or daughter of the employee and the care of such son or daughter.</li> <li>2. The placement of a son or daughter with the employee for adoption or foster care.</li> <li>3. The care of a spouse, son, daughter, or parent of the employee, who has a serious health condition.</li> <li>4. A serious health condition of the employee that prevents the employee from performing the essential duties of their position.</li> <li>5. A qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.</li> </ol>	<p>For the care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition.</p> <p>(Note: Son or daughter must be under 18, or over 18 but incapable of self-care because of a mental or physical disability.)</p>
<p><u>FMLA to care for a covered service member.</u></p>	<p>26 weeks (1,040 hours) of unpaid leave during a single 12-month period to care for a covered service member with a serious injury or illness.</p>	<p>Available to an employee who is the spouse, son, daughter, parent, or next of kin of a covered service member. Next of kin means the nearest blood relative of that individual.</p>

### 32.15 – Advanced Sick Leave

1. Advance sick leave may be granted to an employee who has exhausted all of their sick leave. Advanced sick leave is not an entitlement but may be granted at the approving official's discretion. (See FSM 6100 for delegation of authority for the approval of advanced sick leave). Approving officials shall use their judgment to review a request for advanced sick leave and may deny the request if not supported by administratively acceptable evidence. Upon an employee's request, an employee must be granted advanced sick leave to the maximum extent practicable, in accordance with sick leave laws and regulations and consistent with mission needs.
2. A full-time employee may be advanced up to 240 hours (30 days) of sick leave:
  - a. If incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth.
  - b. For child adoption purposes.
  - c. When the employee or a family member suffers from a serious health condition.
  - d. When the employee's presence could jeopardize the health of others because of exposure to a communicable disease, as determined by the health authorities.
  - e. To care for a covered service member with a serious injury or illness when the employee is using unpaid FMLA leave to care for a covered service member.
3. A full-time employee may be advanced up to 104 hours (13 days) of sick leave for:
  - a. Medical appointments.
  - b. General care for a family member or to accompany a family member to medical appointments.
  - c. Care of a family member who would, as determined by the health authorities, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.
  - d. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member. For example, an employee may be advanced up to 104 hours of advanced sick leave to actively provide care to their child who was exposed to a communicable disease that may jeopardize the health of others. If their child contracts the communicable disease and the employee requires more paid time off, the employee may be advanced additional sick leave (up to 240 hours total) for the employee to care for their child with a serious health condition.
4. Advance sick leave may be for any number of days or hours within the maximum of 240 hours and may be granted regardless of whether the employee has annual leave, compensatory time, or credit hours available to use.

5. An employee on a limited appointment may be advanced sick leave only in the amount that the employee can earn during the remaining period of employment.
6. Advance sick leave may not be granted to an employee when it is known (or reasonably expected) that the employee will not return to duty, such as when the employee has applied for disability retirement; after an employee has received a notice of separation or furlough; or has submitted a resignation.
7. When an employee accepts advanced sick leave they incur a debt to the Government. Employees who are indebted for advanced sick leave and separate from Federal service are required to refund the amount of advanced sick leave or the HRM will deduct that amount from any pay due the employee upon separation. However, if the employee dies, retires for disability, or is separated or resigns because of disability, the requirement to repay does not apply.

### **32.16 – Sickness During Annual Leave**

When sickness occurs during a period of annual leave, sick leave may be granted for the period of sickness.

### **32.17 – Re-credit of Sick Leave**

1. An employee, who has had a break in service, is entitled to re-credit of sick leave, without regard to the date of separation, when the employee returns to Federal employment on or after December 2, 1994.
2. Sick leave that was forfeited upon reemployment in the Federal government before December 2, 1994, may not be re-credited.
3. Sick leave that has been used to calculate an annuity is charged against an employee's sick leave account and may not thereafter be used, transferred or re-credited.

### **32.18 – Sick Leave Used in the Computation of an Annuity**

Unused sick leave will be used in the calculation of an employee's or survivor's annuity based on retirement with an immediate annuity or on a death in service. Credit toward the annuity computation will be based on the full sick leave balance at retirement or death.

## **33 – Nonpay Status**

This section does not apply to the non-duty period for permanent seasonal employees.

### **33.1 – Leave Without Pay**

1. LWOP is a temporary non-pay status and absence from duty which may be granted upon the employee's request. LWOP may be granted even if the employee has annual or sick leave in their accounts. The permissive nature of LWOP distinguishes it from AWOL, suspension, and furlough.

2. Employees have a right to be granted LWOP in the following circumstances:
  - a. Disabled veterans in need of medical treatment.
  - b. Reservists and members of the National Guard desiring LWOP for military training duties and for limited periods.
  - c. Employees in receipt of injury compensation under 5 U.S.C. chapter 81.
  - d. Employees who exercise their rights under the FMLA.
  - e. Employees to fulfill certain family obligations (up to 24 hours of LWOP each year) as described in section 33.12.
  - f. There may be other situations covered in the appropriate Collective Bargaining Agreement for employees covered by a labor agreement.
3. Employees cannot demand they be granted LWOP as a matter of right except for the situations described above, in paragraph 2. The approval of LWOP is a matter of administrative discretion.
4. Closely examine each request for LWOP to assure that the value to the Government or the need of the employee is sufficient to offset such costs and administrative inconvenience as:
  - a. Increased overtime costs to accomplish the work of the position.
  - b. Obligation to provide active employment at the end of the approved leave period.
  - c. Eligibility for continued life insurance coverage without cost to the employee for up to 1 year of non-pay status.
  - d. Eligibility for continued health insurance coverage. Both employee and agency continue to be responsible for their respective shares of health insurance costs.
  - e. Loss of services that may be vital to the organization.
  - f. Creditable service for such benefits as retirement, leave accrual, within grade increases, and severance pay.
5. Supervisors may grant LWOP when the situation involves a non-discretionary absence or when the Supervisor determines that the requested absence is compatible with local work situations. The Supervisor shall obtain HRM concurrence before the approval of an extended absence on LWOP in excess of 30 days. Approve extended absences on LWOP only when it is for the benefit of the Forest Service and for the welfare of the employee. (See FSM 6100 for delegation authority.)

6. LWOP in excess of 30 days is considered "extended" LWOP and requires a personnel action. Limit initial grants of such LWOP and extensions to 1 year at a time. Extensions may be granted when circumstances warrant.
7. Supervisors should be liberal in the approvals of extended LWOP requests when:
  - a. Employee applications for disability compensation or disability retirement are pending.
  - b. Employees receive workers' compensation benefits, unless it is known that they are permanently disabled.
  - c. Employees have an illness or disability as certified by a medical certificate or other acceptable evidence, unless such evidence indicates that the employee will not return to duty.
  - d. Career or career-conditional employees seek Federal employment outside their commuting area, and the LWOP will allow them to avoid a break in service.
  - e. Employees attend school, if the course of study may result in increased ability to perform work in the Agency. A liberal policy must be applied even though the course of study may not be directly related to Forest Service activities if the employee is a veteran who attends school under the GI Bill of Rights.
  - f. Employees teach at a college or university if it gives the employee additional experience and training of value to the Forest Service.
  - g. Career or career-conditional employees serve in competitive positions to permit them to serve as Peace Corps volunteers or volunteer leaders for periods up to 30 months.
  - h. Career or career-conditional employees accompany members of the Armed Forces or a Federal service employee on a rotational assignment, transfer of function, or relocation of activity. In these cases, extended LWOP may not exceed 90 days.
  - i. Employees perform short-term assignments (90 days or less) to public international organizations to engage in program organization or consulting work.
8. Authorize extended absences, only when there is an expectation that the employee intends to remain with the Forest Service, except for absences associated with disability retirement applications and for disabled veterans who require medical treatment.
9. LWOP to accept other employment may be granted only when there is no conflict of interest. Conditions of the request must be clearly documented in advance of approval.
10. It is not appropriate to grant LWOP or non-pay status to Forest Service employees so they can be employed as a casual hire.

### 33.11 – Granting Leave Without Pay

1. LWOP for 30 Days or Less. Supervisors/Managers may approve LWOP for a period not in excess of 30 days for any purpose. For LWOP up to 3 days, document the request and approval by initialing the T&A. Document all other requests for 30 days or less on form OPM-71.
2. LWOP for More than 30 Days. Requests for LWOP beyond 30 days require the submission of a SF-52, Request for Personnel Action, and the processing of a personnel action. The accumulation of non-pay status hours can affect Federal benefits and programs. Refer to OPM's Factsheet, The Effect of Extended LWOP or Other Non-pay Status on Federal Benefits and Programs (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>), for a table that shows the amount of LWOP (or other non-pay status) that is creditable service for the determination of an employee's entitlement to or eligibility for different Federal benefits and programs. (Refer to FSH 6109.12, chapter 30 for employees on extended LWOP due to injuries on the job.)
3. LWOP for Career or Career-Conditional Employees. Up to 90 days of LWOP may be granted upon request, when an employee must move to another location.
4. Effect of Extended LWOP or Other Non-pay Status on the Accrual of Annual and Sick Leave. The accumulation of non-pay status hours during a leave year can affect the accrual of annual leave and sick leave. (See 5 CFR 630.208(a).) Employees who reach a multiple of 80 hours of non-pay status in a pay period do not accrue leave in that pay period regardless of their leave earning category. For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of non-pay status from the beginning of the leave year (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If the employee again accumulates 80 hours of non-pay status, they will again not earn leave in the pay period in which that new 80-hour total is reached. (This means that a full-time employee who is in the 6-hour annual leave accrual category and who has accumulated 80 hours of nonpay status in the last pay period of the year will forfeit the 10 hours of leave accrual in that pay period). At the end of the leave year, any accumulation of nonpay status hours of less than 80 hours is zeroed out so that the accumulation for the next leave year starts at zero. For part-time employees, leave accrual is prorated based on hours in a pay status in each pay period; thus, time in nonpay status reduces leave accrual in each pay period containing such time. Nonpay status includes LWOP, AWOL, or suspension.

### 33.12 – Situations Where 24 Hours of Leave Without Pay Should Be Granted

Employees may be granted up to 24 hours of LWOP per calendar year as mission requirements permit for the following three types of activities which include:

1. School and Early Childhood Educational Activities. Allows employees to support a child's educational development and advancement at an elementary or secondary school, Head Start program, or a child-care facility to:

- a. Attend parent-teacher conferences.
  - b. Meet with the child-care providers.
  - c. Interview for a new school or child-care facility.
  - d. Participate in volunteer activities such as tutoring or coaching.
2. Routine Family Medical Purposes. Allows parents to accompany children to routine medical or dental appointments, such as annual check-ups or vaccinations.
3. Elderly Relatives' Health or Care Needs. Allows employees to accompany elderly relatives to routine medical or dental appointments or other professional services related to their care, such as making arrangements for housing, meals, phones, banking services, and other similar activities.

### **33.13 – Retroactive Substitution of Annual Leave for Leave Without Pay**

LWOP may be retroactively changed to annual leave if:

1. Due to an administrative error or misunderstanding the employee was not aware that there was an annual leave balance or that annual leave could have been used.
2. The employee is accepted into the VLTP and donated leave is available.

### **33.2 – Absence Without Leave**

1. AWOL is absence from duty which is not authorized or for which a request for leave has been denied.
2. An employee who is absent from duty without authorization is placed in nonpay status. When the employee returns to duty, the work Supervisor shall decide how the absence is to be recorded.
3. If the employee's reason for absence is acceptable, the absence may be recorded as a retroactive request for leave, with or without pay, or as an excused absence.
4. When the employee's reasons are not acceptable, record the unauthorized absence on time reports as AWOL for those employees entitled to leave benefits. Employees with intermittent or call-when-needed tours that have an unauthorized absence must have the absence documented by a letter. File a copy of the letter in the employee's local file. There is no provision for recording AWOL on the T&A of an employee who is ineligible to earn leave.
5. AWOL may be the basis for disciplinary action, including suspension (temporary status without duty or pay) or removal. Supervisors are advised to contact the HRM.

### 33.3 – Involuntary Leave

Involuntary annual leave, sick leave, or LWOP may be required in the following circumstances:

1. An employee is physically or mentally unfit for retention in the position, and the employee is recommended for disability retirement.
2. In emergency situations, when due to physical or mental illness, an employee is not ready, willing, and able to perform the duties of the position.
3. An employee is temporarily disabled as a result of an injury on the job, and whose appointment is not terminated, is placed on LWOP for the period while in receipt of disability compensation from the OWCP. (See FSH 6109.12, chapter 30 for additional information).
4. Before the placement of an employee in an involuntary leave status in the above situations, the work Supervisor must obtain the concurrence of the HRM.

### 33.4 – Furlough

1. Furlough is the placement of an employee in a temporary non-duty, nonpay status, because of lack of work or funds, or other non-disciplinary reasons.
2. A furlough of 30 consecutive calendar days (or 22 workdays, if not consecutive) or less is covered under 5 CFR part 752, adverse action procedures. A furlough of more than 30 calendar days is covered under 5 CFR part 351, RIF procedures.
3. For additional guidance, go to OPM's Web site for Frequently Asked Questions, (<https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>).

## 34 – Family and Medical Leave Act

1. Under the Family and Medical Leave Act of 1993 (FMLA), most Federal employees are entitled to a total of up to 12 workweeks (480 hours) of unpaid leave during any 12-month period for the following purposes:
  - a. The birth of a son or daughter of the employee and the care of such son or daughter.
  - b. The placement of a son or daughter with the employee for adoption or foster care.
  - c. The care of a spouse, son, daughter, or parent of the employee, who has a serious health condition.
  - d. A serious health condition of the employee prevents the employee from the performance of the essential duties of their position.
2. Expanded FMLA Entitlements for Family Members of Active Duty Service Members.

- a. Employees may take up to 12 weeks of leave each year for each 12-month period for any qualifying exigency that arises out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.
- b. Eligible employees who are the spouse, son, daughter, parent, or next of kin of a covered service member who suffers a serious injury or illness on active military duty are entitled to 26 weeks of unpaid leave during a single 12-month period to care for the service member.

