

National Cancer Institute

Leave Guidance

Prepared by the
Office of Management Analysis and Assessment
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*Explanation of Revision: This revision includes updating reference to coverage under the Family and Medical Leave Act.

This manual was developed by the Office of Management Analysis and Assessment (OMAA) to assist NCI supervisors in their daily management of employee attendance. General questions regarding routine leave approval may be directed to your timekeeper or Administrative Resource Center representative. Managers who have unresolved questions after checking this manual and the sources identified in Appendix B of this manual should contact their assigned employee relations specialist in the NIH Office of Human Resources for matters involving attendance problems with employees. Specific questions dealing with policy issues should be directed to the Office of Management Analysis and Assessment (OMAA) on (301) 496-6985.

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I. LEAVE

A. Types of Leave/Responsibilities

1. **Annual Leave** - Annual leave is personal leave that is provided for two general purposes:

a) to allow every employee an annual vacation period of extended leave for rest and recreation, and

b) to provide time off for personal and emergency purposes.

Except for emergency situations or when an unscheduled (liberal) leave policy is announced, the employee must obtain his/her supervisor's approval in advance of using annual leave. Approval will be based on the workload and staffing needs of the agency.

A maximum of 240 hours (30 days) may be carried over from one leave year to another, except for SES employees who have a 720 hour maximum limitation on carry over, effective 10/94. Employees who are stationed outside the United States may accumulate and carry over a maximum of 360 hours (45 days). The only exception to the carry-over maximum would be when restoration of leave is approved. Please see section I B 7 "Use or Lose Annual Leave and Restoration of Annual Leave" for details.

Annual leave may be applied retroactively to liquidate an advance of sick leave. However, it **cannot** be applied retroactively for regular sick leave. While an employee may request substituting annual leave for sick leave at any time, it is generally done for a period of extended illness for which he/she has insufficient sick leave accumulated (including use for maternity purposes). Requests for annual leave for periods of illness may be subject to the same medical documentation requirements described in "Employee Responsibility" under Section A2 "Sick Leave." Annual leave may also be substituted for Leave Without Pay (LWOP) for family and medical emergencies if requested under the Family and Medical Leave Act. (See section I A 4c.)

Accrued annual leave may be donated to other employees who are experiencing a medical emergency. For additional information, see the "Voluntary Leave Transfer Program" instructions, which are available on the NCI/OWD (Office of Workforce Development) Home Page.

Training preceptors may excuse Intramural Research Training Awardees (IRTAs) and Visiting Fellows (VFs) for a reasonable period annually for Vacation although these trainees do not earn or accrue annual leave.

Employee Responsibility - NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave and obtain advance approval from his/her supervisor except in emergencies or when an unscheduled (liberal) leave policy is in effect.

Authorizing Official - The immediate supervisor is authorized to approve annual leave. The immediate supervisor may, consistent with work load demands, prescribe when annual leave may be taken, refuse to grant annual leave, or revoke annual leave that has been granted and recall an employee to duty. Section I B 4 describes situations when approval of annual leave requests is mandatory.

2. **Sick Leave** - Sick leave is to be used when an employee cannot do his/her job due to illness or injury or has been exposed to a communicable disease that jeopardizes co-workers. Serious health conditions are described in Part I, Section 4 c "Family and Medical Leave Act" in this guide. Sick leave is also granted for dental, optical and medical examinations or treatment, including participation in drug and alcohol counseling or rehabilitation programs. It can also be used, with certain restrictions, to care for an ill family member or to arrange the adoption of a child (see sections a and b below) or arranging or attending the funeral of a family member.

When illness occurs during a period of annual leave, sick leave may be substituted contingent upon submission of supporting evidence acceptable to the immediate supervisor, who may require medical documentation. Medical documentation is a written statement signed by a health care provider which provides the supervisor with a clinical impression and/or medical limitation or restriction of the employee. Sufficient data must be provided to allow the supervisor to make an appropriate decision.

A health care provider is a licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations; any provider recognized by the Federal Employees' Health Benefits Program (FEHBP) or who is licensed or certified under Federal or State law to provide the service in question; a Federal or State licensed provider, recognized by the FEHBP, who practices in a foreign country; a Native American traditional healing practitioner; or a Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.

Supervisors have the discretion to require different forms of evidence depending on the circumstances. For example, a supervisor:

- May require medical documentation for extended absences, e.g., over three consecutive work days (or for shorter periods when an employee has been advised that medical documentation will be required). Medical documentation is a statement which is signed by the employee's physician and is sufficiently specific for the supervisor to make a reasonable decision that the employee was incapacitated to perform the duties of his/her position.
- May require the "leave comments" section of the leave request in ITAS to be completed, a written statement signed by the employee, or other evidence which is administratively acceptable to the supervisor, when the period of absence is relatively short or the nature of the employee's illness did not require an appointment with a physician.
- May require that employees submit medical documentation during a period of extended sickness. The purpose of such a requirement is to obtain information (e.g., the physician's prognosis of when the employee will be able to return to work; with limitations, if any, the physician will temporarily place on the employee's activities; and, if so, what other employee could perform) which is necessary for planning work or for determining that the approval of continued leave is appropriate.

Sick leave for prearranged medical appointments (including dental or optical examinations or treatments and drug and alcohol counseling sessions), or care of a family member must be requested in advance of the absence. Sick leave for absence because of illness, injury, exposure to contagious disease, illness of a family member with a contagious disease, care for a family member under family friendly leave or other circumstances which are not known in advance must be requested as soon as possible after the beginning of the absence (normally within the first hour.)

Employees using more than three days of sick leave without advance permission must submit the required evidence within two work days after returning to duty. Failure to do so may be grounds for taking a disciplinary action for failure to follow proper leave procedures. If the employee is placed on AWOL (because of lack of documentation), the Merit Systems Protection Board has ruled that if the employee later submits adequate documentation, the AWOL cannot stand and any disciplinary action based solely on AWOL would be overturned. However, an action based on failure to follow proper leave procedures could still be upheld.

Immediate supervisors normally charge sick leave only at an employee's request. They may, however, place an employee on sick leave without the employee's request when the employee is absent under circumstances clearly indicating that he/she is unable to work and unable to request leave. Sick leave is not ordinarily available for use until after it is earned. However, if the employee is still unable to work after exhausting his/her accrued sick leave and the employee is still unable to request appropriate leave, the supervisor may consider advancing sick leave. The supervisor may also consider charging the continued absence to annual leave or leave without pay in such a situation.

- a. Under the "**Federal Employees Family Friendly Leave Act**" (FEFFLA) (December 1994) accrued sick leave may also be used to care for family members who are experiencing a physical or mental illness, injury, pregnancy, or childbirth, or a need for care as a result of medical, dental, or optical examination or treatment. Thus, sick leave for family care is appropriate for any condition which, if the employee had the condition, would justify the use of sick leave.

The FEFFLA defines "Family members" as spouses and parents thereof; children (including adopted or foster children, step children, or a legal ward) and their spouses; parents; siblings and their spouses, and any other persons whose close association constitutes a "family relationship."

- (1) Up to 104 hours of accrued sick leave may be used by all full-time employees. In no case may an employee use more than thirteen days of sick leave for that purpose in a leave year.
- (2) Part time employees may use an amount equal to the total number of hours they would normally work per week. Those who wish to use more hours must maintain a sick leave balance equivalent to the number of hours he/she would work per pay period. In no case may a part time employee use in one leave year more sick leave for this purpose than the amount of sick leave he/she will earn during the leave year.
- (3) An employee may use sick leave under the FEFFLA to attend or to arrange a family member's funeral, travel to and from the funeral, attend the reading of the will, and estate settlement. The same definition for family members used in section I A 2a above applies to funerals. The number of days of sick leave that can be used is described in item (1) above.

NOTE: FEFFLA is not the same as the Family and Medical Leave Act (FMLA), which is described in section I A 4c.

- b. **Adoption.** Federal employees are entitled to use accrued sick leave for purposes related to the adoption of a child, per 5 CFR 630. Adoption is considered to include appointments with adoption agencies, social workers and attorneys; court proceedings, required travel; and any other activities necessary to allow the adoption to proceed. In some cases, the court may require the new parents to stay home with the child for a period of time. When required by the court, this time may be charged to sick leave also. In addition, employees may substitute sick leave retroactively for all or any portion of annual leave used for adoption-related purposes between September 30, 1991, and September 30, 1994.

All Civil Service employees who accrue and use leave under the provisions of 5 U.S. Code, Chapter 63 are eligible to use sick leave under the FEFFLA or for adoption regardless of length of service. Employees in the following categories are not eligible: Commissioned Corps, Guest Researcher (GR), and Special Volunteers. Training preceptors may excuse IRTAs and VFs for reasonable cause, such as ill health and personal emergencies although these trainees do not earn or accrue sick leave.

In cases where there is exclusive recognition of an employee organization with a negotiated agreement which provides greater entitlements, the articles of the agreement relating to the FEFFLA apply.

Employee Responsibility - Whenever possible (for a doctor's appointment, etc.), the employee must obtain advance approval using the Integrated Time and Attendance System (ITAS) to request leave. After three consecutive days of sick leave, an employee may be required to submit medical certification or other administratively acceptable evidence explaining the absence (or for shorter periods when an employee has been advised that medical documentation will be required).

If sick leave is requested under the Federal Employees Family Friendly Leave Act (FEFFLA) or for adoption purposes, the employee must give his/her supervisor notice of intent to take leave not less than 30 days before the leave is to begin or as soon as is practicable. The employee must note in the "leave comments" section of the leave request that the sick leave is to be used for this purpose and submit medical certification or other administratively acceptable evidence upon request.

In the case of leave requested for care of a family member with a serious health condition, this medical documentation should include a statement from the health care provider that: The family member requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs; and would benefit from the employee's care of presence. In addition, there should also be a statement from the employee on the care he/she will provide and an estimate of the amount of time needed to care for the family member. If the employee is requesting intermittent leave or leave on a reduced leave schedule (a work schedule that is reduced by the number of hours of leave taken as FEFFLA leave) for planned medical treatment, the statement should provide the dates on which such treatment is expected to be given and the duration of such treatment.

Note that sick leave may **not** be used by new parents or other family members for well-baby care. Annual leave or LWOP may be used for this purpose under the FMLA (section I A 4c). Thus, sick leave must not be granted solely on an employee's (regardless if the employee is the mother or father) responsibility to care for or desire to bond with the infant after the period of incapacitation. However, the mother or father may request sick leave under the FEFFLA (up to the maximum allowable) to care for the infant in cases of physical or mental illness, injury, or to accompany the infant to medical examinations or treatments.

Additional absence requested by the employee to care for the newborn that is not supported by medical documentation may be approved and charged to annual leave, compensatory time, accrued credit hours, or LWOP. If, however, the employee invokes the FMLA within one year of the birth, LWOP (up to the maximum allowable) or elects to substitute available paid leave, the request must not be denied.

Authorizing Official - The immediate supervisor is authorized to approve sick leave. In cases where an employee has an insufficient sick leave balance, annual leave or leave without pay may be granted. For more than three days of sick leave, or if the employee is under leave restrictions, the supervisor may request medical certification or other administratively acceptable evidence. It is recommended that when a physician's medical certification is necessary, the physician be requested to include information about the employee's prognosis, restrictions of work duties, and expected return to duty.

Supervisors are also responsible for confirming that an employee is invoking his or her entitlement to FEFFLA leave before subtracting any hours of leave from the employee's entitlement. This confirmation should be obtained in advance of charging the employee's FEFFLA leave entitlement.

