

Human Resources Manual HHS Instruction 630-1, Leave and Excused Absence
Date: December 17, 2010

Material Transmitted:

Department of Health and Human Services (HHS) Instruction 630-1, Leave and Excused Absence, December 17, 2010

Material Superseded:

HHS Instruction 630-1, Leave and Excused Absence, issued September 19, 2006.

Background:

The Office of Personnel Management (OPM) issued final regulations to modify definitions related to family member and immediate relative in 5 CFR 630 and to add other defined terms related to the use of sick leave, funeral leave, voluntary leave transfer, voluntary leave bank, and emergency leave transfer in accordance with 5 CFR 630. The following revisions to this HHS Instruction were made:

1. Modified the definition of family member/immediate relative to make it more explicit and defined the terms committed relationship, domestic partner, parent, and son or daughter in accordance with 5 CFR 630.
2. Corrected reference to family member in the Family and Medical Leave Act (FMLA) coverage [630-1-30(H)(2)]. The FMLA statute and regulations do not include reference to family member or immediate relative. Rather, FLMA coverage specifically includes care for the employee's spouse, son, daughter, or parent.

Enactment of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009) resulted in changes to the Family and Medical Leave Act (FMLA) provisions for families of military service members. The following revisions were made to this HHS Instruction:

1. Provides a new entitlement to 12 administrative work weeks of unpaid exigency leave for federal employees (e.g., short-notice deployment, military events and related activities, urgent childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, etc.)
2. Expands the coverage for the 26-week entitlement for family members to care for a covered service member undergoing medical treatment, recuperation, or therapy for a serious injury or illness by amending the definitions of "serious injury or illness" and "covered service member" to include veterans (if the veteran was a member of the Armed Forces at any time during the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy).
3. Addition of the Certification of Qualifying Exigency for Military Family Leave form.

Additional changes include:

1. Exclusion of Commissioned Corps and update to 630-1-10 – Coverage – accordingly.

2. Removal of reference to interim policy in 630-1-120 - Creditable Service Based on Non-Federal Experience for Annual Leave Accrual. Final regulations were effective October 18, 2006.
3. Addition to 630-1-40 - Granting Annual Leave – to reflect the use of annual leave to establish initial eligibility for retirement or continuation of health benefits.
4. Correction to 630-1-80 - Excused Absence- to reflect the number of days an employee may be excused to serve as an organ donor from 7 days to 30 days of paid leave.
5. Addition to 630-1-80 – Excused Absence - to update provisions for preventive health screenings.
6. Addition to 630-1-100 – Military Leave – to update the type of military leave available.
7. Addition of 630-1-110 - Funeral Leave - in accordance with CFR 630, Subpart H – Funeral Leave and USC Title 5, 63.
8. Update to 630-1-111 - Transfer and Re-credit of Leave between the Civil Service and Other Leave Systems – to remove reference to Commissioned Corps. The transfer of leave between the Commissioned Corps and the civil service personnel system is not authorized.

In implementing this policy, OPDIVs/STAFFDIVs must meet their labor relations obligations covered under their Collective Bargaining Agreement, if applicable. This issuance is effective immediately. Implementation under this issuance must be carried out in accordance with applicable laws, regulations, bargaining agreements, and Departmental policy.

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INSTRUCTION 630-1

Human Resources Manual
 Instruction: 630-1: Leave and Excused Absence
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HHS PERSONNEL INSTRUCTION 630-1 LEAVE AND EXCUSED ABSENCE

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630-1-00 PURPOSE

The purpose of this Instruction is to publish policy and establish Department-wide procedures and requirements for the use of leave and excused absence.

630-1-10 COVERAGE

All Department employees are covered by this Instruction, except individuals appointed by the President with the advice and consent of the Senate, Commissioned Corps Officers, and other employees excluded by 5 U.S. Code 6301.

630-1-20 REFERENCES

- A. U.S. Code 5551 (law - lump-sum payment for accumulated and accrued leave on separation)
- B. U.S. Code, Chapter 63 (law - leave)
- C. U.S. Code 501(g) (law - lump-sum leave payments made to Commissioned Corps employees)

- D. 5 CFR, Part 630 (regulations - absence and leave)
- E. HHS Personnel Instruction 550-11 (compensatory time off for religious observances)
- F. HHS Personnel Instruction 610-3 (temporary closing of work places)
- G. HHS Personnel Instruction 792-2 (employee assistance program)
- H. HHS Guide for Timekeepers
- I. HHS Travel Manual Chapter 1-40 (attendance at nongovernment sponsored meetings)
- J. General Accounting Office Civilian Personnel Law Manual, Title II (index and summaries of CG decisions concerning leave issues)
- K. Comptroller General Decision B-133674
- L. Comptroller General Decision B-241272
- M. Comptroller General Decision B-246359
- N. 52 CG 66471
- O. 60 CG 381
- P. 61 CG 558
- Q. U.S. Code 6303 (annual leave; accrual)
- R. 5 CFR 630.205 (absence and leave: creditable service)
- S. 5 U.S.C. 6302 (general provisions)
- T. Chief Human Capital Officers Council Transmittal: Recent Changes to the Family and Medical Leave Act CPM 2010-06 (3/5/10)
- U. 48 CG 212; Decisions of the Comptroller General B-116314, B-11727

630-1-30 GENERAL PROVISIONS

A. Requesting and Charging Leave

Operating Divisions (OPDIVs) may prescribe the procedures for requesting leave (e.g., use of Standard Form 71, Request for Leave or Approved Absence, automated time and attendance systems, memorandum or verbal requests).

1. The standard minimum charge for absence in pay status (leave) and for absence in non-pay status (leave without pay or absence without leave) is $\frac{1}{4}$ hour, except where OPDIV heads, or their designees, have established a minimum leave charge of $\frac{1}{2}$ hour or one (1) hour. (An employee must not be required to perform work during those periods of

tardiness or unauthorized absence from duty for which the employee is charged with leave or absence without leave.)

2. Leave is not charged for holidays or officially established non-work days, except in certain situations pertaining to leave without pay and absence without leave [See 630-1-30(D).]

B. Mandatory and Discretionary Leave Approval

1. When an employee has followed the proper procedures for requesting leave and provides acceptable medical evidence to support his/her absence, the leave approving official **must grant** the employee's request for sick leave, annual leave, or leave without pay when:
 - a. An employee, who is a disabled veteran, presents an official statement from a medical authority that medical treatment is required in connection with the disability. The employee must give prior notice of the period during which absence for treatment will occur.
 - b. The employee has suffered an incapacitating job-related injury or illness, has exhausted any available continuation of pay, and is awaiting adjudication of a claim for employee compensation by the Office of Workers' Compensation Programs.
 - c. Leave requests meet the criteria for the Family Medical Leave Act. [See 630-1-30(H)]
2. The leave approving official may grant advance sick or annual leave at his/her discretion.

C. Uncommon Tours of Duty

For employees who work uncommon tours of duty during a regularly scheduled administrative work week (which is in excess of 40 hours in a calendar week), leave is charged for the number of hours of absence during the regularly scheduled tour. For example:

1. An employee whose regularly scheduled tour of duty is 10 hours a day is absent for 8 hours and works 2 hours. The employee is charged 8 hours leave.
2. An employee whose regularly scheduled tour of duty is 44 hours a week is absent for a full week. The employee is charged 44 hours leave.

