Department of Veterans Affairs
Washington, DC 20420

VA DIRECTIVE 5011
Transmittal Sheet
April 15, 2002

HOURS OF DUTY AND LEAVE

1. REASON FOR ISSUE: To issue Department of Veterans Affairs (VA) policy regarding hours of duty and leave.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This directive sets forth policies previously contained in numerous other issuances. No substantive changes have been made.

3. RESPONSIBLE OFFICE: The Human Resources Management Programs and Policies Service (051), Office of the Deputy Assistant Secretary for Human Resources.

4. RELATED HANDBOOK: VA Handbook 5011, "Hours of Duty and Leave."

5. RESCISSIONS: Refer to the Transmittal Sheet for VA Directive 5001, "General Introduction and Administration."

CERTIFIED BY:

John A. Gauss
Assistant Secretary for
Information and Technology

BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS:

Jacob Lozada, Ph.D.
Assistant Secretary for Human
Resources and Administration

HOURS OF DUTY AND LEAVE

1. PURPOSE. This directive contains existing policy on the establishment of duty schedules and on leave administration for Department of Veterans Affairs (VA) personnel. It is applicable to General Schedule employees (including title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3)); Federal Wage System employees; non-U.S. citizen employees employed outside the United States; physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physicians assistants, and expanded-function dental auxiliaries appointed under 38 U.S.C., chapter 73 and 74; and non-physician/non-dentist program directors and other key executives appointed under 38 U.S.C. 7306(a)(7) or (9). This directive should be used in conjunction with VA Handbook 5011, which contains mandatory guidance and procedures on hours of duty and leave administration in VA.

2. POLICY

a. The VA leave program for employees shall be administered fairly and uniformly within the meaning of the provisions of this directive and VA Handbook 5011.

b. In scheduling hours and tours of duty for VA employees, primary consideration will be given to efficiency in management and conduct of an agency functions, and equitable treatment of individual employees.

c. When tours of duty must necessarily vary from the normal tour, employees will be given the opportunity of discussing their assignment and of having their views or personal problems arising in connection with such assignment considered. Tours of duty will not be changed arbitrarily and insofar as possible, employees will be given notice of any change in their work schedule at least one administrative workweek in advance. Sympathetic consideration will be extended to employees who have religious scruples against working on their Sabbath. If practicable, mutually satisfactory exchange of duty assignments may be worked out for such employees or substitute work-time may be provided to offset the time required for religious observance. Insofar as possible, work schedules should be arranged to permit employee's observance of their Sabbath on whatever day it occurs.

d. All employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods.

e. In the establishment of work schedules, employees will have their assignments scheduled in advance over periods of not less than one administrative workweek and such schedules will be established in a manner that realistically reflects the actual work requirement.

f. The occurrence of holidays shall not affect the designation of the basic workweek.

g. Duty schedules for title 38 healthcare employees shall be established as appropriate and necessary for performance of services in the care and treatment of patients and other essential activities within the administration of the Under Secretary for Health or designated officials.

3. RESPONSIBILITIES

a. Statements of responsibility for VA duty and leave administration programs may be found in each of the separate parts or chapters of VA Handbook 5011. In those instances where a specific statement of responsibility has not been listed in a specific part or chapter of VA Handbook 5011, the officials listed below have responsibility for making duty and leave determinations.

b. The Secretary, or designee, is the approving official for duty and leave actions for employees occupying positions centralized to that office, including flexible and compressed work schedules.

c. The Under Secretary for Health by direction of the Secretary is responsible for the direction and administration of the duty and leave policies and instructions for title 38 employees.

d. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries, or their designees, are responsible for approving, disapproving or discontinuing duty and leave actions, including flexible and compressed work schedules, for VA Central Office employees in their organizations.

e. Facility directors are responsible for approving, disapproving or discontinuing duty and leave actions for employees under their jurisdiction, including flexible and compressed work schedules.

f. Supervisors are responsible for ensuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner, including ensuring that there is adequate coverage during public business hours. They must also ensure that all employees are treated equitably.

g. Employees are responsible for meeting their basic work requirements.

h. The Deputy Assistant Secretary for Human Resources Management will advise management and operating officials on the policies and procedures in this directive.

4. REFERENCES

a. 38 U.S.C. 7421(a)

b. 38 U.S.C., chapters 73 and 74.

c. 5 U.S.C., chapters 51, 55, and 61.

d. Executive Order 10358 as amended.

e. 5 CFR, parts 550 and 610.

f. Public Law 95-390

Department of Veterans Affairs
Washington, DC 20420

VA HANDBOOK 5011
Transmittal Sheet

HOURS OF DUTY AND LEAVE

1. REASON FOR ISSUE: To issue Department of Veterans Affairs (VA) procedures regarding hours of duty and leave.

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3. RESPONSIBLE OFFICE: The Human Resources Management Programs and Policies Service (051), Office of the Deputy Assistant Secretary for Human Resources.

4. RELATED DIRECTIVE: VA Directive 5011, "Hours of Duty and Leave."

5. RESCISSIONS: Refer to the Transmittal Sheet for VA Handbook 5001, "General Introduction and Administration."

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HOURS OF DUTY AND LEAVE
CONTENTS

PART I. GENERAL PROVISIONS

PART II. HOURS OF DUTY

PART III. LEAVE

HOURS OF DUTY AND LEAVE

PART I. GENERAL PROVISIONS

CONTENTS

PARAGRAPH **PAGE**

1. PURPOSE I-1
2. REFERENCES I-1
3. DEFINITIONS I-2

HOURS OF DUTY AND LEAVE

PART I. GENERAL PROVISIONS

1. PURPOSE. This handbook contains instructions and mandatory procedures for Department of Veterans Affairs (VA) policy on the establishment of duty schedules and the administration of leave systems within VA. It is applicable to most VA employees, except for the following:

a. Purchase and hire employees; however, they are subject to the provisions of 5 U.S.C. 5544(a), relating to overtime.

b. Veterans Canteen Service employees appointed under authority of 38 U.S.C. ch. 77; they are subject to leave provisions of 5 U.S.C. ch. 63, but their leave policies are published in VCS-1, "Veterans Canteen Service Operating Procedures."

c. Hospital administration residents are excluded by the provisions of 5 U.S.C. 6101(a)(1) and 5541(2)(v).

d. Employees for whom no regular tour of duty has been established for each administrative workweek are not covered by any leave system.

e. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health. Such employees are not entitled to leave benefits.

2. REFERENCES

a. 5 U.S.C. chs. 51, 55, 61, and 63.

b. 38 U.S.C. chs. 73 and 74.

c. 38 U.S.C. 7421.

d. Executive Order 10358, as amended.

e. 5 CFR parts 61 and 63.

f. VA Handbook 5007.

g. MP-4, part II and VHA Supplement, MP-4, part II.

h. VA Manual M-8, Parts II, III and IV.

3. DEFINITIONS

a. **Accrued Leave.** The leave earned by an employee during the current leave year that is unused at any given time in that leave year.

b. **Accumulated Leave.** The unused leave remaining to the credit of an employee at the beginning of a leave year.

c. **Administrative Workweek.** The calendar week, Sunday through Saturday.

d. **Basic Workweek**

(1) For full-time employees (other than physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), basic workweek is the 40-hour workweek established in accordance with 5 CFR 610.111, and part II, chapter 2 of this handbook.

(2) Full-time physicians, dentists, podiatrists and optometrists to whom the provisions of part II, chapter 3 of this handbook apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.

(3) For full-time nurses, nurse anesthetists, PAs and EFDAs, basic workweek means a 40-hour workweek established in accordance with the provisions of part II, chapter 3 of this handbook. A 24-hour basic workweek established in accordance with the provisions of part II, chapter 3 of this handbook is applicable only to full-time nurses and nurse anesthetists on the Baylor Plan.

e. **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the period commencing at midnight Friday and ending at midnight the following Sunday approved in accordance with VA Handbook 5007, part VIII, chapter 9.

f. **General Leave Terms.** In administrating 5 U.S.C. ch. 63, VA will observe the definitions in 5 CFR 630.201.

g. **Irregular or Occasional Overtime Work.** Overtime work that is not regularly scheduled.

h. **Leave Year.** A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year.

i. **Overtime Work and Overtime.** Definitions are the same as the definitions in 5 CFR 550.103(i) and 550.111 for General Schedule (GS) employees and non-U.S. citizen employees overseas. Overtime for title 38 employees is discussed in VA Handbook 5007, part V, chapter 2.

j. **Part-Time Employee.** An employee who performs a regular tour of duty on less than a full-time basis. A regular tour of duty is defined as a specific number of hours scheduled over the course of a pay period. Such an employee may perform duty on an unscheduled basis in addition to the regularly scheduled tour of duty.

k. **Regular Overtime Work.** Overtime work that is regularly scheduled. For this purpose, any overtime work scheduled for an employee in advance of the administrative workweek in which it occurs constitutes regular overtime.

l. **Regularly Scheduled Administrative Workweek.** For full-time employees (other than physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), means the period within an administrative workweek, established in accordance with 5 CFR 610.111 and part II, chapter 3 of this handbook, within which these employees are required to be on duty regularly. For part-time employees (other than those appointed under 38 U.S.C. chs. 73 or 74), it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.

NOTE: *Section 6102, title 5, United States Code, requires that the regular hours of work for wage employees be established at not more than 8 per day or 40 per week, but work in excess of such hours shall be permitted when administratively determined to be in the public interest. Work in excess of 8 hours per day, or 40 hours per week, constitutes overtime work for General Schedule and wage employees (5 U.S.C. 5542 and 5543).*

HOURS OF DUTY AND LEAVE

PART II. HOURS OF DUTY

CONTENTS

PARAGRAPH PAGE

CHAPTER 1. GENERAL

1. PURPOSE II-1
2. WORK SCHEDULES II-1

CHAPTER 2. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES IN TITLE 5 POSITIONS (APPOINTED UNDER 5 U.S.C., CHAPTER 51)

1. BASIC WORKWEEK AND WORK SCHEDULES II-3
2. WORK SCHEDULE INFORMATION II-5
3. OVERTIME II-5
4. LUNCH PERIOD II-7
5. HOLIDAYS II-8
6. TEMPORARY CLOSING OF OFFICES II-10
7. DAYLIGHT-SAVINGS TIME II-10
8. LIMITATION ON TOURS FOR MINORS II-10
9. EMPLOYEES PARTICIPATING IN DISASTER AND CIVIL DEFENSE PROGRAMS II-10
10. DRESS-UP TIME/WEARING OF UNIFORMS II-10
11. ALTERNATIVE WORK SCHEDULES (FLEXIBLE AND COMPRESSED WORK SCHEDULES) II-11

CHAPTER 3. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES APPOINTED TO TITLE 38 POSITIONS

1. SCOPE II-25
2. BASIC WORKWEEK AND OFFICIAL DUTY II-25
3. HOLIDAYS II-27
4. ADJUSTABLE WORK HOURS FOR PART-TIME PHYSICIANS II-28
5. FLEXIBLE AND COMPRESSED WORK SCHEDULE FOR EMPLOYEES IN TITLE 38 POSITIONS II-31

CONTENTS

PARAGRAPH **PAGE**

CHAPTER 4. ALTERNATIVE WORKPLACE ARRANGMENTS (FLEXIPLACE)

1. PURPOSE II-41
2. POLICY II-41
3. RESPONSIBILITIES II-42
4. REFERENCES II-42
5. DEFINITIONS II-42
6. FLEXIPLACE II-43
7. EVALUATION II-45
8. TERMINATION II-46

APPENDICES

II-A. PRESCHEDULED PART-TIME TOURS AND THE UTILIZATION OF ADJUSTABLE WORK HOURS (TITLE 38) II-A-1
II-B. SAMPLE ALTERNATIVE WORKPLACE WORK AGREEMENT II-B-1

PART II. HOURS OF DUTY

CHAPTER 1. GENERAL

1. PURPOSE. This part contains Department of Veterans Affairs (VA) mandatory procedures on the establishment of duty schedules for employees in title 5 and title 38 positions.