Advanced sick leave is covered in section I A 10b. Please see section I B 4 “Mandatory Approval of Leave” and I B 6 “Abuse of Leave” for special situations.

Any requirement to prohibit return to work must be limited to those specific cases where there is reason to believe that presence at work would endanger the employee’s health or would constitute a health hazard to others.

The FEFFLA imposes certain recordkeeping and reporting requirements on supervisors. The following records on each employee using leave under the FEFFLA must be detailed in the ITAS FEFFLA remarks. When requested by NIH, OWD is responsible for reporting this information to NIH.

- (1) The employee’s grade, step and rate of basic pay;
- (2) The occupational series of the employee’s position;
- (3) The employee’s gender;
- (4) The number of hours of sick leave taken; and
- (5) The purpose of the leave

3. **Leave Without Pay (LWOP)** - LWOP is a temporary non-pay status which requires prior approval. Granting LWOP is discretionary except where specifically mandated by law or HHS regulations (see Mandatory Approval of Leave, section I B 4). It generally is used when an employee has insufficient annual or sick leave or compensatory time to cover an approved absence. LWOP is also granted to avoid a break in service for career or career-conditional employees who are dependents of a military or federal civilian employee who is transferred.

Initial grants of LWOP may not exceed 12 months. However, see the section “Approving Official” for specific situational requirements. An extension beyond one year may be approved only when it is in the interest of the federal service, or when it is determined that, because of unusual circumstances, the employee would be subjected to undue hardship if the extension were denied.

An employee does not have to exhaust his/her annual and/or sick leave before applying for LWOP. LWOP cannot be imposed as a penalty, nor can an employee be required to apply for LWOP in lieu of suspension.

An employee cannot retroactively substitute accrued leave for an approved period of LWOP taken because there was insufficient leave to cover that absence. The Family and Medical Leave Act guarantee employees LWOP for certain family or parental responsibilities. This is covered in item I A 4c, Family leave.

Impact of LWOP on Status and Benefits - No contributions to the retirement system are made while the employee is in a full-time non-pay status. If the employee is working some hours each pay period, retirement contributions are pro-rated according to the number of hours worked. LWOP in excess of 40 hours for Wage Grade employees and 80 hours for General Schedule employees during a leave year extends the waiting period for the next scheduled within-grade increase. Each time LWOP accumulates in an increment of 80 hours, the employee does not earn annual or sick leave in that pay period. Employees must pay their portion of health benefits coverage for any period when earned salary is not sufficient to cover the payment or sign a letter of intent to pay the premiums when he/she returns to work. Health benefits coverage terminates after LWOP of more than one year. After an employee is on LWOP for more than one year, life insurance is terminated. However, the employee may convert to a private group plan.

LWOP in excess of six months in a calendar year is not creditable when calculating length of service for annual leave category change, retirement, or seniority in a Reduction-in-Force, with the following exception:

If the LWOP is a result of an on-the-job injury or occupational illness and a claim to the Office of Worker's Compensation Programs (OWCP) is approved, then all LWOP is creditable service for protecting an employee's status and benefits, provided the employee returns to duty. Health benefit premiums are deducted from an employee's workers' compensation benefit check and paid directly by the OWCP.

An employee who is in a non-pay status immediately before and after a holiday is not entitled to pay for the holiday. However, if the employee is in a pay status either before or after a holiday, he/she is entitled to pay for the holiday. An employee scheduled to be on LWOP during a pay period in which a holiday occurs must not be returned to pay status either the day before or the day after the holiday for the sole purpose of taking advantage of being paid for the holiday.

See also sections 4c "Family Leave" and 4d "Expanded Family and Medical Leave" for use of LWOP for family and medical purposes.

Employee Responsibility - The employee must submit a request in writing in order to use LWOP. For certain situations, especially those requiring mandatory approval (Section I B 4), the supervisor may require additional documentation.

Approving Official - The immediate supervisor is authorized to approve LWOP requests for 29 days or less. The Division Directors and Lab/Branch Chiefs are authorized to approve LWOP requests of 30 days or more. This authority **may not** be redelegated. For any approved requests of more than 30 days, an SF 52 "Request for Personnel Action" must be submitted.

All policies and procedures concerning LWOP apply to Clinical Associates, Research Associates, Staff Fellows, Senior Staff Fellows, Visiting Associates and Visiting Scientists.

NOTE: LWOP is approved absence. Therefore, a history of LWOP **may not** be used adversely against the employee without consulting with the NIH Office of Human Resources.

4. **Excused Absence and Miscellaneous Leave** - Some absences are considered official business and therefore are deemed excused absences. These absences may be chargeable to a combination of types of leave. Any questions regarding these absences should be directed to your supervisor, timekeeper, or the Personnel Specialist in your Administrative Resource Center (ARC). Many factors may enter into determining the appropriate action in individual cases.

- a. **Leave for bone-marrow or organ donation** is a new category of leave, authorized in Section 629(a) of Public Law 103-329, September 30, 1994. Employees are entitled to use seven days of paid leave each calendar year to serve as a bone-marrow donor. On September 24, 1999 Public Law 106-56, under section 6327 of Title 5, United States Code, was signed allowing Federal employees to serve as organ donors for up to 30 days each calendar year. This entitlement is in addition to any accrued annual or sick leave which the employee may request.

Employee Responsibility - Whenever possible, the employee must obtain advance approval. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee is required to submit a medical certificate or other administratively acceptable evidence supporting the leave request.

Authorizing Official - The immediate supervisor is authorized to approve leave for bone-marrow or organ donation. Approval of properly documented requests for this leave, which can be recorded as administrative leave, is mandatory.

b. Court Leave is authorized absence without charge to annual leave or loss of pay to perform jury duty or respond to a summons to serve as a witness. Court leave can be granted for:

- 1) Jury duty with a Federal, District of Columbia, State, or local court.
- 2) Witness duty on behalf of a State or local government.
- 3) Witness duty on behalf of a private party when the Federal or District of Columbia, State, or local government is a party to the judicial proceeding.

Court leave **may not** be granted for employees to participate in court suits between private individuals or companies in which the United States, the District of Columbia, a State, or local government is not an involved party. Employees who are plaintiffs, defendants or witnesses in these cases must use accrued annual leave or LWOP.

Court leave for jury duty may be granted to permanent and temporary employees. Intermittent employees may not be granted court leave as jurors but may be granted LWOP for the period during which fees are received for jury service.

When an employee is required to serve on a jury or as a witness while on annual leave, the leave-approving official must substitute court leave if the employee is eligible. An employee who is on leave without pay when required to serve is not to be granted court leave.

Employee Responsibility - An employee requesting court duty must transmit via ITAS a completed leave request to his/her supervisor and documentation from the court supporting the request. Upon his/her return to work, the employee should provide proof of attendance.

The employee is expected to return to duty during periods when he or she is excused from jury duty and would normally be scheduled to work, including weekends and/or holidays. If there are two or more hours remaining in the employee's regular workday, exclusive of reasonable travel time, the employee should report for duty. If the employee fails to report to duty as directed, annual leave or LWOP may be requested by the employee, or AWOL may be charged for the excess time involved.

Approving Official - The immediate supervisor is authorized to approve court leave. An employee summoned by the court for jury or witness duty is under the jurisdiction and control of the court for the term of the jury service.

It is NCI policy to request exemption of an employee from jury duty only in those rare cases where the employee's absence would seriously handicap the work of the NCI. In such cases, the supervisor should prepare a written statement which clearly relates how the work of the NCI would be adversely affected and request an exemption from the appropriate court authority. Employees may request exemptions for compelling personal reasons on their own initiative.

- c. **Family and Medical Leave Act** - Eligible employees may request any combination of annual leave, and LWOP to cover a period of absence for certain reasons. This includes maternity (prenatal, pre-delivery, and post-delivery care for the mother), paternity, adoption, and medical emergencies. **As noted in the discussion of the FEFLA in Section I, A 2a, employees may use up to 13 days per year to care for family members.**

The Family and Medical Leave Act (FMLA) of 1993 entitles employees to use up to 12 work weeks of LWOP or annual leave during any 12-month period, for one or more of the following reasons:

- Birth and care of a child (within one year after birth);
- Placement of a son and/or daughter with the employee for adoption or foster care (within one year after placement);
- Care of the employee's family member who has a serious health condition;
- A serious health condition of the employee making him/her unable to perform any one or more of the functions of his/her position.

The definition of family member under the FMLA includes a spouse, son or daughter (including adopted or foster children, stepchildren, or a legal ward,) and parents, but does **not include in-laws, brothers, sisters, and any other individual related by blood or affinity.**

The entitlement to LWOP under the FMLA is **in addition** to the employee's accrued annual leave, credit hours, and within the limitations of the FEFFLA, accrued sick leave. However, **it is the employee's option** whether to use LWOP under the FMLA instead of using paid leave. An employee may invoke his/her entitlement to use LWOP under the FMLA and substitute accrued annual and/or up to 13 days of sick leave for the LWOP. Employees may also apply for the Voluntary Leave Transfer Program. However, they may not use compensatory time or credit hours in lieu of the unpaid leave under the FMLA.

Under certain conditions, employees may use FMLA leave intermittently, or work under a schedule that is reduced by the number of hours taken as family and medical leave. However, this schedule must be medically necessary. The employee must consult with his/her supervisor so they can agree on a schedule, approved by the health care provider, which will not disrupt the operations of the organization. Employees and supervisors are encouraged to work together in developing a schedule that meets both the employee's family and medical needs and the organization's need to manage work.

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

All NCI employees with at least twelve (12) months of civilian service (not necessarily consecutive) who are covered by the Federal Leave System (see 5 U.S. C. 6301(2)) are covered by Title II of FMLA except: Commissioned Corps Officers, employees with intermittent appointments, employees with temporary appointments of less than thirteen months, any employee covered by Title I or Title V of the FMLA, and individuals not appointed by the federal government such as IRTA Fellows, GR, VF, and Special Volunteers.

Supervisors may grant IRTAs and VFs a minimum of six weeks of paid, full-time excused absence for the delivery of a baby, with flexibility being determined by the supervisor. Also, IRTAs and VFs may be granted at least two weeks flexible paternity leave. Although stipends and health insurance allowance continue through such periods of excused absence, the period of the fellowship award is not extended due to time spent on leave.

Temporary and intermittent employees with appointments of less than 13 months are covered under Title I of the FMLA. These employee's requests for leave will be administered by NCI in accordance with the regulations developed by the Department of Labor.

In cases where there is exclusive recognition of an employee organization with a negotiated agreement which provides greater entitlements the articles of the agreement relating to FMLA apply.

Under the FMLA, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

Inpatient care in a hospital, hospice, or other residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

Continuing treatment by a health care provider that includes, but is not limited to, examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition does exist.

Continuing treatment by a health care provider may include one or more of the following:

Any period of incapacity requiring an absence of more than three calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- (1) Treatment two or more times by (or under the supervision of) a health care provider; or
- (2) Treatment by (or under the supervision of) a health care provider on at least one occasion which results in a regimen of continuing treatment.

Any period of incapacity due to pregnancy, or for prenatal care.

Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that:

- (a) requires periodic visits for treatment by a health care provider;
- (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and
- (c) may cause episodic rather than a continuing period of incapacity' e.g., asthma, diabetes or epilepsy.