D. Leave Without Pay

1. Leave without pay (LWOP) is approved leave for which the employee is not paid. Employees do not have a right to LWOP except for specified situations such as:
 - a. Disabled veterans for medical treatment for a service- connected disability
 - b. Members of the Reserves or National Guard for military training duties
 - c. Employees who are eligible for and invoke the Family Medical Leave Act (unless the employee opts to use accrued leave.)

2. In all other situations, management has the discretion to determine whether requests for LWOP will be approved.
3. LWOP must not be granted when absence without leave (AWOL) is appropriate.

E. Absence Without Leave

1. AWOL is a non-pay status and shall be charged when an employee is absent without permission or has not notified his/her supervisor or provided satisfactory explanation or documentation for the absence from duty.
2. An AWOL charge may be changed to an appropriate type of leave if the leave-approving official determines that the employee has satisfactorily explained the absence or presented acceptable documentation.

F. Charges to AWOL or LWOP for Holidays

Federal holidays that occur during a period of AWOL or LWOP are charged to AWOL or LWOP as follow:

1. Employees in a non-pay status (AWOL or LWOP) immediately before and after a holiday are not entitled to pay for the holiday. They must be charged AWOL or LWOP, as appropriate, for the holiday. (Comptroller General Decision B-187520, February 22, 1977, and the HHS Guide for Timekeepers, Chapter 5, Unpaid Leave, March 2005.)
2. Employees in a non-pay status (AWOL or LWOP) either before or after a holiday are not charged AWOL or LWOP for the holiday. They are entitled to pay for the holiday. It is presumed that the employee would have been available for work on the holiday unless the employee was in a non-pay status both before and after the-holiday. (56 Comptroller General 393.)
3. Employees scheduled to be on LWOP during a pay period when a holiday occurs must not be returned to pay status (i.e., duty or paid leave) either the day before or the day after the holiday for the sole purpose of taking advantage of being paid for the holiday.

G. Repayment of Advance Leave by Employees Who Are Separating

Employees separating from the Federal service must repay any annual or sick leave advanced and not earned at the time of separation. Exception: repayment is not necessary under any of the following conditions:

1. If the separation is because of entry into the military service with restoration rights. (However, if the employee exercises the restoration rights, the leave indebtedness will be re-credited as an indebtedness.)
2. If the separation is because of death or disability retirement.
3. If the separation is based on a disability that prevents the employee from returning to duty or continuing in the service.

H. Family and Medical Leave Act (FMLA)

1. Basic Leave Entitlement - Under the FMLA, employees are entitled to up to 12 weeks of leave without pay (LWOP). Exclusions:
 - a. Employees serving under intermittent appointments or temporary appointments with a time limitation of one year or less
 - b. Employees with less than 12 months of Federal service
 - c. Other individuals excluded under 5 CFR 630.1201(b).
2. Employees may request FMLA:
 - a. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter
 - b. Because of the placement of a son or daughter with the employee for adoption or foster care
 - c. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition
 - d. Because of a serious health condition that makes him/her unable to perform the functions of the employee's position; and/or
 - e. Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
3. Employees who do not comply with the notification and medical certification requirements of 5 CFR 630.1206 and 5 CFR 630.1207(b) are not entitled to FMLA leave.
4. Holidays that occur during the period in which an employee is on family and medical leave are not counted toward the 12-week entitlement. [5 CFR 630.1203(e)]
5. Military Leave Entitlement to Care for a Covered Service Member - The FMLA provides military family leave entitlements for a Federal employee who (1) is the spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative) of a covered service member with a serious injury or illness and (2) provides care for such service member.
 - a. Covered family members are entitled to up to 26 weeks of FMLA leave during a single 12-month period to care for the service member (hereafter referred to as "leave to care for a covered service member".)
 - b. The serious illness or injury must have been incurred by the covered service member in the line of duty while on active duty in the Armed Forces.
 - c. During the single 12-month period, the employee is entitled to a combined total of 26 weeks of regular/basic FMLA leave to care for a covered service member. For example, if during the single 12-month period an employee wants to take six weeks

- of regular FMLA leave for the birth of a child, as well as FMLA leave to care for a covered service member, the six weeks of regular FMLA leave is subtracted from the combined entitlement of 26 weeks, leaving the employee with 20 weeks of leave to care for a covered service member.
- d. The use of this leave to care for a covered service member in a single 12-month period does not limit the use of regular FMLA leave during any other 12-month period. For example, if an employee uses 26 weeks of FMLA leave to care for a covered service member during a single 12-month period but has not used any regular FMLA leave during that period, the employee would still be entitled to use up to 12 weeks of regular FMLA leave immediately following the single 12-month period.
 - e. FMLA leave to care for a covered service member is unpaid leave for which an employee may substitute any accumulated annual or sick leave. The normal leave year limitations on the use of sick leave to care for a family member do not apply; an employee may substitute annual or sick leave for any part of the 26-week period of unpaid FMLA leave to care for a covered service member.

I. Certification of Qualifying Exigency

1. Employees must provide 30 days advance notice, when possible, to his/her immediate supervisor to request FMLA leave for qualifying exigency. (See Attachment C - Certification of Qualifying Exigency for Military Family Leave.)
2. Employees must provide sufficient information to determine whether the request for exigency leave meets federal requirements and the anticipated timing and duration of the leave.
3. Employees are required to provide a copy of the covered military member's active duty orders or other documentation issued by the military only once unless the need for leave arises out of a different covered active duty or call to covered active duty status of the same or a different covered military member.

630-1-40 ANNUAL LEAVE

A. Qualifying Period

1. An employee whose appointment is for 90 calendar days or longer earns and may be granted annual leave beginning with the first day of the first full pay period following appointment.
2. If an appointment is for less than 90 days, the employee is not entitled to annual leave but may request leave without pay.
 - a. If an appointment of less than 90 days is extended or converted to another appointment of less than 90 days without a break in service of one work day, the employee will still not earn annual leave until the actual employment counted from the initial appointment equals 90 days. As soon as the employee has 90 days of employment, he/she earns annual leave retroactive to the initial appointment date.

- b. If after an initial appointment of less than 90 days, the extension or conversion to appointment was for 90 days or more, the employee earns annual leave retroactive to the date of the initial appointment.
- c. If an employee took leave without pay while under an appointment of less than 90 days and then earns annual leave retroactive to the initial date of the appointment as described in number 1 above, he/she may not substitute annual leave for the leave without pay.
- d. If an employee is currently on an appointment of less than 90 days and has annual leave re-credited from a lump-sum payment from previous Federal service, the employee may use the re-credited annual leave during the current appointment at his/her request.

B. Maximum Accumulation

1. Employees can carry over to the next leave year a maximum of 30 days (240 hours) of accrued annual leave. (720 hours for members of the Senior Executive Service and 360 hours for Federal employees stationed overseas).
2. Leave earned in excess of these maximums is forfeited if not used by the end of the leave year. (Under special conditions, forfeited annual leave may be restored as described in 630-1-40(F).