2. WORK SCHEDULES

a. In scheduling hours and tours of duty for VA employees, primary consideration will be given to efficiency in management and conduct of agency functions, and equitable treatment of individual employees. Work schedules will be established in a manner that realistically reflects the actual work requirement.

b. In Veterans Health Administration (VHA), the proper care and treatment of patients shall be the primary consideration in scheduling tours of duty under these instructions. Duty schedules shall be established as appropriate and necessary for performance of services in the care and treatment of patients and other essential activities within the administrative discretion of the Under Secretary for Health or designated officials. This includes authorizing flexible and compressed work schedules for title 38 health care employees outside VA Central Office (VACO).

c. Overtime for nurses, nurse anesthetists, PAs and EFDAs shall be used only under conditions wherein necessary functions cannot be performed through planned coverage during their regular basic workweek. Supervisory personnel must obtain proper authorization for overtime before permitting or requiring the performance of overtime service by an employee. See VA Directive 4100 concerning the procedures for the use of the Enhanced Time and Attendance System (ETA) for the authorization of overtime. Administration heads, or their designees, are authorized to order and approve overtime for employees under their jurisdiction.

d. The occurrence of holidays shall not affect the designation of the basic workweek.

CHAPTER 2. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES IN TITLE 5 POSITIONS (APPOINTED UNDER 5 U.S.C., CHAPTER 51)

1. BASIC WORKWEEK AND WORK SCHEDULES

a. Basic Workweek

(1) Within each administrative workweek, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the luncheon period, Monday through Friday. Except for unusual circumstances, as provided below, the working hours in each day in the basic workweek shall be the same. Directors of field facilities are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek. Employees will have their assignments scheduled in advance over periods of not less than one administrative workweek.

(2) Other tours of duty constituting the 40-hour basic workweek may be established when adherence to the normal tour is administratively impracticable, will handicap operations, or result in substantially increased costs. Under such conditions, directors of field facilities may schedule the 40-hour basic workweek to include Saturday and Sunday. However, the basic workweek may not extend over more than 6 days in the administrative workweek. Deviations from the normal tour of duty within a facility will be kept to a minimum and generally will be authorized only for certain groups of employees in those cases where the service is required on a continuing, around-the-clock basis, or must be performed outside the normal tour of duty of the facility. Where facilities and equipment are to be utilized during more than an 8-hour day for maximum efficiency, employees shall be assigned on a shift basis, when appropriate. The head of each VACO office or field facility may (within his or her responsible area) prescribe further restrictions or conditions appropriate to scheduling of such tours of duty for specific categories of employees. Administration Heads and top staff officials are authorized to approve tours of duty which are other than the normal for Central Office personnel under their jurisdiction, with the concurrence of the Deputy Assistant Secretary for Human Resources Management.

(3) When tours of duty must necessarily vary from the normal tour, employees will be given the opportunity of discussing their assignment and of having their views or personal problems arising in connection with such assignment considered. Tours of duty will not be changed arbitrarily, and insofar as possible, employees will be given notice of any change in their work schedule at least one administrative workweek in advance. Sympathetic consideration will be extended to employees who have religious scruples against working on their Sabbath. If practicable, mutually satisfactory exchange of duty assignments may be worked out for such employees, or substitute work time may be provided to offset the time required for religious observance. Insofar as possible, work schedules should be arranged to permit employees' observance of their Sabbath on whatever day it occurs.

(4) Notwithstanding other provisions of this chapter, special tours of duty (of not less than 40 hours) may be established for General Schedule employees to take courses in nearby educational institutions as outlined in 5 CFR 610.122. Approving officials for these special tours of duty will be the same as indicated

in paragraph 1a(2), above. An employee may not receive premium pay solely because the special tour of duty causes the employee to work on a day or at a time of day for which premium pay would otherwise be payable. Accordingly, the approving official or designee will make a determination of entitlement or non-entitlement to premium pay. The payroll office and unit timekeeper will be informed of this determination. Payroll offices should maintain appropriate records to assure accurate data for any required reports.

(5) Notwithstanding other provisions of this chapter, deviations from the normal tour of duty may be established when strict adherence to the normal tour of duty would cause undue hardship or restrict employment, placement, or advancement opportunities for seriously disabled veterans and other seriously disabled individuals. Before a special tour of duty may be authorized under this subparagraph, all factors should be considered, such as: the nature and extent of an individual's disability; the extent to which a disabling condition precludes adherence to a normal tour; the needs, desires and abilities of the individual who would be affected; and, management considerations such as essential staffing requirements and organizational needs. In no case, however, will a special tour of duty be authorized against the wishes of an individual.

(6) Where more than one tour of duty exists for any category of employees in an organizational segment, employees affected shall be afforded the opportunity of rotation. Periodic rotation on an impartial and reasonable basis is encouraged so that all employees concerned will share in assignments between the less desirable and more desirable tours of duty.

(7) All employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods.

(8) Except where the functions of specific employees, such as chaplains, may be seriously disabled, breaks in working hours of more than 1 hour will not be scheduled in any basic workday.

b. **Tours of Duty Including Standby Time.** VACO office directors and field facility directors, or designees, are authorized to establish regularly scheduled administrative workweeks for employees in non-patient care General Schedule positions requiring standby duty meeting the conditions set forth in 5 CFR 550.143. This authorization applies to two types of duty tours, which include standby duty. These are: (1) the situation in which an employee has a basic workweek requiring full-time performance of actual work and is required, in addition, to perform standby duty on certain nights, or to perform standby duty on certain days not included in the basic workweek; and (2) the situation requiring a longer than 40-hour tour of duty in which a substantial part of the entire tour of duty, at least 25 percent, is spent in a standby status which occurs throughout the entire tour. All tours of duty involving standby status shall be clearly delineated, as appropriate, as to the total hours of duty, the number of hours of actual work required, the number of hours of standby required, the specific hours of duty scheduled, and, where applicable, the hours constituting the basic workweek of 40 hours. The length of the regularly scheduled administrative workweek in these cases is the total number of regularly scheduled hours of duty within each administrative workweek.

c. **Periodic Review of Schedules.** Duty schedules should be reviewed periodically to ensure that they meet the needs of the service efficiently with due consideration being given to employee needs. Particular attention should be given to tours of duty which include standby time or regular overtime.

d. **Labor Relations.** Management should meet its local labor relations responsibilities when implementing policies under this chapter.

NOTE: *The establishment of workweeks in accordance with the provisions of 5 CFR 610.111(b) is not authorized within VA.*

2. WORK SCHEDULE INFORMATION. Approved tours of duty, by Time and Leave Unit, are available electronically to all employees from the Payroll Office.

3. OVERTIME

a. **General.** Overtime work means each hour of work in excess of 40 hours in an administrative workweek or in excess of 8 hours in a day, whichever is the greater number of overtime hours. Excluded are employees on compressed work schedules or the Baylor Plan (see paragraph 11 of this chapter and VA Handbook 5007). Overtime is considered an expedient to be used only under conditions wherein necessary operations cannot be performed through planned coverage by on-duty personnel during their regular non-overtime basic workweek. Supervisory personnel must obtain proper authorization for overtime before permitting or requiring the performance of overtime work by an employee. Administration heads and other top officials are authorized to prescribe, in their responsible areas, such limitations as are necessary to provide control and prevent abuse of the use of overtime. Each responsible official must assure that the rights of employees to compensation for overtime services are observed. Each responsible official shall also adhere to a policy of authorizing only such overtime as can be readily demonstrated as wholly supported from the standpoint of emergency and/or efficiency in carrying out his/her responsibilities, and with due regard to cost and the availability of current funds. (See also part III of this handbook regarding use of annual leave in proximity to overtime.) Any overtime duty required of employees should be equitably distributed consistent with the needs of the office. However, overtime duty should not be required of employees when it will impair their health or efficiency or cause extreme hardship to them.

NOTE: *See VA Directive 4100 regarding procedures for use of VA Form 1098, Request for and Authorization of Overtime Work (if not utilizing the Enhanced Time and Attendance (ETA) program).*

b. **Regular Scheduled Overtime.** A regularly scheduled administrative workweek consisting of a period of overtime work, either as a part of or in addition to the 40-hour basic workweek, may be established by administration heads or staff office heads, or their designees, for their respective personnel within Central Office, and by field facility heads. When a National Cemetery is involved, the Director of the appropriate National Cemetery Area Office will make this determination. If the regular overtime work is not expected to recur over an extended period of time (at least 2 consecutive administrative workweeks), it may be authorized by the officials listed above. For purposes of leave and overtime pay administration, the authorization shall specify for such employee(s), by calendar days and number of hours a day, the overtime periods included in the regularly scheduled administrative workweek. Compensatory time off in lieu of premium pay may not be granted for such overtime work. (See definition of "regular overtime work" in part I, paragraph (3)(i).)

c. **Irregular or Occasional Overtime**

(1) **Authorizing Officials.** Except as indicated in paragraph 3c(3)(b)3, below, staff office heads, administration heads, facility directors, or their designees, are authorized to order and approve irregular or occasional overtime.

(2) **Callback Overtime.** Any unscheduled overtime work performed by an employee who is called back to work on an off-duty day, or on a regular workday after completion of a regular schedule of work and has left the place of employment, will be considered to be at least 2 hours in duration and should be so credited. Further, the employee shall be credited with a minimum of 2 hours of overtime for each time called back, notwithstanding the fact that the second or subsequent returns may be required before the expiration of 2 hours from the time the employee previously reported for duty (35 Comp. Gen. 448, 37 Comp. Gen. 1, 45 Comp. Gen. 53).

(3) **Compensatory Time Off for Irregular or Occasional Overtime**

(a) **Granting Compensatory Time Off in Lieu of Payment.** Compensatory time off in lieu of payment for irregular or occasional overtime may be granted within the provisions of subparagraphs (b) and (c), below, to General Schedule, Wage Grade and title 38 employees and non-U.S. citizen employees overseas.

1. An official authorized to approve overtime work may, at the request of an eligible employee, grant such employee compensatory time off from the scheduled tour of duty in lieu of overtime pay. The amount of compensatory time off will be equal to the amount of time spent in the irregular or occasional overtime work.

2. In the absence of a specific request by the employee for compensatory time off in lieu of payment, an employee who is covered by the Fair Labor Standards Act (FLSA), or an employee who is not covered by FLSA and whose basic rate of compensation is not in excess of the maximum rate provided for GS-10 of the General Schedule, must be paid for the overtime services rendered.

3. In the case of an employee, who is not covered by FLSA, whose rate of basic compensation is in excess of the maximum rate for GS-10, the official authorized to approve overtime work may, at his own discretion, provide for compensatory time off in lieu of overtime pay. Such determination shall take into account all pertinent factors, including the employee's views. If, after consideration of all factors, paid overtime is indicated, prior approval will be requested from the facility director, or designee. No such approval will be in effect for more than 3 months without a specific re-determination. An employee for whom compensatory time off is directed should be so notified at the time the overtime duty is ordered.

(b) **Time limits on Compensatory Time**

1. Compensatory time off should be taken as soon as possible after it is earned, but not later than the end of the 7th pay period following the pay period in which it is earned. Compensatory time off may be taken only during the employee's basic workweek.

2. For employees covered by the FLSA, compensatory time off not taken within the time limit prescribed above must be paid at the overtime rate. For employees not covered by the FLSA, compensatory time off not taken within the time limit prescribed above because of the exigencies of the service will be paid at the overtime rate. If compensatory time is not taken within this period because of personal reasons not due to the exigencies of service, the right to compensatory time off or overtime pay for the duty performed is lost.

3. In cases of inter-facility transfers, compensatory time off must be taken or paid for prior to the effective date of the transfer. Under no circumstances will an obligation for compensatory time off be transferred to the receiving facility.

4. The date of separation stated in an employee's advance notice of separation due to reduction in force may be administratively extended so as to include any compensatory time due. However, where, due to reasons beyond the control of the employee, compensatory time off is not taken prior to separation and no extension of the separation date is granted, overtime compensation is payable in lieu of the compensatory time off (26 Comp. Gen. 750).

d. **Limitation on Overtime Pay.** 5 U.S.C. 5547 provides that premium compensation is not payable where it results in an aggregate rate which exceeds the rate of basic compensation provided for grade GS-15, step 10. An employee who is prohibited by that aggregate compensation limitation from receiving overtime compensation may not receive compensatory time off in lieu of such prohibited compensation (26 Comp. Gen. 750).

4. LUNCH PERIOD

a. Normally, during each 8-hour tour, employees will be allowed a specific period of time off to eat a meal. A meal period during which employees are regularly and totally excused from their official duties may not be considered as an official duty period for which compensation is payable. When a meal period is set aside, the length of the tour or workday will be extended by the length of the non-work period.

b. In some types of situations, however, it may not be administratively practicable to allow a specified period of time off for a meal. For example, when around-the-clock shifts are employed, the scheduling of meal periods would require overlapping of shifts and the vacating of official duties by employees in a work situation requiring constant service and function. In another instance, the job situation may be such as to require the constant attention and skill of specific employees, and a suitable relief that would permit reasonable continuity of function is not available. In these types of cases, it is proper to schedule shifts without a meal period. Although under such unusual circumstances, employees may not be excused from their official duties, they may be permitted to eat on the job when it is possible to do so without stopping or

interrupting the work assignment and responsibility. Such exceptional tours of duty shall be carefully examined as to justification by the approving official, and fully documented.