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; e.g., Alzheimer's, severe stroke, or terminal stages of a disease.

Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment; e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease.

Other examples of a serious health condition include but are not limited to: heart attacks; heart conditions involving bypass or valve operations; most cancers; back conditions requiring extensive therapy or surgery; severe respiratory conditions; spinal injuries; appendicitis; pneumonia; emphysema; severe arthritis; severe nervous disorders; injuries caused by serious accidents on or off the job; pregnancy; miscarriages; complications or illnesses related to pregnancy (e.g. severe morning sickness); the need for prenatal care; childbirth; and recovery from childbirth.

Conditions **not** considered a serious health condition include: routine physical, eye or dental examinations; conditions where over-the-counter medicines and/or bed rest are initiated without a visit to a health care provider; voluntary or cosmetic treatments that are not medically necessary; and surgical procedures that typically do not involve hospitalization and require only a brief recovery period.

In addition, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), allergies, restorative dental or plastic surgery after an injury, or mental illness resulting from stress may be serious health conditions **only** if complications develop or if such conditions require inpatient care or continuing treatment by a health care provider.

When an NCI employee who takes leave under the FMLA returns to work, he/she must be returned to their same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. This does not apply to an employee who was hired for a specific project or only for a defined period, if the period of employment has expired and the employment would not have otherwise been extended.

Employees in positions that have specific medical standards, physical requirements, or are covered by a medical evaluation program must provide medical certification of their ability to return to work after taking medical leave for their own serious health condition.

Employee Responsibility - The employee must provide notice of his/her intent to take leave under the FMLA not less than 30 days before leave is to begin or as soon as is practicable. Any request for extended leave for a medical reason must be supported by a physician's written statement of the medical condition of the employee or family member and the date the employee can be expected to return to work. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee may not invoke his/her FMLA entitlement retroactively.

When requesting leave for maternity reasons, the employee is responsible for providing notice substantially in advance of the anticipated leave dates. Following delivery, the employee should confirm or revise her plans, notify her supervisor, and if necessary, submit a new statement from her physician stating when she can be expected to return to work.

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

Approving Official - The immediate supervisor has the authority to approve annual leave and LWOP up to 30 days that is requested under the Family and Medical Leave Act (FMLA). When a request for LWOP is for 30 days or more, the approving official is the Division Directors and Lab/Branch Chiefs. This authority **may not** be redelegated. For LWOP requests for 30 days or more, an SF-52 "Request for Personnel Action" must be submitted.

It is NCI policy that management be responsive and compassionate in leave policies for working parents. A request for LWOP (up to 12 weeks) within any 12 month period **must** be granted if requested under the FMLA. Supervisors are encouraged to consider leave requested beyond the 12 work week entitlement for family or parental responsibilities.

In addition to approving requests for leave whenever possible, supervisors are encouraged to consider telecommuting and alternative work schedules to accommodate employees' short and long term medical disability situations and/or accommodate employees' day-to-day family related needs.

Leave approving officials are also responsible for confirming that an employee is invoking his or her entitlement to FMLA leave before subtracting any hours of leave from the employee's entitlement. This confirmation should be obtained in advance of charging the employee's FMLA leave entitlement.

When employees invoke their 12 week entitlement to FMLA leave but do not give 30 days notice, the supervisor may require the employee to wait 30 days before beginning the FMLA leave.

The FMLA imposes certain record keeping and reporting requirements on supervisors. They must maintain the following records on each employee using leave under the FMLA and provide it to OMA upon request:

- (1) The employee's grade, step and rate of basic pay;
- (2) The occupational series of the employee's position;
- (3) The employee's gender;
- (4) The number of hours and type of leave taken; and
- (5) The purpose of the leave

d. Expanded Family and Medical Leave - Employees may schedule and should be granted up to 24 hours of LWOP each year (during any 12-month period) for three purposes:

- (1) To allow employees to participate in school activities directly related to the educational advancement of a child. This would include parent-teacher conferences or meetings with child-care providers, interviewing for a new school, or participating in volunteer activities supporting the child's educational advancement. For the purpose of this directive, school refers to an elementary school, secondary school, Head Start program, or a child-care facility.

- (2) To allow parents to accompany children to routine medical or dental appointments, such as annual checkups or vaccinations. Although these activities are not currently covered by the FMLA, the FEFFLA does permit employees to use up to 13 days of sick leave each year for such purposes. However, employees may use up to 24 hours of leave without pay each year for these purposes in cases when no additional leave is available to them.
- (3) To allow employees to accompany an elderly relative (per definition of family member under the FEFFLA) to routine medical or dental appointments or other professional services related to the care of the elderly relative, such as making arrangements for housing, meals, phones, banking services, and other similar activities. Although employees can use unpaid leave or sick leave for certain of these activities under the FLMA or FEFFLA, such as caring for a parent with a serious health condition, employees may use up to 24 hours of unpaid time off each year for this broader range of activities related to elderly relative's health or care needs.

Employee Responsibility - Leave for these purposes shall be scheduled in advance whenever possible. The employee is responsible for not requesting more than 24 hours of LWOP for these purposes within any 12 month period.

Authorizing Official - The immediate supervisor is authorized to and should grant up to 24 hours of LWOP requested for these purposes. Supervisors may require from an employee who requests leave under this policy evidence that is administratively acceptable, including medical certification when appropriate. Additionally, supervisors shall grant employees' requests to substitute paid time off (annual leave, compensatory time off, and credit hours) for these family activities when such leave is available to these employees. When it is not possible for employees to anticipate the need for this leave and request it in advance, supervisors should still accommodate the employee's request.

- e. **Military Leave** - Military leave is a leave of absence from official duty without loss of pay during which the employee performs active military duty, active duty for training (excluding weekend duty), or law enforcement. When an employee is ordered to military service under circumstances not entitling him/her to military leave or military furlough, annual leave or LWOP may be granted.

A full-time employee may be granted up to 15 calendar days in a fiscal year for active duty or active duty for training with the National Guard or

an Armed Forces Reserve Unit. (Because military leave is calculated by calendar year, depending on the timing of the leave, up to 30 days may be used in one fiscal year). For members of the National Guard, the active duty or training must be service for the Federal Government and not only for the state. For part-time employees, the leave is prorated based on the number of hours worked per week. This type of military leave is called regular military leave. Employees using regular military leave may retain the military pay as well as the civilian pay.

An additional 22 workdays of special military leave a year may be granted to employees who are members of the National Guard or the Armed Forces Reserve if the employee is called to perform military duty to enforce the law. Employees who are members of the National Guard of the District of Columbia (D.C.) are entitled to unlimited military leave for all days of parade or encampment. For employees entitled to special military leave or employees entitled to unlimited military leave, the civilian pay is offset by the amount of the military pay.

Non-work days falling within a period of absence are charged against the 15-day maximum; non-workdays at the beginning or end of the period are not counted. Unused portions of the 15 calendar days of military leave may be carried over from one year to the next, provided the carryover does not exceed 15 days. The unused portion of the special military leave may **not** be carried over.

To be eligible for military leave, an employee must be a member of a Reserve or National Guard component and be on an appointment of more than one year either full-time or part-time. An employee with an intermittent tour of duty is not eligible for military leave. Employees ineligible for military leave who will be absent from work for military duty may request use of their earned annual leave or LWOP.

For those employees who are entitled to regular military leave, the leave is charged in increments of one day and includes non-work days falling within the period of absence on military duty. The fact that more than one set of orders may be involved is not sufficient reason to consider a continuous period of absence as separate periods of military duty. Non-work days falling at the beginning or end of military leave are not included in the period of military leave. For additional information, please refer to HHS Instruction 630-1.

Employee Responsibility - Employees should inform their immediate supervisor promptly when they must be absent to perform active military duty. When requesting military leave, the employee should give the supervisor a copy of the official military orders, ordering or calling the Reservist or National Guardsman to duty as well as a completed leave

request. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should also consult with his/her supervisor for current guidelines on military leave and military furlough if ordered to active duty. Upon his/her return to work, the employee must present evidence that the military duty was performed.

Authorizing Official - The immediate supervisor is authorized to approve leave for military duty to eligible employees when appropriate.

- f. **Military Funeral Leave** - This is an excused absence from duty without loss of pay or charge to the employee's accrued annual or sick leave so that the employee may attend the funeral of an immediate relative (spouse, child, parent, and sibling) who died of wounds, disease, or illness incurred as a member of the Armed Forces in a combat zone. Military funeral leave is not to exceed three work days.

Employee Responsibility - Whenever possible, the employee is to inform the supervisor before taking funeral leave. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should be prepared to submit supporting documentation.

Authorizing Official - The immediate supervisor is authorized to approve military funeral leave to eligible employees.

NOTE: In all other situations, which tend to be the norm rather than the exception, appropriate leave to use for attending funerals would be annual leave, sick leave (Section I A 2a(3)), and/or LWOP or a combination thereof.

- g. **Medical Examination and Treatments** - An employee is considered to be on official business while undergoing medical treatment or examination, provided the request for medical examination or treatment is made for administrative reasons, such as examination in connection with application for disability retirement (whether initiated by the employee or the Department). Absence for medical examinations and treatments done for administrative reasons is not charged to the employee's paid leave.

Employee Responsibility - The employee must inform the supervisor as soon as the medical examination or treatment is scheduled. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should be prepared to submit supporting documentation.

Authorizing Official - The immediate supervisor is authorized to allow an excused absence for medical examinations and treatment done for administrative reasons.

h. Voluntary Leave Transfer Program (VLTP)

Description of Authority

The VLTP is a program that allows a Federal employee to transfer his or her unused accrued ANNUAL leave to another Federal employee who has been determined to have a medical or family medical emergency, and has exhausted all of their Annual Leave (AL) and Sick Leave (SL), so that he/she does not incur a loss of pay because of the unavailability of paid leave.

The medical emergency may be for a member of the employee's family or for the employee.

Eligibility

Any employee who:

- earns annual leave is eligible to participate in the VLTP
- has a statement from his/her physician describing the nature and expected duration of the medical emergency;
- expects to be absent from work for 24 hours or more that is not covered by available paid leave for his/her own medical emergency or for a family medical emergency; and
- has completed the required application form.

Restrictions - Leave donated under the VLTP may not be used for well-baby care. Employees may use annual leave or LWOP for this purpose.

Instructions for the completion of the NCI Voluntary Leave Transfer Program (VLTP) Application (NCI form 2749) can be found on the NCI OWD web-site
(<http://mynci.cancer.gov/workforce/worklife/instructions>)

Documentation Required:

- A completed and approved NCI Form 2749 "Application for the NCI Voluntary Leave Transfer Program." (see url at: <http://mynci.cancer.gov/workforce/worklife/instructions>). VLTP applications must be signed by the applicant, the timekeeper, and the supervisor.
- A completed physician's statement describing the nature and expected duration of the employee's medical emergency, using the NCI form "Physician's Statement" which is available on the NCI OWD web site: <http://mynci.cancer.gov/workforce/worklife/vltpforms>.

Supervisors and **Timekeepers** have specific responsibilities in administering this program. Please refer to the NCI VLTP Process at: <http://mynci.cancer.gov/workforce/worklife/process#resp> for more information.