C. Granting Annual Leave

1. The employee initiates a request for use of annual leave and the request is acted upon by the leave-approving official. Leave-approving officials may, consistent with operational 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 based on the needs of the mission.
2. For circumstances in which annual leave may be substituted for sick leave, see 630-1-50(A)(3).
3. For circumstances in which sick leave may be substituted for annual leave, see 630-1-50(A)(2)(f).
4. Annual leave may not be granted to an employee when it is known in advance that the employee is separating from Federal service, except where the date of separation has already been established under regulatory or statutory requirements (e.g. reduction in force or transfer of function); or in order for the employee to qualify for an immediate retirement; or for an employee to qualify to carry health benefits coverage into retirement.

D. Advance Annual Leave

1. Employees are **not entitled** to advance annual leave. However, under very unusual circumstances, an employee may be granted advance annual leave up to the amount to be earned by the end of the appointment or the end of the current leave year, whichever is sooner.

2. Annual leave must not be advanced when it is likely the employee will retire, be separated, or resign before the advanced leave will be earned.

E. Leave Indebtedness

1. An employee's annual leave account may be overdrawn at the end of the leave year through error or because the employee was advanced annual leave and then did not earn the expected amount due to being on leave without pay or absent without leave. When an employee's account is overdrawn, the debt will be carried over and charged against annual leave earned in the following year, unless the employee elects to make a refund payment.
2. An employee who is separated while indebted for advance annual leave must refund the amount due or have the amount owed deducted from any monies due to the employee. For exceptions, see 630-1-30(F).

F. Restoration of Annual Leave

1. Conditions

- a. As a general rule, annual leave in excess of an employee's maximum carryover balance is forfeited if not used by the end of the leave year. This excess annual leave, sometimes called "use or lose" leave, may be considered for restoration only under one of the following conditions:
 - (i) To correct an administrative error when the error causes the loss of annual leave.
 - (ii) When annual leave is scheduled in writing in advance but its use is denied because of an exigency of the public business.
 - (iii) When use of scheduled annual leave is prevented by illness or injury, provided the annual leave was scheduled in writing in advance and its use could not be rescheduled between the termination of the illness and the end of the leave year.
- b. OPM regulations require that "use or lose" annual leave must be scheduled at least three pay periods prior to the end of the leave year, except as noted above. The Department does not have authority to waive this requirement.
- c. The leave-approving official must approve the employee's request "in writing in advance" for "use or lose" annual leave for use at the time requested by the employee or, if that is not possible, must reschedule the leave for use at some other mutually agreeable time before the end of the leave year.
- d. If an exigency arises which necessitates cancellation of the employee's "use or lose" annual leave, the situation must be presented to the official with authority to make an exigency determination. That official must determine:
 - (i) Whether or not an exigency exists which is of such importance that an employee cannot be released from duty; and

- (ii) Whether or not there is any reasonable alternative to the cancellation of an employee's "use or lose" annual leave, or to the assignment of that employee to the work generated by the exigency.
 - e. The determination must be documented and the specific beginning and ending dates of the exigency must be fixed. The determination of the exigency must be made before the cancellation of the employee's scheduled leave and not after the fact.
 - f. If the requirements in b and c (2) above are not met (i.e., the employee's request was submitted but not approved, or the exigency determination was not made before the employee's leave was canceled), this may be considered an administrative error and the forfeited annual leave may be considered for restoration. (See 57 Comptroller General 325 and 58 Comptroller General 684.) However, if the employee did not request the leave in writing in advance, this is not considered an administrative error and the forfeited annual leave cannot be restored. (The only exception is for a prolonged illness preceding the end of a leave year where the employee may be presumed to have requested proper scheduling of the annual leave.) (See Comptroller General Decision B-193431, dated August 8, 1979.)
 - g. If an exigency or illness that caused cancellation of an employee's "use or lose" annual leave terminates before the end of the leave year, efforts must be made to reschedule the annual leave before the end of the leave year to avoid forfeiture.
2. Time Limit for Use of Restored Annual Leave—Except for Extended Exigency
- a. The maximum time limit for use of restored leave is the end of the leave year in which the 2-year anniversary date of restoration occurs. Leave which is not used by this deadline may not be restored again.
 - b. The date of restoration is determined as follows:
 - (i) The date the annual leave was restored in correcting an administrative error; or
 - (ii) The date fixed by management as the end of the exigency that resulted in the forfeiture of the annual leave; or
 - (iii) The date the supervisor, after considering the medical documentation, ascertains that the employee is able to return to duty, if the leave was forfeited because of sickness or injury.
 - c. Employees with a restored annual leave account may use their regular annual leave and their restored leave in any order they choose, but they must advise their leave-approving official and the timekeeper of their choice. Once an employee makes an election, he/she may not change it after the leave has been used.
3. Time Limit for Use of Restored Annual Leave—Extended Exigency
- a. An extended exigency is defined as significant circumstances that meet all of the following conditions:
 - (i) Threaten the national security, safety, or welfare;

- (ii) Last more than 3 calendar years;
 - (iii) Affect a segment of an agency or occupational class; and
 - (iv) Preclude subsequent use of both restored and accrued annual leave within the time limit specified in 630-1-40(F)(1)(e).
4. The maximum time limit for use of annual leave restored because of an extended exigency is two years for each calendar year, or part thereof, that the exigency existed regardless of the number of years during the exigency in which the employee forfeited leave.

G. Lump-Sum Payment for Annual Leave

An employee with accumulated annual leave, including unused restored leave in a separate account, is paid a lump-sum at his/her current hourly rate for all unused annual leave at the time of separation. If there is a general pay increase during the period of time which would have been covered by the leave had the employee actually used it, the employee is paid at the higher rate of pay for leave which would have covered the period following the effective date of the pay increase. The lump-sum payment may be adjusted to collect the amount of any debts owed to the Government.

630-1-50 SICK LEAVE

A. Granting Sick Leave

1. A leave-approving official may grant sick leave to an employee for non-emergency dental, optical, or medical examination or treatment (including for physical or mental conditions). The employee **must request** sick leave in advance for non-emergency purposes.
2. If the employee has followed proper leave-requesting procedures and provides acceptable evidence, a leave-approving official must grant an employee's request for sick leave (but is not required to grant a request for advance sick leave):
 - a. When the employee is incapacitated to perform duties due to illness (physical or mental), injury, or temporary disability, including pregnancy. An employee with a disability who depends on an aid, mechanical or otherwise, to perform work is normally incapacitated without the aid. A seeing-eye dog, a wheelchair, or any prosthetic device may be considered an extension of the person. Granting sick leave for such purposes as training, replacement, or repair is appropriate under the same conditions as any other incapacitation.
 - b. For emergency medical, dental, or optical examination or treatment.
 - c. When an employee is required to care for a member of his/her immediate family with a serious health condition or to make arrangements for or attend the funeral of a family member. Full-time employees may not exceed a total of 104 hours or up to 13 days in a leave year for these purposes. The limitations for part-time employees or

employees with an uncommon tour of duty are proportional to those for full-time employees. (See 5 CFR 630.401)