5. HOLIDAYS

a. **General.** It is VA policy to excuse from duty on legal holidays (and non-workdays designated by Federal Statute or Executive Order) all employees except those required to maintain the usual essential services. Employees who are notified to appear for duty on legal holidays and fail to report for work will be, in the absence of satisfactory explanation or justification, determined to be AWOL (absence without leave) and will lose pay for the day. However, notwithstanding the preceding provisions of this subparagraph, full-time nurses and nurse anesthetists on the Baylor Plan shall not be entitled to holidays.

b. **Identification and Determination of Legal Holidays**

(1) For identification and determination of legal holidays, see 5 U.S.C. 6103 and 6104, and Executive Orders 10358 (as amended by E.O. 11226 and 11272) and 10552.

(2) For purposes of section 4(b) of Executive Order 10358, the employee's first full day off in the calendar week will be considered the day off in lieu of Sunday.

(3) For purposes of 5 U.S.C. 6103(b)(2), the employee's second day off in the calendar week will be considered the day off in lieu of Saturday.

(4) All other holidays shall be observed on the day they occur. Part-time employees who are excused from duty on a holiday are entitled to their regular pay for that day.

(5) An in-lieu non-workday may be granted to full-time non-physician facility directors, physicians, dentists, podiatrists, and optometrists, for work performed on a holiday or the day observed as a holiday, provided the full-time employee's services can be spared without detriment to patient care. Such in-lieu day, if authorized, must be taken within 90 days by the full-time employee concerned. Full-time employees who are assigned to work on holidays and whose absences were not authorized will be reported as being on unauthorized absence and will lose pay for that day.

NOTE: *An in-lieu non-workday shall not be authorized for a nurse, nurse anesthetist, PA or EFDA who works on a holiday or the day designated as a holiday.*

c. **Religious Holidays.** While there is no official observance of religious holidays, except those which may also be legal holidays, it is the policy of VA to permit, insofar as practicable, absence from work for those employees who desire to observe religious holidays. Absence of employees on religious holidays will be charged to annual leave, if they have annual leave to their credit, otherwise to LWOP. Employees may, under provisions of 5 U.S.C. 5550a, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

d. **State and Local Holidays.** Except as provided below for non-U.S. citizen employees overseas, State and local holidays will not be observed by the mere fact of their occurrence and such days will be treated as regular workdays if they fall within an employee's basic workweek. Absence on such days will be charged to leave. Directors may close facilities on State or local holidays only if it is determined that Federal work may not be properly performed. In determining when Federal work may not be properly performed, employees of the office must be actually prevented from working by one of the following circumstances:

(1) The building or office in which the employees work is physically closed; or building services essential to proper performance of work are not operating.

(2) Local transportation services are discontinued or interrupted to the point where employees are prevented from reporting to their work location.

(3) The duties of the employees consist largely or entirely of dealing directly with employees and officials of business or industrial establishments or local government offices, and all such establishments are closed in observance of the holiday, and there are no other duties (consistent with their normal duties) to which the employees can be assigned on the holiday. When such determination is made, the records of the facility shall be fully documented to reflect the basis and justification for the action. When the office is thus closed, such days are not chargeable to annual leave. The directors of the Manila Regional Office and the VA Office for Europe are authorized to excuse non-U.S. citizen employees from duty on legal holidays of the country therein without charge to leave. Employees (including non-U.S. citizen employees) required to work on a State or local holiday, however, are not entitled to premium compensation or to compensatory time off.

e. **Holiday Benefits in Connection with Absence in Non-pay Status**

(1) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

(2) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.

(3) The provisions of subparagraphs e(1) and (2) above also apply to in-lieu days granted to full-time non-physician facility directors, physicians, dentists, podiatrists, and optometrists.

6. TEMPORARY CLOSING OF OFFICES. Under some circumstances, it may be necessary to temporarily suspend or reduce operations at a facility because of flood, fire, or a similar "Act of God" or for emergency repairs. Directors are authorized to temporarily close an activity under their jurisdiction when required by those circumstances. For information concerning determination of authorized absence or leave status for employees in such cases, refer to part III, chapter 1, paragraph 12u(8) of this handbook. A report of such emergency closing should be made as soon as practicable to the appropriate Administration in Central Office.

7. DAYLIGHT-SAVINGS TIME

a. VA will observe daylight-savings time in those localities where it is in effect. Employees working on a tour when daylight-saving time goes into effect, and whose tour of duty is thereby shortened 1 hour, will be charged 1 hour of leave for the hour lost (26 Comp. Gen. 921).

b. Employees working on a tour when standard time goes into effect will be credited with the number of hours they are actually on duty (26 Comp. Gen. 921).

8. LIMITATIONS ON TOURS FOR MINORS. State and municipal labor laws generally prescribe special limitations on arrangement of tours of duty for minors. Although these laws are not binding upon VA, all VA installations should comply with them insofar as practicable.

9. EMPLOYEES PARTICIPATING IN DISASTER AND CIVIL DEFENSE PROGRAMS. In the case of employees who are assigned to participate in VA disaster and civil defense programs or in civil defense pre-emergency training programs and test exercises conducted by any State or political subdivision thereof, the tours of duty of such employees will, insofar as practicable, be so adjusted that they do not exceed the basic workweek or regularly scheduled administrative workweek. Executive Order 10529, dated April 22, 1954, restricts the period of official time that may be authorized for any such assignment of an employee to not to exceed a total of 40 working hours during a calendar year.

10. DRESS-UP TIME/WEARING OF UNIFORMS

a. In consideration of local circumstances and needs, field facility heads may (1) permit employees to wear uniforms to and from work or (2) require that uniforms be changed at the facility. The practice adopted should take into consideration the views of employees, the adequacy and location of locker facilities, recommendations of local Infection Committees, and the effect on replacement cost of uniforms. A facility's policy concerning the exercise of this discretionary authority shall be clearly set forth in local issuances.

b. When employees are permitted to wear their uniforms to and from work, no time will be set aside within the employees' scheduled tours of duty nor will any additional time be added to the employees' scheduled tours, for the purpose of changing into or out of uniform.

c. When employees are not permitted to wear uniforms to and from work, the following provisions shall apply:

(1) Except as indicated below, the employees shall be granted a reasonable amount of time within their tours of duty to change into or out of uniform. In situations involving successive shifts requiring continuity of service and exchange of information and instructions between employees, overlapping hours of duty shall be provided to the extent feasible so as to facilitate apportionment of time for purposes of changing into or out of uniforms within the prescribed tour of duty. In all such cases, tours of duty shall be so established as to assure that all full-time employees will be scheduled for a 40-hour basic workweek each calendar week.

(2) If administrative necessity requires the changing into and out of uniform outside the employees' tours of duty, adequate additional time shall be officially scheduled for the employees before and after their regular tours of duty for such purpose. These scheduled periods of time shall be compensated under regulations pertinent to overtime pay, when appropriate.

d. As a convenience for employees permitted to wear their uniforms to and from work, facilities should be made available for those who prefer to change at the facility.

11. ALTERNATIVE WORK SCHEDULES (FLEXIBLE AND COMPRESSED WORK SCHEDULES)

a. **General.** This chapter implements Department of Veterans Affairs (VA) policies and procedures concerning flexible and compressed work schedules. It applies to employees under the General Schedule, members of the Senior Executive Service (SES), non-U.S. citizen employees outside the United States, and unless excepted under subparagraph b(2), employees compensated under the Federal Wage System and employees appointed under "hybrid" 38 United States Code (U.S.C.) 7401(3) and 7405 (a)(1)(B) appointments, such as physical therapists and registered respiratory therapists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. This paragraph does not apply to:

(1) Veterans Health Administration employees appointed under chapter 73 or chapter 74, title 38, U.S.C., except as noted in the preceding subparagraph.

NOTE: *VA policies on flexible and compressed schedules for nurses, nurse anesthetists, physician assistants and expanded function dental auxiliaries are contained in chapter 3 of this part. VA policies on compressed schedules for physicians, dentists, podiatrists and optometrists, as well as the Chief Consultant, Nursing Strategic Healthcare Group who is appointed under 38 U.S.C. 7306, are also contained in chapter 3, this part.*

(2) Veterans Canteen Service employees appointed under 38 U.S.C. ch. 78.

(3) Purchase and hire employees appointed under Schedule A, 5 CFR part 213.

(4) Employees compensated under the Executive Schedule (5 U.S.C. ch. 53).

b. **References**

(1) 5 U.S.C. 6120--6133.

(2) 5 CFR 610.401--610.407.

(3) 38 U.S.C. 7421(a) and 7423(a)

(4) Managing Time – Alternative Work Schedule Options/A Guide for Supervisors

c. **Definitions**

(1) **Administrative Workweek.** A period of 7 consecutive calendar days, which coincide with the calendar week, Sunday through Saturday.

(2) **Alternative Work Schedule.** A work schedule that is other than the traditional work schedule (8 hours per day/40 hours per week with fixed starting and quitting times), which consists of either a flexible work schedule or compressed work schedule.

(3) **Basic Work Requirement.** The number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

(4) **Biweekly Pay Period.** The pay period covering two administrative workweeks authorized under 5 U.S.C. 5504.

(5) **Compressed Schedule**

(a) In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays.

(b) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays.

(6) **Core Time Band.** Those designated hours and days during the biweekly pay period when an employee on a flexible schedule must be present for work.

(7) **Credit Hours.** Those hours within a flexible schedule that an employee elects to work in excess of the basic work requirement so as to vary the length of a workday or workweek (not applicable to SES employees).

(8) **Flexible Time Band.** That part of the schedule of working hours during which, under procedures contained herein, employees may choose their time of arrival and departure from the worksite, within limits consistent with the duties and responsibilities of their position.

(9) **Flexitime.** A system of work scheduling which splits the workday into two distinct kinds of time: Core time and Flexible time.

(10) **Flexitour.** A type of flexitime where an employee, having selected starting and stopping times within the flexible time band, continues to adhere to these times. Employees may request different starting and stopping times. Such tours, and changes to such tours, however, must be approved by the employee's supervisor and documented in accordance with the procedures in this paragraph.

(11) **Gliding Flexitour.** A type of flexitime in which a full-time employee has a basic work requirement of 8 hours in each day and 40 hours in each week, may select an arrival time each day, and may change that arrival time daily as long as it is within the flexible hour band established by the supervisor.

(12) **Modified Flexitour.** Another type of flexitime where the employee selects a starting time within the established flexible time band which establishes the employee's assigned schedule; however, in this case the employee is given 15 minutes of flexibility on either side of the selected arrival time. The actual time of arrival becomes the employee's starting time for that day. For example, an employee selecting 7:30 a.m. as a starting time under the modified flexitour may report for work anytime between 7:15 a.m. and 7:45 a.m. If an employee arrives for duty at 7:20 a.m., this becomes the employee's starting time for that day. Assuming a half-hour lunch period and an 8-hour tour of duty, the departure time would be 3:50 p.m. If the same employee reports at 7:05 a.m., his or her starting time would not begin until 7:15 a.m. The same employee arriving for work at 7:50 a.m. is 5 minutes tardy. Under the modified flexitour, the starting time and changes in the starting time must be approved by the supervisor and documented in accordance with the procedures in this chapter.

(13) **Overtime Work**

(a) For the purposes of flexitime, all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered and approved.

(b) For the purposes of compressed work schedules:

1. For full-time employees, the term overtime hours refers to officially ordered or approved hours of work which are performed outside of, and in addition to, the employee's basic work requirement.

2. For part-time employees, overtime hours are those hours of work after which a full-time employee on the same type of compressed work schedule would begin receiving overtime pay.

(14) **Tour of Duty.** Under a flexible work schedule, the limits set by the authorizing official within which employees must complete their basic work requirement. Under a fixed schedule, such as a compressed work schedule, an employee's tour of duty is synonymous with the employee's basic work requirement.

