

## ARTICLE XXX

### LEAVE

#### Section 1. General Provisions

This Article shall be administered in compliance with Title 5, United States Code (U.S.C.), Chapter 63; and Title 5 Code of Federal Regulations (C.F.R.) Part 630.

##### A. Leave Requests:

1. Normally all leave must be requested in the Agency's time keeping system (currently People Plus) before the employee is absent from work.
2. Tardiness and Brief Absence: Tardiness of less than one (1) hour may be excused at the discretion of the supervisor. If annual leave is charged, the employee will not be required to perform work until leave time charged has been applied. Tardiness and other brief absences from duty (for less than one hour) may be handled administratively in any of the following ways: (1) by excusing employees for adequate reasons; (2) by requiring additional worktime equivalent to the period of absence or tardiness; (3) by charge (in fifteen (15) minute increments) against an available category of leave; or (4) by recording the absence as leave without pay (LWOP) or absence without leave (AWOL).
3. In emergency, unanticipated, or extenuating circumstances the employee must notify the supervisor, or supervisor's designee, of the request by telephone/voicemail, email or text (as designated by the supervisor) as soon as practicable normally not later than the start of the employee's scheduled tour of duty. , Examples of unanticipated or extenuating circumstances include, but are not limited to: hospitalization, incapacitation, inability to communicate, immobilization and/or major transportation or major weather-related issues precluding communication. In an extenuating circumstance, the employee will contact the supervisor as soon as practicable.
4. If the employee receives an "out of office" message from the supervisor with a designee, the employee will notify the supervisor's designee of any request for leave that has not been approved.
5. When an employee becomes aware that a situation will require the employee to be absent longer than one day, the employee will indicate the expected return to duty date.

##### B. Leave Approval:

1. Supervisors will approve or deny employee requests for absence and leave in a reasonable amount of time considering the circumstances.
2. Employees may reach out to their supervisor about unresponded-to leave requests.

##### C. Leave Increments: All leave may be requested and used in 15-minute increments.

- D. Record of Leave: Employees must make their requests for leave in the designated Agency's electronic system (currently People Plus), either in advance for planned leave or normally no later than the day of their return from unanticipated leave that was not preapproved. When an employee is unable to submit a leave request without the supervisor first cancelling an existing leave request, the employee will request the cancellation in the system, normally no later than the day of their return from unanticipated leave.
- E. Out-of-Office Procedures: Employees are required to comply with their office's out-of-office procedures, including modifying their outgoing voicemail, updating their out-of-office email messages and, if applicable, providing notification of their absence(s). If there are no specific procedures for an employee's office, at a minimum, for planned absences, the employee is expected to update outgoing voicemail and email messages with a brief and professional statement about the employee's absence and expected duration and, where appropriate, who should be contacted in their absence.

## **Section 2. Sick Leave and Medical Documentation**

- A. Government-Wide Regulations Control: Sick leave shall be administered pursuant to 5 C.F.R. Part 630, Subpart D.
- B. Use of accrued sick leave shall be granted to employees in the following circumstances:
  - 1. To receive medical, dental, or optical examination or treatment;
  - 2. Are incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth;
  - 3. Provide care for a family member –
    - a. Who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment;
    - b. With a serious health condition; or
    - c. Who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.
  - 4. For purposes relating to their adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
  - 5. Bereavement and Funeral Leave: An employee may use sick leave for making arrangements required by the death of a family member or attending the funeral of a family member, subject to limitations referenced in this Article.

C. Each employee is entitled to use up to 104 hours (13 days) of sick leave each leave year for the purpose of providing care for a family member or bereavement as set forth above. For a part time employee, the entitlement to sick leave for these purposes is the number of sick leave hours they would accrue in a leave year.

D. An employee is entitled to use sick leave for travel time to obtain medical care or treatment for either the employee or a family member (subject to 104-hour limitation for family member related purposes described above). In the event that it is necessary to travel longer distances, including out of state, to obtain medical care or treatment, accrued sick leave shall be granted to cover necessary travel time, subject to limitations described above. If the employee has exhausted accrued sick leave, the employee may request other appropriate leave.