- d. A maximum of 30 days of sick leave may be advanced to a full-time employee at the beginning of a leave year or at any time thereafter in the case of a serious disability or ailment of the employee or family member or for purposes relating to the adoption of a child. For a part-time employee or an employee on an uncommon tour of duty, the maximum amount of advanced sick leave must be prorated according to the number of hours in the employee's regularly scheduled administrative workweek. (See 5 CFR 630.401)
 - e. When the organization has made a determination that the employee is incapacitated and meets the requirements for disability retirement and the OPM is processing the employee's retirement application.
 - f. For treatment of a disabled veteran or adjudication of a claim concerning a job-related injury or illness, as described in 630-1-30(B)(1).
 - g. When an employee is sick within a period of annual leave, provided that the employee presents medical documentation to support the sick leave immediately upon return to duty.
 - h. When an 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 on the job because of exposure to a communicable disease.
 - i. When an employee must be absent from duty for purposes relating to his or her 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
3. Upon request, the leave approving official may grant annual leave, if available, or leave without pay for a period of illness which cannot be covered by sick leave or advanced to the employee. However, annual leave must not be substituted retroactively for regular sick leave. Annual leave may be substituted retroactively to liquidate an employee's indebtedness for advance sick leave.
 4. Leave-approving officials will usually charge sick leave only at an employee's request.
 - a. Officials may, however, place an employee on sick leave without the employee's request when the employee is absent under extenuating circumstances clearly indicating that he/she is unable to work and unable to request leave (e.g., the employee is in a coma). If the employee is still unable to work after exhausting his/her accrued sick leave and is unable to request appropriate leave, the leave-approving official may consider advancing sick leave or may consider charging the continued absence to annual leave or to leave without pay. In addition, the official may pursue use of the Voluntary Leave Transfer Program on behalf of the employee.
 - b. In extraordinary circumstances, leave-approving officials may also place an employee on sick leave without the employee's request if the employee reports for duty but is determined to be unable to work because of illness (mental or physical).

However, placing an employee on sick leave in this situation without his/her consent has been determined by the Merit Systems Protection Board to be a suspension, thus entitling the employee to notice and other due process protection.

B. Advance Sick Leave

1. An advance of sick leave may be made to an employee with a zero sick leave balance if the employee has a serious disability or ailment, provided the total advance at no time exceeds 30 days and there is a reasonable expectation that the employee will return to duty. For an employee holding a limited appointment, sick leave must not be advanced in excess of the sick leave to be earned during the remaining period of employment. Sick leave must not be advanced when it is likely the employee will retire, be separated, or resign before the advance leave will be earned. Employees have no entitlement to advance sick leave.
2. The employee's request for advance sick leave must be in writing and must be supported by medical documentation acceptable to the leave-approving official in accordance with the respective collective bargaining agreement and instructions issued by the OPDIV. Usually the disability or ailment will be of such seriousness as to require a period of absence of at least five consecutive work days, unless an absence for a shorter period is determined to be appropriate (for example, intermittent absences for chemotherapy, kidney dialysis, etc.)
3. Advance sick leave may be granted regardless of whether the employee has annual leave to his/her credit. Any sick leave earned after the sick leave is advanced will be used to liquidate the advance sick leave.
4. An employee separated while indebted for advance sick leave must refund the amount due or have the amount owed deducted from any monies due to the employee. For exceptions, see 630-1-30(F).
5. As an alternative to advance sick leave, the employee and the supervisor may consider the Voluntary Leave Transfer Program, leave without pay, or an adjustment from full-time to part-time employment during a period of recuperation, thus allowing the employee to work less than eight hours daily until the employee is fully recovered. In considering such options, the supervisor and the employee should consult the servicing personnel office regarding the effects of LWOP and part-time employment on the employee's benefits, as well as possible employment ceiling implications in moving between full-time and part-time status.

C. Evidence to Support Sick Leave

1. Employees must submit evidence as required by their leave-approving official to support approvals of sick leave. Officials have the discretion to require different forms of evidence depending upon the circumstances. For example, a leave-approving official:
 - a. 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 defined as that which is signed by the employee's health care provider and is sufficiently

specific for the leave-approving official to make a reasonable decision that the employee was incapacitated to perform the duties of his/her position.

- b. May require the employee's signature on the SF 71, Request for Leave or Approved Absence, a written statement signed by the employee, or other evidence which is administratively acceptable to the leave-approving official when the period of absence is relatively short or the nature of the employee's illness did not require an appointment with a health care provider.
2. Employees must submit acceptable evidence or medical certification for a request for sick leave no later than 15 calendar days after the date the agency requests such medical certification. If circumstances beyond the employee's control prevent a timely submission despite the employee's diligent good faith efforts, the employee must provide the evidence within a reasonable period of time, but no later than 30 calendar days after the date the agency requests such documentation. Failure to do so is grounds for disciplinary action for failure to follow proper leave procedures. If the employee is placed on AWOL, 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. An employee who does not provide the required evidence within the specified timeframe is not entitled to sick leave.
3. Leave-approving officials may require that employees submit medical documentation during a period of extended sickness. The purpose of such a requirement is to obtain information that is necessary for planning work or for determining that the approval of continued leave is appropriate (e.g., the health care provider's prognosis of when the employee will be able to return to work; what limitations, if any, the physician will temporarily place on the employee's activities; and, if applicable, what other work the employee could perform).

630-1-60 VOLUNTARY TRANSFER OF LEAVE

A. Purpose

Under the Voluntary Leave Transfer Program (VLTP), unused accrued annual leave may be transferred for use by another employee who has been determined to have a medical or family medical emergency and has been approved as a leave recipient.

B. Definitions

Medical emergency means a medical condition of an employee or a family member that is likely to require an employee's absence from duty for a prolonged period of time (24 hours for full-time employees) and is likely to result in a substantial loss of income to the employee because of the unavailability of paid leave. (Absence from duty necessitated by pregnancy and childbirth is an acceptable reason for requesting use of the VLTP.)

C. Applying to Become a Leave Recipient

1. Current employees affected by a medical or family medical emergency must apply in writing to become a leave recipient. In the event that an employee is not capable of

making application on his or her own behalf, another employee in this Department, an employee's representative, or a family member may make the application.

2. Each application for VLTP is to be initially submitted to the immediate supervisor of the potential leave recipient for consideration and must include:
 - a. The name, position title, and grade or pay level of the prospective leave recipient
 - b. A brief description of the nature, severity, and anticipated duration of the medical or family medical emergency affecting the applicant
 - c. A statement from a physician or other appropriate expert (e.g., Christian Science Practitioner, chiropractor, psychologist, etc.) and any additional information, as appropriate, that shows the nature, severity, and duration of the medical or family medical emergency.

D. Retroactivity

Transferred annual leave may be substituted retroactively for a period of leave without pay (LWOP) or to liquidate advanced annual or sick leave granted to the approved leave recipient to cover absences during a medical or family medical emergency.

E. Processing Applications

The actual approval or disapproval of an application must be based on the determination by designated officials as to whether the potential leave recipient's absence from duty is (or is expected to be) at least 24 hours. (In the case of a part-time employee or an employee with an uncommon tour of duty, the determination should be made on the basis of 30% of the average number of hours of work in the employee's biweekly scheduled tour of duty.) Such absence can be consecutive or intermittent hours during the leave year.