(15) **Work Unit.** An organizational entity located in one place with a specific mission and with homogeneous procedures or technology headed by a supervisor or manager authorized to certify a group of employees' time and attendance.

d. **Planning Flexible and Compressed Work Schedules.** Flexible and compressed work schedules require careful advance planning and good employee communication. The possible positive and negative effects of flexible and compressed schedules must be explored. If affected employees are in an exclusive unit of recognition, the employee involvement will be provided by, or coordinated with, their exclusively recognized labor organization. An analysis of the work requirements in the work unit and an evaluation of the potential impact of flexible and compressed work schedules on the functions of the work unit should be made. This should include special attention to the following:

(1) **Workload Characteristics**

(a) Tasks which must be performed within a specific period or according to a predetermined schedule;

(b) How much workflow can be adjusted to accommodate a system of flexible or compressed work schedules;

(c) The coordination required between work units and functions, as well as employee scheduling;

(d) The period of daily or weekly peak workloads where all or most of the employees in the work unit must be present;

(e) The employee coverage required during public service hours; and

(f) The effect of such schedules on efficiency and productivity.

(2) **Other Considerations**

(a) Work unit costs (additional staff, premium pay, space and equipment), potential increased heating and cooling costs, impact on employee commuting, operation of the cafeteria and employee health unit, potential increased rent or standard level user charges, increased security, cleaning, and maintenance service expenses;

(b) Effects on recruitment and retention, opportunities for full and part-time employment, and opportunities for women and disabled individuals;

(c) Method and extent of training required to acquaint employees and supervisors with changes in their responsibilities;

(d) Potential adverse impact on morale of employees who, for operational reasons, may not be placed on flexible or compressed work schedules, or the adverse impact on employees not desiring such placement;

(e) Impact of extending the hours during which employees may work thereby requiring more management control for both preparing and certifying time and attendance reports; and

(f) Ability of employees to work independent of supervision.

e. **Responsibilities**

(1) The Secretary or designee is the approving official for flexible and compressed work schedules for employees occupying positions centralized to that office.

(2) Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries are responsible for approving, disapproving, or discontinuing flexible and compressed work schedules for VA Central Office employees in their organizations.

(3) Facility directors are responsible for approving or discontinuing flexible and compressed work schedules for employees under their jurisdiction.

(4) The Deputy Assistant Secretary for Human Resources Management will advise management and operating officials on the policies and procedures in this part.

(5) Supervisors are responsible for assuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner. They must also ensure adequate coverage during public business hours and that participating employees are treated equitably.

(6) Employees on flexible or compressed work schedules are responsible for fulfilling their obligation to account for a full day's work. Abuse of flexible or compressed work schedules may result in restrictions on the employee's starting and stopping times, discontinuing the flexible or compressed work schedules under subparagraph g(7)(b) and/or appropriate disciplinary action.

f. **Flexitime**

(1) **General Requirements**

(a) The establishment of flexible tours of duty is limited to the flexitour, modified flexitour, and gliding flexitour, as defined in paragraph 11c above.

(b) Core time bands shall be determined by the authorized official; however, they should be the same for employees in the same work unit performing similar tasks and for employees in different work units performing interrelated tasks. The appropriate official may authorize deviations from approved core time bands for individual employees in unusual cases.

(c) The approving official, or designee, may determine the numbers and kinds of employees on duty during the core hours of any given day. Further, to assure essential services are provided outside core hours, the approving official, or designee, may restrict the employee's choice of arrival and departure time if participation in flexible schedules proves disruptive or otherwise impedes efficient operations.

(d) A flexible work schedule under this paragraph and a compressed workweek under subparagraph g may not be simultaneously established in the same work unit.

(e) The modified flexitour will not be used in combination with standby tours of duty or on-call duty.

(f) Flexible schedules will not be established if they will result in payment of night differential to an employee, or group of employees, who would not normally perform night work.

(g) If it is found that a flexible schedule has had or would have an adverse impact (see subparagraph g(7)(b)), the approving official shall not establish, or shall discontinue, it.

(2) **Credit Hours** (not applicable to SES employees)

(a) Credit hours may be earned at the option of employees with supervisory approval.

(b) Employees do not receive overtime pay for credit hours and, unlike overtime, credit hours are not ordered in advance by management. Employees on flexible work schedules may work them to shorten the length of another workday or workweek. However, they may be used only after approval by the appropriate approving official.

(c) Full-time employees may carry over no more than 24 credit hours into the next pay period (part-time employees may carry over no more than 25 percent of the hours in their biweekly basic work requirement). Within these limits, credit hours not used within 7 pay periods after they are earned will be carried over for use for an additional 7 pay periods. If not used by the end of the second 7 pay period timeframe, the employee will forfeit them, unless the employee was prevented from using them because of an exigency of the service. In this instance, the employee may request an extension of the time limit to use the credit hours.

(d) When an employee ceases to work in a work unit where credit hours may be earned, the employee will be given the following options:

1. Sufficient advance notice to use earned credit hours prior to leaving the work unit;

2. Compensation for the earned credit hours at the employee's current rate of basic pay; or

3. Transfer of the earned credit hours to the new work unit, if credit hours have been authorized for that work unit.

(e) If compensated for credit hours, a full-time employee will be paid for not more than 24 credit hours. A part-time employee will be paid for not more than 25 percent of the hours in the employee's basic work requirement. Credit hours will not be transferred between facilities.

(3) **Time and Attendance Records**

(a) The arrival and departure times will be recorded for each employee, including supervisors, in any work unit using flexible work schedules. A Time and Attendance Report (VA Form 5631 or an electronic time and attendance system authorized for use in VA) must be used as the official means to record, certify, and report employees' time and attendance, including the accumulation and use of credit hours, if applicable.

(b) When the employee's work schedule is the same as that of the timekeeper's or supervisor's, no documentation, other than the Time and Attendance Report or electronic system, will be used to record employee attendance. When the employee's work schedule varies from that of the supervisor, some other method must be used to provide reasonable assurance of employee attendance, e.g., (a) observation by another supervisor; (b) occasional telephone calls to the employee when the employee is scheduled to be on-duty; or (c) determining reasonableness of work output for time spent.

(c) Sign-in/sign-out sheets, including VA Form 5283, Weekly Attendance Record (Flexitime) will not be used to document employee attendance. In rare situations, such as to record the attendance of employees with attendance problems, alternative methods may be used to document attendance. These may include logging on to a computer terminal, reporting in to a supervisor on duty, or a personal log maintained by the employee. Alternate reporting requirements should be limited to specific time periods and designated in writing.

(d) Supervisors may determine which available method works best for their unit.

(4) **Computation of Premium Pay for Employees on Flexible Schedules** (not applicable to SES)

(a) **Overtime and Compensatory Time Off in Lieu of Overtime Premium Pay**

1. **Overtime Hours.** Subparagraph c(13) contains a definition of overtime hours for employees on flexible schedules. Employees on flexible and compressed work schedules are eligible for callback overtime.

2. **Compensatory Time Off in Lieu of Overtime Pay**

a. Except as provided in subparagraph b below, appropriate officials, or their designees, may, at the request of a GS or Federal Wage System (FWS) employee on a flexible schedule under this paragraph, grant compensatory time off in lieu of overtime pay, whether such overtime hours are regularly scheduled or irregular or occasional in nature. If the employee does not request compensatory time off in lieu of overtime pay, or if the employee's request for compensatory time off in lieu of overtime pay is not granted, the employee shall be compensated for such overtime under the applicable statutory provisions.

b. For GS employees on a flexible schedule under this paragraph who have a rate of basic pay in excess of the maximum rate for GS-10, the approving official, or designee, may require the use of compensatory time in lieu of overtime. If that option is not exercised, the provisions of the preceding paragraph shall apply.

c. The time limits and other provisions in this chapter concerning compensatory time shall apply to all compensatory time taken under this chapter. It should be noted, however, that if an employee covered by the FLSA on flexible schedules fails to take the compensatory time within seven pay periods, he or she shall be compensated for the overtime work under the FLSA.

(b) **Night Differential**

1. **Full-time General Schedule Employees**

a. If the tour of duty includes 8 or more hours available for work during daytime hours (6 a.m. to 6 p.m.), the employee is not entitled to night differential.

b. If the core time band is during daytime hours (i.e., 6 a.m. to 6 p.m.), but an 8-hour tour of duty includes less than 8 daytime hours, the employee is entitled to night differential for the difference between 8 hours and the available number of daytime hours in the tour of duty.

c. If the core time band includes night work, the employees are entitled to night pay for any non-overtime work performed at night.

2. **Part-time General Schedule Employees.** A part-time GS employee is entitled to night differential for night work performed only during his or her basic work requirement.

3. **FWS Employees.** If the core time band includes night work, a FWS employee is entitled to the appropriate night differential if a majority of the non-overtime hours of the tour of duty falls between either 3 p.m. and midnight or 11 p.m. and 8 a.m.

NOTE: *Meal breaks of 1 hour or less that occur when a night shift differential is authorized shall be included for the purposes of determining a FWS employee's entitlement to night differential.*

(c) **Holiday Premium Pay**

1. Full-time employees on flexible schedules, who perform non-overtime work on a day designated as their holiday, are entitled to their rate of basic pay, plus premium pay equal to the basic pay for that non-overtime holiday work.

2. Part-time employees on flexible schedules are entitled to holiday premium pay for the number of non-overtime hours they work on the holiday, up to a maximum of 8 hours.

(d) **Sunday Premium Pay.** A full-time employee on a flexible schedule shall be entitled to Sunday premium pay for non-overtime work performed during a regularly scheduled tour of duty, when any part of that tour of duty is on a Sunday. Part-time employees are not entitled to Sunday premium pay.

(e) **SES.** Members of the SES are not entitled to any form of premium pay.

(5) **Temporary Duty.** If an employee is temporarily detailed, reassigned or promoted, and is moved from or to a position which has flexible scheduling, the approving official, or designee, may allow the employee to continue to use his or her previous work schedule.

(6) **Absence and Leave**

(a) **Sick and Annual Leave**

1. For employees on flexible schedules, time off work during the flexible and core time band must be charged to the appropriate leave category, compensatory time off or excused absence, as appropriate.

2. The maximum amount of sick or annual leave an employee may apply to a basic work requirement for any day is the number of hours the employee is scheduled to work that day.

(b) **Holidays.** A full-time employee on a flexible schedule, relieved from working on a day designated as his or her holiday, shall be entitled to pay with respect to that day for 8 hours. A part-time employee prevented from working on the holiday shall be entitled to basic pay for the number of hours he or she was scheduled to work on that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday.

(c) **Excused and Unexcused Absences.** On the flexitour, the employee's selected starting and stopping times shall be used to determine the amount of excused or unexcused absence to be granted and/or charged. On the modified flexitour, the employee's selected starting and stopping times shall be used to record absences unless the employee has actually reported for work. If at work, the time the employee reported and his or her basic work requirement for that day shall be used to determine absences.

(7) **Travel**

(a) Travel outside regularly scheduled duty hours must be officially ordered or approved and must meet one of the four conditions specified in 5 U.S.C. 5542(b)(2)(B).

(b) 5 CFR 610.123 provides additional information about employees traveling outside regularly scheduled duty hours.

(c) On the flexitour, the employee's selected starting and stopping times shall be used to determine if the employee is traveling during regularly scheduled hours. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has already reported for work. If at work, the actual time the employee reported, and his or her basic work requirement for that day, shall be used in making the determination. Nonexempt employees under the FLSA should use this method also in determining corresponding hours for travel and non-workdays.

g. **Compressed Work Schedules**

(1) **Criteria**

(a) A compressed workweek may be established only if all daily tours of duty within the compressed workweek are in whole hour increments, excluding the meal period (e.g., eight 10-hour tours, eight 9-hour tours and one 8-hour tour, etc., each biweekly pay period). If, however, the meal period is considered hours of work, any daily tour of duty on such a day shall be in whole hour increments, including the meal period.

(b) A work unit employee participating in a compressed workweek under this paragraph may not simultaneously work a flexible schedule under subparagraph f of this chapter.

(c) A compressed workweek should not be established in a work unit if it will overlap a standby tour of duty.

(d) An employee in a work unit which is not covered by a collective bargaining agreement shall not be required to participate in any compressed workweek unless a majority of employees (i.e., more than half of affected employees in the work unit) have voted to be included. The specific procedures for this vote are left to the approving official. Use of written secret ballots are encouraged; subparagraph (8) below contains a prohibition against the coercion of employees making such determinations.

(e) Exclusion because of personal hardship:

1. An official, or designee authorized to approve compressed workweeks, who, upon written request of an employee determines that participation of the employee would cause a personal hardship, shall:

a. Except the employee from the compressed workweek; or

b. Reassign the employee to the first vacant position in the organization not on a compressed tour, which is acceptable to the employee and for which he or she qualifies.