### **34.1 – Eligibility**

Most Forest Service employees are covered by Title II of the FMLA. There may be some employees eligible under Title I of the FMLA as defined below. While most of the entitlements are the same there are distinct differences between the two sections. This section will focus on the requirements and procedures for employees covered under Title II.

1. Most Forest Service employees are covered by Title II of the FMLA. To be eligible under this section, employees shall:

- a. Earn sick and annual leave.
- b. Have completed 12 months of service (not required to be 12 recent or consecutive months).

Time served outside the civil service (such as at the Postal Service) and time spent as an intermittent employee does not count toward the requisite 12 months. Temporary and term employees must have an appointment with a time limitation beyond 1 year in order to receive FMLA leave under Title II.

2. Employees who serve under a temporary appointment with a time limitation of 1 year or less, and intermittent employee as defined in 5 CFR 340.401(c), are covered by Title I of the Act and are subject to Department of Labor regulations. Title I is found at 29 U.S.C. chapter 28. Under 29 U.S.C. 2654, the FMLA authorized the Department of Labor to promulgate regulations implementing Title I. Those regulations are at 29 CFR part 825. Employees covered by this section must:

- a. Complete 12 months of service.
- b. Perform at least 1,250 hours of service during the 12-month period immediately preceding the commencement of FMLA leave.

### **34.2 – FMLA Entitlement**

1. Eligible full-time employees are entitled to 12 weeks of unpaid leave in a 12-month period.

2. Part-time employees are entitled to prorated FMLA leave. A part-time employee is entitled to leave under FMLA calculated on an hourly basis that will equal 12 times the average number of hours in the employee's regularly scheduled administrative workweek. For example, if the employee works 20 hours per workweek, the employee is entitled to 240 hours of leave under the FMLA.
3. Federal holidays during the period when an employee uses FMLA leave will not count against the entitlement 5 CFR 630.1203(e).
4. The 12-month period for taking FMLA leave starts on the first day FMLA leave is taken. A new FMLA leave year starts a year later. An employee is not entitled to additional workweeks of unpaid leave until the previous 12-month period ends and an event or situation occurs that entitles the employee to another period of FMLA leave. This may include a continuation of a previous event or situation.
5. An employee may take only the amount of family and medical leave that is necessary to manage the circumstances that prompted the need for leave under the conditions cited.
6. Exhibit 01 shows reasons for which FMLA leave may be used and the time limits for each.

### **34.2 - Exhibit 01**

#### **Conditions for Using FMLA Leave**

<b>Condition:</b>	<b>Time Limit for Completion:</b>
The birth of a son or daughter of the employee and the care of such son or daughter.	Within 12 months of birth.
The placement of a son or daughter with the employee for adoption or foster care.	Within 12 months of placement.
The care of a spouse, son, daughter, or parent of the employee, who has a serious health condition.	Within 12 months of the date the FMLA leave began.
A serious health condition of the employee that prevents the employee from performing the essential duties of their position.	Within 12 months of the date the FMLA leave began.
A qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.	Within 12 months of the date the FMLA leave began.
Eligible employees who are the spouse, son, daughter, parent, or next of kin of a covered service member who suffers a serious injury or illness on active military duty are entitled to 26 weeks of unpaid leave during a single 12 month period to care for the service member.	Within 12 months of the date the FMLA leave began.

### 34.3 – Applying for FMLA Leave

#### 1. Advance Notice

- a. An employee shall invoke their entitlement to FMLA leave, subject to the notification and medical certification requirements in this section. An employee may not invoke entitlement to FMLA leave retroactively for any previous absence from work.
- b. When FMLA leave is based on an expected birth, placement of a child, or planned medical treatment, employees need to give 30 calendar days advance notice for FMLA leave.
- c. If the need for leave is not foreseeable, such as a medical emergency or due to the unexpected availability of a child for adoption or foster care, and the employee cannot provide 30 calendar days' notice of the need for leave, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved.
- d. If the need for leave is foreseeable, and the employee fails to give 30 calendar days' notice with no reasonable excuse for the delay of notification, supervision has the discretion to make the action effective 30 days after it was received.

#### 2. Medical Certification

- a. A Supervisor may request medical certification for FMLA leave taken due to an employee's own serious health condition or to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.
- b. An employee shall provide written medical certification signed by a health care provider no later than 15 calendar days after the date requested by the Supervisor. Department of Labor Certification of Health Care Provider (FMLA of 1993) form WH-380-E for the employee's serious health condition or form WH-380-F for the family member's serious health condition may be used for this purpose, but are not required.
- c. If it is not practicable under the particular circumstances to provide the requested medical certification signed by a health care provider within 15 days after the date requested by the Supervisor, the employee shall provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the Supervisor requests such medical certification.
- d. If leave is to be taken intermittently or on a reduced leave schedule, the certification also must include a schedule of those dates on which such leave will be taken, if known.

e. If an employee does not comply with the notification requirements in this section and does not provide medical certification signed by a health care provider that includes all the information required in section 34.3, exhibit 01, FMLA Medical Certification Requirements, then the employee is not entitled to FMLA.

3. Effect of LWOP on Benefits and Service Credit. Refer to section 33.11.2, LWOP for More than 30 Days, for information on how benefits and service credit may be affected by an FMLA absence which involves LWOP.

Exhibit 01 gives specific requirements regarding medical certification.

### **34.3 - Exhibit 01**

#### **FMLA Medical Certification Requirements**

<b>If FMLA Leave is Being Requested:</b>	<b>Then the Medical Certification Must Include:</b>
Due to the employee's own serious health condition	<ol style="list-style-type: none"> <li>1. The date the condition began;</li> <li>2. The probable duration;</li> <li>3. The regimen of treatment (number of visits, general nature and duration of treatment, including referral to other provider of health services); and</li> <li>4. A statement that the employee is unable to perform the essential functions of their position. (The health care provider may review the employee's position description and/or performance standards to assist in making this determination).</li> </ol> <p>(NOTE: Form WH-380-E is available to assist the medical provider in providing appropriate documentation.)</p>
To care for a family member	<p>Items 1 through 3 above and a statement:</p> <ol style="list-style-type: none"> <li>1. From the health care provider that the family member needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs in making arrangements to meet such needs, and that the family member would benefit from the employee's care or presence (including psychological comfort); and</li> <li>2. From the employee the type of care they must provide and an estimate of the amount of time/time period during which the care will be provided.</li> </ol> <p>(NOTE: Form WH-380-F is available to assist the medical provider in providing appropriate documentation.)</p>

### 34.4 – Responsibilities of Supervisors

Communication between Supervisors and employees is the key to the successful management of FMLA leave. The Supervisor should ask in advance whether the employee chooses to invoke their entitlement to FMLA leave (see sec. 34.5, Stacking of Leave) when employees request leave for a personal or family medical situation. The following section lists the responsibilities of Supervisors who administer leave under the FMLA. Contact the HRM or the designated employee relations specialist for assistance in any of these matters.

1. Supervisors shall inform employees of their entitlement to the FMLA.
2. If a situation is appropriate for FMLA, the Supervisor should ask the employee if they would like to invoke the entitlement to FMLA leave. A Supervisor may not put an employee on FMLA and may not subtract leave from an employee's entitlement to FMLA unless the Supervisor has obtained confirmation from the employee of their intent to invoke FMLA.
3. If the validity of the submitted medical certification is in question, the Supervisor may request that the employee provide additional information and/or provide an agency-designated second medical opinion, at the Agency's expense.
4. Supervisors may also require periodic recertification for leave taken for pregnancy, chronic conditions, or long-term conditions under the continuing supervision of a health care provider. Subsequent medical recertification may be required at the Agency's expense, on a periodic basis, but not more than every 30 calendar days. For leave taken for all other serious health conditions (including intermittent or reduced leave schedules) if the health provider has specified on the medical certification a minimum duration of the period of incapacity, recertification may not be requested until that period has passed.

To require medical certification more frequently than every 30 calendar days or than the minimum duration, the employee must have requested that the original leave period be extended, the original circumstances described must have changed significantly, or the Agency must have received information that caused doubt on the continued validity of the medical certification.

Contact the designated employee relation specialist for guidance before the request for a second medical opinion and recertification due to the cost to the Agency.

5. Supervisors shall request return to duty certification, at the Agency's expense, from employees in positions that have specific medical standards, physical requirements, or who are covered by a medical evaluation program (5 CFR 630.1208). Supervisors shall notify employees of this requirement before leave commences or as soon as practicable thereafter in emergency situations.
6. Supervisors have the responsibility to ensure family and medical leave is properly entered into the Time and Attendance system and to ensure the entitlement is not exceeded.

### 34.5 – Substitution of Paid Leave for Unpaid Leave

1. An employee may substitute accrued or advanced annual or sick leave and donated annual leave for unpaid FMLA leave. Use of leave must be consistent with current law and regulations which govern the approval and use of annual (sec. 31.1) or sick leave (sec. 32.1). For example, if FMLA is invoked to care for a healthy newborn, only annual leave may be substituted as there is no authorization to use sick leave for a healthy child.

2. Sick Leave and FMLA. FMLA entitles employees to up to 12 weeks of unpaid leave for their own or a spouse, son, daughter, or parent's serious health condition, or 26 weeks to care for a covered service member. Sick leave may be substituted for the unpaid leave only under the conditions for which sick leave would normally be granted (sec. 32.1), and subject to the limitations on hours used for sick leave for family care needs (sec. 32.14). Sick leave and FMLA leave are authorized under two separate sets of statutes, each with different entitlements and conditions, such as the categories of individuals for whom an employee may take leave to care, number of hours or weeks of leave allowed, and the rules on the substitution of paid leave for unpaid leave.

3. "Stacking" of Leave. The 12 workweeks of unpaid leave under the FMLA are in addition to any annual leave, sick leave, or other paid leave or compensatory time off available to employees, and employees may choose to take FMLA leave in combination with any other available leave. For example, an employee can take 12 weeks of sick leave to care for a parent with a serious health condition and then invoke FMLA. Although the employee has exhausted their entitlement to sick leave to care for a family member with a serious health condition and cannot substitute any sick leave, they may invoke their right to the 12 weeks of unpaid leave under FMLA, and they may substitute annual leave for the unpaid leave.

a. Communication between Supervisors and employees is key to managing the "stacking" of leave. When employees request leave for a personal or family medical situation, the Supervisor may want to ask up front whether the employee is invoking entitlement to FMLA leave.

b. Although a Supervisor generally cannot deny sick leave if the employee provides medical certification, they can deny annual leave or LWOP if there is a need for the employee to be at work, unless the employee invokes their rights under FMLA.

4. Continuous and Intermittent Use of FMLA Leave. FMLA leave may be used continuously or intermittently. Intermittent leave is leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of less than 1 hour to several weeks. An employee can use intermittent FMLA leave through reduction of their work schedule. A reduced work schedule is when the employee continues to work, but the number of hours regularly worked per workday or workweek is reduced through the use of intermittent FMLA leave, and LWOP or substituted paid leave is recorded.

### 34.6 – Job Benefits and Protection

1. Upon return from FMLA leave, an employee shall be returned to the same position or an equivalent position at the same level in the organization and with equivalent duties, benefits, pay, status, and other terms and conditions of employment.
2. An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work.
3. Supervisors cannot use FMLA leave as a reason to deny employees opportunities for employment, promotions, training, awards, or participation in office activities.
4. Adverse Actions. An employee's decision to invoke FMLA does not prevent an agency from taking appropriate action under 5 CFR part 432 or 5 CFR part 752. Pending adverse actions or performance-based actions may be taken and made effective even if the employee is taking FMLA leave. FMLA does not make an employee immune from the impacts of a RIF before, during, or after a period of FMLA leave. Such action may be grievable or appealable to the Merit Systems Protection Board.

### 35 – Absence for Maternity/Paternity for Childbirth/Adoption Reasons

1. The granting of leave for maternity/paternity reasons may be a combination of as many as three separate kinds of leave: sick leave, annual leave, and LWOP. Apply the same leave policies, regulations, and procedures, including the guidelines on advancing leave, as applicable to requests for leave.
2. Pregnancy and Confinement of the Mother. An absence due to pregnancy and confinement is to be treated like any other medically certified serious health condition. According to the definition of serious health condition, any period of incapacity due to pregnancy or childbirth, or for prenatal care is considered a serious health condition, even if the employee or family member does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days.

An employee who cares for a family member after childbirth is entitled to use sick leave for the period of the birth mother's incapacitation. Once the period of incapacitation is over, there is no entitlement to use sick leave to care for the mother. There is no provision in law or regulation that permits the use of sick leave to be absent from work to care for a healthy newborn, bond with a healthy child, or for other child care responsibilities.

3. Paternal Leave. Paternal leave may be granted under the general guidelines of the Family and Medical Leave Act (sec. 34) and/or annual (sec. 31.1) and sick leave (sec. 32.14) regulations.
4. Use of Sick Leave for Birth and Adoption.

- a. A pregnant employee who will be absent from work at some point before giving birth for her own health or that of her unborn child is entitled to use sick leave.
- b. An employee is also entitled to use sick leave to care for a family member who is incapacitated because of pregnancy or childbirth, or to accompany her to prenatal care appointments.
- c. Sick leave may be used for medical examinations and during the period of incapacitation for delivery and recuperation. Note that the period of incapacity for pregnancy is usually 6 weeks for a normal delivery and recovery or 8 weeks for a cesarean section and recovery.
- d. Sick leave may be used to care for a newborn who has health problems or who is ill.
- e. Adoption. An employee may use sick leave for purposes related to the adoption of a child (such as appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any periods of time during which adoptive parents are ordered or required by an adoption agency or by a court to take time off from work to care for the adopted child; and any other activities necessary to allow the adoption to proceed). The Supervisor may request administratively acceptable evidence for absences related to adoption.
- f. New parents who voluntarily choose to be absent from work to bond with or care for a healthy newborn or newly adopted child may not use sick leave for this purpose. Parents may use annual leave or LWOP for these purposes.
- g. There is no limitation on the amount of sick leave that may be used for adoption-related purposes.