F. Leave Donations from Other Federal Agencies

This Department will accept the transfer of annual leave from donors employed in other Federal agencies, and employees of this Department may donate annual leave to employees in other Federal agencies when other agencies accept outside donations.

G. Using Transferred Leave

1. A recipient's annual and sick leave accrued and accumulated prior to the approval date of the recipient's application must be used before any transferred annual leave. Sick leave must first be used in situations involving care for a family member.
2. Transferred annual leave may accumulate without regard to the limitations imposed by 5 U.S.C. 6304(a).
3. Transferred leave may not be:
 - a. Transferred to another leave recipient; or
 - b. Included in a lump-sum payment; or

- c. Made available for re-credit upon reemployment by a Federal agency; or
- d. Used after the recipient's medical or family medical emergency is terminated.

H. Accrual of Annual and Sick Leave

Once the employee is using the transferred leave, he/she continues to accrue annual and sick leave up to a maximum of 40 hours in each category (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty) regardless of whether it is a family medical or personal medical emergency. Once 40 hours of each type of leave are accumulated in this separate account and the medical emergency still exists, this separate leave accumulation **stops**.

1. This annual and sick leave accrued by the employee while in transferred leave status must be kept in a separate leave account from any leave account under 5 U.S.C. 6304 and 5 U.S.C. 6307 and must not be available for the employee's use until the first applicable pay period beginning after the date on which the employee's medical emergency ends, except that it may be used if the employee exhausts all donated leave.
2. Any leave recipient who returns to work on a part-time schedule while still in a medical emergency situation (e.g., therapy, gradual return to work under doctor's orders, family member's therapy) will earn regular annual and sick leave (5 U.S. Code 6304 and 6307). If in a given pay period an employee uses some donated leave but also works and uses regular leave, all leave earned during that pay period is credited to the employee's regular leave account, not the separate account described above. If otherwise permitted, this accrued regular leave must be used before any donated leave.
3. If an employee who is in a leave transfer status terminates his/her Federal service, these separate 40-hour annual and sick leave accruals may not be credited to the employee for lump-sum leave purposes.

I. Donating Leave

1. Without a waiver, a leave donor may not donate more than one-half of the amount of annual leave he/she would be entitled to accrue during the leave year in which the donation is made. This one-half limit applies whether the leave is donated all at one time or in increments at various times during the leave year. Waivers can be approved by leave-approving officials.
2. Without a waiver, a leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year may not donate more than the lesser of:
 - a. Half the amount of annual leave he/she would be entitled to accrue during the leave year in which the donation is made, or
 - b. The number of work hours remaining in the leave year (as of the date of the transfer) for which he/she is scheduled to work and receive pay.

3. As indicated in the law and regulations, an employee cannot donate leave to his/her immediate supervisor.

J. Restoring Transferred Annual Leave

Unused leave donated to the recipient must be restored to the donor's account upon termination of a medical or family medical emergency .

630-1-70 VOLUNTARY LEAVE BANK PROGRAM

OPDIVs may elect to establish and administer a Voluntary Leave Bank Program, consistent with the applicable law and Office of Personnel Management regulations. A Voluntary Leave Bank Program enables employees to contribute accrued or accumulated annual leave to a "leave bank". The leave from this bank may be made available to a leave bank member who requires leave because of a medical emergency.

630-1-80 EXCUSED ABSENCE

A. Definition

Excused absence is absence from duty administratively authorized without loss of pay and without charge to leave. The term "administrative leave" is sometimes used to refer to excused absence. Both the Merit Systems Protection Board and the Comptroller General have determined that it is inappropriate to grant long periods of excused absence for no other reason than to settle a case or to permit an employee to accumulate enough time to become eligible to retire.

B. Excused Absence Situations

Situations where excused absence may be authorized include, but are not limited to the following:

1. Attendance at administrative hearings.
2. Bone marrow and organ/tissue donation and transplantation. An employee may use:
 - a. Up to exceed 7 days of leave to serve as a bone-marrow donor
 - b. Up to 30 days of leave to serve as an organ donor.
3. Blood donations.
4. Holidays for part-time employees. Part-time employees are not entitled to (a) holidays designated by law or executive order or (b) days observed as holidays when the actual holiday falls on one of their non-work days (see 26 Comptroller General 690, and 32 Comptroller General 378). They are not entitled to an in lieu of holiday. For example, if Christmas falls on Saturday, the in lieu of holiday is Friday for most employees. A part-time employee is not entitled to the Friday as a holiday, even if he/she were scheduled to work on that day. However, in such a situation, the employee may be granted excused absence where, for example, the office is closed. (See Comptroller General Decision B-210741, April 24, 1984.)
5. Medical Examinations and Treatments

- a. Examples are examination in connection with an application for disability retirement initiated by the Department and examination or preventive treatment authorized under the federal employees' health program.
 - b. For an employee who suffers a disabling traumatic injury on the job, the employee's absence on the day of injury will be excused. Continuation of pay (C.O.P.) may be authorized for subsequent absences, examinations, or treatments related to a traumatic injury. When an employee has exhausted (or is not eligible for) the 45 days of C.O.P. and has returned to work, then LWOP, annual leave, or sick leave may be granted for injury-related examinations or treatment; the employee may then apply to the Office of Workers' Compensation Programs for compensation or leave buy back for the period in question.
6. Registration for military service.
 7. Participation in civil defense activities.
 8. Voting and registration.
 9. Inclement weather or closure of work place.
 10. Job interviews and other out-placement activities when it is determined that this is in the Department's interest. (Downsizing is the most common but not the only example where excused absence would be appropriate.)
 11. Participation in health and fitness activities. An official with delegated authority may approve excused absence for an employee to participate in health and fitness activities if the activity is officially sponsored and administered and for a specific, fixed duration. Examples are Federal fitness day events, Department sponsored health screenings, agency fitness center orientation, or a smoking cessation program.
 12. Participation in preventive health screenings. Examples of preventive health screenings include, but are not limited to, screening for prostate, cervical, colorectal, and breast cancers, sickle cell anemia, blood lead level, blood cholesterol level, immunity system disorders such as HIV, and blood sugar level testing for diabetes.
 - a. Up to four (4) hours of excused absence each leave year may be approved for employees with less than 80 hours of sick leave. Employees may request annual leave, sick leave, or leave without pay when more than four hours of administrative leave is needed.
 - b. An employee may not be granted excused absence to accompany a family member receiving preventative health screenings.
 - c. The four hours of excused absence may be used all at once or a portion at a time over more than one day during the leave year.
 - d. Employees are encouraged to make maximum use of existing work schedule and leave flexibilities (e.g., alternative work schedules, granting leave under the Federal

Government's sick and annual leave programs, and granting excused absence to employees to participate in Agency-sponsored preventive health activities).

- e. The supervisor may request medical documentation for an excused absence for preventive health screenings.