Key responsibilities are:

- Applications and solicitations must be complete and appropriate.
- Donated leave must be properly recorded and tracked.
- The termination of the medical emergency must be documented by sending an e-mail to the NCI VLTP Coordinator

For Additional Help

NCI VLTP Coordinator *for any questions regarding the application and process*

NCI ITAS Coordinator *for any questions regarding ITAS or DFAS*

References

5 CFR 630-1 Voluntary Leave Transfer Program (12/29/94)

Guidance - Guidance for the Voluntary Leave Transfer Program is provided on the NIH OHR VLTP web-site (<http://intrahr.od.nih.gov/vltp/vltpnow>) and the NCI OWD VLTP web-site (<http://mynci.cancer.gov/workforce/worklife/nci-vltp>). The guidance establishes procedures for participation in the program, including eligibility requirements, how transferred annual leave may be used, how to apply to become a leave recipient, the NCI's approval process for participation in the program, how to solicit leave donations, how to make a donation, how the time period covered by the medical emergency will be determined, the process for restoring unused transferred annual leave, and the roles and responsibilities of supervisors, timekeepers, administrative personnel, and employees.

- i. **Voting and Registration** - As far as practicable, without interfering seriously with operations, employees who desire to vote or register in any election or in referendums on a civic matter in their community will be excused for a reasonable time for that purpose.

If voting polls are open three hours before or three hours after an employee's official tour of duty, excused absences will not be granted.

However, in some situations where the polls are not open at least three hours either before or after the employee's official tour of duty, a supervisor may approve excused absence for an employee for enough time to permit the employee to report for work three hours after the polls open or leave work three hours before the polls close, whichever requires less time off.

Time off to register will be granted on the same basis as for voting. However, no time off will be granted if the employee can register on a non-workday. An employee who is not eligible for excused absence to vote or register may request annual leave or LWOP.

Employee Responsibility - The employee is responsible for giving his/her supervisor advance notice that he/she will need to arrive late or leave early in order to vote or register and requesting to be excused for a specified amount of time. Excused leave for this purpose is not an employee right. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should be prepared to submit supporting documentation.

Authorizing Official - The immediate supervisor is authorized to excuse employees to register or vote. The supervisor has the option of approving or disapproving the leave request, depending on the office work load.

- j. **Participation in NIH Medical Research Studies** - An NCI employee may generally take part in a biomedical research protocol approved by an Institutional Review Board (IRB). Commissioned Corps Officers should contact the Medical Affairs Branch, Division of Commissioned Personnel for authorization requirements for participation in a biomedical research protocol study. The supervisor shall determine if an employee may be absent from duty for the necessary period(s) of time required by the protocol. With the supervisor's approval, an employee may be granted appropriate leave to participate in biomedical research studies as a volunteer subject during his/her normal tour of duty. The employee is subject to the following types of leave if the participation occurs during the employee's normal tour of duty:

- Annual Leave or Leave Without Pay - when the employee accepts compensation for participation (monetary)
- Sick Leave, Annual Leave or Leave Without Pay - when an employee participates for the purpose of receiving a personal medical benefit.
- Administrative Leave or Excused Absence - when an employee participates for the benefit of research and not for monetary compensation or for any intended medical benefit. The Principal Investigator for the study will be asked to confirm that the employee will not receive monetary compensation or a clear personal medical benefit.

Employee responsibility - The employee must give his/her supervisor advance notice that he/she will be participating in an NIH Medical Research study and inform the supervisor how much time it is expected to entail. The employee must make it clear whether he/she will receive money or medical benefits from participating in the study. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should be prepared to submit supporting documentation. **Regardless of whether the employee is requesting leave to participate in the study or if the employee's participation is after his/her tour of duty, the employee must notify the supervisor if participation may impair the employee's ability to perform the duties of his/her position.**

Authorizing Official - The immediate supervisor is authorized to approve an excused absence to any employee who is participating in an NIH Medical Research Study and will not receive money or medical benefits. The immediate supervisor may approve annual leave or LWOP if the employee is accepting monetary compensation and may approve annual leave, sick leave, or LWOP if the employee will gain medical benefits from the treatment.

Because employees cannot be guaranteed that a new treatment being tested will produce positive and/or expected results, it is the position of NCI that employees with debilitating or terminal illnesses should not be charged Annual Leave, Sick Leave or Leave without Pay unless they receive monetary compensation or a clear personal benefit, as confirmed by a Principal Investigator. Therefore, before determining whether an employee who is in this situation must use leave or be granted an excused absence, the supervisor must obtain written confirmation from the Principal Investigator that the employee will not receive monetary compensation or a clear personal medical benefit as a result of his/her participation.

If an employee becomes incapacitated for duty as a result of participation in the study, the supervisor should allow the employee to use sick leave, annual leave, or LWOP as they would for any other absence related to their own personal illness. After an absence of three days, the supervisor may request medical documentation. The supervisor may also consult with the NIH Office of Human Resources regarding any performance and reasonable accommodation issues.

- k. Miscellaneous Excused Absence** - Excused absence or Administrative leave is time off without charge to leave or pay. Absences may be authorized on a group basis or on an individual basis for a number of reasons. Some examples are:
- (1) Occasional tardiness and absences of 59 minutes or less when there is an adequate explanation. Of course, the supervisor has the option of requiring an ITAS request (charging accrued leave) or asking that the tardiness be made up if the employee is on a gliding work schedule.
 - (2) Job related conferences and conventions where attendance is in the best interest of the government.
 - (3) Donation of blood (up to two hours for donation and recovery, if needed).
 - (4) Consultation with the employee's Personnel Office, Equal Opportunity Office (EEO), or union representative.
 - (5) Visits to the OMS or for Employee Assistance Program counseling.
 - (6) Registration for military service.
 - (7) Participation in civil defense activities.
 - (8) Official participation in military funerals.
 - (9) Certain officially sanctioned volunteer activities.
 - (10) DHHS job interviews.
 - (11) Job interviews and outplacement activities when it is determined to be in the Department's interest (during downsizing for example).

- (12) Participation in medical protocols under certain circumstances, as described in section I A4i.
- (13) Attendance at administrative hearings.
- (14) Medically supported absence on the day of a job-related injury.
- (15) Up to four hours per day, after continuation of pay (COP) days are exhausted or when there is no entitlement to COP, for treatment of on-the-job traumatic injuries or occupational illnesses, during duty hours in the first six months from the date of the injury or illness.
- (16) When an NIH leased facility temporarily closes due to a threat to employee's health or safety (e.g., fire, toxic fumes) or loss of those utilities provided in the building for the comfort and convenience of the occupants (e.g., power, water, heating, ventilation).
- (17) Holidays for part-time employees. Although part-time employees are not entitled to holidays, if the office is closed because of a holiday which is a normal work day for the employee, the employee may be given an excused absence for that day. The employee may NOT receive another day off as an "in lieu of" holiday.

The above list is NOT inclusive.

Employee Responsibilities - The employee must inform his/her immediate supervisor in advance and obtain agreement that administrative leave will be used.

Approving Official - The immediate supervisor is authorized to approve miscellaneous absences.

- 1. **Credit Hours and Non-Religious Compensatory Time** - are time off from work in lieu of pay, earned by performing overtime work and can be used in place of annual or sick leave. NCI allows the earning of credit hours on an infrequent basis. Employees may not earn credit hours at any time outside the 6 a.m. to 6 p.m. Monday - Friday time band. Exceptions require the written approval of the Deputy Director for Management, OM. The distinction between credit hours/compensatory time and regular overtime is that these extra hours are worked at the request of the employee, with permission from the supervisor.

While credit hours may **not** be earned when an employee is traveling to or from a destination, an employee who is in travel status may earn credit hours within the 6 a.m. to 6 p.m. Monday to Friday time band with permission from the supervisor.

As employees on Compressed Work Schedule (CWS) may not earn credit hours, it is NCI policy that on **rare** occasions that can be justified by the exigencies of the work situation, CWS employees may earn non-religious compensatory time. However, it is NIH policy that employees whose rate of basic pay is greater than the maximum rate for a GS-15 are excluded from earning and using compensatory time.

Supervisors may authorize the earning and use of credit hours in one-quarter hour increments or more. Employees may earn credit hours or compensatory time only if there is work for the employee to perform and the employee has obtained supervisory approval.

Employee Responsibility - Employees **must** request permission before working extra hours (earning credit hours or compensatory leave). NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. **Employees requesting credit hours, must sign in the day they intend to earn credit hours in order for the hours to be applied to their leave balance.** Any compensatory leave earned will be converted to overtime pay if it is not used within 1 year (26 pay periods). Employees may carry a maximum of 24 credit hours.

Approving Official - The immediate supervisor is authorized to approve the earning of credit hours or compensatory time when there is work for the employee to perform. Supervisors may use their discretion in deciding whether to approve the earning of credit hours/compensatory time. The approval to earn credit hours or compensatory time must be requested and granted in advance of credit hour/compensatory time worked and must fit into the needs of the organization. The immediate supervisor is also the approving official for the use of credit hours or compensatory time. The immediate supervisor is responsible for ensuring that compensatory time not used within 1 year (26 pay periods) is converted to overtime pay.

m. Compensatory Time Off for Travel – is awarded to an employee for time spent on official travel that was authorized by agency official or authorized under established agency policies of travel when such time is not otherwise compensable.

Examples of compensatory time off for travel include:

- Time spent traveling between the official duty station and a temporary duty station;
- Time spent traveling between two temporary duty stations; and
- The "usual waiting time" preceding or interrupting such travel (e.g., waiting at an airport or train station prior to departure). The employing agency has the sole and exclusive discretion to determine what is creditable as "usual waiting time." An "extended" waiting period—i.e., an unusually long wait during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes—is not considered time in a travel status.
- Travel outside of regular working hours between an employee's home and a temporary duty station or transportation terminal outside the limits of his or her official duty station is considered creditable travel time. However, the agency must deduct the employee's normal home-to-work/work-to-home commuting time from the creditable travel time.
- Travel outside of regular working hours between a worksite and a transportation terminal is creditable travel time, and no commuting time offset applies.
- Travel outside of regular working hours to or from a transportation terminal within the limits of the employee's official duty station is considered equivalent to commuting time and is not creditable travel time.

Employee Responsibility - Employees **must** request permission before earning compensatory time off for travel. NCI employees must use the Integrated Time and Attendance System (ITAS) to request use of compensatory time leave. Under no circumstances may an employee receive payment for unused compensatory time off for travel. There is no limit to the amount of compensatory leave earned. Any compensatory leave earned will be forfeited if:

- Not used within 1 year (26 pay periods),
- Employee voluntarily transfers to another agency
- Employee moves to a non-covered position
- Employee separates from the Federal Government.

Approving Official - The immediate supervisor is authorized to approve the earning of compensatory time off while on travel. Supervisors may use their discretion in deciding whether to approve the earning of compensatory time off. The approval to earn compensatory time during travel status must be requested and granted in advance of compensatory time worked and must fit into the needs of the organization. The immediate supervisor is also the approving official for the use of compensatory time.

- n. **Religious Compensatory Time** - may be used when an employee's personal religious beliefs require that he/she abstain from work during certain periods of a workday or workweek. This time off can be requested and charged against compensatory time to permit the employee to meet the requirement of his/her personal religious belief without charge to leave. An employee may work compensatory time before or **after** receiving religious compensatory time off. However, it must be earned within four pay periods after it is used, or it will be charged to annual leave or LWOP.

Employee Responsibility - Employees must use ITAS to request permission for Religious Comp Time under "other leave", noting in section 6 that they are requesting religious compensatory leave. By requesting this leave, the employee is agreeing to work extra hours to earn this leave. The employee is also acknowledging that if he/she has not earned the leave within four pay periods after it is used, it will be charged to annual leave or LWOP.