2. Determinations under this subparagraph shall be made no later than 10 days after the written request is received by the deciding official.

(f) The establishment of compressed workweeks does not relieve approving officials, or their designees, from the requirement to establish workweeks to accomplish the mission and goals of the organization and to correspond with the employee's actual work requirements.

(g) The approving official may exclude from compressed workweeks any employee or group of employees whose coverage would create an adverse impact.

(2) **Time and Attendance Records.** Under fixed work schedules, such as compressed work schedules, the supervisor usually has personal knowledge of each employee's number of hours on duty, attendance, and the nature and length of absences and can, therefore, certify each employee's entitlement to pay without the use of special time accounting devices. The VA Form 5631, Time and Attendance Report, is the official means for recording, certifying and reporting time and attendance.

(3) **Computation of Premium Pay.** (not applicable to SES)

(a) **Overtime Hours and Compensatory Time Off in Lieu of Overtime Premium Pay for Irregular or Occasional Overtime Work**

1. For full-time employees, the term "overtime hours" refers to hours of work officially ordered or approved and performed outside of, and in addition to, the basic work requirement. For part-time employees, overtime hours are those hours of work after which a full-time employee on a similar work schedule would begin receiving overtime pay. Employees on compressed workweeks are eligible for

callback overtime. To receive such pay, however, they must be called back to work at a time which is outside of and unconnected with their basic work requirement.

2. GS employees on compressed workweeks may receive (or be required to take, if appropriate) compensatory time off in lieu of premium pay for irregular or occasional overtime work. If the employee is on a compressed work schedule, compensatory time off may not be authorized in lieu of premium pay for regularly scheduled overtime work.

(b) **Night Differential**

1. GS employees are entitled to night differential for regularly scheduled night work between the hours of 6 p.m. and 6 a.m.

2. FWS employees are entitled to the applicable night differential if a majority of the non-overtime hours of the tour of duty falls between 3 p.m. and midnight or 11 p.m. and 8 a.m.

(c) **Holiday Premium Pay**

1. Full-time employees on a compressed work schedule, who perform non-overtime work on the day designated as their holiday, are entitled to their basic rate of pay, plus premium pay equal to basic pay for that non-overtime holiday work. Employees may not, however, receive holiday pay for work in excess of their basic work requirement for the day.

2. Part-time employees on a compressed schedule are only entitled to holiday premium pay for non-overtime work performed on the holiday. Part-time employees are not entitled to a day off in lieu of the holiday.

(d) **Sunday Pay.** Full-time employees on a compressed schedule who perform non-overtime work during a period of service, a part of which is performed on Sunday, are entitled to Sunday premium pay for the entire period of service. Part-time employees covered by this subparagraph are not entitled to Sunday premium pay.

(4) **Absence and Leave**

(a) **Holidays**

1. **Full-time Employees**

a. When a holiday falls on a workday in the employee's compressed workweek, that workday shall be designated as his or her holiday.

b. When a full-time employee on a compressed schedule has two non-workdays in the administrative workweek, the first day off shall be considered the employee's "Sunday" and the second day off shall be considered the employee's "Saturday." If the holiday falls on the employee's "Sunday," the first workday following that day shall be designated as the employee's day off in lieu of the holiday. If the holiday falls

on the employee's "Saturday," the first workday preceding that day shall be designated as the employee's day off in lieu of the holiday. These rules shall apply whether or not the employee's day off actually falls on Saturday or Sunday, and regardless of whether this causes the designated holiday to fall in another administrative workweek or pay period.

c. When a full-time employee on a compressed workweek has three days off in the administrative workweek and the holiday falls on one of these non-workdays, the following rules shall apply:

(1) When the holiday falls on the first or second day off of the administrative workweek, the following workday shall be designated as the day off in lieu of the holiday, regardless of administrative workweek.

(2) When the holiday falls on the third day off in the administrative workweek, the preceding workday shall be designated as the day off in lieu of the holiday, regardless of administrative workweek.

2. **Part-time Employees.** If a holiday falls on a day during part-time employees' scheduled compressed workweeks and, if the employees are prevented from working, they are entitled to pay for the number of hours they were scheduled to work that day. Part-time employees are not entitled to a day off in lieu of the holiday.

(b) **Leave.** Time off from an employee's basic work requirement must be charged to the appropriate leave category, unless the employee is authorized compensatory time off or excused absence.

(c) **Excused and Unexcused Absences.** The amount of excused or unexcused absence shall be based on the employee's compressed work schedule in effect at the time.

NOTE: *An employee excused for part of a day is expected to return to duty, except when there is so little time remaining that no appreciable amount of service would be rendered or the duty station is so distant that it would be an unreasonable requirement.*

(d) **Temporary Duty.** When an employee covered by a compressed work schedule is temporarily detailed, reassigned or promoted to a position subject to another schedule, the approving official, or designee, may allow the employee to continue to use the compressed schedule, require use of the work schedule at the new organization, require return to the home site to make up the difference, or grant excused absence for the difference between the daily compressed work requirement and the number of hours of work possible under the schedule at the temporary site. It is important that the work schedule at the receiving site and the effective date of any change be fully resolved and understood prior to the assignment to ensure complete understanding about days off, overtime, time spent in a travel status, etc.

(e) **Travel.** Since compressed work schedules are fixed schedules, guidance for time spent in a travel status away from the official duty station may be found in 5 CFR 550.112 and 551.422.

(5) **Review of Alternative Work Schedules**

(a) **Determinations to Establish or Discontinue Flexible or Compressed Schedules.** Notwithstanding the previous provisions of this paragraph, and subject to subparagraph (7)(a) and (b)

below, any approving official who finds that a particular flexible or compressed work schedule has had or would have an adverse impact shall promptly determine not to establish the schedule, or shall discontinue it if it has already been established.

(b) **Adverse Impact.** For the purposes of the preceding subparagraph, adverse impact means a reduction in productivity, a diminished level of service, or an increase in the cost of operations (other than reasonable administrative costs relating to the establishment of a flexible or compressed schedule.

(6) **Records Maintenance.** Each VA facility is encouraged to maintain records regarding the development, maintenance, or termination of a flexible or compressed work schedule. These records should address any increased cost, changes in productivity, and any effect on providing services. An approving official who thinks that establishing a flexible or compressed work schedule would have an adverse VA impact or that a modification or discontinuance of an existing schedule is necessary due to such impact, should maintain sufficient records to support such actions.

(7) **Employees Covered by a Collective Bargaining Agreement.** Flexible or compressed work schedules for employees in a unit represented by an exclusive representative shall be subject to the provisions of this paragraph and the terms of any applicable collective bargaining agreement.

(a) **Determination Not To Establish Flexible or Compressed Work Schedules.** If the approving official and the exclusive representative reach an impasse in collective bargaining with respect to a determination not to establish a flexible or compressed work schedule, the impasse shall be presented to the Federal Service Impasses Panel (FSIP) for resolution. The panel shall take final action in favor of VA's determination if it is supported by evidence that the schedule is likely to have an adverse impact.

(b) **Termination of a Flexible or Compressed Work Schedule.** If the approving official and the exclusive representative have entered into a collective bargaining agreement providing for the use of flexible or compressed work schedules, and the approving official determines under subparagraph (5)(a) above to terminate it, the approving official may reopen the agreement to seek termination. Impasses concerning such termination shall be presented to the FSIP for resolution. A flexible or compressed work schedule may not, however, be terminated until agreement is reached or the FSIP so rules.

(c) **Further Information.** Contact the appropriate labor management specialist in the Office of Labor-Management Relations in VA Central Office for further guidance.

(8) **Prohibition of Coercion.** An employee may not be directly or indirectly intimidated, threatened or coerced by any other employee for the purposes of interfering with an employee's rights under this chapter.

CHAPTER 3. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES APPOINTED TO TITLE 38 POSITIONS

1. SCOPE

a. This chapter contains basic policies and instructions governing duty for full- and part-time physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C., chapter 73 and 74.

b. Except as otherwise indicated in part III, chapter 3, paragraph 13 of this handbook, hours of duty provisions for full-time physicians and dentists contained in this chapter are applicable to full-time residents appointed under authority of 38 U.S.C. 7406. The term "resident" as used in this paragraph refers to medical and dental residents. As used in this chapter, any reference to "nurse(s)" includes nurse anesthetist but does not include the Chief Consultant, Nursing Strategic Healthcare Group; and "employee(s)" includes those personnel indicated in subparagraph a (both full-time and part-time, unless otherwise specified). The hours of duty provisions contained in this chapter for full-time physicians and dentists appointed under 38 U.S.C. 7306 shall apply to the Chief Consultant, Nursing Strategic Healthcare Group (118).

c. Persons other than those indicated in subparagraph a employed under authority of 38 U.S.C. chapter 73 and 74, including title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3) including certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists and occupational therapists, are subject to the provisions of 5 U.S.C., chapter 61. Graduate nurse technicians are included in this category. (See part III, chapter 2, this handbook.)

d. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health.

2. BASIC WORKWEEK AND OFFICIAL DUTY

a. Unless otherwise indicated, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. Directors of field facilities, or their designees, are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek. Full-time physicians, dentists, podiatrists, and optometrists to whom the provisions of this chapter apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.

b. Full-time physicians, dentists, podiatrists, and optometrists shall be permitted some periods of time free from official duty to the extent that this does not impair provision of essential services in patient

treatment and care. Each such full day granted shall be called an "administrative non-duty day." Full-time VA Central Office and VA outpatient clinic employees will normally perform duty Monday through Friday of each workweek. The remaining 2 days (Sunday, the first day of the workweek and Saturday, the last day of the workweek) shall be designated as the administrative non-duty days of the workweek for physicians, dentists, podiatrists, and optometrists or the days off for nurses, nurse anesthetists, PAs and EFDAs. Unusual circumstances may make it necessary, however, for the Under Secretary for Health, chief consultants, or facility directors, as appropriate, to alter these provisions for specific individuals or groups of individuals in the best interests of the service.

c. Full-time nurses, nurse anesthetists, PAs, and EFDAs shall be scheduled in advance for a 40-hour basic workweek in each administrative workweek, except that full-time nurses and nurse anesthetists on the Baylor Plan shall be scheduled in advance for a 24-hour basic workweek in each administrative workweek The basic workweek for Baylor Plan nurses shall consist of two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek, Sunday and Saturday. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. A full-time nurse or nurse anesthetist shall be placed on the Baylor Plan only at the beginning of the administrative workweek and taken off the Baylor Plan at the end of the administrative workweek.

d. Because of the continuous nature of the services rendered at hospitals, the facility Director, or designee (in no case less than a chief of service), has the authority to prescribe any tour of duty to ensure adequate professional care and treatment to the patient, consistent with these provisions.

e. In the exercise of the authority to prescribe tours of duty, it will be the policy to: prescribe individual hours of duty as far in advance as is possible; schedule the administrative non-duty days or the days off of each workweek on consecutive days, where possible; arrange for continuous medical supervision required by policy in M-2, part I, chapter 4, "Medical Officer of the Day;" and give each full-time employee every possible consideration in arranging schedules so long as such consideration is compatible with the professional obligation to the patients.

f. Part-time employees perform duty on less than a full-time basis under a prescheduled regular tour of duty. Such employees may perform occasional unscheduled duty in addition to the regular tour of duty. Employees serve on an intermittent duty basis when employed on less than a full-time basis with no prescheduled regular tour of duty. Timekeeping practices will reflect the actual hours worked by part-time and intermittent employees. Facility directors will assure accurate daily reporting on time and attendance reports of time worked and for which the employee is entitled to salary.

g. It is recognized that additional flexibilities pertaining to prescheduled tours of duty for part-time physicians are needed to accommodate the unique needs and varying circumstances of health care facilities. For example, part-time surgeons at active affiliated facilities with extensive patient care, research, and educational responsibilities may frequently encounter emergencies and other unanticipated obligations that require them to depart from their scheduled tour of duty. Under such circumstances, it is difficult for management to administratively change or adjust the prescheduled tour and communicate this to the timekeeper in a timely manner. Adjustable work hours provide a means for minimizing this problem. After assessing their particular needs, facility directors may authorize the use of adjustable

work hours for part-time physicians as determined appropriate and necessary. See paragraph 4 below for procedures for implementing adjustable work hours.