C. Official Time

1. Official time is not excused absence, but there may be situations where an employee is authorized to use official time to perform activities other than his/her normal duties. The distinction can be very important because, for example, an employee injured while on excused absence may not be entitled to benefits under the Federal Employees' Compensation Act (FECA), while an employee injured while on official time may be covered.
2. Official time is included on the employee's Time and Attendance Report as normal hours of work and is not entered as administrative leave.
3. Supervisors may authorize official time in situations such as the following:
 - a. For an employee serving as a labor organization representative. See 5 U.S.C. 7131 and applicable negotiated agreements
 - b. For an employee representing another employee in an appeal, discrimination complaint, or grievance
 - c. For an employee preparing a response to a notice of proposed adverse action
 - d. For an employee meeting with an equal employment opportunity counselor
 - e. For employees meeting with employee assistance staff for counseling
 - f. For an employee who has prevailed in a civil rights action against the Department, the employee's absence in connection with the action should be changed to official time (see 59 CG 290). A determination to treat such an absence as official time can be made only upon conclusion of the court action. While the court action is in process, the employee should request annual leave or leave without pay in accordance with 630-1-90(D)(3)
 - g. For employees to participate in fitness activities in order to help them meet job-related medical standards or physical requirements.

630-1-90 COURT LEAVE

A. Definition

Court leave is authorized absence of an employee from official duty for attendance at court and other judicial proceedings, either as a juror or a witness in certain circumstances, without charge to other leave or loss of pay.

B. Granting of Court Leave

1. Court leave is granted to permanent and temporary employees, both full-time and part-time, for serving in a nonofficial capacity for:
 - a. Jury duty with a Federal, District of Columbia, State, or local court.
 - b. Witness duty on behalf of a State or local government.
 - c. Witness duty on behalf of a private party when the Federal or District of Columbia government, or a State or local government, is a party to the judicial proceeding.
2. Intermittent employees may not be granted court leave.
3. A night shift employee who is eligible for court leave and who is in court during the day is granted court leave for the night shift. The employee is entitled to the night shift differential.
4. 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 granted court leave.
5. Court leave is granted only for the days of an employee's scheduled tour of duty on which the employee performs court service or for portions of such days.

C. Jury Duty

1. It is Department 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 Department. In such cases, the supervisor should prepare a written statement which clearly relates how the work of the Department 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.
2. When excused from jury duty for a day or a part of a day, an employee must return to work if dismissed early enough to return more than two hours before the tour of duty is over. The official authorized to grant court leave may continue the employee on court leave for the rest of the day in such cases only if the official determines that return to work would constitute a hardship for the employee.

D. Witness Duty

1. Attendance at a judicial proceeding as a witness in an official capacity is considered official duty and no leave of any kind is charged. Attendance at a judicial proceeding by an employee who is summoned by the court or authority or assigned by the Department to testify in a nonofficial capacity on behalf of the United States Government or that of the District of Columbia, is also considered official duty. Travel expenses for court attendance may be authorized in situations where the employee is considered to be performing official duty.

2. Court leave may be granted to an employee who is testifying in a nonofficial capacity on behalf of a State or local government.
3. Court leave may be granted to an employee who is testifying in a nonofficial capacity on behalf of a private party when the United States or District of Columbia Government or a State or local government is a party to the proceeding. (However, court leave is not to be granted to an employee who appears as a witness on his/her own behalf if such a suit is filed by that employee or if the employee is the defendant in the suit. For absences for this purpose, the employee may request annual leave or leave without pay.)
4. An employee may request annual leave or leave without pay when the employee is testifying in a nonofficial capacity in a court suit between private individuals or companies (i.e., the United States or District of Columbia Government or a State or local government is not a party to the suit).

E. Procedures

1. An employee who is called for court service as either a witness or juror must present the court order, subpoena, or summons to the leave-approving official. Upon return to duty, the employee must submit to the leave-approving official written evidence, such as a marshal's statement of court attendance.
2. Fees received by an employee for jury or witness service for which court leave is granted or official duty is considered proper cannot be retained by the employee. The employee should accept and submit such fees to the appropriate HHS finance office.
 - a. Fees may be retained if they are for service outside the regular tour of duty or on a non-workday or holiday. Fees may also be retained if they are for service as a nonofficial witness in a court suit between private individuals or companies, since the employee is not on court leave or official duty in such a situation.
 - b. Not all monies received for jury or witness service are classified as fees. Some government entities provide "expense money" which is considered reimbursement for expenses incurred while serving as a juror or witness. Expense money received may be retained by the employee and need not be refunded to the Federal Government.

630-1-100 MILITARY LEAVE

A. Coverage

1. An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces.
2. Any full-time Federal civilian employee whose appointment is not limited to one year is entitled to military leave. Military leave under 5 U.S.C. 6323(a) is prorated for part-time career employees.

B. Types of Military Leave

1. 5 U.S.C. 6323 (a) provides 15 days per fiscal year for active duty, active duty training, and inactive duty training. An employee can carry over a maximum of 15 days into the next fiscal year. Inactive Duty Training is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training.
2. 5 U.S.C. 6323 (b) provides 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation.
3. 5 U.S.C. 6323(c) provides unlimited military leave to civilian employees or individuals employed by the government of the District of Columbia, who is a member of the National Guard of the District of Columbia. Such employees are entitled to leave without loss in pay or time for each day of a parade or encampment ordered or authorized under title 39, District of Columbia Code.
4. 5 U.S.C. 6323(d) provides that Reserve and National Guard Technicians only are entitled to 44 workdays of military leave for duties overseas under certain conditions.

C. Crediting Military Pay Against Civilian Pay

1. For employees entitled to military leave under 5 U.S.C. 6323(a), the employees retain the military pay as well as the civilian pay, including any premium pay (except Sunday premium pay) he/she would have received if not on military leave.
2. For employees entitled to military leave under 5 U.S.C. 6323(b) and (c), their civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave, compensatory time off for travel, or sick leave, if appropriate, in order to retain both civilian and military pay.
3. For employees entitled to unlimited military leave under 5 U.S.C. 6323(c), the employee's civilian pay is offset by the amount of the military pay. (See 5 U.S. Code 5519.)

D. Accumulating Military Leave

1. Employees who are entitled to regular military leave but who do not use the entire 15 calendar days (or prorated earnings for part-timers) may carry over the unused portion from one fiscal year to the next. A maximum of 15 days can be carried over.
2. Employees who are entitled to special military leave may not carry over any unused portion of the 22 work days to the next calendar year.

E. Charges for Military Leave

1. Military leave should be credited to a full-time employee on the basis of an 8-hour workday. The minimum charge to leave is one hour. An employee may be charged military leave only for hours that he/she would otherwise have worked and received pay.
2. Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) are only charged the amount of military leave necessary to cover the period of training and necessary travel.
3. Employees may use up to 30 days of military leave in any fiscal year. The military leave may be used during one or more periods of military duty during the fiscal year.
4. Employees may take the full 15 days of military leave at the beginning of the fiscal year, even if the maximum of 30 days of military leave had been taken during the prior fiscal year and even if the military service is continuous. (See CG Decision B-241272.)
5. For employees entitled to military leave under 5 U.S.C. 6323 (b), the leave is charged in the same increments as annual and sick leave.
6. For employees entitled to-unlimited military leave for parades and encampments, the military leave is charged in increments of one day. (See 60 CG 381.)

F. Documentation

Employees called to military duty must furnish, to their leave-approving official, a copy of their military orders or a statement from their commanding officer.