Approving Official - The immediate supervisor is authorized to approve religious compensatory leave. Religious compensatory time will be granted except when the adjustment of the work schedule will interfere with the efficient accomplishment of the organization's mission. The supervisor is responsible for charging the leave to annual leave or LWOP if the employee does not "pay back" the extra hours within four pay periods.

- 5. **Official Time** - Official time is not excused absence; it is used in situations where an employee is authorized to use official time to perform activities other than his/her normal duties. The distinction can be important if, for an example, an employee is injured while on official time. While an injury that occurs when an employee is on excused absence is not covered by the Federal Employees' Compensation Act, an injury that occurs when the employee is on Official Time is covered. Examples of official time are time spent:
 - a. Serving as a labor organization representative (see 5 U.S.C. 7131 and applicable negotiated agreements).

- b. Representing another employee in an appeal, discrimination complaint, or grievance.
- c. Preparing a response to a notice of proposed adverse action.
- d. Meeting with an equal employment opportunity counselor.
- e. Meeting with employee assistance staff for counseling.
- f. In connection with a civil rights action against the Department only if the employee prevailed. Note: Determination cannot be made until the conclusion of the court action. Therefore, during the court action, absence must be charged to annual leave or LWOP. The Official Time must be used retroactively to replace this leave if the employee prevails.
- g. Participating in fitness activities in order to meet job-related medical standards or physical requirements.

Employee Responsibilities - The employee must inform his/her immediate supervisor in advance and obtain agreement that the absence from the office will be considered Official Time.

Approving Official - The immediate supervisor is authorized to approve Official Time. Note: Official Time is included on the employee's Time and Attendance Report as normal hours of work and is not entered as Administrative Leave.

6. Continuation of Pay (COP) for Work Injuries - COP is a special leave category that entitles an employee to have regular pay continued with no charge to leave for up to 45 calendar days (including weekends, holidays, and non-work days) for disability and/or medical treatment following a work-related traumatic injury.

- a. **Eligibility.** There is no entitlement to COP for a traumatic injury if an employee does not report the injury within 30 calendar days of the date of the injury on form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation." An employee who has a disability resulting from an occupational disease or illness is not eligible for COP.
- b. **Tracking COP.** COP is charged in one-day or eight hour increments only, regardless of the employee's tour of duty. All periods of disability must be supported by medical documentation. Disability on the day of injury is charged to excused absence and COP begins with the next day

or shift of disability or medical treatment. The first day of COP must begin within 45 days after the date of injury.

If work stoppage occurs for only a portion of a day or shift, i.e., for a follow-up medical appointment, a full day of COP is charged and counted against the 45 day entitlement. However, the employee is only entitled to be absent for up to four hours for the appointment. If the employee returns to work without using all 45 days of entitlement to COP, he/she may use the remaining days for recurrence of disability provided that the recurrence is within 45 days of the date the employee first returned to work.

COP may be stopped if the employee does not provide his/her supervisor with supporting medical documentation within ten work days after the employee requests COP or the disability begins, whichever is later.

Employee Responsibility - The employee must file form CA-1 within 30 calendar days of the traumatic injury and provide supporting medical documentation to his/her supervisor.

Authorizing Official - The immediate supervisor is authorized to initially grant COP. Consult the NIH Office of Human Resources for reasons COP may be denied. (Note: COP is to be granted initially. It can only be denied after consultation with an Employee Relations Specialist in the NIH OHR).

7. **Involuntary Leave** - Involuntary leave is used when an employee is not ready, not willing, or unable to work. It can be used in emergency situations to remove an employee from the premises when circumstances warrant, such as; when an employee is causing a serious disturbance or to cover an employee's lack of readiness to work or refusal to work. Involuntary leave is charged to annual or sick leave or LWOP, depending on the reason for the charge and the employee's leave account.

Employee Responsibility - Employees are responsible for conducting themselves in a professional manner and performing their duties as instructed in a legal and safe manner.

Authorizing Official - The immediate supervisor is authorized to place employees on involuntary leave, but only after consultation with the NIH OHR.

8. **Absence Without Leave (AWOL)** - AWOL is an *unauthorized* absence from duty or an absence for which a request for leave has been denied. The employee receives no pay for the period of absence. If the absence is later excused because the circumstances surrounding the absence are such that it would have been approved, the charge to AWOL may be changed to charge the appropriate leave account.

Employee Responsibility - The employee is responsible for using his/her accrued leave appropriately and obtaining permission to use other types of leave, such as advanced leave or LWOP when he/she does not have accrued leave available.

Authorizing Official - The immediate supervisor is authorized to charge employees with AWOL when appropriate. If there are questions regarding appropriateness, the supervisor should consult with NIH OHR.

9. **Terminal Leave** - Employees who are not Commissioned Officers may not use annual leave immediately before and up to the date of separation. Exceptions are when a liberal leave policy is in effect or in situations of a reduction in force or an adverse action.

Terminal leave applies only to Commissioned Officers. Upon filing a PHS-1373 "Request for Separation," a member of the Commissioned Corps may also submit a PHS-1345 "Application for Leave" for the remainders of his/her (terminal) leave prior to the actual separation date. If the Officer chooses to begin a new job during the time he/she is on terminal leave from the government, he/she must also submit an HHS 520 "Request for Outside Activity," which must be approved before beginning the terminal leave.

Employee Responsibility - Employees who are not Commissioned Officers are responsible for refraining from requesting annual leave immediately before their expected separation date. Each Commissioned Officer is responsible for informing his/her immediate supervisor as soon as possible of his/her intent to separate and to request terminal leave.

Authorizing Official - The immediate supervisor is authorized to approve terminal leave to Commissioned Officers.

10. **Advanced Leave** - In certain cases where an employee has no accrued leave in either the annual or the sick leave category, or both, he/she may request advanced leave. The request for advanced leave must be accompanied by written justification documenting evidence of the leave need. Leave must NOT be advanced when it is likely that the employee will retire, be separated, or resign before earning the leave to repay the advance.

- a. **Advanced Annual Leave** is limited to the amount of leave an employee will earn in the CURRENT leave year. For example, if an employee applies for advance annual leave in November, they can only be advanced the amount they will earn by the end of the leave year. Temporary employees may only be advanced the amount of leave that will be earned during the period of employment or the current leave year, whichever is less.

When an employee has advanced annual leave, or his/her leave account is overdrawn because of error, the debit will be carried over and charged against leave earned in the following year, unless the employee elects to make a refund payment.

An employee who separates while he/she is indebted for advanced annual leave must refund the amount due or have the amount owed deducted from any monies due to the employee.

- b. **Advanced Sick Leave** requests must be supported by medical documentation. Up to 30 days (240 hours) of advanced sick leave may be authorized for full-time permanent employees in cases of serious disability or ailment and when required by the employee's leave situation. Additionally, advanced sick leave may be considered for confinement due to childbirth. Temporary employees may not be advanced more sick leave than will be earned during the remainder of the appointment or 30 days, whichever is less.

When an employee requests an advance of sick leave for family care or funeral arrangements or attendance (under the FEFFLA), agencies may advance up to 40 hours of sick leave.

An employee does not have to exhaust his/her annual leave to be eligible for advanced sick leave when the employee (and not the employee's family) has a medical emergency. However, sick leave earned while in advance leave status may not be used until all advanced sick leave has been liquidated. Advance sick leave is liquidated automatically as sick leave is accrued each pay period, but repayment is not required when separation is because of death, approved disability retirement, or optional retirement if accompanied by medical documentation supporting inability to work.

Any un-repaid advanced sick leave is carried forward from one leave year to the next. Annual leave may be applied retroactively to repay an advance of sick leave. After leave has been advanced, supervisors have the flexibility to require repayment of the entire amount of advanced leave before advancing additional leave. An employee may not have more than 30 days of advanced sick leave outstanding at any time.

Upon separation (for reasons other than death, approved disability retirement, or optional retirement with medical documentation supporting inability to work), if an employee has a balance of advanced sick leave, the advance is liquidated in the following order:

- (1) Charge against available annual leave.
- (2) Charge against earned salary.
- (3) Charge against retirement contributions (FERS) or Charge against retirement benefits (CSRS)

Employee Responsibility - The employee must submit a "Request for Leave" via ITAS and obtain advance approval from his/her supervisor. Requests for advance sick leave must include documentation from the attending physician.

Authorizing Official - The immediate supervisor is authorized to approve advanced annual and sick leave to eligible employees. In no case may an employee be granted more annual leave than he/she will earn during the leave year or more than 30 days of sick leave. More than five days of sick leave may NOT be advanced to employees for FEFFLA purposes. Leave must NOT be advanced when it is likely that the employee will retire, be separated, or resign before earning the leave to repay the advance.

B. Leave Administration

- 1. Minimum Charges** - The minimum charge for absence in pay status (leave) and absence in non-pay status (LWOP or AWOL) is 1/4 hour. An employee is not required to work during a period of tardiness or unauthorized absence from duty for which he/she is being charged with leave or AWOL. For example, if an employee reports to work 35 minutes late and is charged 45 minutes annual or sick leave, LWOP, or AWOL, the employee cannot be required to perform work until the 45 minutes are concluded.
- 2. Leave Accrual** - The amount of annual leave an employee earns depends on his/her length of service and the number of hours in his/her tour of duty. Leave earning categories for annual leave for full time employees are as follows:

<u>Total Gov't Service</u>	<u>Hours Earned</u>	<u>Days Per Year</u>
Less than 3 years	4 hrs per pp	13 (104 hours)
3 to less than 15 years	6 hrs per pp	20 (160 hours)
15 years or more	8 hrs per pp	26 (208 hours)

Sick leave is earned in increments of four hours per pay period regardless of an employee's length of service. A part time employee accrues leave on a prorated basis. One hour of sick leave is earned for every 20 hours worked. There is no limitation on the amount of sick leave that may be carried forward from one year to another. For annual leave, employees in the 4-hour category earn one hour for every 20 hours worked, employees in the 6-hour category earn one hour for every 13 hours worked and employees in the 8-hour category earn one hour for every ten hours worked.

Annual and sick leave become available for use at the beginning of the pay period during which it is earned, provided the employee does not separate before the end of that pay period. An employee who begins employment after a pay period begins or separates before the end of a pay period does not earn leave for that pay period.

3. **Requesting and Obtaining Approval of Leave** - Employees must request and obtain approval of leave by submitting a leave request to their supervisor as far in advance as possible. When absent for an unanticipated reason, an employee must notify his/her leave approving officer within the first hour after being scheduled to report for duty, or the first hour of core time if under an alternative work schedule.

If the employee is seriously ill or injured and cannot make the call, another person may call the supervisor on the employee's behalf. At that time, the supervisor may request corroborating documentation.

If sick leave extends more than three work days, the supervisor may request medical documentation or other administratively acceptable documentation. Ordinarily, sick leave absences of three days or less do not require medical documentation. However, if there is reason to believe that an employee is abusing sick leave, please see Section I B 6 "Abuse of Leave."

Authorizing Official - The leave approving official varies by the type of leave. Please check under the specific type of leave for the authorization. The leave approving official may designate an "acting" supervisor for occasions when he/she is not at the work site. In granting leave requests, supervisors are responsible for ensuring adequate coverage during the work day.