5. Use of FMLA for Childbirth/Adoption.

- a. Both parents may use LWOP under FMLA for pregnancy and childbirth or to be absent from work to bond with or care for a healthy newborn or newly adopted child.
- b. Each parent is entitled to use a total of up to 12 weeks of LWOP under the FMLA for the birth of a child, care of the newborn or newly adopted child (sec. 34), if their entitlement has not been exhausted for the 12 week period.
- c. FMLA leave may be used on an intermittent basis for absences in connection with adoption or care of a newborn.
- d. An employee may elect to substitute annual leave and/or sick leave for any or all of the LWOP used under the FMLA, consistent with the laws and regulations for using annual and sick leave.

6. Donated Leave. If either parent exhausts their sick and/or annual leave, the parent may receive donated annual leave under the VLTP for a personal or family medical emergency; such as the mother's period of incapacitation or a serious health condition/illness of the child (section 36).

7. Employee's Intent to Request Leave. An employee should make known the employee's intent to request leave for maternity/paternity reasons and communicate approximate dates, to allow the unit to make necessary staff adjustments.

The maternal employee should consult her health care provider to discuss work conditions which she or her Supervisor perceives as potentially harmful. The maternal employee should also inform her Supervisor of her plans regarding return to work.

8. Opportunity to Work Until Incapacitated. The employing unit should provide an opportunity for the maternal employee to work as long as she is not incapacitated. Based on identification of any working conditions that could adversely affect the employee, the employing office should work with the Supervisor to:

- a. Make a reasonable effort to adjust working conditions when necessary.
- b. Ensure continued employment in the same or like position for an employee who wishes to return to work, unless termination is otherwise required by termination of appointment, reduction in force, or other unrelated reason.

### **36 – Voluntary Leave Transfer and Leave Bank Programs**

The OPM authorizes the following three programs for the transfer of leave: Voluntary Leave Transfer Program (VLTP), Voluntary Leave Bank Program (VLBP), and Emergency Leave Transfer Program (ELTP). The Forest Service does not have a VLBP and employees cannot contribute leave to another agency's leave bank program.

This section provides policy and guidance on the provision of 5 U.S.C. chapter 63, subchapter III, on voluntary leave transfers. This provision of law permits employees to voluntarily donate annual leave or restored annual leave to other employees to cover periods of absence caused by medical emergencies. This program does not allow for the donation of sick leave, compensatory time, or credit hours.

#### **36.1 – Voluntary Leave Transfer Program Recipients**

1. A current employee is eligible to become a leave recipient if the employee:
  - a. Experiences a medical emergency due to a personal or family member's medical condition.
  - b. Exhausts all available personal annual and sick leave, consistent with current regulations. (Employees who have exhausted all annual and sick leave and who have a negative leave balance are eligible for the program.)

c. Is absent from duty without available paid leave, or is expected to be absent from duty without available paid leave, because of a medical emergency, for at least 24 hours, to result in a substantial loss of income because of the unavailability of paid leave. For a part-time employee, at least 30 percent of the average number of hours in the pay period must be or expected to be without paid leave.

d. Applies to become a leave recipient within 90 days from the beginning of the medical emergency.

### **36.11 – Basic Premises**

1. An employee's actual or anticipated unpaid absence and substantial loss of income as a result of the medical emergency must meet the eligibility requirements in section 36.1.
2. A leave recipient (full-time employee) should not receive more than a calendar year (2,087 hours) of donated leave for any given medical emergency. After one year of absence, alternatives such as disability retirement should be considered. The number of hours a part-time employee may receive is calculated based on the average number of hours of work in the employee's biweekly scheduled tour of duty, multiplied by the number of pay periods in the leave year.
3. Employees may not directly or indirectly intimidate, threaten, or coerce any other employee or interfere with any right that an employee may have with respect to the donation, receipt, or use of annual leave.
4. False statements or other misrepresentations made in connection with an employee's application to be a leave recipient or donor may be cause for disqualification from the program, disciplinary action (up to and including removal from the Federal service), criminal prosecution, and liability for the amount of leave dishonestly gained.
5. A leave recipient may not receive donated leave for any period which is covered by unemployment benefits or worker's compensation.

### **36.11a – Administrative Procedures for Processing Leave Recipient Applications**

Sections 36.11a through 36.11i outline the administrative procedures to process a leave recipient's application, transfer donations to a recipient, limit recipient's accrual of annual and sick leave on donations, and terminate the recipient from the program.

### **36.11b – Application to Become a Leave Recipient**

A potential leave recipient shall:

1. Submit a written application through their Supervisor within 90 calendar days from the beginning of the medical emergency to become a leave recipient. When the employee is not capable of making a written application on their own behalf, a personal representative (including the employee's Supervisor) may make the written application for the employee.

2. Complete form AD-1046, Leave Transfer Program–Recipient Application, indicating the hours of leave requested to be donated. This may include an amount to liquidate an indebtedness for advanced annual or sick leave or retroactively substitute for periods of LWOP which were directly related to the instant medical emergency.
3. Provide a brief description, not to exceed 100 words, of the nature and severity of the medical emergency.
4. Attach a medical certification signed by one or more physicians, or other appropriate health care provider, with respect to the medical emergency, which includes the following information:
  - a. Nature of illness/injury.
  - b. The reasons transferred leave is needed, specifying the medical condition, the prognosis, anticipated duration of the condition (beginning to end, if unknown, the date of next evaluation by treating health care provider), and if it is a recurring one, the approximate frequency of the medical emergency affecting the potential leave recipient.
  - c. Probability of missed work and frequency.
5. An employee does not have to exhaust all available leave before submitting their application to become a leave recipient if the employee anticipates facing a loss of pay of at least 24 hours due to a medical emergency. An employee may apply and be approved to be a leave recipient prior to exhausting all available leave if it can reasonably be determined from supporting documentation that the employee's leave balances will not cover the entire period of absence. However, an employee shall exhaust all their own annual and sick leave in order to use donated leave.

### **36.11c – Authority to Approve Application to Become a Leave Recipient**

The authority to approve or disapprove a potential leave recipient's application is delegated to the Director, HRM, or designee. This authority may be re-delegated in accordance with the FSM 6104.1, Delegations of Authority.

### **36.11d – Disposition of Application to be a Recipient**

1. The HRM must review the application to determine that:
  - a. A medical emergency exists,
  - b. The substantial loss of income criterion of eligibility has been met or will be met by the time donated leave might be available,
  - c. The medical certification is attached, the application is completed, signed and dated, and

- d. The amount of time which the employee wishes covered by leave donations is consistent with the absence which the health care provider says is required.
2. The HRM must notify the potential leave recipient within 10 working days (excluding Saturdays, Sundays, and holidays) after the date the complete application is received whether the application is approved or not. If it is denied, the reason must be provided in writing.
3. Leave recipients shall notify the HRM on the status of their medical emergencies at 90-day intervals. Failure to provide updates will result in removal from the program. If a leave recipient is incapacitated in whole or part and cannot submit the report, they may designate a person to do so.
4. In the case of a change of anticipated duration of a medical emergency, the HRM may extend the leave recipient's status and eligibility, and increase the total number of donated hours of leave the recipient may receive, subject to the limitation of this policy.  
  
To obtain an extension, a recipient (or their representative) must submit a written request to the HRM and provide medical certification of the continued medical emergency. This documentation should be provided before the date initially projected as the end of the emergency. The fact that donated leave is available beyond the projected termination date of the medical emergency does not permit the leave recipient to ignore this requirement. Extensions for non-medical reasons may not be granted.
5. If there is any doubt whether a medical emergency exists, the employee may be asked to obtain a second opinion. If medical certification from two or more physicians is deemed necessary, the Forest Service must pay the physician or reimburse the employee upon presentation of appropriate documentation. Inconsistencies between the physician's statement of the expected duration of the medical emergency and the amount of time requested by the employee must be resolved before the application reaches the HRM or delay will occur.
6. Elective surgery and routine medical tests are not within the definition of an emergency. Absences which result from a normal pregnancy which meet the substantial loss of income definition, including medical care before the birth, confinement and the usual recuperation period after the birth, is qualifying as a medical emergency.
7. HRM will be responsible for the audit of the leave recipient leave balance in accordance with this policy to reflect the correct balance on the employee's T&A and monitor the final disposition of leave when the medical emergency terminates.
8. When a leave recipient transfers to another Federal agency, any unused donated annual leave will be transferred with the employee.

### 36.11e – Use of Donated Leave

1. A leave recipient may use annual leave donated to their account only for the medical emergency for which the leave transfer was approved. Donated leave may be used only after the recipient's own accrued and restored annual leave, and where appropriate, sick leave, has been exhausted. Use of donated leave must have Supervisory approval as with any other form of leave. Supervisors may require acceptable medical documentation in the same manner and to the same extent as for any request for leave due to medical reasons. The approval and use of donated annual leave is subject to the same conditions and requirements of regularly accrued sick leave, except that transferred annual leave is not subject to the annual maximum carryover limitation.
  2. Donated annual leave may be used on a current basis. Donated annual leave may also be used to retroactively substitute for periods of LWOP or to liquidate an indebtedness for advanced annual or sick leave associated with the current medical emergency. However, the employee shall clearly request that the donated leave will be used for the retroactive substitution of advanced leave. The HRM may apply this leave retroactively back to the beginning of the medical emergency if the recipient provides sufficient medical documentation.
  3. Employees who use donated annual leave to care for a family member and the family member passes away may use donated annual leave to conduct estate issues directly related to the death of the family member and to attend the funeral.
  4. The employee shall exhaust all annual and sick leave before they become a leave recipient when a medical emergency affects the employee. The employee shall exhaust all annual leave and all available sick leave before they are allowed to use donated annual leave to care for a family member when a medical emergency affects a family member.
  5. The employee shall again be required to use sick leave to the extent required in order to remain eligible for leave transfer when the medical emergency of a leave recipient using donated leave to care for a family member continues into a new leave year. For example, a full-time employee who has sick leave remaining after using 480 hours in 2014 to care of the family member will be required to use their available sick leave (up to 480 hours) in 2015. Also, if the medical emergency of a family member continues after a hiatus in donations during which leave in "frozen" accounts is made available to the recipient, the recipient must use annual leave and sick leave accruals first and donated hours of leave only as they are necessary to complete the employee's basic work requirement.
  6. An employee may not participate as a recipient in the leave transfer program if they receive unemployment benefits or workers' compensation for the medical emergency for which they request donated annual leave.
- A leave recipient shall promptly notify their Supervisor and the HRM when they begin to receive unemployment benefits or workers' compensation related to the medical emergency, or when the medical emergency ends.

7. Donated annual leave may not be:

- a. Donated to a leave recipient other than the person specified to receive the leave, unless the donor has given their approval and it is documented.
- b. Included in a lump-sum payment.
- c. Made available for re-credit upon reemployment by a Federal agency after returning to Federal service after a break in service.

**36.11f – Accruals of Annual and Sick Leave While Using Donated Leave**

1. A leave recipient accrues annual and sick leave while on donated leave just as any employee does who is in a pay status and subject to the Leave Act. These accruals are “frozen” and must be set aside until a maximum of 40 hours each has accumulated or, in the case of a part-time employee or employee on an uncommon tour, until the average number of hours in the employee’s weekly tour of duty has accumulated. Leave in an employee’s “frozen” accounts must be maintained separate from donated leave, regular leave, or restored leave. “Frozen” sick leave must be separate from any sick leave the employee was not required to use for care of the family member when the employee cares for a family member.
2. “Frozen” leave must be transferred to the employee’s regular annual and sick leave accounts when the medical emergency ends or when the employee has temporarily exhausted donated leave, whichever event occurs first. Leave which is released to the employee’s use from a “frozen” account may be used for any purpose for which available leave might normally be used.
3. Employees may use their “frozen” leave, even if they have not reached the 40-hour maximum when they have temporarily exhausted donated leave. These employees will continue to accrue “frozen” leave up to the 40-hour maximum. However, once an employee’s maximum “frozen” accounts are emptied, leave accruals may not be set aside in any amount for the same emergency again.
4. Leave accruals for actual hours worked are prorated, in the same manner that is used for part-time employees, when a leave recipient is able to work part-time. This could result in a partial accrual of “frozen” leave and leave accrual based on actual hours worked within the same pay period. Any leave accrued as a result of performed part-time work must be used prior to any donated leave.
5. Nonpay status affects leave accrual the same way as when not participating in the VLTP (section 32.12).

**36.11g – Termination of Medical Emergency**

1. Leave recipient status ends:
  - a. On the date set forth on the application for donated leave.

- b. At the end of the pay period in which the leave recipient or their personal representative notifies the Supervisor and HRM that their medical emergency is over.
  - c. When the leave recipient's Federal employment is terminated.
  - d. At the end of the biweekly pay period in which the HRM is notified of OPM's approval of the leave recipient's application for disability retirement.
  - e. At the end of the pay period in which the HRM determines, after written notice to the employee and an opportunity for the recipient or their representative to respond orally or in writing, that the leave recipient is no longer affected by a medical emergency.
2. Leave recipients may continue to receive or use transferred annual leave, after the medical emergency terminates, under the following conditions:
- a. If at the end of the medical emergency, the recipient has to their credit an amount of transferred annual leave which could be retroactively applied to a current period of LWOP or advanced annual or sick leave previously granted for the medical emergency.
  - b. If upon return to work, the recipient has not received adequate leave donations to cover periods of LWOP or to liquidate indebtedness for advanced annual or sick leave used for the medical emergency. The employee may continue in the VLTP until:
    - (1) Adequate donations are received.
    - (2) Ninety days from the date of return to work, whichever comes first.
3. Any annual or sick leave accrued by a leave recipient, while using donated leave which has not been exhausted when the medical emergency ends, will be transferred from the employee's "frozen" accounts to the employee's regular leave accounts. This transfer will be effective the first pay period beginning after the medical emergency ends, unless the employee leaves the Federal service.