630-1-110 FUNERAL LEAVE

Up to three work days (per occurrence) may be granted for funeral leave to an employee in connection with the funeral of or memorial service for his/her immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the armed forces in a combat zone.

Excused absence for funeral leave may also be granted to a veteran to enable him/her to participate in a military funeral as an active pallbearer or as a member of a firing squad or guard of honor. The maximum excused absence allowed in this instance may not exceed four hours in any one day.

630-1-111 TRANSFER AND RECREDIT OF LEAVE BETWEEN THE CIVIL SERVICE AND OTHER LEAVE SYSTEMS

A. Statutory Requirements

5 U.S.C. 6308 requires that annual and sick leave be transferred or re-credited on an adjusted basis (i.e., seven calendar days of leave are equivalent to five workdays of leave) when an employee moves without a break in service between positions under different leave systems.

B. Transfer of Leave from Other Leave Systems

When an employee from another Federal agency with a different leave system transfers to a civil service position in this Department, the employee's leave should be transferred in accordance with 5 CFR, Part 630, Subpart E, and 48 CG 212. For example, a nurse in the Veterans Administration earns eight hours of annual leave per pay period and may accumulate a maximum of 685 hours. If a nurse with an accumulation of 685 hours transfers to a civil service position in this Department, the 685 hours will constitute the employee's annual leave ceiling (rather than the normal 240 hours). When the nurse uses more leave than he/she accrues during a year, the leave balance at the end of the leave year becomes the employee's new maximum carryover (until it reaches the normal 240-hour carryover).

630-1-120 CREDITABLE SERVICE BASED ON NON-FEDERAL EXPERIENCE FOR ANNUAL LEAVE ACCRUAL

A. Policy

It is the policy of HHS to allow the flexibility of offering potential job candidates a service credit towards their annual leave accrual rate. This hiring flexibility is to be used as a recruitment incentive for employees who will be newly appointed or employees being reappointed after a break in service of 90 days or more. The credited experience must have been obtained in a non-Federal or active duty military position having duties that directly relate to the duties of the position to be filled. The OPDIV/STAFFDIV Head and human resources officials must concur that this experience is necessary to achieve an important Department mission or performance goal.

B. Responsibility

1. Office of Human Resources (OHR), Office of the Assistant Secretary for Administration (ASA), Office of the Secretary (OS) - OHR is responsible for developing and issuing this policy. The deputy assistant secretary for human resources has authority to interpret and issue human resources policy within HHS.
2. Operating Division (OPDIV)/Staff Division (STAFFDIV) Heads – The OPDIV or STAFFDIV heads or their designees must approve that the selectee's experience is necessary to achieve an important Department mission or performance goal.
3. Human Resources (HR) directors – The Human Resources (HR) directors have authority to implement OPM's regulations under 5 CFR 630.205. For the purpose of this document, an HR director includes the human resources center directors, the HR director for the National Institutes of Health and the HR director for the Indian Health Service. Using 5 CFR 630.205, the HR directors must:
 - a. In conjunction with the selecting official, determine that the selectee hired:
 - (i) Has the skills and experience necessary and essential to the position.
 - (ii) Acquired the skills and experience through the performance of duties in a non-Federal position or an active duty uniform position that directly relate to the duties of the position for which the individual has been selected.

- b. Determine the amount of service to be credited for leave purposes. This amount may not exceed the actual period of service during which the individual performed duties directly related to the position to which he or she is being appointed.
- c. Approve all documentation prior to the effective date of the employee's entrance on duty and grant service credit prior to the employee's entry on duty.'

C. Documentation

1. The selectee must provide written documentation, acceptable to the agency, of his or her qualifying service. All documentation must be approved by the HR center director prior to the effective date of the employee's entry on duty. Credit is to be granted effective on the date that the employee enters on duty in the relevant position.
2. The HR center director shall justify and document his or her reasons for granting credit. (See Attachment A). Such documentation shall include:
 - a. A copy of the position description for the position being filled and the vacancy announcement for the position (if applicable);
 - b. The selectee's resume, which in the case of non-Federal personnel, must clearly document the length and nature of the service to be credited or be supplemented by supporting documentation to this effect;
 - c. For each period of service for which credit is granted, an explanation of how the duties relate to the position to which the selectee will be appointed; and
 - d. In the case of active duty uniformed service credited, a form DD214, Certificate of Release or Discharge from Active Duty, documenting the service.
 - e. For each grant of credit, a copy of the justification and documentation, position description, vacancy announcement, and resume (both non-federal and uniformed service) shall be submitted to their human resource director with sufficient time to allow approval prior to the effective date of the employee's entry on duty.

D. Suspension of Creditable Service

An employee must complete one full year of continuous service with the OPDIV/STAFFDIV in order to retain this service credit beyond his or her initial appointment. If the employee leaves the position prior to his or her first full year of employment, the Department must recalculate his or her service computation date for leave purposes; however, the employee will retain all accrued or accumulated annual leave for purposes of transfer or lump-sum leave payment.

E. Reporting

1. The HR center directors shall submit an annual report to the deputy assistant secretary for human resources on the use of this policy. The report should contain information on the total number of selectees who were granted service credit during the previous fiscal year; the amount of annual leave the selectee was granted; and the number of positions designated necessary to achieve an important Department mission and goal. This report is due on or before October 30.

2. In addition, the Department's human resources director may rescind this authority if it is determined that this flexibility is used inappropriately.

630-1-130 DEFINITIONS

The following terms are *defined for purposes of use of sick leave, funeral leave, voluntary leave transfer, voluntary leave bank, and emergency leave transfer.*

- A. Committed relationship means one in which the employee, and the domestic partner of the employee, are each other's sole domestic partner (and are not married to or domestic partners with anyone else); and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).
- B. Covered active duty
 1. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
 2. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101 (a)(13)(B) of title 10, United States Code.
- C. Covered Service / Military Member
 1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
 2. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
 3. Includes the employee's spouse, son, daughter, or parent for the purpose of exigency leave.
 4. Includes the employee's spouse, son, daughter, parent, or next of kin for the purpose of leave to care for a covered service member.
- D. Domestic partner means an adult in a committed relationship with another adult, including both same-sex and opposite-sex relationships.
- E. Exigency leave – A qualifying exigency is a non-medical activity that is directly related to the covered military member's active duty or call to active duty status. Examples of appropriate use of qualifying exigency leave: short notice deployment, military events and related activities, urgent childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities which arise out of the military member's covered active duty or call to covered active duty status.

Refer to Title 29, Section 825.126 - Leave because of a qualifying exigency for more information.

- F. Family member means an individual with any of the following relationships to the employee:
1. Spouse, and parents thereof;
 2. Sons and daughters, and spouses thereof;
 3. Parents, and spouses thereof;
 4. Brothers and sisters, and spouses thereof;
 5. Grandparents and grandchildren, and spouses thereof;
 6. Domestic partner and parents, sons, daughters, brothers, sisters, grandparents and grandchildren thereof, including domestic partners of any individual in paragraphs (b) through (e) of this definition; and
 7. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- G. Immediate relative – Same as definition for Family Member.
- H. Next of kin, used with respect to an individual, means the nearest blood relative of that individual. Refer to CFR 825.122(d).
- I. Parent
1. A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;
 2. A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
 3. A person who stands in loco parentis to the employee or stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis; or
 4. A parent, as described in paragraphs (a) through (c) of this definition, of an employee's spouse or domestic partner.
- J. Serious injury or illness
1. In the case of a member of the Armed Forces (including a member of the National Guard or Reserves) means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

2. In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (8)(B), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

K. Son or daughter

1. biological, adopted, step or foster son or daughter of the employee;
2. A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
3. A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or
4. A son or daughter, as described in paragraphs (a) through (c) of this definition, of an employee's spouse or domestic partner.