E. Advanced Sick Leave:

1. At its discretion, the Agency may advance sick leave to an employee, when required by the exigencies of the situation, subject to the limitations described below.
2. Advance sick leave is not available when it is known (or reasonably expected) that the employee will not return to duty, e.g., when the employee has applied for disability retirement.
3. The Agency may advance up to 240 hours (30 days) of unearned sick leave to a full-time employee:
  - a. Who is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth;
  - b. For a serious health condition of the employee or a family member;
  - c. When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by their presence on the job because of exposure to a communicable disease;
  - d. For purposes relating to the adoption of a child; or
  - e. For the care of a covered servicemember with a serious injury or illness, provided the employee is exercising their entitlement to FMLA leave to care for a covered service member.
4. The Agency may advance up to 104 hours (13 days) of sick leave to a full-time employee -
  - a. When they receive medical, dental or optical examination or treatment;
  - b. To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
  - c. To provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider,

jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or  
d. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

5. For a part-time employee (or an employee on an uncommon tour of duty), the number of hours above, are prorated.

F. Funeral Leave for Combat-Related Death of an Immediate Relative: Employees, subject to applicable limitations, may be entitled to up to 3 workdays of funeral leave to make arrangements for or to attend the funeral of an immediate relative who dies as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone.

G. Administratively Acceptable Evidence: The Agency may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence.

1. The Agency may consider an employee's self-certification as to the reason for their absence as administratively acceptable evidence.
2. The Agency may also require a medical certificate or other administratively acceptable evidence as to the reason for a sick leave absence in excess of 3 workdays, or for a lesser period when the Agency determines it is necessary as provided below in paragraph H of this Section.
3. Per 5 C.F.R 630.201(b), a "medical certificate means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment."

H. When a Medical Certificate is Required: The supervisor may require a medical certificate for any absence three workdays or less when the supervisor makes the unreviewable management determination that based on any of the following circumstances, a medical certificate is required to support the reason for the absence:

1. The length of the absence;
2. A sick leave request made after the employee has been assigned an undesirable work assignment or unwanted overtime, or has been denied annual leave; or
3. Any other situation surrounding the employee's leave request or pattern of leave usage that raises reasonable questions about the reason for the leave request.

I. Sick Leave Letter of Requirement:

1. In the event of suspected sick leave abuse, the employee will be issued a Sick Leave Letter of Requirement. A Sick Leave Letter of Requirement will require the employee to provide a medical certificate for any length of absence. A Sick

Leave Letter of Requirement will not be counted as a “prior offense” for determining a penalty for discipline. A Sick Leave Letter of Requirement may be referenced in future actions for purposes of proving notice.

2. When the Agency makes a determination to issue a Sick Leave Letter of Requirement to the employee:
  - a. The Agency, prior to issuance of the Sick Leave Letter of Requirement, will counsel the employee. The counseling will identify the relevant sick leave rule(s) to the employee.
  - b. If improvement does not occur within a reasonable period of time after counseling, an employee may be issued a Sick Leave Letter of Requirement.
  - c. If an employee has sick leave as part of an approved reasonable accommodation (known to the supervisor), the employee will be given the opportunity to provide an explanation before the Agency issues a sick leave letter of requirement. This may occur during the counseling meeting described above.
  - d. A Sick Leave Letter of Requirement may be withdrawn by the supervisor at any time. The supervisor must review the need for the Sick Leave Letter of Requirement no later than six (6) months after the issuance to determine if the letter should be withdrawn.
  
- J. When requested by the supervisor (or other Agency official), an employee must provide a medical certificate within 15 calendar days of the date of the request. If it is not practicable under the particular circumstances to provide the requested evidence or medical certification within 15 calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the evidence or medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such documentation. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave.

### **Section 3. Other Types of Leave**

- A. Court Duty: Jury duty and witness appearances shall be administered in accordance with 5 USC 6322.
  
- B. Compensatory Time: Compensatory time off is time off with pay in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work consistent with statute, regulation, and the Overtime Article of this agreement.

C. Religious Compensatory Time: Employees may request and supervisors will approve appropriate religious compensatory time requests in accordance with law, regulation, and EPA policy, HR Bulletin Number 21-002B.

