

HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) procedures regarding hours of duty and leave.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook sets forth mandatory procedures previously contained in numerous other issuances. The pages in this handbook replace the corresponding page numbers in VA Handbook 5011. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5011 that is maintained on the [Office of the Chief Human Capital Officer website](#) and the [VA Publications website](#). This policy change establishes a new leave category in accordance with the Federal Employee Paid Leave Act and the Paid Parental Leave Technical Corrections Act of 2020, collectively known as “paid parental leave” for title 5 and title 38 employees, in Part III, Chapters 2 and 3.
- 3. RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Chief Human Capital Officer.
- 4. RELATED DIRECTIVE:** VA Directive 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** None.

CERTIFIED BY:

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HOURS OF DUTY AND LEAVE

PART III. LEAVE

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of the time and attendance report, or by a memorandum filed with the time and attendance report. The leave approving official should sign the statement. The employee should be informed that the charge to AWOL has been included in the time and attendance report. The employee shall be charged only for the actual period of unauthorized absence.

If AWOL is later excused because the circumstances surrounding the absence are such that the absence would have been approved, the charge should be changed to authorized absence without charge to leave if appropriate, or to sick or annual leave, or LWOP as appropriate.

16. ABSENCE OF DISABLED VETERANS. In accordance with Executive Order 5396, dated July 17, 1930, a disabled Veteran must be granted sick or annual, or LWOP if necessary, for medical treatment when presenting an official statement from a duly constituted medical authority that medical treatment is required. The Veteran must give prior notice of the period during which absence for treatment will occur.

17. HOME LEAVE

- a. Home leave means leave authorized by 5 U.S.C. 6305 and earned by service abroad for use in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States. Employees in Alaska and Hawaii are excluded from home leave coverage.
- b. Service abroad means service on and after September 6, 1960, by an employee at a post of duty outside the United States and outside the employee's place of residence if his or her place of residence is in the Commonwealth of Puerto Rico or a possession of the United States.
- c. Home leave shall be earned according to 5 U.S.C. 6305 and 5 CFR, part 630, subpart F. It is the administrative policy of VA to grant the leave under the circumstances cited therein. Home leave may be used in combination with other types of leave. (See definitions below of "home leave" and "service abroad.").

18. FAMILY AND MEDICAL LEAVE [ACT (FMLA)]

- a. Under Title II of the [FMLA] full-time and part-time employees who have completed at least 12 months (not required to be 12 recent or consecutive months) of service are entitled to receive up to 12 administrative workweeks of unpaid leave (LWOP) during any 12-month period for specific family and medical needs. [Employees serving on intermittent or temporary appointments of one year or less are not covered under Title II of FMLA or this paragraph, regardless of the amount of service completed. These employees are protected under Title I FMLA regulated by the Department of Labor (see 29 CFR 825.109) and may refer to 29 CFR part 825.]

NOTE: *By tracking the number of hours on LWOP against the average number of hours in an employee's regularly scheduled administrative workweek, the facility can insure employee rights under this provision.*

- b. The 12 weeks of FMLA leave is in addition to any annual leave, sick leave, or other LWOP or compensatory time off available to the employee. An employee may choose to take FMLA leave in combination with any other available leave.
- c. In implementing the statutory requirements for administering family and medical leave entitlements, VA will follow regulations published in 5 CFR 630.1201-1213 by the Office of Personnel Management.

NOTE: See also The Paid Parental Leave Technical Corrections Act of 2020, Section 1103 of The Fiscal Year 2021 National Defense Authorization Act (NDAA) (Public Law 116-283). As of the date of publication, OPM regulations have not been revised though OPM published a memo explaining the statutory changes supersede 5 CFR 630.1201(b)(1)(ii). See January 15, 2021 OCHCO bulletin published on the Chief Human Capital Officer Website for more information.