4. Mandatory Approval of Leave - Supervisors with authority to approve leave must grant an employee's request for sick leave, annual leave, or LWOP (but not advanced sick or annual leave) in the following situations, provided that the employee meets any pertinent eligibility requirements and submits the requested documentation:

- When an employee who is a disabled veteran presents an official statement from a medical authority prescribing medical treatment in connection with the disability. The employee must give prior notice of the period during which absence for treatment will occur; or
- When an employee has suffered an incapacitating job-related injury or illness, has exhausted any available continuation of pay (COP) and is awaiting adjudication of a claim for employee's compensation by the Office of Worker's Compensation Programs.

Annual leave or LWOP must be granted in the following situations:

- When an employee is a reservist or National Guard member and has requested leave to perform required military duties. Employees would normally request such leave after their military leave has been exhausted;
- When an "unscheduled (liberal) leave" policy has been announced and the employee has not been designated an "emergency" employee; or
- When the employee applies for the leave under the FMLA (section I A 4c).

Sick leave must be granted under conditions provided in 5 CFR 630.401, which includes the following situations:

- When the employee receives emergency medical, dental, or optical examination or treatment;
- When the employee is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
- When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence of the job because of exposure to a communicable disease; or
- When the employee is arranging to adopt a child and needs leave for appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any other activities necessary to allow the adoption to proceed.

In addition, a supervisor must grant up to five days of sick leave in a 12 month period:

- When an employee applies for sick leave under the FEFFLA (section I a 2).

The supervisor must also grant up to an additional eight days of sick leave a year requested for FEFFLA purposes.

Up to seven days of paid Administrative Leave each calendar year must be granted:

- When an employee serves as a bone-marrow or organ donor.

The mandatory approval requirement for the above situations does not include advanced leave. The decision to grant advanced annual and sick leave is left to the discretion of the supervisor. Please see section I A 9 “Advanced Leave” for specifics.

5. Meal Periods, Breaks, and Leave Used in Conjunction with a Meal Period

- a. Meal Periods** - A meal period is one-half hour of unpaid time set aside for eating. A meal period is not considered to be part of the basic work week/work requirement. A meal period **MUST** be provided if the employee is scheduled to work more than five hours a day. A meal period usually **IS NOT** provided if the employee is scheduled to work five or fewer hours a day; however, one may be provided at the request of the employee and/or at management’s discretion.

The meal period may **NOT** be skipped at the discretion of the employee in order to shorten the length of the work day or to make up for a late arrival in lieu of using leave. This prohibition against shortening the work day does not apply if an employee is using leave for part of the workday, as described in I B 5c.

If, due to an emergency, employees are required by their supervisor to work through their meal period, the employees must be given a meal period later in the same work day, be dismissed from duty an equivalent period of time at the end of the workday, or be compensated for working during the meal period.

- b. **Breaks** - A break is a brief period of paid work time; 15 minutes or less, set aside at management's discretion for the efficiency, health, or safety of employees. Breaks are granted at the discretion of management and as such are an employee benefit, not an entitlement. Breaks may not be scheduled immediately before or after meal periods or at the start or end of the work day. Breaks may not be used in lieu of leave.
 - c. **Leave Used in Conjunction with Meals** - If an employee is using leave that starts or ends at the normal time for lunch, the employee may use the lunch time in conjunction with their leave. Employees wishing to use leave in conjunction with their lunch period should keep in mind the length of the official NCI lunch period is 30 minutes. Thus, an employee leaving at 12:30 p.m. may record 12:30 - 1:00 as his/her lunch period and record leave usage as beginning at 1:00 p.m.
6. **Abuse of Leave** - If a supervisor believes an employee is abusing his/her leave privileges (e.g., has a pattern of calling in sick on Fridays and/or Mondays, continuously arriving late for work and not notifying the supervisor, not requesting leave in accordance with prescribed procedures, etc.), **the supervisor may place the employee on special leave procedures** (i.e., leave restriction). This could include a request for documentation for every sick leave absence, not just those of over three days' duration. An employee must be given written notice, detailing the special leave procedures (leave restriction) before the procedures can be enforced. Supervisors should contact IH OHR for advice and assistance before issuing special leave procedures.
7. **Use or Lose Annual Leave and Restoration of Annual Leave** - Employees who will have use or lose annual leave during the leave year are responsible for monitoring their annual leave balance and requesting and obtaining approval of leave far enough in advance to avoid forfeiture. Annual leave that exceeds the maximum accumulations (240 hours) is subject to forfeiture.

However, leave that is forfeited may be restored under certain circumstances. Leave may be restored if it was forfeited because of administrative error, an exigency of public business, or documented illness of the employee, per 5 U.S.C.6304. To be considered for restoration, the leave must have been scheduled and approved in writing no later than three biweekly pay periods before the end of the leave year (i.e., before the start of the third biweekly pay period before the end of the leave year).

Annual leave that is restored is maintained in a separate leave account and does not increase the allowable 240 hour carry-over amount. An employee with restored annual leave is not required to use all of his/her regular (current year) annual leave before requesting use of the restored leave during the leave year. The maximum time limit for use of restored leave is the end of the leave year in which the two-year anniversary of the restoration occurs. Restored leave may be granted to an approved leave recipient under the Leave Transfer Program.

Employee Responsibility - The employee must submit a completed form NIH 2560-1 "Request for Restoration of Annual Leave" to his/her immediate supervisor, requesting restoration of annual leave. If the restoration is requested because of illness, medical documentation from the attending physician should accompany the NIH 2560-1.

Approving Official - The Division Directors, Deputy Division Directors, OD Office Directors, and Deputy Office Directors are authorized to approve restoration of annual leave for eligible employees. This authority may be re-delegated. An official to whom this authority is delegated or re-delegated may not exercise the authority if he/she is in the immediate organizational unit affected by the exigency or his/her leave would be affected by the decision. In such cases the authorities shall be exercised by the next higher official who has been delegated the authority and is not disqualified for the reasons stated in this paragraph.

8. **Temporary Employees** - An employee serving under an appointment with a definite time limitation cannot be granted more leave than the amount that can be earned and credited before the appointment expires, or the end of the leave year, whichever is sooner.

An employee appointed for **less than 90 calendar days** earns and may be granted sick leave only. The employee is not entitled to annual leave but may request LWOP. If the initial appointment is extended beyond 90 calendar days without a break in service, the employee may be granted annual leave based on the combined appointments. Annual leave is then credited retroactively as if it were earned under the initial appointment. However, the employee may not substitute this annual leave for LWOP used under the initial appointment.

If the appointment is for **90 calendar days or more**, an employee earns both sick leave and annual leave and may request and use paid leave or LWOP during the first 90 days of employment.

C. Time and Leave Reporting and Recording System

1. **Employee Responsibilities** - Employees are expected to begin working at the beginning of their tour of duty and submit leave requests for any portion of time not worked during their normally scheduled tour. Employees wishing to stay late in lieu of using leave to make up for short periods of time not worked during their normally scheduled tour must first obtain the approval of their supervisor. NCI employees should use the Integrated Time and Attendance System (ITAS) to request leave. The employee should be prepared to submit supporting documentation. Employees are responsible for the accuracy of their reported times, leave, etc.
2. **Supervisory Responsibilities** - Supervisors are responsible for verifying and certifying time, leave, overtime, etc. for each of their employees. Supervisors are also responsible for ensuring that leave usage complies with NCI procedures, as set forth in this manual. Supervisors or their alternates will review and approve the electronic duty record (using ITAS) to ensure accuracy prior to attaching an electronic signature of approval to the record.
3. **Timekeeper Responsibilities** - Timekeepers are required to verify and record the presence or absence of all employees by referring to the specific time accounting system (sign in/sign out sheet) in conjunction with an ITAS based leave request, Earnings and Leave Statements, if applicable. If there is a discrepancy, the timekeeper must inform the employee's supervisor.

Leave used under the Federal Employees Family Friendly Leave Act (FEFFLA) and/or the Family and Medical Leave Act (FMLA) must be recorded and reported annually.

II. Temporary Closing of the Workplace

A. Local Conditions under which NCI work cannot be done.

1. **Under certain conditions** that either does not allow a significant number of employees to reach the job site or to perform work, offices may be closed and employees sent home. These situations could be administrative or emergency. Administrative situations usually are caused by the failure of building services (electricity, heat, or air-conditioning) or local circumstances (fire, broken water main, or bomb scare) that require employees to leave the area. Emergency situations can be local or regional and cover conditions that cause major commuting delays or prevent significant numbers of employees from reporting to work or necessitate the closing of several federal activities in the same geographical area (heavy snow, severe icing conditions, floods, earthquakes, air pollution, etc.).

2. **Authorized Official** - For buildings on the NIH enclave, the Director, NIH has the authority to close offices and dismiss employees. If the Director cannot be reached, or if time is of the essence, the Director, Division of Personal Security and Access Control (DPSAC), NIH has the primary responsibility for physical security and may close buildings and/or send employees home. The Associate Director for Research Services may exercise this authority in consultation with, or in the absence of, the Director, DPSAC.

For local situations affecting off-campus facilities in which NCI is the majority tenant, the designated on-site manager at the facility may officially close the facility and send employees home. The designated on-site manager for off-campus facilities is the Deputy Director for Management, NCI. For the **NCI Frederick**, Frederick Cancer Research and Development Center (FCRDC), the Chief, FCRDC Management Operations Support Branch, OM, has this authority.

B. Regional Conditions Necessitating Closure of Government Facilities

1. **For emergency situations** (usually hazardous weather) that affect all agencies in the Washington, D.C. metropolitan area, only the U.S. Office of Personnel Management (OPM) is authorized to approve early dismissal, delayed arrival, and closure. Note: NCI officials do not have the authority to authorize closings for any situation which affects the entire region without first consulting with the Director, NIH.

The NCI-Frederick operates independently of NIH Bethesda and is not considered part of the Washington metropolitan area for snow closing purposes. For information on whether NCI Frederick is closed for the day or has delayed opening, employees should rely on announcements made for Fort Detrick. For early dismissal, the NCI-Frederick operates independently of Fort Detrick.

2. **NIH will notify NCI officials** of early release/closure authorizations. The Deputy Director for Management, NCI or designated representative will provide dismissal time information to NCI employees in off-campus facilities (except FCRDC). **CALLS TO THE DEPUTY DIRECTOR TO FIND OUT ABOUT EARLY RELEASE STATUS SHOULD ONLY BE MADE BY THE ADMINISTRATIVE RESOURCE CENTER MANAGER.** Any concerns about early release should be checked with supervisors.

Employees may not be released without the authorization of a supervisor.

C. Leave Policies for Closings

1. **When the workplace is closed for a full day**, employees will be excused without charge to leave for the full day. If an employee has previously received approval to use annual or sick leave for the full day, that leave will be charged to administrative leave instead.

Employees on a Compressed Work Schedule (CWS) who are in an already scheduled, non-work day status (CWS day off) on a day the workplace is closed ARE NOT entitled to any compensation, credit hours, or “in lieu of” consideration for the closure day. Employees who are working at home in Telework arrangements will be expected to work when the workplace is closed because of the local conditions (weather, electrical problems, etc.)

2. **Early dismissal situations - partial day closure.** Employees who are on duty at the time of official dismissal will be excused without charge to leave or loss of compensation regardless of when they started work. Other, more complicated situations are covered below:

- a. **An “adjusted work dismissal”** policy permits non-emergency employees to leave work early relative to their normal departure times. For example, if a 3 hour early dismissal is authorized by OPM as a result of the approach of a hurricane or snowstorm, employees who would normally leave work at 5 p.m. would be authorized to leave at 2 p.m. The “adjusted work dismissal” policy replaces the “residential zone dismissal” plan. While the NIH was exempt from the “residential zone dismissal” plan, we will be subject to this new dismissal procedure.