D. Credit Hours Used: Credit hours are managed in accordance with the Work Schedules Article of the CBA.

E. Administrative Leave: Administrative Leave is administratively authorized absence from duty without loss of pay or charge to leave. Administrative leave should be used sparingly. Where not prohibited by law, the Agency may, but is not required, to approve administrative leave in one or more of the following circumstances:

1. absences directly related to the Agency's mission;
2. absences officially sponsored or sanctioned by the head of the Agency;
3. absences that clearly enhance the professional development or skills of the employee in their current position; and
4. where the absence is as brief as possible under the circumstances and is determined to be in the interest of the Agency.

F. Weather and Safety Leave:

1. Administrative leave may be granted when it is determined employees cannot safely travel to or from work, or perform work at their normal worksite, a telework/remote work site, or other approved location because of severe weather or other emergency situation.
2. When Weather and Safety Leave is granted due to closure of an Official Agency Worksite, the Agency will make a reasonable effort to notify the Union and the employees on duty as soon as possible.
3. Weather and Safety Leave will not be granted, in most circumstances, to an employee who is a teleworker or remote worker and who is able to safely perform work at the employee's approved telework/remote work location. Exceptions are: (a) the severe weather or emergency was unexpected and the employee could not prepare in advance for telework; or (b) when the employee's telework/remote work site is impacted by severe weather or an emergency in such a way work cannot be safely performed.
4. Where local, state or federal authorities have issued a state of emergency affecting an employee's worksite (i.e., office, AWL, RWL), use of leave and telework will be considered.

G. Early release for a holiday will be granted to those on telework/remote work to the same extent as granted to those employees working at the regular office.

H. If there is a new law or program allowing the Agency to grant administrative leave, AFGE will contact the Agency, and the Parties will work together to meet and discuss within (7) seven days of AFGE's request. Following the discussion, once the Agency determines

whether or not it will implement the program, it will issue a Mass Mailer regarding the law or program. If there is an administrative delay preventing the Agency from implementing an Administrative Leave program it has determined to implement, either Party may request a meeting to discuss any available appropriate options for establishing a temporary method to allow leave to be taken in a timely manner.

- I. Leave for Blood Donation: Employees who volunteer to serve as blood donors without monetary compensation should request administrative leave in advance and if requested may be excused for up to four (4) consecutive hours total including the time period the employee donates blood, travel to/from the donation location and recovery time. If the donor location is the work site, the excused time for donation and recuperation/recovery will not include travel transit time.
  
- J. Leave for Voting:
  1. Employees will request in advance and supervisors should approve up to four (4) hours of administrative leave to vote in federal, state, local, tribal, and territorial elections either on the day of the election or for early voting, subject to the following limitations:
    - a. If an election simultaneously involves more than one level, it is considered to be a single election event.
    - b. Scheduling of administrative leave for the above-described purposes is subject to a determination by the supervisor that the employee can be relieved of duty during the specific period of time requested by the employee.
    - c. Supervisors should strive to accommodate employee leave requests for voting by making necessary operational adjustments.
    - d. If an employee needs to spend less than 4 hours to vote, only the needed amount of administrative leave should be granted.
  2. In addition, employees may also use up to four (4) hours of administrative leave per year to serve as non-partisan poll workers or participate in non-partisan observer activities at the federal, state, local, Tribal, and territorial level. If an employee needs to spend less than four (4) hours to vote, only the needed amount of leave should be granted.
  3. Employees may request appropriate leave for such additional time as may be needed to enable them to vote or serve as non-partisan poll workers or observers. Upon receipt of such request for leave, the supervisor will approve or deny the request as soon as practicable after the leave is requested in order to facilitate the employee voting or serving as a non-partisan poll worker or observer. Employees and supervisors will work together on leave arrangements.
  4. Scheduling of administrative leave for the above-described purposes is subject to a determination by the supervisor that the employee can be relieved of duty

during the specific period of time requested by the employee without significantly impairing mission essential operations.

5. Supervisors should strive to accommodate employee leave requests for the above described purposes by making necessary operational adjustments.
6. If an employee needs to spend less than 4 hours to serve as a non-partisan poll workers or participate as a non-partisan observer, only the needed amount of administrative leave should be granted.