- d. An employee may substitute up to 26 administrative workweeks of accrued and accumulated sick leave when using FMLA under 5 U.S.C. 6382(a)(3) to provide care for a covered servicemember. Substituted sick leave will be prorated for part-time employees and employees on uncommon tours of duty (5 CFR 630.403).
- e. [An employee may substitute up to 12 administrative workweeks of paid parental leave when using FMLA under 5 U.S.C. 6382(a)(1)(A)-(B) in connection with the birth, adoption, or foster care placement of a child occurring on or after October 1, 2020. Paid parental leave will be prorated for part-time employees and employees on uncommon tours of duty. When an employee changes work schedules (e.g. full-time to part-time, or vice versa) and has not used the full allotment of leave, the remaining balance of hours is recalculated based on the change in number of hours in the scheduled tour of duty. In implementing the statutory requirements for administering paid parental leave entitlements, VA will follow regulations published in 5 CFR 630.1701-1708.
 - (1) Paid parental leave is contingent on the employee's advance written agreement to return to work for not less than 12 weeks following the date paid parental leave ends.
 - (2) The 12-week work obligation must be completed in full, regardless of the number of paid parental leave hours used. If the work obligation is not fulfilled, the employee is responsible for reimbursing the agency for the government share of Federal Employees Health Benefits premiums paid by the agency on the employee's behalf during the period of paid parental leave use.
 - (3) The work obligation is satisfied by converting the 12 weeks into the equivalent time in hours (e.g. the 12-week equivalent for a full-time employee with a biweekly tour of duty of 80 hours is 480 hours). When the scheduled tour of duty changes prior to completing the work obligation, the balance of hours owed shall be recalculated based on the change in the number of hours in the scheduled tour of duty.
 - (4) Hours which qualify towards meeting the work obligation are hours that an employee is in a pay and duty status. Periods of leave, holidays, and other non-duty time do not count towards meeting the work obligation.
 - (5) An employee who is unable to return to work because of the continuation, recurrence, or onset of a serious health condition of the employee or child may have the reimbursement requirement in paragraph e(2) waived upon furnishing medical certification from a health care provider in support of such claim in a timely manner. An employee may also be eligible for an exception to the reimbursement requirement based on any other

circumstance beyond the employee's control, as provided in 5 CFR 1705(f)(2)(ii) and limited by 5 CFR 1705(h)]

19. BONE MARROW AND ORGAN DONOR LEAVE

- a. In connection with serving as a bone marrow or organ donor, an employee, in any calendar year, is entitled to [Excused Absence] authorized absence [] without loss of or reduction in pay (5 U.S.C. 6327) as follows:
 - (1) Not to exceed 7 days of paid leave to serve as a bone marrow donor; and
 - (2) Not to exceed 30 days of paid leave to serve as an organ donor
- b. Other types of approved leave may also be used in addition to organ donor leave.

20. VOLUNTARY LEAVE TRANSFER PROGRAM

- a. **General.** Under this program, the unused accrued annual leave of a VA employee, or an employee of another Federal agency, may be transferred for use by a VA or other Federal employee who needs the leave because of a medical emergency.
- b. **Definitions**
 - (1) **Agency.** An Executive agency, as defined in 5 U.S.C. 105.
 - (2) **Employee.** Has the meaning given that term in 5 U.S.C. 6301(2); and physicians, dentists, nurses, podiatrists, chiropractors, optometrists, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries in the VHA as covered by Chapter 3, of this part.
 - (3) **Family Member.** Means the following relatives of the employee:
 - (a) Sons and daughters, and parents thereof;
 - (b) Children, including adopted children, and spouses thereof;
 - (c) Parents, and spouses thereof;
 - (d) Brothers and sisters, and spouses thereof;
 - (e) Grandparents and grandchildren, and spouses thereof;
 - (f) Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (b) through (e) of this definition; an

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- (g) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

- (e) **Long Term Absences and Adoptions.** In cases of serious disability, ailments, or for adoption-related purposes, an employee with no time limit in his or her appointment may be advanced sick leave not in excess of 30 days (240 hours). An employee serving under a time limited or term appointment may be granted sick leave up to the total leave that would otherwise be earned during the term of the appointment. There may not be more than 30 days (240 hours) of advanced sick leave on an employee's record at any one time. The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave.

7. OTHER LEAVE

a. **Military Leave**

- (1) A full-time employee appointed under authority of 38 U.S.C. 7306, 7401(1), 7405 (a)(1)(A) or (D) or 7406 not limited to 1 year or less is eligible for and shall be granted military leave in the same manner as other Federal employees. The granting and charging of military leave contained in chapter 2 of this part for title 5 employees is also applicable to title 38 employees covered under this paragraph. Administrative non-duty days that occur within the period of military service will not be charged to military leave. However, those employees on 24/7 schedules will continue to be charged military leave on a[n] [hourly] basis for duty days.
- (2) A part-time employee appointed under authority of 38 U.S.C. 7405(a)(1)(A) or (D) or 7406 not limited to 1 year or less is entitled to leave without loss in pay, time or performance or proficiency rating for active duty or engaging in field or coast defense training under sections 502-505 of title 32, United States Code, as a member of the Reserve of the armed forces or member of the National Guard. Leave accrues for these employees at the rate of 15 days per fiscal year (to be credited at the beginning of the fiscal year) and, to the extent that it is not used in a fiscal year, accumulated for the use in the succeeding fiscal years until it totals 15 days at the beginning of a fiscal year. Scheduled workdays and intervening days for which no work is scheduled falling within a period of absence for this duty are not charged to military leave. This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

- b. **Court Leave.** Employees appointed under authority of 38 U.S.C. 7306, 7401(1), 7405(a)(1)(A) or (D) or 7406 are eligible for and shall be granted court leave in the same manner as other eligible Federal employees.

