

## HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding excused absence.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on hours of duty and leave. The pages in this handbook replace the corresponding page numbers in VA Handbook 5011. Revised text is contained in brackets. This revision establishes the requirement to provide an employee returning from active military service consisting of at least 42 consecutive days in support of the Global War on Terrorism with 5 days excused absence upon his or her return to Federal civilian service to aid in readjustment to civilian life. This change will be incorporated into the electronic version of VA Handbook 5011 that is maintained on the [Office of Human Resources Management Web site](#).
- 3. RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED DIRECTIVE:** VA Directive 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** None.

**CERTIFIED BY:**

/s/  
Roger W. Baker  
Assistant Secretary for  
Information and Technology

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

/s/  
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Assistant Secretary for  
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## PART III. LEAVE

### CHAPTER 1. GENERAL

#### 1. AUTHORITY

##### a. Title 5 Leave and Absence

(1) The Office of Personnel Management has the over-all responsibility for administration of 5 U.S.C. Chapter 63.

(2) Administration Heads, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries and field facility heads are authorized to administer the provisions of this part of the handbook and 5 U.S.C. Chapter 63 and 5 CFR part 630 for employees under their respective jurisdictions.

(3) Except as otherwise specifically set out in this part, this authority may be redelegated to subordinate officials with whatever limitations deemed necessary to ensure the proper exercise of authority.

##### b. Title 38 Leave and Absence

(1) 38 U.S.C., Section 7421, authorizes the Secretary to prescribe, by regulation, leaves of absence of employees covered by 38 U.S.C., chapters 73 and 74. [This part of the handbook is a regulation pursuant to 38 U.S.C., Section 7421.]

(2) The Under Secretary for Health is responsible for the overall direction and administration of the leave policies and instructions for VHA.

(3) Facility Directors are responsible for administering the leave policies and instructions at facilities as provided herein.

(4) The Under Secretary for Health and facility directors are authorized to approve or disapprove leave for employees within their jurisdiction subject to the provision of part III, chapter 3 of this handbook. These officials may designate employees to exercise their authority for them, except where the specific provisions of part III, chapter 3 limit such authority to them only. Persons authorized to approve leave are also responsible for advising employees properly on leave matters and to guard against abuses of leave privileges.

#### 2. RESPONSIBILITIES

a. **Human Resources Management (HRM) Office.** The Office of Human Resources Management and field HRM offices are responsible for the general administration of the leave program. This includes:



b. **Notice to Central Office.** For any period of absence in excess of 5 workdays, the heads of field facilities or persons acting on behalf of the facility Director will notify the organization head specifying the inclusive dates and nature of absence. Field facility heads will keep their facility informed of where they can be reached in the event of an emergency.

## 8. LEAVE IN CONNECTION WITH TRAVEL

a. Employees traveling at Government expense are in a duty status for the period required to perform the travel authorized unless the total elapsed travel time is excessive. If travel is interrupted or delayed for the convenience of the employee, leave shall be charged for the period of interruption or delay. When employees have been authorized to travel by privately owned conveyance for their convenience, leave shall be charged for travel time during the employees' regularly scheduled basic workweek in excess of that which would have been required had travel been performed by the carrier used to determine per diem allowance, as provided in MP-1, part II, chapter 2, paragraph 9.

b. When use of privately owned conveyance is authorized or approved as being advantageous to the Government, and employees use excessive travel time to enable them to be absent from assigned duties for such purposes as the taking of leave or the performance of circuitous travel, leave shall be charged for the excessive time. The period to be charged to leave will be based on the facts in each case.

## 9. MILITARY LEAVE

a. **Kinds of Military Leave.** There are four kinds of military leave for VA employees who are members of the Reserve components of the Armed Forces or National Guard, as follows:

(1) Not to exceed 15 calendar days in a fiscal year authorized by 5 U.S.C. 6323(a) for active duty and active and inactive duty training. An employee can carry over a maximum of 15 days into a new fiscal year. Therefore, potentially they may have a total of 30 days to use in any one fiscal year. In addition, reservists whose military duty spans two fiscal years may use up to 45 days of military leave at one time. (Inactivity 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 VA will follow regulations provided in Department of Defense Instruction Number 1215.19, March 14, 1997; Uniform Reserve, Training and Retirement Category Administration; Enclosure 4, Definitions; E4.1.15). [**NOTE:** See paragraph 12z of this chapter for VA policy regarding excused absence upon return from certain active duty.]

(2) Not to exceed 22 workdays per calendar year for emergency duty as ordered by the President or a State governor authorized by 5 U.S.C. 6323(b). This can be for law enforcement or the protection of life and property.

(3) Unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty (ordered or authorized under title 10 of the District of Columbia Code) is authorized by 5 U.S.C. 6323(c).

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



(3) Administrative leave (excused absence without charge to leave) for a short period of time (ordinarily not to exceed 8 hours) may be granted to permit the training and indoctrination of labor organization representatives, including local organization principal officers, labor organization members of local wage survey committees and organization nominated data collectors, on Federal Wage System policies.