K. Leave without Pay. Leave without pay may be granted to employees, subject to management's approval, and in accordance with applicable law, policies, rules and regulations.

L. Family & Medical Leave (FMLA)

1. Full time Employees who meet the eligibility requirements for FMLA in accordance with 5 CFR 630.1201 may take a total of 12 administrative work weeks of unpaid leave during any 12-month period for the following family and medical needs:
  - a. Birth of and care for a child;
  - b. Placement of a child with the employee for adoption or foster care;
  - c. Care of a spouse, child, or parent of the employee who has a serious health condition; or
  - d. Serious health condition of the employee that makes the employee unable to perform any one or more essential functions of their position.
2. Notice for FMLA: Employees must provide appropriate notice when invoking FMLA. Where the need for FMLA leave is foreseeable, the employee will provide notice to their immediate supervisor of the intention to invoke FMLA not less than thirty (30) calendar days before the date the leave is to begin. If an employee learns of their need for leave less than 30 days in advance, they must give notice as soon as possible (generally either the day they learn of the need or the next workday). When the employee has no reasonable excuse for not providing at least 30 days advance notice, the Agency may delay the FMLA leave until 30 days after the date notice is provided. When the employee could not have provided 30 days advance notice but has no reasonable excuse for not providing a shorter period of advance notice, the Agency may delay the FMLA leave by whatever amount of time the employee delayed in notifying the Agency. If the need for leave is not foreseeable and the employee is unable, due to circumstances beyond their control, to provide notice of their need for leave, the leave may not be delayed or denied.



3. FMLA leave substitution. Employees who are approved for Leave Without Pay under the FMLA, may substitute appropriate paid leave they have earned or accrued.
- M. Paid Parental Leave, Subpart Q: The Federal Employee Paid Leave Act expands Family & Medical Leave Act entitlements to provide 12 weeks of paid parental leave to eligible employees in connection with a birth or placement (i.e., adoption or foster care) of an employee's child arriving on or after October 1, 2020. Employees eligible for FMLA may substitute FEPLA paid parental leave rather than take unpaid leave or use other accrued leave.
- N. Family and Medical Leave Qualifying Exigency Leave. Under the Family and Medical Leave Act of 1993 (FMLA), employees are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period for qualifying exigencies, consistent with current laws and the U.S. Office of Personnel Management's regulations governing use.
1. Qualifying exigencies arise when the spouse, child, or parent of an employee is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty.
  2. Covered active duty includes duty of a member of a regular component of the Armed Forces during deployment to a foreign country, and duty of a member of a reserve component of the Armed Forces during deployment to a foreign country under a call or order to active duty in support of specified contingency operations.
  3. Qualifying exigency leave under the FMLA helps employees manage family affairs when their family members are called to or on covered active duty. Qualifying exigency leave arises when the spouse, child, or parent of an employee is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty. Covered active duty includes duty of a member of a regular component of the Armed Forces during deployment to a foreign country, and duty of a member of a reserve component of the Armed Forces during deployment to a foreign country under a call or order to active duty in support of specified contingency operations. Qualifying exigency leave under the FMLA helps employees manage family affairs when their family members are called to or on covered active duty.
  4. An employee may elect to substitute annual leave for unpaid FMLA leave for qualifying exigency purposes, consistent with current laws and the U.S. Office of Personnel Management's regulations governing use of annual leave. An employee must notify the agency of their intent to substitute annual leave for FMLA leave without pay prior to the date the leave commences. An employee may not retroactively substitute annual leave for previously-taken FMLA leave without pay.
- O. Brief LWOP: This type of LWOP is normally requested and taken for short periods, usually in hours for part of a workday, for an entire workday, or for several consecutive

workdays. Employees may request in advance and supervisors may approve up to 24 hours of LWOP per year for any of the following purposes:

1. Participation in a child's school-related activities directly related to the educational advancement of a child;
2. Family medical needs or personal illness; and
3. Care of elderly parents or relatives.

P. Leave without Pay while awaiting Worker's Compensation or Disability Retirement Determination. Leave without pay may be granted to employees, subject to Agency approval, and in accordance with applicable policies, law, rules and regulation, in lieu of sick leave or annual leave for employees who have filed a claim for worker's compensation or disability retirement.