- b. **Employees who are on duty** when the agency issues formal notification of the early dismissal, but who **request and are granted leave** for the time between notification and actual official dismissal, will not be charged leave for the period after dismissal. They will, however, be charged leave for the difference between the time they left and the time of the formal dismissal. Employees who are at work and who choose to leave **before** the official word of dismissal is received will be charged leave or LWOP for the rest of the day.

- c. **It is up to the supervisor’s discretion** when to dismiss certain employees in order to avoid hardships, such as when an employee’s car pool is leaving earlier, or when children are released early from school and no alternative form of child care is available, or accommodation for a disability is needed. Employees who experience these hardships may be exempted by their supervisor from waiting until official dismissal without charge to their leave. HHS Instruction 610-3 is very clear that supervisors of employees with disabilities should be aware that they may have different needs before, during, and after inclement weather conditions or emergencies. The employee with the disability is the best

judge of his/her needs and should be accommodated. To prevent misunderstandings, a discussion of the needs relevant to various scenarios should be done after hiring and before the need arises. (Note: employee must have previously informed the supervisor of his/her disability or the disability must be entered in the employee's personnel file via the SF 256 "Self-Identification of Handicap.")

- d. **Employees who are scheduled** to report to work before the dismissal but fail to do so will be charged leave (annual, LWOP, etc.) for the entire work day.
 - e. **When early dismissal is authorized for a specific time, CWS employees** are dismissed at the end of their tour of duty or at the designated time, whichever is earlier. When early dismissal is for a specific number of hours, CWS employees are dismissed the specified number of hours earlier than the end of the tour they are scheduled to work that day.
 - f. **Employees working from home** are expected to be on duty for their regularly scheduled times. Early dismissal situations do not affect the schedules of employees in Telework arrangements.
 - g. **Emergency employees** have separate procedures for determining if they may be excused from work, as described in the next section. Generally, all patient care positions are considered "emergency." In addition, "emergency" employees include the Division Directors, the Associate Directors, the Administrative Resource Center Managers, and all Commissioned Officers. Other employees may be designated as "emergency" employees as the need arises. At least once per year, all emergency employees will be notified of their emergency employee status. Any employee who is uncertain of his/her status may check with his/her Administrative Officer
3. **Excused Absences During Emergency Situations** - The following terminology is used by USOPM to communicate to employees whether they are expected to report for work when severe weather conditions, power failure, interruption of public transportation, or other situations occur:

- a. **Federal agencies are open; employees are expected to report for work on time.** Federal agencies will open on time and employees are expected to report as scheduled. NOTE: USOPM frequently does not make an announcement when no changes are required in federal operations.
- b. **Federal agencies are operating under an unscheduled leave policy; employees may take leave without prior approval.** Federal agencies will open on time, but employees not designated as “emergency employees” may take annual leave or leave without pay (LWOP) without the prior approval of their supervisors. Employees should inform their supervisors of their intentions. Employees designated as “emergency employees” are expected to report for work on time.
- c. **Federal agencies are operating under an adjusted home departure policy; employees are requested to leave home () hours later than their normal departure time.** Federal agencies will open on time, but non-emergency employees should adjust their normal home departure time consistent with the announcement. Non-emergency employees who arrive late will be excused without loss of pay or charge to leave. For example, if an employee normally leaves for work at 7 a.m. and is directed to delay departure for 2 hours, the commuter would not leave for work until 9 a.m. The employee would be granted excused absence from the time he or she normally arrives at work until the time he or she actually arrives at work.

Employees designated as “emergency employees” are expected to report for work on time.

- d. **Federal agencies are operating under an adjusted home departure/unscheduled leave policy.** Federal agencies will open on time, but non-emergency employees should adjust their normal home departure time consistent with the announcement. Non-emergency employees who arrive late will be excused without loss of pay or charge to leave, and employees not designated as “emergency” employees may take either annual leave or LWOP without prior approval from their supervisors. However, they should notify their supervisor as soon as possible if they plan to take annual leave or LWOP.

All employees designated as “emergency” employees are expected to report to work on time.

- e. **Federal agencies are operating under an adjusted work dismissal policy**; employees are permitted to leave work () hours earlier than their normal departure time. For example, if a 3-hour early dismissal is authorized by OPM as a result of a snowstorm, employees who would normally leave work at 5 p.m. would be authorized leave at 2 p.m. There will be no charge to leave when non-emergency employees leave work at the time dictated by the adjusted work dismissal announcement.

Emergency employees are expected to remain at work until the end of their tour of duty.

- f. **Federal agencies are closed.** Employees not designated as “emergency employees” are excused from duty without loss of pay or charge to leave. Employees designated as “emergency employees” are expected to report for work on time. In the event of closure, an “emergency” employee refers to only those with direct patient care responsibilities. The ARC Managers for Buildings 10A, 10B, and 31 (DCS) will be “on call” in case of emergency. Any employee who is uncertain of his/her status may check with his/her Administrative Officer.

Additional information regarding closure due to inclement weather and the temporary closing of buildings for other situations may be found in HHS Instruction 610-3.

Leave Approving Authorities and Restrictions

Type of Leave	Employee Responsibility	Approving Official	Restrictions
Accrued Annual Leave	Submit ITAS request, obtain advance approval except in emergencies. Can apply retroactively to advanced sick leave.	Immediate Supervisor	Office coverage must be maintained. Max carryover = 240 hours. See Section I A 1.
Accrued Sick Leave	Submit ITAS request. Whenever possible (doctor's appt., etc) obtain advance approval. May be asked to submit doctor's note.	Immediate Supervisor	Supervisor may require documentation from doctor for all sick leave <u>after</u> informing employee in writing. See Section I A 2
Accrued Sick Leave to care for family members or arrange or attend the funeral of a family member.	To use more than five days/year. When possible, inform supervisor in advance. Submit ITAS request; note leave is requested under the FEFFLA.	Immediate Supervisor	May use no more than 13 days/year, even with 80 hour balance. See Section I A 2 a
Accrued Sick Leave to arrange for the adoption of a child.	When possible, submit ITAS request at least 30 days in advance.	Immediate Supervisor	See Section I A 2 b
LWOP of 29 days or less	Submit written justification with ITAS request. Pay employee part of health benefit premium.	Immediate Supervisor	Not an employee right. Can adversely impact benefits. See Section I A 3.

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LWOP of 30 days or more	Submit written justification with ITAS request. Pay employee part of health benefits premium.	Division Associate Directors and Lab/Branch Chiefs	Must submit SF 52. Can adversely impact benefits, retirement. See Section I A 3.
Family leave - any combination of annual leave & LWOP for maternity, paternity, adoption, & medical emergencies.	Submit ITAS request. Obtain physician's statement if for medical reason. If request is for maternity or other foreseeable reasons, must inform supervisor substantially in advance. Note on ITAS if requested under the FMLA.	Immediate Supervisor. Leave used under the LWOP of 30 days or more - Division Associate Directors and Lab/Branch Chiefs. FMLA leave must be recorded & reported annually.	May use any combination of accrued or advanced annual leave or LWOP. See FEFFLA for use of sick leave for family emergency. May also use 12 weeks of LWOP per year, but no more than one year of LWOP. See Section I A 4c.
Misc. Leave - Bone-Marrow or Organ Donation, Court, Military, Funeral, Voting, NIH Studies	Inform immediate supervisor in advance, submit ITAS, noting reason for leave request.	Immediate supervisor	Varies with type of situation; please see Leave Manual, Section I A 4 a, b, e, g, h
Excused absence (for occasional tardiness & absences)	Inform immediate supervisor in advance/explain.	Immediate Supervisor	Limited to 59 minutes or less. See Section I A 4j.
Excused absence/Participation in Medical Research Study Administrative Leave for other purposes	Obtain permission in advance or before leaving	Immediate supervisor	May be authorized on individual or group basis. See Section I A 4j.
Credit Hours and Non-Religious Compensatory Time	Must obtain supervisor's permission before earning and before using. Submit ITAS to request usage.	Immediate supervisor. Must be reported annually.	Several time limitations; please see Leave Manual, Section I A 4l.

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Compensatory Time Off for Travel	Inform supervisor in advance	Immediate supervisor	See Section I A 4m
Religious Compensatory Time	Inform supervisor's in advance via ITAS. Must earn within 4 pay periods, or will be charged to annual leave or LWOP.	Immediate supervisor. Must be reported annually.	Several time limitations; please see Leave Manual, Section I A 4n.
Official Time	Obtain permission in advance and agreement to use Official Time.	Immediate supervisor	Please see Leave Manual, Section I A 5.
Continuation of Pay (COP) for Work Injuries	Notify supervisor <u>immediately</u> . Submit physician's documentation in ten days.	Immediate supervisor	Please see Leave Manual, Section I A 6.
Involuntary Leave - when employee is not ready, not willing, or unable to work.	N/A	Immediate supervisor, in consultation with the NCI HRMCB	Used in emergency situations. Can be charged to annual or sick leave or LWOP. See Section I A 7
Absence without Leave (AWOL) - unauthorized and unpaid absence	Submit any documentation that supports reason for not appearing for work.	Immediate supervisor	If absence is explained and excused, leave may be changed to charge appropriate leave account. See Section I A 8.
Terminal Leave - can only be used by separating Commissioned Officers	Submit PHS 1345 with the PHS 1373 prior to separation. Obtain approval before beginning new job while on terminal leave.	Immediate supervisor	Comm. Officer must submit HHS 520 if will begin a new job while on terminal leave. See Section I A 9

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Advanced Annual Leave for full time employees	Submit ITAS, written justification and documentation of need	Immediate supervisor	Limited to amount employee will earn during current year. See Section I A 10a.
Advanced Sick Leave for full time employees	Submit ITAS, written justification and documentation of need	Immediate supervisor	Limited to 30 days for full-time employees. See Section I A 10b.
Advanced Leave for part time, NTE, or separating employees	Submit ITAS, written justification and documentation of need	Immediate supervisor	Limited to amount employee will earn in leave year or before separating/retiring. See Section I A 10.
Using lunch “hour” to leave early or arrive late, in addition to using leave.	Specify on the ITAS that lunch time is being added to the leave used.	Immediate supervisor	Limited to 30 minutes, which is the official amount of time allowed for lunch. See Section I B 5.
Abuse of Leave (pattern of leave usage suggesting abuse of leave privileges), earns Leave Restrictions.	Avoiding this situation by following established leave guidelines.	Immediate Supervisor, in consultation with HRMCB.	Employee must be given written notice before restriction can be enforced. See Section I B 6.
Use or Lose Annual Leave	Monitoring balance and using within leave year	Immediate Supervisor	Employee must plan use of leave so “use or lose” is used before end of leave year. See Section I B 7.
Restoration of Annual Leave (restored for two years)	Scheduling and obtaining approval of leave before start of 3rd biweekly pay period before end of leave year	Division Directors, Deputy Division Directors, OD Office Directors, and Deputy Office Directors with authority to re-delegate.	Must be documented and approved before the end of the calendar year. Restored leave tracked in separate account. See Section I B 7.