**y. Status of Employees on Leave when Work Force is Excused**

(1) **Workday.** If an employee is on approved leave or in an AWOL or LWOP status on a day when employees are excused from duty or from reporting for duty and there is no administrative order declaring the day a non-workday, the employee shall continue in a leave, AWOL or LWOP status during the period of excused absence, or until the employee was otherwise expected to return, or until the employee becomes available for work in the case of an employee who is absent without leave (AWOL) or on LWOP.

(2) **Non-workday.** If a day is declared a non-workday by Federal statute or by Executive Order or by administrative order, no leave will be charged for absence on that day. This is true even though the non-workday may occur at the beginning, end or within a period of approved leave. An exception to this is the case of employees who work an uncommon tour of duty, e.g., firefighters, and receive premium pay on an annual basis (see 5 CFR 630.210). Employees who have been scheduled for duty on a workday which is declared to be a non-workday and who are not excused from duty because their presence is essential will be charged AWOL (see paragraph 14 of this chapter) for any period they fail to work during the scheduled tour of duty.

**[z. Returning from Active Military Duty**

(1) Agencies are required to grant 5 work days of excused absence, without charge to leave, to employees who were activated for military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established in connection with the Global War on Terrorism (GWOT) upon notification to their employing agency of their intent to return to Federal civilian employment. The following restrictions apply:

(a) Employees must spend at least 42 consecutive days on active duty in support of the GWOT;

(b) Employees are entitled to 5 days of excused absence only once in a 12 month period. A new 12-month period begins on the first day of excused absence and ends 365 days later; and

(c) The excused absence must be granted prior to the employee's resumption of his or her duties.

(2) The 5 days of excused absence is granted immediately prior to the employee's actual resumption of his or her duties. The commencement of the 5 days of excused absence represents a return to Federal civilian employment, and the employee is obligated to report for work at the end of the 5-day period.

(3) These minimum standards reflect the rationale for the excused absence, which is to facilitate an employee's return to civilian service and family life after a significant absence resulting from activation in support of the GWOT.]

**13. LEAVE WITHOUT PAY (LWOP)**

a. General

(1) Definition. Leave Without Pay (LWOP) is a temporary nonpay status and absence from duty.

(2) Approval of LWOP is a matter of administrative discretion. Employees cannot demand LWOP as a matter of right, except in the case of disabled veterans who are entitled to LWOP if necessary for medical treatment under Executive Order 5396, and reservists and members of the National Guard who are entitled to LWOP if necessary to perform military training duties.

(3) Involuntary Leave Without Pay. Refer to instructions in paragraph 4g of this chapter regarding involuntary sick and annual leave, or LWOP status, when an employee is unable to perform duties because of intemperate conduct or illness, mental or physical.

b. Criteria for Granting LWOP

(1) Circumstances which justify approval of sick or annual leave will generally be sufficient basis for approving LWOP for a like period. Leave without pay may be granted even though the employee has a sick or annual leave balance.

(13) VA placement matters.

[(14) Returning from Active Military Duty.]

## 10. LEAVE WITHOUT PAY (LWOP)

### a. General

(1) Leave without pay is a temporary nonpay status and absence from duty to be granted only on the employee's request. The authorization of LWOP is a matter of administrative discretion.

(2) An employee cannot demand that LWOP be granted as a matter of right except in the case of FMLA leave and disabled veterans who are entitled to LWOP if necessary for medical treatment under Executive Order 5396; and reservists and members of the National Guard who are entitled to LWOP if necessary to perform military training duties

(3) Employees who are disabled on the job and file claims with the OWCP may be granted LWOP for the entire period of absence from duty. LWOP may also be granted in cases of employees who have made application for disability retirement. LWOP in these circumstances may be granted until it is judged that the employee will not be able to return to duty and may be granted regardless of whether or not the employee has annual leave.

(a) **Substitution of Annual or Sick Leave for LWOP.** An employee who is on LWOP pending adjudication of a claim with OWCP may, if the claim is disallowed while still employed, be retroactively granted sick and annual leave.

(b) **Substitution of LWOP for Annual or Sick Leave.** An employee who has used sick leave or annual leave pending adjudication of an OWCP claim, which is later approved, should be informed by the human resources office about procedures for "buying back" the leave. This can be accomplished by the employee's election to be placed in a no pay status for the period and by the employee's authorization for the OWCP to reimburse the agency for leave used based on compensation entitlement (with the employee receiving or paying the difference). The substitution should be made promptly and the OWCP will be notified of proposed change in the employee's last day in pay status. For leave record purposes, the request for substitution must be made within 1 year of approval of the OWCP claim, unless it is administratively determined that the employee was prevented from exercising this option because of the disability which gave rise to the claim. In such case, the employee may exercise the option within 1 year of the time it is determined that the employee has sufficiently recovered from the disability to enable the employee to make a reasoned decision. The employee's election should be in writing and is not subject to revocation.

(c) **LWOP in Cases of Extended Absence.** In a case where an employee's condition requires extended absence because of duty-connected illness or injury, the length of LWOP granted will be determined on the basis of the nature of the disability and the LWOP criteria contained in this paragraph. If OWCP accepts an employee's claim, but does not determine that the employee is permanently and totally disabled, LWOP should be granted during this period, except in case of an overriding requirement for separation, such as staff adjustments or removal for cause. LWOP in yearly increments will be granted until it is judged that the employee will not be able to return to duty.