L. Spouse - an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized.

M. Veteran - a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
 JUSTIFICATION FOR CREDITING PRIOR EXPERIENCE
 TOWARDS AN EMPLOYEE'S ANNUAL LEAVE ACCRUAL RATE**

The Office of Personnel Management issued interim regulations on April 28, 2005, to implement Section 202(a) of the Federal Workforce Flexibility Act of 2004. Section 202(a) amends 5 U.S.C. 6303 to provide OPM with the authority to prescribe regulations under which a newly appointed or re-appointed employee who is covered by the Federal annual and sick leave program, may be given service credit for prior experience that otherwise would not be creditable for the purpose of determining the employee's annual leave accrual rate.

OPM has added regulations at 5 CFR 630.205(a) to allow the head of an agency or designee the authority to grant a newly appointed or reappointed employee with service credit for annual leave accrual rate purposes based on prior non-Federal work experience or a period of active duty in a uniformed service.

Employees Name: _____

Position, Pay plan, Series, Grade: _____

Prior to granting such credit, the HR director must determine that this employee meets both of the following conditions through reviewing justifications from the requesting organization:

1. The skills and experience that this employee possesses are essential to the new position and were acquired through performance in a non-Federal position having duties that directly related to the position to which he or she is being appointed. **Justification:**

2. The use of this authority is necessary to achieve an important agency mission or performance goal. **Justification:**

Note: The vacancy announcement, position description(s), and employee's application package must be attached to this justification. If the service credit is based on a period of active duty in a uniformed service, you must also attach the employees DD-214 documenting this service.

REVIEWS AND APPROVALS

OPDIV/Center Recommending Official's Signature	Title	Date
OPDIV/Center Approving Official's Signature	Title	Date
HR Director's Signature	Title	Date

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
 CREDITABLE SERVICE FOR ANNUAL LEAVE ACCRUAL SERVICE AGREEMENT**

Name (Type/Print First, Middle, Last) _____

In consideration of service credit I am receiving towards my leave accrual rate and service computation date for which I am entitled to under the policies of the Department of Health and Human Services, I hereby agree:

1. To serve in (OPDIV) _____ for a minimum of 1 full year of continuous service.
2. That I am a newly appointed employee or an employee who is being reappointed following a break in service of at least 90 calendar days after my last period of civilian Federal employment.
3. That the amount of service credited to me shall be determined by the HR director or his/her designee as prescribed by the HHS policy for Credible Service for Annual Leave Accrual. The service credited under this agreement is _____ years, _____ months, _____ days.
4. That my annual leave accrual rate will be: 4 hours 6 hours 8 hours / bi- weekly.
5. That my service computation date for annual leave accrual purposes will be: ___/___/____.mm/dd/yyyy
6. That acceptance of this agreement does not alter the conditions or terms of my employment.
7. That this credit of service is based solely on the position to which I am assigned and is not associated with my performance and/or conduct. Accordingly, this agreement will not preclude nor limit the Department of Health and Human Services from effecting personnel actions as may be appropriate.
8. That in the event I separate from Federal service or transfer to another agency or HHS OPDIV prior to completing one (1) full year of continuous service, my service computation date will be re-calculated subtracting the credit that I received under this agreement.
9. That HHS policy is incorporated into and made a part of this agreement and I have read this policy.

I _____, agree to the terms of this agreement on ___/___/____.	
Name (printed)	mm/dd/yyyy
_____ Employee Signature	

REVIEWS AND APPROVALS

OPDIV/Center Recommending Official's Signature	Title	Date
OPDIV/Center Approving Official's Signature	Title	Date
HR director's Signature	Title	Date
I certify that the information entered on this form is accurate and that the proposed service credit is in compliance with statutory and regulatory requirements.	HR Specialist's Signature and Title	Date

HHS/OS/ASAM/OHR



**Certification of Qualifying Exigency for Military Family Leave
 (Family and Medical Leave Act)**

Instructions: This form is used to request qualifying exigency leave under the Family and Medical Leave Act in accordance with 5 U.S.C. 6382 and 6383. Employees submit completed form and supporting documentation to the immediate supervisor for approval 30 days in advance of the event, if possible. Request may be denied if supporting documentation is not provided.

Employee's Full Name _____ Telephone Number _____ E-mail Address _____ Today's Date _____

Covered military member on active duty or call to active duty status in support of a contingency operation:

	Relationship of covered military member to you?	
Full Name	<input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Parent <input type="checkbox"/> Spouse	Period of covered military member's active duty

DOCUMENTATION: A copy of the covered military member's active duty orders and supporting documentation are required as part of this request. Please check one of the following:

- A copy of the covered military member's active duty or call to covered active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operations is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

QUALIFYING REASON FOR LEAVE: Briefly and specifically describe the reason you are requesting FMLA leave due to a qualifying exigency. Include sufficient information for the approving official to make a determination as to whether to grant exigency leave. Attach supporting documentation such as a copy of a meeting announcement for informational briefings sponsored by the military, documentation confirming an appointment with a counselor, childcare or school official, or legal or financial representatives, or post-deployment activities sponsored by the military, etc. Contact the human resources representative for questions regarding qualifying exigencies.

AMOUNT OF LEAVE REQUESTED:

Approximate date qualifying exigency will _____ Probable duration of
 being (or has begun)? _____ exigency _____

Check here if you will need to be absent from work for a *single, continuous period* of time due to the qualifying exigency. Include the beginning and ending dates for the period of absence (estimates are acceptable).

Check here if you will need to be absent from work *periodically/intermittently* to address this qualifying exigency. Provide a tentative leave schedule including the dates of any scheduled meetings or appointments. Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (e.g., one deployment-related meeting every month, lasting four hours each).

Frequency: times per week(s) month(s)
Duration: hours or day(s) per event

MEETING WITH THIRD PARTY:

Provide the contact information and a brief description of the nature of the meeting if leave is requested to meet with a third party (e.g., to arrange for urgent childcare, attend counseling, to make legal or financial arrangements, to act as the covered military member's representative, etc.)

Name of Individual	Title	Agency/Organization
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Telephone Number	Email Address
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Nature of the meeting

Name of Individual	Title	Agency/Organization
--------------------	-------	---------------------

Telephone Number	Email Address
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Nature of the meeting

HUMAN RESOURCES MANUAL
Instruction 630-1, Leave and Excused Absence
Issuance Date:
Attachment C

Name of Individual	Title	Agency/Organization
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Telephone Number	Email Address
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Nature of the meeting

CERTIFICATION – I certify that the information I provided above is true and correct.

Print Name	Signature of Employee	Date Signed
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