- c. **Home Leave.** Employees shall earn and be granted home leave on the same basis as employees subject to the provisions of 5 U.S.C. chapter 63.

- d. **Family and Medical Leave Act [FMLA]**

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- (1) Office of Personnel Management regulations published in 5 CFR 630.1201-1213 will be used to implement the statutory requirements for administering [FMLA] entitlements for [individuals appointed to positions under Chapter 74 of Title 38 and described in 38 U.S.C. 7421(b) who are employed for compensation by the Department. This includes full and part-time employees (but does not include individuals employed without compensation or on a fee basis). FMLA benefits are provided in the same manner as FMLA is provided to title 5 employees under 5 U.S.C. chapter 63, subchapter V.] See 38 U.S.C. 7425(c) and Note to paragraph 18(c) in chapter 2 of this part.
- (2) An employee may substitute up to 26 administrative workweeks of accrued and accumulated sick leave when using FMLA described in 5 U.S.C. 6382(a)(3) to provide care for a covered servicemember. Amounts are prorated for part-time employees and employees on uncommon tours of duty (5 CFR 630.403).
- (3) An employee may substitute up to 12 administrative workweeks of paid parental leave when using FMLA as described in 5 U.S.C. 6382(a)(1)(A) - (B) in connection with the birth, adoption, or foster care placement of a child occurring on or after October 1, 2020. Paid parental leave will be prorated for part-time employees and employees on uncommon tours of duty. When an employee changes work schedules (e.g. full-time to part-time, or vice versa) and has not used the full allotment of leave, the remaining balance of hours is recalculated based on the change in number of hours in the scheduled tour of duty. In implementing the statutory requirements for administering paid parental leave entitlements, VA will follow regulations published in 5 CFR 630.1701-1708.
- (4) Paid parental leave is contingent on the employee's advance written agreement to return to work for not less than 12 weeks following the date paid parental leave ends.
- (5) The 12-week work obligation must be completed in full, regardless of the number of paid parental leave hours used. If the work obligation is not fulfilled, the employee is responsible for reimbursing the agency for the cost of the government share of Federal Employees Health Benefits premiums paid by the agency on the employee's behalf during the period of paid parental leave use.
- (6) The work obligation is satisfied by converting the 12 weeks into the equivalent time in hours (e.g. the 12-week equivalent for a full-time employee with a biweekly tour of duty of 80 hours is 480 hours). For employees charged leave on a daily basis, the days equivalent of 12 workweeks is based on the average number of workdays in the established tour of duty over a biweekly pay period (e.g. the days

equivalent for an employee with 8 workdays each biweekly pay period is 48 days).

- (7) Hours which qualify towards meeting the work obligation are hours that an employee is in a pay and duty status. Periods of leave, holidays, and other non-duty time do not count towards meeting the work obligation.
- (8) An employee who is unable to return to work because of the continuation, recurrence, or onset of a serious health condition of the employee or child may have the reimbursement requirement (as described in paragraph e(2) of paragraph 18 of this part) waived upon furnishing medical certification from a health care provider in support of such claim in a timely manner. An employee may also be eligible for an exception to the reimbursement requirement based on any other circumstance beyond the employee's control, as provided in 5 CFR 1705(f)(2)(ii) and limited by 5 CFR 1705(h).]

e. **Disabled Veteran Leave for Healthcare Professionals in VHA.** Individuals appointed to positions listed in 38 U.S.C. § 7421(b) are considered covered employees for the purpose of disabled Veteran leave. The Office of Personnel Management regulations published in 5 CFR 630.1301-1307 will be used to implement the statutory requirements for administering disabled Veteran leave entitlements for [employees appointed under 38 U.S.C., chapter 73, and 38 U.S.C. § 7401(1).

- (1) Upon receipt of the certifying documentation under 5 CFR 630.1304, full-time and part-time physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs), appointed under authority of 38 U.S.C., []and 38 U.S.C. § 7401(1) must be granted disabled Veteran leave.

[]

- (2) Full-time nurses, nurse anesthetists, PAs, and EFDAs must be granted up to 104 hours of disabled Veteran leave.
- (3) For part-time employees, the 104-hour disabled Veteran leave entitlement must be prorated based on the number of hours in the part-time schedule (e.g., 52 hours for half-time schedule).

8. RELIGIOUS, STATE AND LOCAL HOLIDAYS

a. **Religious Holidays.** While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, and

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- b. applicable regulations, elect to work compensatory overtime for the purpose of taking