3. HOLIDAYS. Employees shall be excused to the extent possible for observance of the following holidays and non-workdays designated by Federal Statute or Executive Order: January 1, , the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, December 25, and any other calendar day designated as a holiday or non-workday by Federal Statute or Executive Order. However, notwithstanding the preceding provisions of this subparagraph, full-time nurses and nurse anesthetists on the Baylor Plan shall not be entitled to holidays.

a. **Full-Time Employees (Except Nurses and Nurse Anesthetists on the Baylor Plan)**

(1) For employees whose basic workweek is Monday through Friday, holidays falling on a Sunday shall be observed the following Monday; holidays falling on Saturday shall be observed on the preceding Friday; and all other holidays shall be observed on the day they occur.

(2) For employees whose basic workweek is other than Monday through Friday, the employee's first day off in the calendar week is designated as the day off in lieu of Sunday and the employee's second day off in the calendar week is designated as the day off in lieu of Saturday.

(a) When a holiday falls on the day designated as a day off in lieu of Sunday, the employee's next workday shall be the day observed as the holiday for that employee.

(b) When a holiday falls on the day designated as a day off in lieu of Saturday, the employee's preceding workday shall be the day observed as the holiday for that employee.

b. **Part-Time Employees.** Part-time employees who are excused from duty on a holiday are entitled to their regular pay for that day.

c. **In-Lieu Non-workday.** An in-lieu non-workday may be granted to full-time physicians, dentists, podiatrists, and optometrists, for work performed on a holiday or the day observed as a holiday, provided the full-time employee's services can be spared without detriment to patient care. Such in-lieu day if authorized must be taken within 90 days by the full-time employee concerned. Full-time employees who are assigned to work on holidays and whose absences were not authorized will be reported as being on unauthorized absence and will lose pay for that day.

NOTE: *An in-lieu non-workday shall not be authorized for a nurse, nurse anesthetist, PA or EFDA who works on a holiday or the day designated as a holiday.*

d. **Holiday Benefits in Connection With Absence in a Non-pay Status**

(1) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

(2) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.

(3) The provisions of subparagraphs d (1) and (2) above also apply to in-lieu days granted to full-time physicians, dentists, podiatrists, and optometrists.

e. **Religious, State and Local Holidays**

(1) 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 applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

(2) If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

4. ADJUSTABLE WORK HOURS FOR PART-TIME PHYSICIANS

a. **Part-time Adjustable Hours of Duty**

(1) A part-time regular tour of duty, including core and non-core time as defined below, will be prescheduled at the beginning of the biweekly pay period with days and times specified. This schedule may be changed or adjusted during the pay period to accommodate unforeseen needs, if such change is approved by the facility Director, or designee.

(2) Part-time physicians may, however, be authorized to work adjustable hours of duty, as indicated in subparagraph 4 below, provided *the total work requirement* in each biweekly pay period is met. The total work requirement is the total number of hours which an employee is required to work or otherwise

account for by an appropriate form of leave or excused absence. This is the same as the total number of hours in a biweekly pay period included in the regular part-time tour of duty.

(3) The days and times in the biweekly pay period when the employee must be present unless granted an appropriate form of leave or excused absence will be identified as *core time*. In no case will core time be less than *one-fourth* of the total number of hours in the biweekly part-time tour of duty (e.g., 10 hours of a part-time tour consisting of 40 hours).

(4) Part-time physicians are not required to be present for all of the non-core portion of the regular part-time tour of duty, provided the total work requirement is met. Hours may be worked outside the tour in lieu of scheduled non-core periods and credited toward meeting the regular part-time tour of duty requirement, if appropriate approval is obtained.

(5) Several examples of how adjustable work hours may be utilized in conjunction with a prescheduled part-time tour are shown in appendix II-A.

b. **Time and Attendance**

(1) **General.** All part-time physicians having adjustable hours will record their time and attendance on VA Form 4-563la, Subsidiary Time and Attendance Report for Part-Time Physicians, which will be prepared and maintained in accordance with instructions as contained in subparagraph (3) below. The use of adjustable work hours does not affect physicians' eligibility for leave during the regular part-time tour of duty and in no way changes the supervisor's authority to approve the scheduling of leave. Leave or excused absences (including excusing physicians for scheduled work on holidays) may be granted only for any time within the regular part-time tour of duty. Employees will not be entitled to pay for any part of the regular part-time tour of duty for which duty was not performed or accounted for by an appropriate form of leave. Where the total work requirement for an employee will not be met by the end of the biweekly pay period, the deficient time will be accounted for by an appropriate leave charge. Leave will be accrued, requested and granted in accordance with the provisions of part III of this handbook.

(2) **Preparation of VA Form 4-5631a.** Prior to the beginning of each biweekly pay period, two VA Forms 4-563la (one for each week in the pay period) will be prepared for each affected part-time physician who is rendering service to VA. The unit timekeeper will be responsible for completing the block entitled "employee name" as well as other items on that same line. Based on information provided by the employee's supervisor, the unit timekeeper will then complete the column headed "scheduled tour" and "core time" by entering the employee's prescheduled tour of duty as well as that portion of the employee's biweekly tour of duty which has been identified as "core time". This will be accomplished by making appropriate entries in the columns headed "hrs", "from" and "to" for each day on which the part-time physician is scheduled to perform duty. The two forms will then be delivered to the employee for the daily recording of the employee's duty and leave hours for each week in the biweekly pay period.

(3) **Verification of VA Form 4-5631a and Recording on to VA Form 4-5631**

(a) Upon receipt of the properly completed and certified VA Form 4-5631a from the employee's supervisor, the designated timekeeper will ascertain that the specified "core" hours were worked, or that an appropriate leave charge was noted. It must also be determined that the "normal" hours have been accounted for by duty or appropriate leave charges. In the absence of this data, the form will be returned to the supervisor for corrective action.

(b) After verification of VA Form 4-563la the unit timekeeper will immediately record the data in the ETA system or onto the official VA Form 4-5631, Time and Attendance Report, as applicable. When this action has been completed, the unit timekeeper will initial in the designated block on VA Form 4-563la as an indication that all required entries for that week have been recorded on VA Form 4-5631 or in the ETA system.

(c) After all entries have been entered in the ETA system or recorded on VA Form 4-5631 for both weeks in the biweekly pay period, the unit timekeeper will initial in the usual manner and deliver the form to the employee's supervisor for final certification. Thereafter, but not later than 9:00 a.m. on the Monday following the close of the biweekly pay period, the VA Form 4-5631 will be delivered to the Payroll activity for payroll processing in the usual manner.

(4) **Retention of VA Form 4-5631a.** The VA Form 4-563la will be filed in a folder by leave year and retained by the unit timekeeper for disposal when 6 years old.

c. **Responsibilities**

(1) Facility directors at those facilities that choose to implement adjustable work hours of duty will develop local policy, procedure, and plans within the provisions of this part. Adjustable work hours for part-time physicians should be authorized for only those organizational elements or individual physicians where adjustable hours are determined essential for meeting patient care needs. Care should be taken to ensure that each employee clearly understands that all paid work outside the regular part-time tour of duty must be officially approved and understands any other limitations prescribed by the Director.

(2) Supervisors are responsible for the day-to-day administration of adjustable work hours. This responsibility includes ensuring adequate coverage in providing necessary services and that employees are treated fairly in the matter of adjustable work hours. After each physician has properly recorded and certified attendance data on VA Form 4-563la, supervisors will review, initial, and refer this form to the unit timekeeper.

(3) Employees using adjustable work hours are responsible for fulfilling their total work requirement obligation by the performance of duty or obtaining approval for an appropriate form of leave. Employees are responsible for recording and certifying as correct all entries on VA Form 4-563la pertaining to time worked, leave, or excused absence.

5. FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR EMPLOYEES IN TITLE 38 POSITIONS

a. **General.** This paragraph contains Veterans Health Administration policies and procedures concerning flexible and compressed work schedules for VHA title 38 health care employees. All of the provisions of this paragraph apply to full and part-time nurses, graduate nurse technicians, nurse technicians pending graduation, nurse anesthetists, PA's (physician assistants) and EFDAs (expanded function dental auxiliaries) appointed under authority of 38 U.S.C. 7401(l) or 7405(a)(1.). Only the provisions on compressed work schedules apply to physicians, dentists, podiatrists, or optometrists appointed under 38 U.S.C., sections 7306, 7401(1), 7405 or 7406, as well as the Chief Consultant, Nursing Strategic Healthcare Group who is appointed under 38 U.S.C. 7306. The provisions in this paragraph do not apply to student nurse technicians or nurses and nurse anesthetists on the Baylor Plan.

NOTE: *Instructions for compressed work schedules for employees in VA Central Office have been published in VA Directive 5610.3.*

b. **References**

(1) Federal Employees Flexible and Compressed Work Schedules Act of 1982 (Pub. L. 97-221, 5 U.S.C. 6120-6133.)

(2) 5 CFR 2472

(3) 38 U.S.C. 7421(a) and 7423(a)

c. **Definitions**

(1) **Administrative Workweek.** A period of 7 consecutive calendar days, which coincide with the calendar week, Sunday through Saturday.

(2) **Alternative Work Schedule.** A work schedule that is other than the traditional work schedule (8 hours per day/40 hours per week with fixed starting and quitting times), which consists of either a flexible work schedule or compressed work schedule.

(3) **Basic Work Requirement.** The number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or required to account for by leave or otherwise.

(4) **Biweekly Pay Period.** The pay period covering two administrative workweeks.

(5) **Compressed Schedule**

(a) In the case of a full-time employee, an 80-hour biweekly work requirement which is scheduled for fewer than 10 workdays.

(b) In the case of a part-time employee, a biweekly basic work requirement which is scheduled for less than 10 workdays.

(6) **Core Time Band.** Those designated hours and days during the biweekly pay period when an employee on a flexible schedule must be present for work.

(7) **Flexible Time Band.** That part of the schedule of working hours during which, under procedures contained herein, employees may choose their time of arrival and departure from the worksite, within limits consistent with the duties and responsibilities of their positions.

(8) **Flextime.** A system of work scheduling which splits the workday into two distinct kinds of time: the core time band and the flexible time band.

(9) **Flexitour.** A flexible schedule in which an employee, having once selected starting and stopping times within the flexible time bands, continues to adhere to these times. Employees may request different starting and stopping times. Such tours, and changes to such tours, however, must be approved by the employee's supervisor and documented in accordance with the procedures contained herein.

(10) **Modified Flexitour.** A type of flextime where the employee selects a starting time and stopping time within the established flexible time band and, once selected, this becomes the employee's assigned schedule. The employee, however, is given 15 minutes of flexibility on either side of the selected arrival time. The actual time of arrival becomes the employee's starting time for the day. For example, an employee selecting 7:30 a.m. as a starting time under the modified flexitour may report for work anytime between 7:15 a.m. and 7:45 a.m. If the employee arrives at 7:20 a.m., this becomes the employee's starting time for that day. Assuming a half-hour lunch period, the departure time would be 3:50 p.m. If the same employee reports at 7:05 a.m., his or her starting time would not begin until 7:15 a.m. The same employee arriving at 7:50 a.m. is 5 minutes tardy. Under the modified flexitour, the starting time, and changes in the starting time, must be approved by the supervisor and documented in accordance with the procedures contained herein.

(11) **Overtime Work**

(a) For the purpose of flexitime, overtime means all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered or approved in advance.

(b) For the purposes of compressed work schedules, overtime work means:

1. For full-time employees, the term refers to officially ordered or approved hours of work performed outside of, and in addition to, the employee's basic work requirement.

2. For part-time employees, overtime hours are those hours of work after which a full-time employee on the same type of compressed schedule would begin receiving overtime pay.

(12) **Tour of Duty.** Under a flexible work schedule, the limits set by the authorizing official within which employees must complete their basic work requirement. Under a fixed schedule, such as a compressed work schedule, an employee’s tour of duty is synonymous with the employee’s basic work requirement.

(13) **Work Unit.** An entity located in one place with a specific mission and with homogeneous procedures or technology, and headed by a supervisor or manager authorized to certify the employee's VA Form 4-5631, Time and Attendance Report, or other applicable agency documents for reporting employees' work schedules.

d. **Planning Flexible and Compressed Work Schedules.** (See chapter 2, paragraph 11d of this part.)

e. **Approval Authority and Responsibilities**

(1) Facility directors are authorized to approve flexible and compressed work schedules for employees under their jurisdiction. They are also responsible for ensuring that approved flexible and compressed work schedules are consistent with the criteria contained herein.

(2) Supervisors are responsible for assuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner. To meet this responsibility, supervisors may place restrictions on the starting and stopping times of individual employees. Supervisors are also responsible for taking appropriate action if an employee under his or her jurisdiction fails to meet his or her responsibilities under subparagraph (3) below.