### **36.11h – Restoration of Donated Annual Leave**

1. When a leave recipient's medical emergency ends, any balance of unused, transferred annual leave will be restored in full-hour increments to eligible donors on a prorated basis.
  - a. Restoration is made only to donors still employed by the Federal Government, and who can be located in order to accomplish the restoration.
  - b. The donor cannot have more hours restored than they donated to the recipient.
  - c. If there are more donors than there are hours of excess transferred annual leave, none of the excess leave is restored to donors. The excess leave is lost.

2. The amount of unused donated annual leave to be restored to each donor must be determined as follows:

- a. Divide the number of hours of unused donated annual leave by the total number of hours of annual leave donated to the recipient;
- b. Multiply the result by the number of hours of annual leave transferred from each donor eligible for restoration; and
- c. Round the result down to the nearest hour.

3. Transferred annual leave will be restored to a donor's regular annual leave account in the current leave year unless:

- a. The restoration occurs in the fourth quarter of the leave year and the restored leave would result in forfeiture; returned donated annual leave will be returned in the next leave year.
- b. The donor wishes to donate the prorated amount to another leave recipient. Donors who exercise this option must complete a new form AD-1043.

4. Transferred annual leave restored to the account of a leave donor may not be restored in excess of the annual maximum leave accrual as specified in the annual leave policy.

### **36.11i – Relationship to Other Employee Benefit Programs**

1. Disability Retirement. An employee who has applied for, or who plans to apply for, disability retirement because of a medical emergency is eligible for the leave transfer program assuming all other requirements of the program are met. The HRM shall inform the employee that:

- a. Upon approval of the disability retirement application, the employee shall be terminated from the leave transfer program.
- b. The beginning date of the annuity could be affected depending on how transferred annual leave is applied to the employee's period of absence. Generally, the transferred annual leave should be applied to the earliest absence first, since the annuity will retroactively cover any unpaid periods.

2. Worker's Compensation. An employee who is absent from work due to a work-related injury or illness is eligible for the leave transfer program only after a claim to the OWCP for workers' compensation has been decided, and only then if:

- a. As a result of the OWCP decision, the employee has or will have 24 hours of LWOP (or equivalent, if part-time) relating to the illness or injury.
- b. The employee has not and will not receive workers' compensation for that period of LWOP.

c. The employee meets all other eligibility requirements for the leave transfer program.

3. Optional Retirement. An employee who is eligible for optional retirement may apply for the leave transfer program, assuming all other requirements are met, and if the employee does not wish to retire at the time application is made (for example, the employee expects to return to work). If after becoming a leave recipient, the employee decides to retire:

a. The employee will be terminated from the leave transfer program upon approval of the retirement application.

b. The employee's annuity will not be affected by the manner in which the transferred leave was applied to the period of absence.

### **36.12 – Leave Donors**

1. Employees who wish to donate annual leave to a leave recipient must complete Part 1 of form AD-1043, Leave Transfer Program-Donor Application. Send the completed form to the HRM. A complete list of recipients can be found on the HRM Pay and Leave Webpage.

2. Donations of annual leave must be made in whole-hour increments.

3. If approved, the HRM will notify the recipient. No adjustment of leave balances by the donor will occur until the donor is notified by the HRM.

### **36.12a – Limitations on Donations**

1. A donor may donate only unused annual leave, including restored annual leave previously forfeited, which is in their account at the time of the donation.

2. An employee may not donate leave to their immediate Supervisor.

3. In any one leave year, a donor may not donate more than one-half of the amount of annual leave they would be entitled to accrue during the leave year in which the donation is made;

a. Limitations for full-time employees are:

(1) If in a 4-hour category, 52 hours.

(2) If in a 6-hour category, 78 hours.

(3) If in an 8-hour category, 104 hours.

b. Limitations for part-time employees are computed as follows: 13 x (duty hours in pay period divided by 80) x leave earning category (4, 6, or 8).

c. Limitations for seasonal employees: (Number of pay periods to be worked divided by 2) multiplied by leave earning category.

4. In the case of a donor who expects to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, the lesser of:

- a. One-half of the amount of annual leave they would be entitled to accrue during the leave year in which the donation is made; or
- b. The number of hours that remain in the leave year that the leave donor is scheduled to work and receive pay.

For example, a donor wishes to donate 104 hours of leave subject to forfeiture two weeks before the end of the leave year. The donor has scheduled 8 hours of annual leave and there is one 8-hour holiday during the remaining 80 hours of the leave year. The donor may donate only 64 hours ( $80 - 16 = 64$  hours) since there are only 64 hours left in the leave year during which the donor is scheduled to work and receive pay.

5. In unusual situations, employees may obtain a waiver of the limitations. Requests for waivers must be approved or disapproved in writing by the Director, HRM, or designee. A written explanation of the reason for requesting the waiver must accompany the employee's donor application. Waivers will be approved only when the leave recipient named by the leave donor needs the additional donated leave to remain in a pay status through the end of the medical emergency. Waivers may not be granted solely to avoid annual leave forfeiture at the end of the leave year

### **36.12b – Disposition of Application to be a Donor**

1. The HRM shall review the donor's application to determine:

- a. The donor's application is complete, signed and dated.
- b. The donor has sufficient leave to make the donation.
- c. The limitations of sec 36.12a have been observed, unless a waiver has been approved.
- d. The donor has provided instruction regarding the disposition of the leave, should it not be possible to donate it to the intended recipient.

2. The HRM should notify the donor of their decision on the application within 15 workdays of its submission. Notices denying the donation should state the reasons for the denial.

### **36.13 – Interagency Leave Transfers**

1. Leave donations for Forest Service leave recipients can be accepted from Federal employees outside of the USDA if one of the following is true:

- a. The amount of leave expected from USDA donors will not fully meet the leave recipient's needs for donated leave.

- b. The donor is a member of the leave recipient's family.
  - c. Acceptance of the donation would further the purpose of the VLTP.
2. Forest Service employees may donate annual leave to recipients outside of the USDA, if such a transfer is permitted by the recipient's agency.
3. Forest Service employees who wish to donate to or receive donations from employees of other Federal agencies should contact the HRM for advice. The HRM shall coordinate with the unit of the other Federal agency to determine if the proposed interagency leave transfer can be accomplished.

### **36.14 – Time and Attendance Reporting and Records Maintenance**

Leave recipient case files constitutes a separate system of records under the Privacy Act. Files must be maintained at the HRM and kept separate from other personnel files.

- 1. The HRM has the responsibility to:
  - a. Track the donated annual leave amounts and crediting the leave to the recipient's leave account in the Personnel/Payroll System database.
  - b. Notify Supervisor or designated representative and leave recipient of the leave transfer amounts and effective pay periods.
  - c. Issue time recording instructions for the leave transfers.
  - d. Prepare necessary documentation to apply transferred annual leave retroactively to LWOP or to liquidate advanced annual leave or sick leave.
  - e. Track the accrual and use of personal annual and sick leave during the employees transferred leave status.
  - f. Track the accrual and use of "frozen" annual and sick leave during the employees transferred leave status.
  - g. Prepare leave audits, as necessary.
  - h. Post leave recipient on the web page or notifying the responsible person in the region, station, or Area to allow for posting to the web page.
  - i. Accept leave donations only to the extent necessary to carry the recipient through the anticipated duration of the medical emergency.
  - j. Certify the Leave Transfer Program Donor Application, Form AD-1043.
- 2. The following documents must be kept in the leave transfer file of each leave recipient and the HRM maintains these files for 3 years after the medical emergency terminates:

- a. Recipient application and all supporting documentation.
- b. Donor application(s).
- c. Copies of the recipient's T&As all pay periods during which the recipient participates in the program.
- d. Reports from the leave recipient, or their personal representative, on the status of their medical emergency.
- e. Written notice of termination of the medical emergency from the leave recipient to their Supervisor and the HRM.
- f. Requests for extensions and approvals of extensions.
- g. Any other correspondence associated with the case.

### **36.15 – Privacy Requirements**

1. The rights of the leave recipients and leave donors must be respected. Medical information obtained as part of the leave donation program shall be handled in accordance with law and regulation. No information should be revealed to anyone (including to a recipient who wants to thank donors) without the written and specific permission of the person whose privacy will be breached. Obtain the consent of the recipients before revealing their names or their specific circumstances to other than those needing the information to process the leave transfers.
2. The leave recipient can only receive annual leave donations from employees who specifically designate the recipient to receive their donations.
3. Leave recipients assume the responsibility for the solicitation of leave donations. The leave recipient may request that:
  - a. A notice of the employee's case is published on the Region, Station, or Area webpage.
  - b. Their Supervisor notify employees in the leave recipient's work area that the employee is an approved leave recipient and request that an email to solicit donations be issued in their immediate work area.
  - c. Their local union is notified.
4. The HRM may publicize the leave recipient's need for leave donations to some extent. Upon the leave recipient's request, the HRM shall issue a call letter to the employee's immediate work area and post a notice of the employee's case on the HRM webpage. A notice must be issued each quarter listing current leave recipients and direction for donating leave.

5. Efforts to solicit leave donations should not be presented in such a way as to coerce or intimidate employees into donating annual leave.

### **36.2 – Voluntary Leave Bank Program**

The Forest Service does not have a Voluntary Leave Bank Program (VLBP) and employees cannot contribute leave to another agency's leave bank program.

### **36.3 – Emergency Leave Transfer Program**

1. The Emergency Leave Transfer Program (ELTP) is used when the President declares a major natural disaster or national emergency (such as floods, earthquakes, tornadoes, bombing, and so forth), and a substantial number of Federal employees are severely and adversely affected. The President has the authority to declare the emergency and effect the ELTP for that emergency.
2. The emergency situation must have caused severe hardship to the employee or to a family member of the employee to such a degree that the employee's absence from work is required.
3. A leave recipient is not required to exhaust their accrued annual or sick leave before receiving donated leave under this program.

#### **36.31 – Administrative Procedures for Emergency Leave Recipient**

Sections 36.31a through 36.31c outline the administrative procedures to process an ELTP leave recipient's application, including the limit, transfer, and use of donations by a recipient.

#### **36.31a – Application for Becoming an Emergency Leave Recipient**

1. An employee, who is personally or has a family member that is adversely affected by the major natural disaster or national emergency as declared by the President, and who needs additional time off from work without having to use the employee's own paid leave (annual and sick leave) is eligible to apply to become an ELTP recipient.
2. Any employee may apply to become an ELTP recipient through submission of form OPM 1637, Application to Become a Leave Recipient Under the Emergency Leave Transfer Program, which contains the following information:
  - a. Identification of who is affected by the emergency.
  - b. The dates when the emergency began and ended.
  - c. The number of hours of donated leave requested.
  - d. A statement of the needs for leave from the ELTP and any available documentation to support the declared need.
  - e. The signature of the applicant or their designee.

### **36.31b – Approval of Application to Become an Emergency Leave Recipient**

1. The authority to approve or disapprove a potential ELTP leave recipient's application (in block 13 of OPM Form 1637) is delegated to Regional Foresters, Station Directors, Institute of Tropical Forestry Director, and Area Director. This authority may be re-delegated in accordance with FSM 6100, Delegations of Authority.
2. The HRM shall tentatively approve the application (in block 14 of OPM Form 1637) and forward to the USDA, Office of Human Resources Management (OHRM) for the formal approval process.
3. If the application is approved, the HRM shall notify the leave recipient within 10 calendar days (excluding Saturdays, Sundays, and holidays) after the date the USDA OHRM, approves or disapproves the application.

### **36.31c – Transferred Emergency Leave**

1. An employee may receive a maximum of 240 hours of donated annual leave at any one time for each disaster or emergency.
2. Donated annual leave may only be used for purposes related to the disaster or emergency.
3. Donated annual leave may be:
  - a. Substituted retroactively for any period of LWOP used because of the adverse effects of the declared disaster or emergency. Substitution may begin no earlier than the date of the disaster or emergency.
  - b. Used to pay back an indebtedness incurred by the emergency leave recipient for advance annual or sick leave used due to the adverse effects of the disaster or emergency.
4. Annual and sick leave must continue to accrue at the same rate as if the employee were in a paid leave status. Any annual leave accrued that causes an employee to be in a use/lose annual leave category at the end of the leave year must continue to be subject to the same rules on carry-over and restoration of annual leave.
5. Donated annual leave may not be:
  - a. Included in a lump sum payment.
  - b. Made available for re-credit upon re-employment by a Federal agency after returning to Federal service after a break in service.
  - c. Used to establish initial eligibility for immediate retirement or to acquire eligibility to continue health benefits into retirement.

### **36.32 – Emergency Leave Donors**

1. An employee in any Executive agency may donate annual leave or restored annual leave for transfer to employees of employee's agency or to employees of other agencies who are adversely affected by the major disaster or emergency through the completion of OPM Form 1638, Application to Become a Leave Donor Under the Emergency Leave Transfer Program.
2. Employees may not donate sick leave, compensatory time, or credit hours to the ELTP.
3. Employee donation of annual leave must indicate the name of the emergency, but may not specify a leave recipient. A leave donor may not contribute less than 1 hour of annual leave, nor more than 104 hours.
4. Annual leave donated under the ELTP may not be applied against limitations on the donation of annual leave under the VLTP.

### **37 – Other Paid Leave**

Sections 37.1 through 37.5 outline other types of paid leave including military leave, home leave, funeral leave, court leave, and bone marrow or organ donor leave.

#### **37.1 – Military Leave**

1. The Forest Service cooperates with the military services in granting leave to employees to participate in active duty, active duty training, or inactive duty training.
2. Employees, who are entitled to military leave with pay and who are ordered to report for military training or duty, shall be released from duty for any period of military leave to which they are entitled.

The employee shall be granted the requested annual leave or LWOP, unless the order is for an initial period of active duty for training for more than 3 consecutive months, when a full-time or part-time employee (other than a temporary employee) who is a Reservist or National guardsman is not entitled to, does not request, or has exhausted the military leave.