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<p>Sick Leave or LWOP for Temporary Employees with appointments of 90 days or less.</p>	<p>Request only accrued sick leave or LWOP. Advanced sick leave limited.</p>	<p>Immediate Supervisor</p>	<p>No annual leave. Cannot be granted more sick leave than will earn during appointment or leave year. See Section I B 8.</p>
<p>Annual and sick leave, LWOP for Temporary Employees with appointments of 90 days or more.</p>	<p>May request and use annual or sick leave or LWOP during first 90 days of appointment.</p>	<p>Immediate Supervisor</p>	<p>May not be granted more annual and/or sick leave than will earn during appointment or leave year. See Section I B 8.</p>

Citations

1. Annual Leave - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
2. Sick Leave - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
3. LWOP - 29 days or less - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)

LWOP 30 days or more - Associate Division Directors and Lab/Branch Chiefs - Dr. Klausner's memo of 10/30/95
4. Administrative Leave/Excused Absence - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
5. Absence for Medical Research Studies - immediate supervisor with input from others - NCI Issuance 2300-630-3 "NCI Policy for Employees Participating in Medical Research Studies" dated 10/29/98.
6. COP - Immediate supervisor - NIH Leave Guide dated 7/97
7. Involuntary Leave - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
8. AWOL - immediate supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
9. Terminal Leave (for Commissioned Corps.) - Immediate Supervisor - NCI Manual Chapter 1130 Delegation of Authority "HR: Leave 02" (10/1/2003)
10. Advanced Leave - immediate supervisor - Dr. Klausner's memo of 10/30/96.
11. Restoration of Annual Leave - Division Directors, Deputy Division Directors, OD Office Directors, and OD Deputy Office Directors - Dr. Klausner's memo of 8/13/96
12. Close Facilities in Local Situation - Deputy Director for Management, OM; **FCRDC - Chief, FCRDC Management Operations Support Branch, OM** - Memos from the Director, Division of Space and Facility Management, NIH to the Deputy Director for Management, NCI dated December 18, 1998.

Appendix B

13. NIH Integrated Timekeeping and Attendance System Module
@<http://ITASinfo.nih.gov>. ITAS issued 1999
14. NCI's Red Book
15. Chapter 63, Title 5, U.S. Code.
16. HHS Circular 630-16 "Family and Medical Leave Program," dated 7/26/96
17. U.S. Office of Personnel Management, "Employee Relations Policy Center on Use or Abuse of Leave- Questions and Answers," June 1996
18. NIH Issuance 2300-610-5 "Meal Periods and Breaks," dated 6/30/98
19. HHS Instruction 630-1 "Leave and Excused Absence," dated 7/26/96

SAMPLE LEAVE SCENARIOS USING THE FAMILY LEAVE REGULATIONS

Laura is a single mother with two children who has worked for the federal government for 2 ½ years. Laura has 201 hours of sick leave and 80 hours of annual leave. Laura's children have problems with recurring ear infections and strep throat and must occasionally be kept home from school and afternoon day care. Laura may use up to 13 days of sick leave a year to care for her children when they are ill. By doing so, Laura may be able to conserve her annual leave for a possible family vacation or to care for her children when her child care provider is unavailable.

Carol is expecting a baby in 4 months. Carol has 260 hours of sick leave and 200 hours of annual leave. She wants to spend as much time as possible with her new baby. Carol's doctor anticipates that she will need 6 weeks to recuperate after the baby's birth. Carol has requested 240 hours of sick leave. She has also requested 4 weeks of annual leave and 3 months of leave without pay (LWOP). Her supervisor approves the sick and annual leave and informs her of her entitlement to unpaid leave under the FMLA. Carol decides to invoke her FMLA entitlement and use 4 weeks of LWOP under the FMLA following her approved annual leave. In addition, she and her supervisor work out a leave schedule that permits Carol to use FMLA LWOP on an intermittent basis 2 days a week for 3 months following her return to work.

Jeff and his wife plan to travel abroad to adopt a child. He has a sick leave balance of 280 hours and an annual leave balance of 160 hours. Jeff may use sick leave absences related to the adoption, including travel time. His agency may advance him up to 30 days of sick leave if requested. Jeff may also request annual leave to spend time with his new son or daughter after the adoption. In addition, he may invoke his entitlement to LWOP under the FMLA.

Tom fell off his roof while cleaning the gutters and broke his hip. The doctor says Tom will need to be absent from work for at least 16 weeks. Tom has 240 hours of sick leave and 137 hours of annual leave. His installation is understaffed, and Tom is worried that when his sick leave is gone, his supervisor will refuse to grant him annual leave. He is most concerned about the possibility of losing his job and with it his medical benefits. Tom may use his sick leave and then invoke his entitlement to unpaid leave under the FMLA. He may then substitute his annual leave for part of the FMLA LWOP. While he is on FMLA leave, his reemployment rights and medical benefits are protected. In addition, Tom may apply for and use donated leave from his agency's Voluntary Leave Transfer Program.

Ruth and her husband have both worked for the federal government for 10 years. Their daughter was recently diagnosed with a terminal illness. Ruth and her husband want to care for their daughter at home for as long as possible. They have sufficient sick leave in their accounts for each to use 13 days to care for their daughter. Ruth has also requested 160 hours of annual leave. Ruth's supervisor was sympathetic, but based on work-related needs, he felt he could approve only 80 hours of annual leave. Ruth notified her supervisor of her intent to invoke her

entitlement to LWOP under the FMLA. Ruth used her 80 hours of approved annual leave and then substituted her remaining annual leave for FMLA LWOP. Her husband may also invoke his entitlement to leave under the FMLA. When their leave is exhausted, Ruth and her husband may both apply for and receive donated leave from their agencies' leave transfer programs. In this way, they will be able to care for their daughter at home until hospitalization is necessary.

Emilio's sister needs a kidney transplant, and Emilio has decided to donate his kidney to her. Emilio may use 7 days of paid leave to be a bone marrow or organ donor. This can be used to cover the time required for testing to see if he is a compatible donor, and the time required to undergo the transplant procedure and recuperate. Emilio may get additional time off from work by requesting annual and/or sick leave, advanced leave, and donated leave through his agency's leave transfer program (if he exhausts his own available paid leave).

Jan and her husband Bill are adopting a child from China. Jan and Bill traveled to China to make arrangements for the adoption and to receive the child. There were many legal problems and Jan was out of the country for 9 weeks, exhausting her sick and annual leave. When she returned home with the adopted child, her physician discovered the child has a serious heart condition and needs immediate surgery. Jan can request advanced annual leave and/or 40 hours of advanced sick leave to care for her child. In addition, Jan can invoke her entitlement to LWOP under the FMLA. She can also apply for donated annual leave under the Voluntary Leave Transfer Program (VLTP). If she invokes FMLA leave and receives leave donations under the VLTP, she can retroactively substitute donated annual leave for FMLA LWOP. She can also substitute donated leave for any advanced leave.

Lynn's mother-in-law, Maria, slipped on the ice and fractured her hip. The doctor said Maria will need constant care for the next 3 months while the hip heals. Lynn and her husband recently returned from an extended camping trip. As a result, she has only 43 hours of annual leave. She also has 172 hours of sick leave. If Lynn has not exhausted her annual entitlement to sick leave for family care, she can use up to 92 hours of her sick leave immediately. As she accrues more sick leave, she may use those accrued hours until she has used 104 hours (a total of 13 days), always maintaining a balance of at least 80 hours. She can also schedule and use her annual leave. She can invoke her entitlement to LWOP under the FMLA and substitute her annual leave for LWOP.

QUESTIONS AND ANSWERS CONCERNING LEAVE

Q - Must an agency advance leave?

A - The decision to grant advanced annual and sick leave is left to the discretion of the agency. There are limits on the amounts of leave that can be advanced. For the purposes of using sick leave for family care or bereavement, agencies may advance up to 40 hours of sick leave. The agency should not advance leave when there is little or no likelihood that the employee will return to work. In addition, any indebtedness resulting from advanced annual leave is forgiven when an employee retires on disability.

Q - Under what circumstances can an agency deny leave requests?

A - The agency can deny sick leave for non-emergency medical, dental, or optical purposes, even with acceptable medical documentation when it needs the employee's services. The agency can deny emergency or non-emergency sick leave when the employee does not supply sufficient medical documentation, if required, or when the employee does not follow proper leave requesting procedures. The same is true for annual leave. An agency can deny most requests for LWOP at its own discretion, even if the employee has good reason for requesting it. However, before denying a request for leave, the supervisor should review the "Mandatory Approval of Leave" section in the NCI Leave Guidance. If the supervisor has any questions, he/she should check with an Employee Relations Specialist in HRMCB.

Q - Can a supervisor request additional documentation before approving leave for a medical emergency?

A - Yes, the supervisor is responsible for requesting that the employee obtain documentation from the attending physician that clearly states why the employee will be incapacitated for work and the expected duration of the medical emergency. In the case of a pregnant employee, the supervisor may request that the physician make a distinction between the time needed for recovery from childbirth and any time requested for caring for the new-born, healthy child.

Q - Does the employee have to have 80 hours of sick leave before they are eligible to take more than a week of leave under the Family and Medical Leave Act (FMLA)?

A - No, that requirement is for leave requested under the Federal Employees Family Friendly Leave Act (FEFFLA) to care for a family member who is experiencing a medical emergency, or to plan or attend the funeral of a family member. There is no accrued leave balance requirement for eligibility to use the 12 week entitlement of LWOP under the FMLA.

Q - My Division has stricter requirements than what is in the Leave Manual. What applies to me?

Appendix D

A - Your Division's documented requirements take precedence over the Leave Manual. If you have any questions, please contact an Employee Relations Specialist in NIH, OHR.

Q - If absence without leave (AWOL) is charged when an employee did not get advance approval for time away from work, why does the NCI Leave Guidance say that the charge to AWOL may be changed to charge the appropriate leave account?

A - On a rare occasion, an employee could have a medical emergency so severe that the employee was unable to inform his/her supervisor. When a supervisor has not heard from an employee or the employee's relatives as to the reason the employee has not shown up for work, the supervisor has no choice but to charge the employee for AWOL. Later, when the supervisor receives the documentation verifying that the absence was caused by a medical emergency, the supervisor will usually change the charge from AWOL to sick leave or, if the employee has no sick leave, to annual leave.

Q - When I take the afternoon off, can I subtract my lunch hour from the amount of time I'm charging to leave?

A - Regulations allow only 30 minutes for lunch. Therefore, only 30 minutes can be subtracted from the amount of time an employee wishes to charge to leave. For example, if an employee is leaving at 12:30, he/she can note that 12:30 to 1:00 is for lunch, and the leave charges start at 1:00.

Q - Can an agency take action based on approved leave?

A - The general rule is that an adverse action cannot be based on leave that the agency has approved, mainly because the agency has the normal discretion to approve or disapprove leave. An agency may base an adverse action on excessive unscheduled LWOP only if all three of the following criteria are met and after checking with HRMCB:

- the employee's excessive absences are uncontrollable and not the fault of the employee. Approval or disapproval of the leave would be immaterial since the absences will continue.
- the absences have continued beyond a reasonable period of time and the agency needs the employee's services on a regular, full-time or part-time basis.
- the agency warns the employee that an adverse action might be initiated unless the employee becomes available for work on a regular, full-time or part-time basis.

Q - Can an agency require an employee to take a medical exam upon returning to duty after

Being absent on FMLA leave?

A - USOPM's regulations permit an agency to require medical certification upon return to work for an employee who is subject to medical qualification standards for his or her position. However, if the employee is not subject to medical qualification standards, OPM regulations do not require medical certification upon return to work.