(3) Employees using flexible or compressed work schedules are responsible for fulfilling their obligations to account for a full day's work. Abuse of flexible or compressed work schedules may result in restrictions on the employee's starting and stopping times, termination of the employee's flexible schedule and/or appropriate disciplinary action.

f. **Flexitime**

(1) **General Requirements**

(a) The establishment of flexible tours of duty is limited to flexitour and modified flexitour, as defined in paragraph 5c above.

(b) Core time bands shall be determined by field facility directors; however, core time bands should be the same for employees performing similar work under similar situations. Facility directors may authorize deviations from approved core times in individual cases.

(c) The Facility Director, or designee, may determine the numbers and kinds of employees on duty during the core hours of any given day. Further, to assure essential services are provided outside core hours, the field facility Director, or designee, may restrict the employee's choice of arrival and departure time if participation in flexible schedules proves disruptive or otherwise impedes efficient operations.

(d) A flexible work schedule under this paragraph and a compressed workweek under paragraph g may not be established in the same work unit.

(e) The modified flexitour may not be used in combination with on-call duty (see chapter 3, paragraph 5c(12) above.

(f) Flexible schedules shall not be established if they would result in the payment of any additional premium pay for work to an employee, or group of employees, who would not normally be entitled to premium pay (e.g., night differential, overtime, holiday pay, etc.).

(g) If it is found that a particular flexible schedule has had or would have an adverse impact (see par. 8), the facility Director shall not establish or shall discontinue the flexible schedule(s) of affected employees.

(2) **Credit Hours**

(a) Credit hours may be earned at the option of employees with supervisory approval.

(b) Employees do not receive overtime pay for credit hours and, unlike overtime, credit hours are not ordered in advance by management. Employees on flexible work schedules may work them to shorten the length of another workday or workweek. However, they may be used only after approval by the appropriate approving official.

(c) Full-time employees may carry over no more than 24 credit hours into the next pay period (part-time employees may carry over no more than 25 percent of the hours in their biweekly basic work requirement). Within these limits, credit hours not used within 7 pay periods after they are earned will be carried over for use for an additional 7 pay periods. If not used by the end of the second 7 pay period timeframe, the employee will forfeit them, unless the employee was prevented from using them because of an exigency of the service. In this instance, the employee may request an extension of the time limit to use the credit hours.

(d) When an employee ceases to work in a work unit where credit hours may be earned, the employee will be given the following options:

1. Sufficient advance notice to use earned credit hours prior to leaving the work unit;

2. Compensation for the earned credit hours at the employee's current rate of basic pay; or

3. Transfer of the earned credit hours to the new work unit, if credit hours have been authorized for that work unit.

(e) If compensated for credit hours, a full-time employee will be paid for not more than 24 credit hours. A part-time employee will be paid for not more than 25 percent of the hours in the employee's basic work requirement. Credit hours will not be transferred between facilities.

(3) **Time and Attendance Records.** (see chapter 2, paragraph 11f(3) of this part.

(4) **Computation of Additional Pay for Employees on Flexible Schedules**

(a) **Overtime Hours.** Paragraph 5c of this chapter contains a definition of overtime hours for employees on flexible schedules. Such employees, however, are also eligible for callback overtime if they meet the conditions outlined in VA Handbook 5007.

(b) **Additional Pay for Night Work**

1. **Full-Time Employees.** If the core time band is during daytime hours (i.e., 6 a.m. to 6 p.m.) and the core time plus the flexible time are less than 8 daytime hours, the employee is entitled to tour differential for the difference between 8 hours and the available number of daytime hours in the tour of duty. The employee, however, is entitled to the appropriate tour differential for the entire tour if at least 4 or more hours of the tour fall between 6 p.m. and 6 a.m.

2. **Part-Time Employees.** A part-time employee is entitled only to tour differential for nightwork performed during his or her basic work requirement.

(c) **Additional Pay for Holiday Work**

1. A full-time employee on a flexible schedule, who performs non-overtime work on a day designated as his or her holiday, is entitled to his or her rate of basic pay, plus the applicable amount of additional pay for holiday work authorized under VA Handbook 5007, Pay Administration, for each hour of non-overtime holiday worked.

2. A part-time employee on a flexible schedule is entitled to the applicable amount of additional pay for holiday work, authorized under VA Handbook 5007 and chapter 2 of this part, for the number of hours he or she was scheduled to work that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday. (See subparagraph (6) below.)

(d) **Additional Pay for Saturday or Sunday Work.** An employee on a flexible schedule, who performs work on a Saturday or Sunday, shall be entitled to additional pay for such work under the provisions of VA Handbook 5007.

(5) **Absence and Leave**

(a) For employees on flexible schedules, time off during the flexible and core time bands must be charged to the appropriate leave category, compensatory time off or excused absence, if appropriate.

(b) The maximum amount of sick or annual leave an employee may apply to his or her basic work requirement for any given day is the number of hours the employee is scheduled to work that day.

(6) **Holidays.** A full-time employee on a flexible schedule, relieved from working on a day designated as his or her holiday, shall be entitled to pay with respect to that day for 8 hours. A part-time employee prevented from working on the holiday shall be entitled to basic pay for the number of hours he or she was scheduled to work that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday.

(7) **Excused and Unexcused Absences.** On the flexitour, the employee's selected starting and stopping times shall be used to determine the amount of excused or unexcused absence to be granted and/or charged. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has actually reported for work. In the latter instance, the actual time the employee reports, and his or her basic work requirement for that day, shall be used in making the determination.

(8) **Travel.** Time spent traveling away from the official duty station by an employee during the hours and days of his or her regularly scheduled tour of duty is considered hours of employment for the purposes of this appendix. Time spent in travel status by an employee outside of the regularly scheduled hours is compensable under the following conditions:

(a) Travel outside regularly scheduled duty hours must be officially ordered or approved and must meet one of the four conditions specified in section 7453(e)(5) of title 38, United States Code; and

(b) On the flexitour, the employee's selected starting and stopping times shall be used to determine if the employee is traveling during his or her regularly scheduled hours. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has already reported for work. In this instance, the actual time the employee reports, and his or her basic work requirements for that day, shall be used in making the determination.

g. **Compressed Workweeks**

(1) **General Requirements**

(a) Compressed work schedules shall be consistent with patient care requirements. For example, compressed work schedules may be adopted to expand clinic service hours, staff mobile clinics, or otherwise improve service to veterans.

(b) The method of charging employees leave remains unchanged.

(c) Full-time physicians, dentists, podiatrists and optometrists participating in compressed workweeks remain continuously subject to call unless officially excused by proper authority. They will fulfill their minimum tour of duty and meet all other obligations that require their attendance beyond the minimum tour of duty (e.g., Medical or Admitting Office of the Day).

(d) Officials responsible for establishing work schedules may establish compressed work schedules for employees covered by this chapter. These officials may also restrict the types of compressed work schedules that may be approved if necessary to meet patient care needs.

(e) Officials authorizing compressed work schedules for residents are responsible for ensuring that they are adequately supervised.

(f) A compressed workweek may only be established if all daily tours of duty within the compressed workweek are in whole hour increments, excluding the meal period (e.g., eight 10-hour tours, eight 9-

hour and one 8-hour tour, or six 12-hour and two 4-hour tours of duty each biweekly period). If, however, the meal period is considered hours of work under this chapter, any daily tour of duty on such a day must be in whole hour increments, including the meal period.

(g) Any previous method used to establish a compressed workweek (i.e., compensatory time off in lieu of regular overtime) shall be discontinued upon the establishment of a compressed workweek under this subparagraph.

(h) A compressed workweek under this subparagraph and a flexible work schedule under subparagraph f may not be simultaneously established in the same work unit.

(i) A compressed workweek shall not be established in a work unit if it will overlap an on-call tour of duty. A compressed workweek will not be established if it would result in an entitlement to premium pay to which an employee would not normally be entitled (e.g., night differential, overtime, holiday pay, etc.).

(j) An employee in a work unit of an organization, which is not covered by a collective bargaining agreement, shall not be required to participate in any compressed workweek unless a majority of employees in the work unit who would be included in the compressed workweek have voted to be included. For the purpose of this vote, a majority is obtained whenever the number of affirmative votes exceeds one-half the number of employees in the work unit proposed for inclusion in the compressed workweek. The specific procedures for this vote are left to the approving official. Use of written secret ballots are encouraged, however, since chapter 2, paragraph 11(g) of this part contains a prohibition against the coercion of employees making such determinations.

(k) If, upon written request of an employee, the official, or designee, authorized to approve compressed workweeks, determines that participation of an employee in a compressed workweek would be a personal hardship, the approving official, or designee, shall:

1. Except the employee from the compressed workweek; or

2. Reassign the employee to the first position in the affected organization:

a. Which becomes vacant after such determination;

b. Which is not included in a compressed workweek;

c. For which the employee is qualified: and

d. Which is acceptable to the employee.

3. Determinations under this subparagraph shall be made no later than 10 days after the written request is received by the appropriate deciding official.

(l) The approving official may exclude from compressed workweeks any employee or group of employees whose inclusion would create an adverse impact (see chapter 2, paragraph 11g(5).

(2) **Computation of Additional Pay**

(a) **Overtime Hours.** For full-time employees, the term overtime hours refers to hours of work officially ordered or approved and performed outside of, and in addition to, the basic work requirement. For part-time employees, overtime hours are those hours of work after which a full-time employee on a similar work schedule would begin receiving overtime pay. Employees on compressed workweeks are also eligible for call-back overtime. To receive such pay, however, they must be called back to work at a time which is outside of and unconnected with their basic work requirements (see chapter 2, paragraph 3(c)(2).

(b) **Tour Differential**

1. Employees are entitled to the tour differential for the entire tour if at least 4 hours of such tour fall between 6 p.m. and 6 a.m.

2. If less than 4 hours of such tour fall between 6 p.m. and 6 a.m., the employee will be entitled to tour differential for each hour of service performed between those hours.

(c) **Additional Pay for Holiday Work.** Employees on compressed work schedules who perform non-overtime work on the day designated as their holiday are entitled to their basic rate of pay, plus premium pay equal to basic pay for that holiday work.

(d) **Saturday Pay.** Employee on compressed schedules are entitled to additional pay for Saturday work if they perform work for which such additional pay is authorized (see part V, chapter 6 of VA Handbook 5007).

(e) **Sunday Pay.** Employees on compressed schedules who perform work during a period of service, a part of which is performed on Sunday, are entitled to Sunday premium pay for the entire period of service (see part V, chapter 6 of VA Handbook 5007).

(3) **Absence and Leave**

(a) **Holidays**

1. **Full-Time Employees**

a. When a holiday falls on a workday in the employees' compressed workweek that workday shall be designated as their holiday.

b. When a full-time employee on a compressed schedule has 2 non-workdays in the administrative workweek, the first day off shall be considered the employee's "Sunday" and the second day off shall be considered the employee's "Saturday." If the holiday falls on the employee's "Sunday," the first workday following that day shall be designated as the employee's day off in lieu of the holiday. If the holiday falls on the employee's "Saturday," the first workday preceding that day shall be designated as the employee's day off in lieu of the holiday. These rules shall apply whether or not the employee's days off actually fall on Saturday or Sunday.

c. When a full-time employee on a compressed workweek has 3 days off in the administrative workweek and the holiday falls on one of these non-workdays, the following rules shall apply:

(1) When the holiday falls on the first or second day off of the administrative workweek, the following workday should be designated as the day off in lieu of the holiday.

(2) When the holiday falls on the third day off of the administrative workweek, the preceding workday shall be designated as the day off in lieu of the holiday.

2. **Part-time Employees.** If a holiday falls on a day during a compressed workweek for part-time employees, and if the employees are prevented from working, they are entitled to pay for the number of hours they were scheduled to work that day. Part-time employees are not entitled to a day off in lieu of the holiday.

(b) **Leave.** Time off from an employee's basic work requirement must be charged to the appropriate leave category unless the employee is authorized compensatory time off or excused absence.

(c) **Excused and Unexcused Absences.** The amount of excused or unexcused absence shall be based on the employee's established compressed work schedule in effect for the period of the absence.

(4) **Criteria and Review.** See chapter 2, paragraph 11g(5).

(5) **Prohibition of Coercion.** See chapter 2, paragraph 11g(8).