3. Reservists called to active duty for more than 30 days shall be placed on LWOP once available military leave or other requested leave has been exhausted. If they so request, Reservist may be separated instead by military termination.

#### **37.11 – Employees Eligible for Military Leave**

1. Full-time and part-time employees (16 to 32-hour tour per week) with permanent, term appointments or temporary appointments not limited to 1 year, are entitled to military leave.
2. Employees with temporary appointments not to exceed 1 year or with intermittent work schedules are not entitled to military leave.

### 37.12 – Regular Military Leave

1. Employees who receive inquiries regarding their availability for military leave shall consult with their Supervisor so that requests may be made to stagger absences to prevent work programs from being disrupted.
2. Amount of Regular Military Leave for Full-Time Employees. Military leave of 15 days (or 120 hours) is available on a fiscal-year basis for full-time employees.
3. Amount of Regular Military Leave for Part-Time Employees. Part-time employees accrue a prorated amount. Determine the amount of military leave for an eligible part-time employee by dividing 40 into the employee's regular weekly tour and multiplying that figure by 15.
4. Accrual. Military leave accrues at the beginning of each fiscal year. All Guard or Reserve members, including those on extended active duty, shall be credited with 15 days (or a lesser amount for part-time employees) of paid military leave on October 1 of each year.
5. Carryover. Military leave accumulates for use in the next fiscal year until it totals 15 extra days at the beginning of a fiscal year, to the extent not used in a fiscal year. Therefore, a full-time eligible employee could take up to 30 days in a fiscal year (15 days regular and 15 days carryover).
6. Leave Charge. The minimum leave charge is 1 hour.
  - a. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.
  - b. Employees who request military leave for inactive duty training will only be charged the amount of military leave necessary to cover the period of training and necessary travel.
  - c. Members of the Reserves and/or National Guard will not be charged military leave for non-duty days and holidays that occur within the period of military service.
7. Funeral Honors Duty. An employee who is a member of the National Guard or a Reserve component of the Armed Forces may use military leave to attend to funeral honors duty under 10 U.S.C. 12503 and 32 U.S.C. 115.
8. Time Coding. Military leave should be recorded as TC-65 or TC-68 on the employee's T&A.
9. Requirement Regarding Evidence. Application for military leave must include a copy of the military orders directing the employee to report for active duty or training.
10. Effect on Civilian Pay. An employee on regular military leave receives full civilian salary, as well as military pay.

11. Restoration. All employees who have received military leave must be restored to the position they held when ordered to duty.

### **37.13 – Emergency Military Leave to Aid in Law Enforcement or In Support of a Contingency Operation**

1. Employees with continuing appointments and scheduled tours of duty who are members of a Reserve component of the Armed Forces or the National Guard are entitled to military leave with pay to:

a. Enforce the law or provide assistance to civil authorities in the protection of life and property, including in cases of disaster, such as floods, earthquakes, and hurricanes.

b. In support of a contingency operation as defined in 10 USC 101(a)(13), including during a war or during a National emergency declared by the President or Congress.

2. Emergency military leave is limited to a maximum of 22 work days or 176 hours in a calendar year. Charge the leave in units of hours, rather than days. An employee who has been activated in support of a National emergency and whose duty extends into the next calendar year is entitled up to an additional 22 days of military leave.

### **37.14 – Effect of Emergency Military Leave on Civilian Pay**

1. Employees on emergency military leave are entitled to the same compensation, including premium pay that the employee would have received had they worked their regularly scheduled work hours.

2. For emergency military leave, employee's civilian pay is reduced by the amount of military pay (including differentials and allowances, except for per diem and travel) for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave in order to retain both civilian and military pay.

3. Do not credit against civilian pay, military pay received for service for days on which the employee does not receive civilian pay. This generally means designated non-work days, usually Saturday and Sunday, but it also includes days on which an employee has completed the scheduled tour of duty before entering on active military service.

4. Employees on emergency military leave shall contact the HRM to obtain information and eligibility requirements prior to deployment. Employees shall provide all military Leave and Earnings Statements for the deployment period to the HRM to determine eligibility/payment of funds that may be due. Requests for emergency military leave will not be processed until military Leave and Earnings Statements for the deployment period have been provided to the HRM.

### **37.15 – Use of Other Leave for Emergency Military Service**

1. An employee ordered to active military duty to aid in the enforcement of the law must use the 22 days of military leave available for this purpose.
2. When this leave is exhausted, the employee may use annual leave or any other unused regular military leave from their 15-day entitlement.
3. An employee shall not be granted administrative leave for this type of duty.

### **37.16 – Military Leave for a Member of the District of Columbia National Guard**

A Federal civilian employee, who is also a member of the District of Columbia (DC) National Guard, is entitled to unlimited military leave to participate in a "parade or encampment" authorized under Title 39 of the District of Columbia Code. Generally, this category of military leave is limited to drills and training under the authority of the Commanding General of the DC National Guard.

### **37.17 – Reserve and National Guard Technicians**

Reserve and National Guard Technicians are entitled to an additional 44 workdays of military leave for duties overseas under certain conditions (5 U.S.C. 6323(d)).

### **37.18 – Administrative Leave Upon Returning from Military Duty**

Employees returning from military active duty shall be granted 5 workdays of administrative leave, immediately upon the employee's return from active duty and prior to their or resumption of work for the Agency. In order to receive 5 days of excused absence, an employee must spend at least 42 consecutive days on active duty in support of the Overseas Contingency Operation. Employees are entitled to 5 days of excused absence only once in a 12-month period. A new 12-month period begins after the first use of excused absence. Time is coded to TC-66.

### **37.2 – Home Leave**

1. Home leave is applicable only to employees serving abroad. Home leave does not apply to Forest Service employees in Alaska or Hawaii. Employees in Alaska and Hawaii, serving under transportation agreements, are eligible for travel or transportation expenses for return trips to the point from which they transferred. (See FSH 6509.33, GSA's Federal Travel Regulations).
2. Employees serving abroad are entitled to home leave, travel time, exclusive of leave, and 45-day annual leave accumulation (5 CFR 630.302).
3. Refer to 5 CFR 630 subpart F for additional information on Home Leave.
4. Home leave should be recorded as TC-69 on the employee's T&A.

### 37.3 – Funeral Leave for Members of the Armed Forces

In certain situations, employees may be entitled to absence without charge to leave to attend funerals for current or former military servicemen and women and for employees killed in the line of duty. These entitlements are described below.

1. Funeral Leave for Combat-Related Death of an Immediate Relative. Funeral leave must be granted to allow an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as a result of a wound, disease, or injury incurred while serving as a member of the armed forces in a combat zone. Grant funeral leave as requested not to exceed 3 workdays. The 3 days do not need to be consecutive and the leave may include time for travel. If additional leave is required, annual leave, sick leave, or LWOP may be requested as appropriate. (5 U.S.C. 6326 and 5 CFR 630, subpart H.)

2. Time Coding. Funeral leave should be recorded as TC-66 on the employee's T&A.

### 37.4 – Court Leave

Leave entitlements for certain absences for court related purposes are granted under 5 U.S.C. 6322. Court leave should be recorded as TC 32-66 on the employee's T&A.

This section does not apply when an employee is summoned or assigned by the Forest Service to testify in an official capacity or to produce official records at a judicial proceeding. In these situations, the employee is in official duty status, as distinguished from leave status, and entitled to regular pay (TC-01).

See section 37.46 to determine when a court-related absence should be charged as administrative leave, official duty, annual leave, or LWOP. The general rules to approve administrative leave for an employee's court related duty are as follows:

1. An employee is entitled to paid time off, without charge to personal leave, for service as a witness in a case to which the U.S. Government, the District of Columbia, or a State or local government is a party or when called to jury duty.
2. An employee eligible for administrative leave for court-related services who is on annual leave, compensatory time off in-lieu of overtime pay, compensatory time off for travel, credit hours or sick leave when performing court-related service will have administrative leave substituted for the period of court-related service performed. If an employee who is otherwise eligible for administrative leave is in nonpay status (furlough, LWOP, and so forth) when they perform court-related service, the employee may be granted administrative leave.
3. A copy of the initial summons should be provided to the Supervisor before the reporting date when administrative leave is requested for court-related purposes.
4. An employee is responsible for informing their Supervisor when they are excused from jury or witness service for 1 day or more or for the substantial part of a day.

5. Upon completion of the court-related service, the summons and the court certificate identifying the court, the employee, dates of service, daily fee, the total fee paid, and reimbursement for expense, must be filed with the office copy of the T&A.

### **37.41 – Jury Leave**

Jury leave may be granted to permanent and temporary employees who are on full-time or part-time tours. Employees on intermittent tours of duty are not eligible. Jury leave should be recorded as TC 32-66 on the employee's T&A.

### **37.42 – Duration of Jury Service**

1. Grant an employee who is under summons from a court to serve on jury leave for the entire period, regardless of the number of hours per day (up to the employee's scheduled tour of duty, that is, 8, 9, or 10 hours) or days per week actually served on the jury during the period.
2. When the employee is released from jury duty for a full workday, or a substantial part of a workday, the employee should return to work or apply for other leave.
  - a. If the employee does not return to work, appropriate leave (such as annual leave or LWOP) will be charged.
  - b. Administrative leave (TC-66) may be granted for the remainder of the workday, if it is not practical for the employee to return to duty because of the distance between the court and the duty station, or if the employee is assigned to night work.

### **37.43 – Witness Service in a Non-Official Capacity**

The provisions below apply to judicial proceedings, including any action, suit, condemnation, preliminary, information, or other proceeding of a judicial nature. The summons must be by a court or by an authority responsible for conducting such proceedings, but the word "summoned" does not intend the necessity for a subpoena, but that the summons is an official request, invitation, or call evidenced by an official writing from the court or authority responsible for the conduct of the proceeding.

1. An employee with a regularly scheduled tour of duty who would otherwise be in a pay or duty status shall be excused from work (TC-66) without loss of pay or charge to leave when summoned as a witness on behalf of the Federal, District of Columbia, State, or local government.
2. When an employee is summoned as a witness on behalf of a private party in connection with any judicial proceeding to which the U.S., District of Columbia, or a State or local government is a party, the employee shall be excused from work (TC-66) without loss of pay or charge to leave during the time absent as a witness.

3. If the witness serves in a nonofficial capacity on behalf of a private party, in which a government body is not a party to the judicial proceeding, the employee's absence must be charged to annual leave or LWOP, and the employee may accept fees and expenses incidental thereto.
4. An employee may not be excused from work without charge to leave for time spent as a plaintiff or defendant testifying on their behalf. Annual leave or LWOP must be requested for this purpose.
5. Strictly voluntary appearances in a judicial proceeding are excluded from court leave coverage.

#### **37.44 – Payments Received for Court Related Services**

An employee who has been granted administrative leave for court services (jury or witness) or who participates in a judicial proceeding in an official capacity is not entitled to retain any fee for such service.

#### **37.45 – Jury Fees**

1. An employee granted administrative leave for jury or witness duty shall collect from the State or municipal court all the fees and allowances payable on account of the jury service. The employee may not waive or refuse to accept them.
2. The employee shall forward all fees and allowances received to the HRM except:
  - a. Any specific allowances provided by the court to reimburse jurors or witnesses for out of pocket expenses such as travel, meals, or other expenses incurred, and
  - b. Any excess amount received from the jury or witness fee which is over the amount of Forest Service salary due the employee.
3. An employee who is not granted administrative leave to participate in a judicial proceeding is entitled to retain the usual fees related to such witness service.
4. If an employee testifies in an official capacity or is assigned as an official duty to produce official records on behalf of a State or local government or a private party, the employee shall collect the authorized witness fees and allowances for expenses of travel and subsistence. The amount of these fees shall be credited against amounts payable to the employee by the Forest Service for salary and travel expenses.

### 37.46 – Employee Absences for Court-Related Services

The following exhibit summarizes employee absences for court-related services.

#### **37.46 – Exhibit 01**

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

###### **1. Jury Service**

Type of absence: Administrative Leave (TC-66)

Disbursement of fees received: Give to HRM

Forest Service payment for travel expenses: No

###### **2. Witness Service In an Official Capacity**

Type of absence: Official Duty (TC-01)

Disbursement of fees received: Give to HRM

Forest Service payment for travel expenses: Yes

Note: The amount of travel expenses to be reimbursed will be offset by the amount of the fee paid by the court, authority, or party which caused the employee to be summoned.

###### **3. Witness Service In an Unofficial Capacity**

###### *A. When a party is U.S., DC, State, or local government*

Type of absence: Administrative Leave (TC-66)

Disbursement of fees received: Give to HRM

Forest Service payment for travel expenses: No

###### *B. When a party is not U.S., DC, State, or local government*

Type of absence: Annual Leave or LWOP

Disbursement of fees received: Employee Retains

Forest Service payment for travel expenses: No

### 37.5 – Bone Marrow or Organ Donor Leave

1. Employees are entitled to be excused from duty without loss in pay or charge to personal leave for bone marrow and organ donation under 5 U.S.C. 6327. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

2. An employee may use up to 7 days (or 56 hours) of paid leave each calendar year to serve as a bone-marrow donor.

3. An employee also may use up to 30 days (or 240 hours) of paid leave each calendar year to serve as an organ donor.

4. The length of absence for organ donation procedures will vary depending upon the medical circumstances of each case. For medical procedures and recuperation requiring absences longer than 30 days, Supervisors are encouraged to accommodate employees by granting additional time off in the form of sick leave, annual leave, advanced sick and/or annual leave, LWOP, earned credit hours, earned compensatory time off, or donations from the VLTP.