Q. All types of leave shall be administered consistent with applicable laws, rules, and regulations.

R. Emergency Leave Transfer Program:

1. When OPM notifies the Agency of the establishment of an ELTP for a specific disaster or emergency the Agency will:
  - a. Determine whether, and how much donated annual leave is needed by affected employees;
  - b. Approve emergency leave donors and/or emergency leave recipients within the Agency, as appropriate;
  - c. Facilitate the distribution of donated annual leave from approved emergency leave donors to approved emergency leave recipients within the agency; and
  - d. Determine the period of time for which donated annual leave may be accepted for distribution to approved emergency leave recipients.
2. Leave Bank ELTP Donation: In accordance with 5 USC 6391, as an alternative or in addition to the leave donation process described above, the EPA leave bank may donate annual leave to the ELTP. If the Agency draws leave from the Leave Bank in lieu of or in addition to implementing an ELTP, the Agency will provide an e-mail Mass Mailer notifying employees of that decision.
3. An employee may apply for leave through the ELTP if they have been adversely affected by the specific disaster or emergency. An employee or a family member is considered to be adversely affected if the disaster or emergency has caused them severe hardship to such a degree that their absence from work is required. An emergency leave recipient may use donated annual leave to assist an affected family member, provided that the family member has no reasonable access to other forms of assistance.

4. Once an ELTP is established, an employee who wants to be an emergency leave donor must complete OPM Form 1638, Request to Donate Annual Leave Under the Emergency Leave Transfer Program and submit to the regional leave bank coordinator or the National Leave Program Managers within OHR as appropriate.
5. An employee who wants to apply to be an emergency leave recipient must complete OPM Form 1637, Application to Become a Leave Recipient under the Emergency Leave Transfer Program and submit to their supervisor. Normally the Agency will approve or disapprove the employee's application within ten (10) calendar days or the Agency will share an alternate deadline for the specific ELTP.
6. Employees may donate specified amounts of accrued annual leave (no less than 1 hour, no more than 104 hours) to be transferred from their annual leave account to the ELTP.

S. Military Leave

1. In accordance with law and regulation, full time employees whose appointment is not limited to 1 year who are members of the National Guard or the Armed Forces Reserves are entitled to fifteen (15) calendar days of regular military leave in a fiscal year for active-duty training.
2. Military leave under 5 U.S.C. 6323(a) is prorated for part-time career employees and employees on an uncommon tour of duty.
3. Employees who do not use the entire fifteen (15) days can carry any unused military leave (not to exceed fifteen (15) days) over to the next fiscal year. Military leave may never exceed thirty (30) calendar days in any one fiscal year.
4. Military leave is charged in increments of one (1) hour and is charged only for those hours in which the employee would otherwise be in duty status.
5. When possible and requested, management will arrange schedules to allow such employees to have scheduled days off immediately preceding and/or following the required military leave if so requested by the employee.

T. Use or Lose Leave: The Agency will issue an annual notice to employees regarding Use or Lose leave. In accordance with 5 CFR 630.308, employees may not be considered for leave restoration unless their annual leave was scheduled in writing before the start of the third bi-weekly pay period prior to the end of the leave year. When an employee's leave is cancelled due to an exigency of the public business, supervisors will notify the employee as early as possible. Once an employee is notified of leave cancellation, if the employee has time remaining in the leave year to reschedule the cancelled use or lose leave, the employee must do so.

Section 4. Corrections

- A. The Agency agrees that some errors in leave may be beyond an employee's control. It is the responsibility of the employees to review their earnings and leave statements and leave system (currently People Plus) and report any errors if discovered.
- B. The Agency will take appropriate action to resolve/correct errors.
- C. When an administrative error is discovered by the servicing HR Shared Service Center, the employee will be informed and if appropriate provided direction to rectify.
- D. If the employee has been overpaid as a result of the error, the Agency or payroll provider will provide the employee a debt letter explaining to the affected employee the circumstances of the overpayment and will explain the process for completing a Request for Waiver of Claim for Erroneous Payment. The Parties recognize that smaller debts to the government (e.g., overpayment of \$50 or less) may not result in a debt letter.

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