5. Bone marrow donation should be coded as TC 04-66 and organ donation as TC 05-66 on the employee's T&A.

### **37.6 – Disabled Veteran Leave**

The Wounded Warriors Federal Leave Act of 2015 (Public Law 114-75) provides a one-time credit of Disabled Veteran Leave to an eligible Federal employee, who is a veteran with a service-connected disability rated at 30 percent or more, for purposes of undergoing medical treatment for such disability for which sick leave could normally be used. Disabled Veteran Leave is a form of paid leave, which must be used during the 12-month period beginning on the first day of employment (including reinstatement after a 90-day or greater break in service or return to duty in their civilian positions after a period of military service). Specific provisions regarding this type of leave are found in 5 CFR 630, subpart M.

#### **37.61 – Purpose of Disabled Veteran Leave**

An employee may use Disabled Veteran Leave only for the medical treatment of a qualifying service-connected disability. Code time as TC 63-62.

#### **37.62 – Eligibility**

Employees hired on or after November 5, 2016, or following reinstatement after a 90-day or greater break in service, or following return to duty in their civilian positions after a period of military service, with a service-connected disability rated at 30 percent or more as determined by the Veterans Benefits Administration.

#### **37.63 – Amount and Leave Period**

##### **1. Amount of Leave.**

- a. Full-time employees receive 104 hours of Disabled Veteran Leave.
- b. Part-time, temporary, permanent seasonal, or employees with an uncommon tour of duty are provided a proportionally equivalent amount of leave. For example, a temporary seasonal employee with a not-to-exceed 6-month appointment would receive 52 hours of Disabled Veteran Leave (1040 hours in appointment/2080 annual hours x 104 benefit hours = 52 hours).
- c. Intermittent employees are not eligible for this leave benefit.

d. The leave credit may be subject to offset. For example, if an employee has a sick leave balance on their first day of eligibility, the total number of Disabled Veteran Leave hours will be reduced by the number of sick leave hours the employee has to their credit.

2. Leave Period.

a. Disabled Veteran Leave is available during the continuous 12-month period following the first day of employment.

b. The 12-month eligibility period starts on the first day of employment or the effective date of a qualifying disability (that is to say, when a Veterans Benefits Administration disability rating is issued after the hire date).

c. This leave category is a one-time benefit. Once an employee has been provided the leave, they will not have any further entitlements to the benefit.

d. The leave expires at the end of the 12-month eligibility period and any unused leave is forfeited.

3. Transfers. If an employee transfers to another agency within the 12-month eligibility period, any remaining leave will also transfer.

4. Break in Service. An employee is entitled to a re-credit of any unused leave if the employee has a break in service and is reinstated during the 12-month eligibility period.

5. Disabled Veteran Leave may not be included in a lump sum payment.

**37.64 – Requirement for Granting Disabled Veteran Leave**

1. Use of Leave for Medical Treatment. Leave may be used only for the purpose of medical treatment of a qualifying service-connected disability.

2. Prompt Notification.

a. An employee must request approval for leave in advance.

b. If the absence was unforeseeable the employee shall notify their supervisor as early as practicable on the first day of such absence or, if unable for a legitimate reason, as soon as possible, thereafter.

c. Failure to request leave appropriately or to provide prompt notification could result in the absence being charged to absence without leave (AWOL).

3. Requesting Approval of Leave. An employee shall apply for Disabled Veteran Leave in advance and in writing, or if unforeseeable, within the pay period in which the employee returns to duty.

4. Evidence Needed. The application for leave must include a personal self-certification from the employee that the Disabled Veteran Leave is being used in connection with a qualifying disability (5 CFR 630.1306(b)(1)).

5. Medical Certificates. Supervisors may, at their discretion, request medical certification issued by a healthcare provider that the employee used such leave for the purpose of receiving treatment for the service-connected disability.

a. When a supervisor requests medical certification, an employee must provide the information within 15 days of the supervisor's request. If the employee is unable to provide evidence, despite the employee's diligent, good-faith efforts, they must provide it within a reasonable period of time, but no later than 30 calendar days after the supervisor makes the request.

b. If the employee fails to provide the required evidence within 30 days, they are not entitled to Disabled Veteran Leave.

c. Leave may be granted when the supervisor is aware (or should be aware) that the employee is too ill to request leave and is unable to provide the required evidence within 30 days.

6. Retroactive Usage. If an employee did not provide documentation of eligibility for Disabled Veteran Leave until after a period of absence for a purpose later determined to be qualifying, the employee may retroactively substitute Disabled Veteran Leave during that absence (except for periods of AWOL or suspension).

a. The medical treatment must have occurred during the employee's 12-month eligibility period.

b. An employee with a pending disability claim under review at the Veterans Benefits Administration should keep records regarding medical treatment for disability covered by the claim.

### **38 – Excused Absence and Administrative Leave**

Sections 38.1 through 38.8 provides Forest Service policy on excused absence and administrative leave.

1. An excused absence is granted to an employee who performs or participates in officially sanctioned government activities not within the scope of their regular duties. Excused absence should be recorded as TC-01 on the employee's T&A.

2. An employee on administrative leave does not act within the employer-employee relationship and is not deemed to be subject to the control or responsibility of the Forest Service as an employer. Administrative leave should be recorded as TC-66 on the employee's T&A.

### 38.1 – Purpose and Authority

1. Purpose. Excused absence and/or administrative leave may be granted in limited circumstances which should:

- a. Be directly related to the Forest Service mission.
- b. Enhance the professional development or skills of the employee in their current position.
- c. Be officially sponsored/sanctioned by the head of the Forest Service.

2. Authority. The authority to grant reasonable, short-term excused absence and/or administrative leave is authorized and approved in accordance with the requirements set forth in this policy.

- a. First-line Supervisors may approve up to 1 hour of administrative leave.
- b. Longer periods may be granted by the official having delegated authority (see FSM 6100 for delegations of authority).

### 38.2 – Situations Appropriate for Granting Excused Absence and Administrative Leave

Management may grant excused absence and/or administrative leave without charge to personal leave in the situations listed below. Although it specifically addresses many situations where excused absence and/or administrative leave may be granted, it is not intended to cover all possible instances. Excused absence should be coded as TC-01 and administrative leave should be coded as TC-66 on the employee's T&A.

1. Administrative Judgment. Supervisors may grant administrative leave to employees for up to 1 hour when practical to do so without serious interference of program accomplishments. For example, an excused absence (TC-01) may be granted to attend an office luncheon or administrative leave (TC-66) may be granted for a morning traffic delay.

2. Blood Donation. Any employee who makes a donation of blood without compensation may be authorized up to 4 hours of administrative leave on the day the blood is donated (including the time needed for the donation) for recuperation purposes. Compensated blood donors shall take annual leave or LWOP for any period of absence required for that purpose. Code time as TC 01-66.

3. Change of Official Station. Non-temporary employees who in the interest of the Federal Government are making a change of official station that involves relocation of family residence may be granted time off without charge to personal leave or loss of pay during the regularly scheduled administrative workweek. The period of time granted for the administrative leave shall not exceed 80 hours of pay status for any official move under these regulations. In cases of dual-career families, each employee shall receive a valid Federal job offer in order for each employee to receive the 80 hours of administrative leave. Code time as TC 37-66.

a. Administrative leave is offered to cover such activities as:

(1) Locate housing (house hunting) at the new duty location and includes travel time. See GSA's Federal Travel Regulations (FSH 6509.33) for additional guidance regarding travel time.

(2) Arrange pre-move and post-move which include but not limited to the stop and start of utility services, arrangement of daycare, registration of vehicles, establishment of banking services, enrollment of children in school, postal services, and so forth.

b. The leave does not cover activities such as:

(1) Packing and unpacking performed by the employee. This would be personal leave.

(2) Acting as the Agency representative when overseeing official packers. All the time the employee is acting as the Agency representative on the moving contract is compensable (TC-01).

(3) The on-the-road travel time involved in the final one-way move is official duty status within the parameters of the employee's regularly scheduled administrative workweek (TC-01).

4. Civil Defense Activities. Executive Order 10529 issued April 22, 1954, provides for the participation of Federal employees in State and local civil defense activities. In cooperating with State and local civil defense officials in pre-emergency training programs and test exercises, employees assigned to such activities may be granted administrative leave for a reasonable amount of time up to 40 hours in a calendar year for this purpose. Code time as TC-66.

5. Conferences and Conventions. Employees may be granted an excused absence to attend conferences, conventions, or training when attendance will serve the interest of the Forest Service and the Federal government. Excused absences to attend conferences or conventions are restricted to those instances in which the employee is an official representative of the Forest Service or is a contributor to the agenda. Code time as TC-01.

6. Disciplinary or Medical Actions. Employees who are the subject of an investigation involving allegations of serious misconduct wherein workplace safety could be compromised, or those whose workplace behavior represents a potential threat to themselves or others, may be placed on administrative leave. Such periods of time must be limited, to the extent possible, in order to effectuate timely disciplinary and/or administrative actions. Code time as TC 31-66.

7. Draft Registration. Employees shall be granted administrative leave from their scheduled tour of duty to register in accordance with the Military Selective Service Act. Code time as TC-66.

a. Administrative leave may be granted only to an employee subject to the registration; and

b. The employee shall register as provided in the Act.

An employee may register before a board having jurisdiction in the area of their permanent home, or wherever the employee may be on the days the employee is subject to registration, whichever results in the shorter period of administrative leave.

8. Drug Testing. The Supervisor shall grant administrative leave for the period of time necessary to complete the examination when the Forest Service requests an employee take a drug test. The period of time associated with undergoing additional tests and examinations must be charged to sick or other appropriate leave if a medical condition is discovered or medical suspicions arise as a result of the examination and it becomes necessary to hospitalize the employee or require more extensive tests and examinations. This provision also applies when there are periods of duty between the initial examination and the additional tests, examinations, or hospitalizations that may be required. Code time as TC-66. Bargaining unit employees should see their respective Collective Bargaining Agreement.

9. Early Dismissals for Holidays. Only the Secretary, USDA, may grant administrative leave for holiday-related early dismissals of Forest Service employees. This authority may be re-delegated, at the sole discretion of the Secretary, to the Assistant Secretary for Administration or their designee. The employee may not use the administrative leave on another day when the Secretary announces an early dismissal prior to a holiday and the employee remains on duty. Code time as TC-66.

10. Employment Interviews. Employees shall be granted administrative leave to participate in local in-person or any telephonic interviews for other USDA jobs. Supervisors may grant up to 1 hour of administrative leave for employees to participate in non-USDA job interviews when their participation is to the benefit of the Forest Service, such as, during downsizing or reorganization. Code time as TC-66.

11. Funeral of an Employee: The conduct of ceremonies to honor the contributions of deceased employees (and as appropriate, non-employees) is an important aspect of Forest Service culture. Such ceremonies are a tribute to the families of the deceased and further serve the interest of the Forest Service. Activities to honor the deceased will be conducted in a manner that displays an appropriate level of respect. In addition to employee involvement, Line Officers are expected to approve and be fully aware of the amount of resources devoted to the ceremony as measure of providing appropriate respect for the deceased and as managers responsible for the wise and efficient use of government property.

a. Attending the Funeral or Memorial Service of a Co-Worker. Employee attendance at the funeral or memorial service of a co-worker is considered appropriate for the purpose of sustaining employee morale, maintaining employee productivity, and reinforcing to the Forest Service and others the significance of the deceased to the Forest Service.

Employees may be granted administrative leave for the time needed to attend the local funeral or memorial service of a fellow employee (within the local travel commuting area as defined by the Federal Travel Regulations, FSH 6509.33-301-51). Administrative leave to attend a funeral or memorial service of a co-worker may be approved by the highest local Line Officer. Code time as TC-66.

Upon their request, co-workers with a close relationship to the deceased who wish to attend a funeral or memorial service of a fellow employee, outside the local travel commuting area, may be granted a reasonable amount of administrative leave (TC-66) only for the time necessary to attend the funeral service. Time associated with travel to the event may not be charged as administrative leave and must be borne by the employee. The Agency must not bear the costs of travel and no appropriated funds may be used for travel expenses incurred.

b. Serving as an Official Agency Representative at the Funeral or Memorial Service of a Forest Service Employee. The appropriate Deputy Chief, Regional Forester, or Station Director, may identify individuals who will serve as Agency representatives to serve the role of family liaison, escort the victim, represent the Agency at the service, or provide other functions as required as a result of the fatality. An Agency representative(s) may be designated regardless of the duty status of the victim at the time of death.

Should the Forest Service have a choice of an appropriate representative between someone who is located outside or within the official duty station of the deceased employee, then cost of travel should be considered in the determination. Code time as TC-01.

(1) Death Occurred While Performing Their Official Duties. Unless otherwise approved by the Chief, Deputy Chief, Regional Forester, or Station Director, the number of employees who may be authorized to attend memorial services on official time and at government expense is limited to 25. The approving official shall approve in writing all employees attending at government expense and account for the amount of agency resources being committed to the memorial service. Employees attending as designated agency representatives shall use TC-01 on their T&A.

(i) Law Enforcement Personnel or Wildland Firefighters Killed in the Line of Duty. Law enforcement officers, criminal investigators, or firefighters, who are authorized, may be excused from duty without loss or reduction in pay or leave. When so excused from duty, attendance at such service must for the purposes of 31 U.S.C. 1345(a), be considered to be an official duty of the officer or firefighter (5 U.S.C. 6328). Employees attending as designated agency representatives must use TC-01 on their T&A.

(ii) Official Agency Representatives. The appropriate official (Deputy Chief, Regional Forester, Station Director, or Director of Law Enforcement and Investigations (LEI)) shall designate official agency representatives who may assist in plans to take an active part and/or attend the honors funeral or memorial service of

law enforcement or firefighter personnel killed in the line of duty and is deemed official business. Unless otherwise approved by the Chief, Deputy Chief, Director of LEI, Regional Forester, or Station Director, the number of employees who may be authorized to attend the memorial services on official time and at government expense is limited to 25. The appropriate official shall approve the written employee attendance for those who attend at government expense and account for the amount of agency resources being committed to the memorial services. In order to assure representation of employees from units served by a law enforcement employee killed in the line of duty, the Director of LEI shall consult with the appropriate Line Officers with regard to attendance at services.

(iii) Use of the Forest Service Honor Guard. The appropriate Deputy Chief, Regional Forester, Station Director, or Director of LEI may approve the use of the Forest Service Honor Guard for the memorial service of an employee whose death occurred during the performance of their official duties. Travel expenses may be authorized.

(iv) Logistical Support. The Chief, appropriate Deputy Chief, Regional Forester, Station Director, or Director of LEI may assign agency resources and employees to support the memorial service of an employee whose death occurred while in the performance of their duties. Such resources may be committed in addition to limitations specified in this directive.

(2) Death Did Not Occur in the Performance of Their Official Duties. An official representative(s) may be designated and approved in writing to travel to and attend the funeral (70 Comptroller General 200) on official business when the appropriate Deputy Chief, Regional Forester, or Station Director determines Forest Service representation at the funeral of a currently employed Forest Service employee could help employee morale and reinforce the significance of the deceased to the Forest Service. The number of employees who may be authorized to attend a memorial service on official time and at government expense is limited to five unless otherwise approved by the Chief, Deputy Chief, Regional Forester, or Station Director. The approving official shall approve in writing all employees attending at government expense and account for the amount of agency resources being committed to the memorial services. The costs associated are charged to the local sponsoring units. Employees attending as designated agency representatives shall use TC-01 on their T&A.

(i) Law Enforcement Personnel or Wildland Firefighters Not Killed in the Line of Duty. The appropriate Deputy Chief, Regional Forester, Station Director, or Director of LEI may assign employees as official agency representative to plan and/or attend the funeral or memorial service of law enforcement or firefighter personnel whose death occurs while off duty. The number of employees who may be authorized to attend memorial services on official time and at government expense is limited to five unless otherwise approved by the Chief, Deputy Chief, Regional Forester, or Station Director. Employees who attend as official agency representatives shall use TC-01 on their T&A.

(ii) Use of the Forest Service Honor Guard. Only the Chief or designated acting may approve the use of the Forest Service Honor Guard in a memorial service honoring Forest Service employees whose death did not occur while in the performance of their official duties, employees from other Federal agencies, or non-employees where the interests of the Government can be benefited. Travel expenses may be authorized.

(iii) Logistical Support. Only the Chief or designated acting may approve the use of employees and other resources to support the memorial service of other Federal employees or non-employees. Such resources may be committed in addition to limitations specified in this directive.

c. Non-Employee Fatalities. The Chief designates individuals as official Agency representatives to serve the role of family liaison, escort the victim, represent the Agency at the service, or provide other functions as required as a result of the fatality. Only the Chief may approve resources and designate employees to act in an official capacity to represent the Forest Service for non-employee fatalities. Employees who attend as designated agency representatives shall use TC-01 on their T&A.

Line Officers may authorize administrative leave (TC-66) to attend the ceremony of a non-employee fatality when it is found to be in the best interest of the Forest Service. For example, to honor a State wildland firefighter who was killed in the line of duty, Local Line Officers may authorize employees (not designated as official agency representatives), who in the best interest of the Agency and who wish to attend in their personal capacity, may be granted a reasonable amount of administrative leave only for the time necessary to attend the funeral service. Time associated with travel to the event may not be charged as administrative leave and must be borne by the employee. The Agency must not bear the costs of travel.

12. Leave Prior to or Upon Completion of Travel. Prior to or upon completion of travel, employees may be excused up to 2 hours with Supervisory approval without charge to leave where circumstances are such that administrative leave is appropriate. Code time as TC-66.

13. Local, State, Territorial, and Foreign Holidays. Employees may be granted administrative leave when an office is closed and work cannot be properly performed due to a local, State, territorial or a foreign holiday. For local holidays code time as TC 23-66 and for State holidays code time as TC 22-66.

14. Officially Approved or Sponsored Activities. Officially approved or jointly sponsored activities of a quasi-official or public nature, or activities that may contribute to the training or morale of employees involved, may be granted an excused absence. Employees' participation in such activities is subject to the approval of their Supervisors. Examples include periodic civil rights celebrations, employee award ceremonies, and so forth. Code time as TC-01.

15. On the Job Injuries. All absences related to on-the-job injury must be charged consistent with the OWCP regulations. (See FSH 6109.12, chapter 30 for additional information).

a. An employee injured while at work may be granted administrative leave for the time needed for first-aid treatment and shall code this as TC 02-66.

(1) This time includes the time used to travel and receive treatment on the day of the occurrence or the first appearance of the symptoms.

(2) The time granted cannot exceed the employees regularly scheduled administrative workday.

b. Any time after the day of occurrence may be charged to Continuation of Pay (TC-67), annual leave, or sick leave.

16. Participation in Emergency Rescue or Protective Work. An employee may be granted administrative leave without charge to personal leave to participate in a civilian capacity in emergency rescue or emergency protective work during official working hours. Major emergency situations include but are not limited to extreme weather conditions or disasters such as fire, flood, or other natural phenomena. Line Officers have the authority to grant administrative leave retroactively when they determine that the activity was for an emergency and was in the interest of the public welfare. Code time as TC-66.

This policy does not apply to Federal employee members of the National Guard or Reserves who are called to assist in disaster relief and recovery efforts, as they are entitled to military leave under 5 U.S.C. 6323(b).

17. Participation in Military Funerals. An employee who is a veteran of any war, campaign, or expedition for which a campaign badge has been authorized, or is a member of an honor or ceremonial group of a veteran's organization, shall be granted administrative leave (not to exceed 4 hours in any 1 day) to participate as an active pallbearer, member of a firing squad, or honor guard in a funeral ceremony for a member of the Armed Forces returned to the U.S. for burial consistent with 5 U.S.C. 6321.

18. Personal Emergencies. Employees who are faced with a personal emergency as the result of a "public emergency" may be granted up to 40 hours of administrative leave only when the employee can be spared from their usual job responsibilities. Unusual circumstances, such as the scope and severity of the public emergency may warrant additional administrative leave. For longer periods of administrative leave contact the HRM. A public emergency is a catastrophic natural or human-caused event resulting from forces or actions beyond the employee's control that affect numerous people in a particular geographic area in such a way as to require affected employees to take immediate action to protect their lives and/or property as well as deal with immediate personal needs. Examples include wildfires, floods, earthquakes, terrorist attacks, and so forth, which result in the need to take such actions as evacuation, finding short term shelter, seeking emergency assistance, and/or taking necessary actions to initiate recovery. Code time as TC-66.

19. Physical Examinations. When the Forest Service requests an employee to take a physical examination, except for pre-employment physicals and examinations, the Supervisor shall grant administrative leave for the period of time necessary to complete the examination. If a medical condition is discovered or medical suspicions arise as a result of that examination and it becomes necessary to hospitalize the employee or require more extensive tests and examinations, the period of time associated with undergoing such additional tests and examinations must be charged to sick or other appropriate leave. This provision also applies when there are periods of duty between the initial examination and the additional tests, examinations, or hospitalizations that may be required. Code time as TC-66.

20. Physical Examinations for Military Duty. Grant administrative leave to an employee who must take a physical examination in connection with induction or enlistment in the Armed Forces for the time necessary to complete the examination. Code time as TC-66.

Members of the Reserve who are recalled to active duty are placed on pay status with the branch of the armed forces for the period of time required to take the physical examination and, therefore, shall not be granted administrative leave for that purpose.

21. Physical Fitness. Employees in firefighter and law enforcement positions, and employees covered by an applicable labor agreement shall be granted an excused absence on a recurring basis for employees to participate in physical fitness exercise activities for the purpose of meeting job-related medical standards or physical requirements. Also see FSH 5100 for medical standards for firefighters and law enforcement personnel. Code time as TC-01.

22. Preventive Health Screenings. Administrative leave of 4 hours will be granted, upon request, each leave year to employees with less than 80 hours of accrued sick leave to participate in preventive health screenings. Health screenings include prostate, cervical, colorectal, and breast cancer screening for sickle cell anemia, blood lead level, blood cholesterol level, immunity disorders such as HIV; and blood sugar level testing for diabetes. Code time as TC 06-66.

- a. The 4 hours may be used intermittently or all at once.
- b. The administrative leave is in addition to other available family friendly leave benefits and alternative work schedules.
- c. Administrative leave may not be used to accompany family members receiving preventive health screenings.

23. Professional Organizations. When attendance at meetings or conference given by a professional organization benefits the Forest Service mission and enhances the employee's professional development, reasonable administrative leave may be authorized for activities relating to the internal management of non-federal professional association and societies. Activities could include participation on a Board of Directors or Executive Committee. Employees shall be willing to pay their own expenses and participation in a "personal capacity." Administrative leave must be approved in advance. Code time as TC-66.

24. Registration and Voting. Employees may be granted administrative leave from their scheduled tour of duty to report for work up to 3 hours after the polls open or to leave work up to 3 hours before the polls close, whichever is the lesser amount of time. For example, if the polls are open from 7 a.m. to 6 p.m., and the employee is scheduled to work from 7:30 a.m. to 4 p.m., the employee may be released from work at 3 p.m. (three hours prior to polls closing) to be able to vote. Typically, polling places throughout the U.S. are open for extended periods of time. Administrative leave should rarely be needed. Code time as TC 38-66.

25. Taking Job-Related Examinations. Supervisors shall grant administrative leave (TC-66) to complete a job qualifications examination or to obtain a professional license:

- a. If the examination is for the position the employee occupies.
- b. The examination is for a position to which the Forest Service has recommended the employee for transfer, promotion, or reassignment.
- c. The examination is for a professional license or certification (such as Certified Public Accountant exam, bar exam or admittance to practice law, engineering license) where its acquisition is considered advantageous to the Forest Service.

26. Time-Off Awards. Supervisors have the authority to grant administrative leave as a time-off award. When a time-off award is taken, the employee's absence is reported as administrative leave. Code time as TC 61-66.

27. Volunteer Activities. Employees who participate in volunteer-type activities during basic working hours may be granted annual leave, LWOP, compensatory time off, or use credit hours earned under flexible work schedules. Only in limited circumstances may employees be granted administrative leave (TC-66) for short periods of time to participate in volunteer activities when it is:

- a. Directly related to the Forest Service mission.
- b. Enhances the professional development or skills of the employee in their current position.
- c. Officially sponsored/sanctioned by the head of the Forest Service.
- d. Brief and is determined to be in the interest of the Forest Service.

28. Wellness Activities. Supervisors are encouraged to grant short periods of administrative leave for employees to participate in officially authorized or recognized wellness, educational, and awareness programs; health, fitness, and lifestyle assessments; and health fairs. Employees are authorized up to 3 hours per week to participate in fitness activities and wellness programs. Supervisors are also encouraged to accommodate employee requests for flexible work schedules and annual leave in order to participate in physical fitness and exercise, to the extent possible. Code time as TC 06-66.

### **38.3 – Group Dismissals and Office Closures**

This guidance applies to planned or emergency situations where operations must be curtailed for extreme weather conditions, interruption of transportation and building services, or better utilization of funds or resources. Group dismissal or closure should be rare. When delayed arrival, early dismissal, or closures are authorized, time is recorded as administrative leave (TC-66). Examples of group dismissals include:

1. Normal operations of a unit are interrupted by events beyond the control of management or employees, for example, hazardous weather or a breakdown of heating equipment or power failure.
2. A unit is closed for short periods of time for managerial reasons.
3. Employees are released in the public interest to participate in civil activities.
4. A field unit is closed because a local holiday prevents Federal work from being properly performed.

USDA dismisses employees early in connection with a national holiday.

#### **38.3a – Authority for Group Dismissals and Office Closures**

1. Whenever local conditions prevent employees from coming to work or make it desirable that they be relieved from work, the official having delegated authority (FSM 6104.1) may close the office or activity.
2. The OPM will make the determination for office closures for Federal agencies in the Washington, DC area. When there are disruptions of Government operations in the Washington Metropolitan Area, OPM makes the determination and announcement for office closures and delays which occur due to disruptions that occur before or during the workday. In emergency situations or disruptions that affect only the Forest Service offices in the Washington, DC area, the Deputy Chief for Business Operations or delegated official (FSM 6104.1) has authority for office closure determinations.
3. Dismissal of employees under their jurisdiction due to hazardous weather may be approved by unit heads within their delegated authority when weather conditions are extremely hazardous or when normal transportation is disrupted or halted by snow, flood, fog, and so forth, to the extent that a recognized local authority publicly requests that citizens limit their driving except for most extraordinary need.
4. Dismissals of employees under their jurisdiction may be approved by unit heads within their delegated authority for major emergency conditions such as, but not limited to, strikes, floods, and bomb threats that endanger the lives or health of people occupying facilities or areas. Authority to close an office due to above conditions is granted for up to 5 workdays to the delegated level. Any extension beyond the 5 days requires USDA approval.

### 38.4 – Designation of Emergency Employees

Emergency employees occupy critical positions that may be vital to public health, safety, welfare, national defense, or the operation of essential facilities or functions. Employees who are designated as emergency or mission critical are exempt from group dismissals and office closures are required to remain at or report to work when an office closure or group dismissal is announced, unless otherwise instructed.

1. Managers and Supervisors shall notify employees who meet this definition that they are designated as emergency employees. The notification must:
  - a. Be written at least once per year;
  - b. State that emergency employees are required to report for work in emergency situations; and
  - c. State that dismissal or closure announcements do not apply to emergency employees unless they are specifically instructed otherwise.
2. When the President issues an Executive Order allowing an additional day as a holiday, designated emergency employees who must work are eligible for holiday premium pay.
3. Emergency employees are required to remain at work when an early dismissal is announced unless they are specifically instructed otherwise.
4. Staff Directors may also identify a cadre of "mission-critical" emergency employees who may be called to work during extended emergencies, emergencies dealing with national security, furlough, or other unique situations. These mission critical emergency employees shall be provided with the following information:
  - a. The emergency situations in which they will be expected to report for work.
  - b. Where they are expected to report to work, either at their regular worksite or an alternative worksite.
  - c. That they are to remain in contact with their programs at all times during any closure situation. Offices may wish to issue communications and other equipment to these employees to facilitate contact in these situations.

### 38.5 – Dismissal or Closure of Offices in the Washington, DC Metropolitan Area

The OPM will provide announcements to the media when a disruption occurs before or during the workday in the Washington, DC area. All employees are expected to follow the direction from OPM unless specifically excused by their Supervisors. These announcements do not apply to individuals who are designated as emergency employees by their Supervisors. Refer to OPM's Washington, DC Area Dismissal and Closure Procedures (<https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/dcddismissal.pdf>) for additional information.

When a disruption affects only the Forest Service offices in the Washington, DC Metropolitan Area, the procedures for Field Office closures are followed.

### **38.6 – Decision to Close Field Offices or Grant Group Dismissal**

1. Local designated officials should coordinate policies with other Forest Service units in the same general area. Coordinate policies with other USDA agencies and with other Federal or local government agencies to the extent possible. Federal Executive Boards and Associations coordinate dismissal or closure procedures in major metropolitan areas.
2. Designated officials shall take into account any activities that must continue or be expanded in case of emergency or adverse weather conditions in developing policies and plans. Address the need to notify affected employees.
3. Designated officials shall meet applicable Labor-Management Relations obligations with respect to office closures.
4. Local delegated officials may not make the decision to dismiss employees due to the death of, or other occurrence connected with, a national personage. The USDA will make that decision and notify agencies.

#### **38.6a – Dismissal and Closure Procedures for Field Offices**

Use the following procedures when a disruption occurs before or during the workday in the field offices when granting leave for group dismissals. These announcements do not apply to individuals who are designated as emergency employees by their Supervisors.

1. Open with Option for Unscheduled Leave or Unscheduled Telework. The office is open and employees have the option for unscheduled leave or unscheduled telework. Non-emergency employees shall notify their Supervisor of their intent to use unscheduled leave or unscheduled telework (if telework-ready).

Non-emergency employees have the option to:

- a. Use earned annual leave, compensatory time off, credit hours, or sick leave, as appropriate;
  - b. Take LWOP;
  - c. Rearrange their work hours under flexible work schedules; or
  - d. Perform unscheduled telework (if telework-ready).
2. Delayed Arrival with Option for Unscheduled Leave or Unscheduled Telework. The office is open under a delayed arrival and employees have the option for unscheduled leave or unscheduled telework. Non-emergency employees shall notify their Supervisor of their intent to use unscheduled leave or unscheduled telework.

- a. If the office is open under a XX-hour delayed arrival, non-emergency employees should plan their commute so the arrival for work is no more than XX hour(s) later than the employees' normal arrival times. For example, if the office announces a 2-hour delayed arrival policy, employees who normally would arrive at 8 a.m. should arrive for work no later than 10 a.m. Such employees will be granted administrative leave for up to the designated number of hours past their normal arrival times.
  - b. If the office is open under a delayed arrival where employees shall report by a specified time, non-emergency employees shall report to their office no later than the specified time and will receive administrative leave up until the announced reporting time. For example, if the office announces that all employees shall report to their office no later than 10 a.m., non-emergency employees will receive administrative leave up until 10 a.m., but may arrive at their offices earlier.
3. Early Departure. The office is open at the start of the day, but conditions change to warrant an early departure. Agency officials may determine that employees are excused XX-hours(s) earlier than their normal departure time, or the office will close at a specific time, or the office is closing immediately.
  - a. Non-emergency employees will be dismissed from their offices early relative to their scheduled departure times and will be granted administrative leave for the number of hours remaining in their workday beyond their early departure time, unless the employee is: scheduled to telework; departs prior to the early dismissal time, on leave (see sec. 38.7), working from a remote location; or, on official travel.
  - b. Examples:
    - (1) If a 2-hour early departure is announced, employees who normally work until 5 p.m. would be expected to depart at 3 p.m.
    - (2) If the office will close at 2 p.m., employees who normally work until 5 p.m. would be expected to depart at 2 p.m.
4. The Office is Closed. The office is closed for the entire day. Non-emergency employees will be granted administrative leave for the number of hours they were scheduled to work unless the employee is: scheduled to telework; scheduled to be on pre-approved paid leave; on LWOP; working from a remote location; on official travel; or, on an alternate work schedule (AWS) day off.
5. Shelter-In Place. Shelter-in-place (SIP) procedures are conducted when employees (and visitors) must remain in the office or take immediate shelter in a readily accessible interior location to protect themselves. An SIP may be needed for a variety of reasons, which could include severe weather (for example, tornadoes) or danger from exposure to outside contaminants in the event of a release into the atmosphere of hazardous materials such as radiological, biological, or chemical contaminants.

- a. All employees should follow their agency's emergency procedure for SIP announcements. Employees should remain in their designated safe area until they are notified by agency officials that they may return to their offices or leave their worksites.
- b. Employees who are unable to enter their buildings due to SIP procedures should be granted administrative leave for the duration of the announcement.

### **38.7 – Employee Pay and Leave for Closures and Group Dismissals**

Whenever the office or activity is officially closed during normal work or business hours, compensation may not be withheld from the affected employees. When employees, who are not on scheduled leave, are prevented from coming to work or released from work due to office closures or group dismissals, the absence is excused without charge to leave or loss of pay. Time is recorded as administrative leave (TC-66).

1. When conditions make it possible to resume work and some employees are either unable or elect not to return to work, their time must be appropriately accounted for on an individual basis such as, annual leave, sick leave, credit hours, LWOP, and so forth.
2. Do not charge leave to employees in annual leave status on days when all employees are excused from the performance of their duties as a result of a non-workday established by Executive or Administrative Order.
3. When employees who would otherwise be required to report to work are excused from work because of an office closure, other employees who do not have a scheduled workday(s) during the office closure may not be granted another non-workday. Employees taking a day off under a flexible work schedule are in nonpay status on those days and have no entitlement to an additional day off.
4. Employees who are not affected by the emergency (for example, not prevented from working) should not be granted administrative leave.
5. Telework. When a worksite is closed for a partial or full day, employees who are regularly scheduled to telework must continue to telework or take unscheduled leave, or a combination of both for the entire workday, unless the emergency affects their ability to perform work at their telework site. Such a situation should be communicated to the Supervisor as soon as possible.

Employees who were not scheduled to telework on the day of an office closure are not required to telework, unless they are identified as an emergency or mission critical employee and can perform their duties from their telework location.

6. Pre-Approved Paid Leave. Employees on pre-approved paid leave during a full-day office closure, delayed arrival, or early departure, shall continue to be charged leave for the period for which their leave has been approved.

a. Full-Day Office Closure. When the office is closed for the entire day due to weather conditions or other situations, employees on pre-approved paid leave will continue to be charged leave for the part of the day when they were scheduled for approved leave. Such employees should not be granted administrative leave for their period of scheduled leave. Employees on scheduled leave for the entire day shall continue to be charged leave and will not be granted administrative leave.

b. Delayed Arrival. When the office is open under a delayed arrival, employees on pre-approved leave for the entire workday or employees who have notified their Supervisors of their intent to use unscheduled leave when a delayed arrival is announced should be charged leave for the entire workday. Such employees should not be granted administrative leave.

c. Early Departure. When the office is open at the start of the day, but conditions change to warrant an early departure, employees on pre-approved leave for the entire workday or employees who have requested unscheduled leave before an early departure is announced should continue to be charged leave for the entire workday or remainder of the workday, as applicable.

(1) If employees are on leave and are not scheduled to return on that day, the employees are not prevented from working by the emergency and should continue to be charged leave.

(2) If employees on leave are scheduled to return to work after the early or final departure time, as applicable, the employees should be granted administrative leave starting from the time they were scheduled to return from leave.

(3) If an employee's pre-approved leave commences after their early departure times (for example, for a medical appointment), administrative leave may be granted.

7. Employees on an AWS Day Off. If Federal offices are closed on the employees' regular AWS day off, they are not entitled to an additional in-lieu of day off. AWS employees who fulfill their biweekly work requirement in less than 10 working days are already entitled to an AWS day off. Such employees may not receive an additional day off. In addition, employees cannot be granted administrative leave on a non-workday. AWS employees whose agency's offices are closed on their AWS day off may not be granted administrative leave for the scheduled non-workday.

8. Employees on LWOP. Employees on LWOP, LWOP for military duty, workers' compensation, suspension, or in another nonpay status are not granted administrative leave when Federal offices are closed. These employees should remain in their current status. Employees in a nonpay status have no expectation of working and receiving pay for a day during which Federal offices are closed and therefore will not be granted administrative leave.

9. Employees Who Work from Remote Locations. Employees who are remotely situated from their work unit (such as, 100 percent telework) when the office is closed for a partial or full day are expected to work a full day. Administrative leave will be granted if the emergency affects their telework site or if the teleworker has no work to perform because the duty station is closed.

10. Employees on Official Travel. Employees on official travel are expected to continue working on a workday when their regular duty station is closed for a partial or full day. However, if the emergency procedures of the Agency make it impossible for the employees to continue work, for example, the travel assignment requires frequent contact with the Agency, administrative leave may be granted.

11. Amount of Leave. For employees on a flexible work schedule, the amount of excused absence and/or administrative leave to be granted should be based on the employee's established workweek and hours as recorded in the T&A header.

If the Supervisor determines that excused absence and/or administrative leave will be granted to employees based upon individual patterns of arrival and departure, the following methods for identifying these patterns may be used:

- a. Constant Pattern of Arrival. The majority of employees tend to arrive within 5 to 10 minutes of the same time each day. Once a pattern has been established, it should be used as a reference point.
- b. Predominant Pattern of Arrival. If an employee maintains a schedule in which one particular arrival time predominates, this arrival time should be used to determine the amount of excused absence and/or administrative leave to be granted.
- c. Variable Pattern of Arrival. Where there is such variation in an employee's arrival and/or departure time that there is no discernible pattern, the employee shall record 8 hours.

### **38.8 – Documentation**

Unit Managers shall prepare and retain in their files written documentation of each use of administrative dismissal authority. The documentation must include:

1. A description of conditions that warranted the closing of the office or cancellation of the activity.
2. The number of employees affected.
3. The workday(s), or the portion of the workday(s), that the office is closed or activity is canceled.

## **39 – Compensatory Time Off**

Sections 39.1 through 39.3 provide guidance on the three types of compensatory time off: compensatory time off for irregular or occasional overtime work, for religious observance, and for travel.

### **39.1 – Substitute for Irregular or Occasional Overtime Work**

Compensatory time off in-lieu of overtime pay is earned by an employee for irregular or occasional overtime work. Refer to chapter 10 and 5 U.S.C. 5543 for the rules for earning compensatory time off in-lieu of irregular or occasional overtime work.

The rules for using compensatory time off are as follows:

1. Employees shall apply to use compensatory time off in-lieu of payment for irregular or occasional overtime work by application submission for leave to their Supervisor.
2. Compensatory time off must be used by the end of the 26th pay period after the pay period during which it was earned.
3. Compensatory time must also be used before annual leave unless this would result in forfeiture of annual leave.
4. If accrued compensatory time off is not used within 26 pay periods or if the employee transfers to another agency or separates from Federal service before the expiration of the 26 pay period time limit, the employee must be paid for the earned compensatory time off.
  - a. The payment will be made at the overtime rate that was in effect when the compensatory time was earned.
  - b. To initiate payment for unused compensatory time, the appropriate official shall complete form AD-581, Lump Sum Leave or Compensatory Time Payments.
  - c. The signed form will be forwarded to the HRM for processing.

### **39.2 – Religious Observance**

1. All employees with a regularly scheduled tour of duty, whose personal religious beliefs require abstention from work for specified periods, may request to work compensatory time as a means of adjusting the work schedule to accommodate the religious observance. Record the approved hours worked to TC 77-32. Record the approved time off to TC-60.
2. Compensatory overtime for religious observance may be worked before or after the compensatory time off is granted. Generally, it may not be worked more than 2 pay periods in advance of the compensatory time off and must be worked within 1 pay period after the compensatory time off.

3. The premium pay provisions for overtime work under the Fair Labor Standards Act do not apply to compensatory overtime work performed by an employee for the purpose of abstaining from work for personal religious observances (5 CFR 550.1002).
4. Employees who choose to request compensatory time off for religious observance shall do so in writing with adequate justification. The request must contain the following:
  - a. Description of the requirement.
  - b. When abstention from work is required and, if applicable, how often.
  - c. How long the employee is required to abstain from working.
5. The employee shall prepare a written work schedule proposal when the compensatory time will be earned to make up the time taken and have it approved by the Supervisor before being granted compensatory time off for a religious observance.
6. Requests may be denied only when the adjustment of the work schedule would severely disrupt the Agency's function. In all cases, the reasons for denial of a request or revocation of approval previously granted must be documented and made part of the file. Consult with Employee Relations Specialist prior to denial of any religious observance request.
7. Compensatory time may be used for a religious observance before it is actually earned. The employee shall pay back advance religious compensatory time by the end of the leave year in which it was granted by working overtime hours.
8. The employee shall be paid for any unused balance of compensatory time off for religious observance at the end of the leave year at the base hourly rate in effect during the pay period it was earned.

### **39.3 – Compensatory Time Off for Travel**

Compensatory time off is earned by an employee for time spent in “travel status” away from the “official duty station” when such travel is not otherwise “compensable” as described in chapter

10. The following rules apply:

1. When the compensatory time for travel is earned, it must be recorded in 15-minute increments. Code time as TC 78-32.
2. Compensatory time off for travel must be scheduled for use by the end of the 26<sup>th</sup> pay period after the pay period during which it was earned or it must be forfeited, unless the employee is performing active military duties for the armed service or is on LWOP due to an on-the-job inquiry.
3. When the compensatory time off is used, it must be recorded in 15-minute increments. Code time as TC 78-64.

4. If the employee separates, retires, or transfers to another agency, the employee's compensatory time for travel is forfeited.
5. Under no circumstances may an employee receive payment for unused compensatory time off for travel.