CHAPTER 4. ALTERNATIVE WORKPLACE ARRANGEMENTS (FLEXIPLACE)

1. PURPOSE. This chapter sets forth Departmental policy on flexible work arrangements (flexiplace). Flexiplace provides employees with the opportunity to perform their work at locations other than the traditional office setting. It may include home-based telecommuting, community-based telecenters, mobile/virtual offices, and U.S. General Stores. This chapter covers employees under the General Schedule, including those covered by the Performance Management and Recognition System Termination Act of 1993; members of the Senior Executive Service (SES); employees compensated under the Federal Wage System (FWS); employees appointed under "hybrid" 38 United States Code (U.S.C.) 7401(3) or 7405(a)(1)(B), and employees appointed under 38 U.S.C. 7306 to occupations other than those listed under 38 U.S.C. 7401(1). This chapter does not apply to VHA employees appointed under 38 U.S.C., chapters 73 or 74, except as noted above; VCS employees appointed under 38 U.S.C., chapter 78; purchase and hire employees; and employees compensated under the Executive Schedule (5 U.S.C., chapter 53).

2. POLICY

a. Flexiplace may benefit the Department and employees by providing an alternative work situation which may improve services to veterans, improve productivity, help recruit and retain personnel, and improve the quality of life of participants.

b. Participation in a flexiplace arrangement is not an employee right; however, whenever appropriate, management may consider establishing flexiplace arrangements to meet its needs as well as those of employees. Flexiplace provides managers, supervisors and employees with alternatives to the traditional work site in accomplishing work objectives. Each flexiplace assignment must meet the minimum requirements specified in paragraph 6 below.

c. Flexiplace must not be used as an alternative to or in lieu of child care or elder care. The primary intent of the program is to support the mission of the office in an alternative work setting.

d. Flexiplace assignments may be established at community-based telecenters and mobile/virtual offices when determined by work unit supervisors to be consistent with the mission of VA.

e. Prior to initiating, modifying, or terminating a flexiplace assignment which affects employees in a collective bargaining unit, appropriate labor relations obligations must be fulfilled.

f. Flexiplace assignments will be evaluated at least annually to determine the impact on work operations.

g. If it is determined that a flexiplace arrangement is not meeting operational needs of the organization, the arrangement will be modified or terminated no sooner than two weeks after the employee is notified, subject to fulfilling labor relations obligations, if applicable.

3. RESPONSIBILITIES

a. Administration heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries, or their designees, are responsible for approving or discontinuing flexiplace assignments in VA Headquarters.

b. Facility Directors are responsible for approving or discontinuing flexiplace assignments for employees under their jurisdiction. The approval of flexiplace assignments should be coordinated with facility Human Resources Management Officers.

c. The Deputy Assistant Secretary for Human Resources Management will advise management and operating officials on the policies and procedures in this chapter.

d. Supervisors are responsible for determining position and employee suitability for flexiplace assignments. They must also ensure adequate coverage during public business hours, that operations continue to be carried out in an efficient and economical manner, and that participating and non-participating employees are treated equitably.

e. Employees are responsible for maintaining position productivity and for fulfilling their obligation to account for a full day's work.

4. REFERENCES

a. Office of Personnel Management Memorandum, "Alternative Workplace Arrangements (Flexiplace)," dated October 21, 1993.

b. President's Management Council National Telecommuting Initiative Action Plan.

c. Public Law 105-277, Omnibus Appropriations Act, Title IV, § 630.

d. Public Law 106-359.

e. OPM Guidance to Heads of Executive Department and Agencies (February 9, 2001).

5. DEFINITIONS

a. Flexiplace means an alternative worksite, rather than the traditional office. This may be an employee's home or a telecommuting center.

b. Home-based Telecommuting means allowing employees to use information technology and communication packages to work one or more days in the workweek at home, as well as in the traditional office setting.

c. Community-based Telecenter means an office typically in a space owned or leased through the General Services Administration which may be shared by multiple agencies or a satellite office of a single agency where an employee works one or more days in the workweek.

d. Mobile/virtual office means a location or environment, which may include customer sites, hotels, cars, or at home, where an employee performs work through the use of portable information technology and communication packages.

e. Official duty station means the duty station for an employee's position of record as indicated on the most recent notification of personnel action.

f. U.S. General store means a one-stop, centrally located service center where multiple agencies may provide government services.

6. FLEXIPLACE

a. **Participation.** Participation in a flexiplace assignment is voluntary. Position suitability and availability of staff and resources are considerations for management when determining employee participation.

b. **Position Suitability**

(1) Management officials in conjunction with the Partnership Council or local labor management officials are responsible for determining which positions are appropriate for flexiplace assignments.

(2) After deciding that a specific position is potentially suitable for flexiplace, management officials should also consider such factors as: the nature of the work and what portion of the position's duties could be performed away from the office (job reengineering or work redistribution may be necessary), knowledge requirements of the position, whether the position is considered a training or developmental position, the degree of supervision required, coverage requirements, contact requirements (customer, colleagues, etc.), reference material requirements, special equipment requirements, travel requirements and information security.

c. **Flexiplace Work Agreement.** The work agreement lists terms and conditions for the flexiplace assignment. Before concurring on agreements, supervisors must determine the impact the flexiplace assignment will have on work operations. The agreement should provide information on resources and equipment the employee and management will provide (see appendix II-B for a sample agreement). Agreements will be signed by the employee and appropriate concurring and approving officials. For telecenter or satellite office arrangements, the supervisor will coordinate the assignment with the appropriate telecenter or satellite office official to assure adequate space and equipment is available.

d. **Participant Selection**

(1) Management officials are responsible for selecting participants for flexiplace assignments.

(2) VA employees selected for flexiplace assignments must have a performance rating of successful or equivalent. They should have a history of being reliable, responsible, and able to work independently. Both full-time and part-time employees may participate in flexiplace.

e. **Performance Evaluation.** The performance of an employee on a flexiplace assignment should be evaluated based on the applicable performance standards for his or her position for that portion of the overall performance plan which applies. Supervisors and employees should fully discuss performance expectations early in the process of establishing a flexiplace assignment to assure expectations are fully understood. Periodic reviews between the supervisor and the employee are encouraged.

f. **Time and Attendance Accounting.** The employee's time and attendance will be recorded as performing official duties at the official duty station or alternative worksite, as applicable. To verify attendance at the alternative worksite, supervisors may periodically contact the employee and/or permit employee self-certification. To help ensure that employees on flexiplace assignments work as scheduled, supervisors should focus on the completion of work products, as applicable.

g. **Work Schedule.** Based on work requirements, supervisors may arrange flexiplace schedules to allow employees to work on a flexiplace assignment one day per pay period, one day per week, or as often as five days per week. Normally, flexiplace schedules may be changed by a supervisor only with notice to the employee in advance of the applicable administrative workweek. Work unit supervisors may also approve alternative work schedules for employees on flexiplace assignments when doing so is consistent with work requirements.

h. **Leave.** Title 5 regulations regarding absence and leave apply to employees on flexiplace assignments.

i. **Emergency Closing/Group Dismissal.** An employee working at an alternative worksite will be required to complete their full work schedule if they are unaffected by an event which requires late arrival or early dismissal at the official duty station. If the official duty station closes for the day or opens late, an employee assigned to work at an alternative worksite will be excused from duty for the same period the official duty station is closed. For telecenters, dismissals and emergency closings will fall under the guidelines of the telecenter.

j. **Pay.** All entitlements for pay, including locality comparability pay, special salary rates, and travel benefits will be based on the employee's official duty station. Premium pay entitlements are not affected by a flexiplace arrangement, including coverage under the Fair Labor Standards Act, if applicable. **NOTE:** *Employees covered by the FLSA should be given explicit written instructions not to exceed daily and weekly overtime pay limits.*

k. **The Alternative Work Site**

(1) The alternative work site must be conducive to conducting business. Before a work-at-home request is approved, a site inspection (self-inspection or inspection by a management-designated official) will be made to ensure that the work environment allows assigned tasks to be performed efficiently. The agreement should include a certification that the work site is free of distractions. A

sample site inspection form may be found in the Office of Personnel Management pamphlet, "Balancing Work and Family Demands: Telecommuting, (OWR-04).

(2) The supervisor and employee should identify resources needed to facilitate the work assignment, assuring all property and equipment needs are satisfied in accordance with the agreement.

NOTE: *GSA has developed a number of flexiplace centers, commonly called telecenters, across the country and in the Washington, DC, area. For information about the interagency agreement for renting space and billing procedures for use of telecenters, the General Services Administration should be contacted.*

l. **Expenses and Equipment**

(1) Work-at-home assignments may require minimal equipment, such as pen and paper; or they may require considerable equipment, such as computers, modems, fax machines, and copying machines.

(2) When needed, the Department may pay the following expenses associated with working-at-home: phone charges (long-distance and other), and the cost of computers, typewriters, fax machines, computer software, modems, and equipment maintenance and repair. Employees will incur the costs of additional electrical outlets and telephone lines.

(3) Employees will incur the cost of utilities associated with working-at-home. In some limited situations, VA may pay for telephone installation when the service is considered essential and the employee agrees that the installed telephone will only be used for work assignments and contact with the VA office.

m. **Automated Information System Security.** Each Administration and Staff Office with a flexiplace program will develop specific security policy (or an appendix to existing information security policy) with security objectives or requirements and methods to satisfy these requirements. Security areas to be covered in security policy may be discussed with staff in IRM Planning, Acquisitions and Security Service (045A1).

n. **Liability and Worker's Compensation.** Employees on flexiplace assignments are covered under the Federal Tort Claims Act and the Federal Employee's Compensation Act. As with injuries which occur in the traditional office setting, for injuries which occur during flexiplace assignments, supervisors may only attest to what they reasonably know. In all situations, employees are responsible for informing their immediate supervisor of an injury at the earliest time possible.

7. EVALUATION. All flexiplace arrangements will be evaluated periodically, but at least annually to determine the impact on work operations consistent with this chapter and guidelines in Office of Personnel Management Letter 368-1.

8. TERMINATION. If it is determined that a flexiplace arrangement is not meeting operational needs of the organization, the arrangement will be modified or terminated no sooner than two weeks after the employee is notified, subject to fulfilling labor relations obligations, if applicable.

APPENDIX A. PRESCHEDULED PART-TIME TOURS AND THE UTILIZATION OF ADJUSTABLE WORK HOURS (TITLE 38)

EXAMPLE #1

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 40 hours in a biweekly pay period consisting of 10 core hours and 30 non-core hours. The employee's work schedule is as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted for Non-Core	Total
SU				
MO	10-2(4)	12-2(2)	10-12(2)	4
TU	10-2(4)	12-2(2)	10-12(2)	4
WE	10-2(4)		10-2 (4)	4
TH	10-2(4)	12-2(2)	10-12(2)	4
FR	10-2(4)		10-2 (4)	4
SA				

WEEK 2

SU				
MO	10-2 (4)	12-2(2)	10-12(2)	4
TU	10-2 (4)		10-2 (4)	4
WE	10-2 (4)	10-12(2)	12-2 (2)	4
TH	10-2 (4)		10-2 (4)	4
FR	10-2 (4)		10-2 (4)	4
SA				
				40

Utilization of Adjustable Work Hours

The employee works all core hours as scheduled (10 hours) and all non-core hours on Tuesdays and Thursdays as scheduled (12 hours). While unable to perform duty during non-core hours on Mondays and Fridays, the employee worked on an "in lieu" basis from 2-5 p.m. on each of these days (12 hours). The employee also worked from 7-10 a.m. on Wednesdays "in lieu" of non-core hours prescheduled on those days (6 hours).

WEEK 1

Days	Irregular Tour[1]	Core	Non-Core	In-Lieu	Leave	Addit.[2]	Total[3]
SU							
MO	12-5 p.m.	2		3			5
TU	10-2 p.m.	2	2				4
WE	7-10 a.m.			3			3
TH	10-2 p.m.	2	2				4
FR	2-5 p.m.			3			3
SA							

WEEK 2

SU							
MO	12-5 p.m.	2		3			5
TU	10-2 p.m.		4				4
WE	7-12 a.m.	2		3			5
TH	10-2 p.m.		4				4
FR	2-5 p.m.			3			3
SA							
		10	12	18	0	0	40

[1]*This is the irregular tour the employee actually worked and will be recorded under the "Irregular Tours" column on VA Form 4-5631, Time and Attendance Report.*
[2]*This represents hours worked in addition to those in the prescheduled tour. These hours are recorded under the "Pay-US" column on VA Form 4-5631.*
[3]*These hours are recorded under the "PAY-RG" column on VA Form 4-5631.*

EXAMPLE #2

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 50 hours in a biweekly pay period consisting of 13 core hours and 37 non-core hours. The employee's work schedule is as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted For Non-Core	Total
SU				
MO	9-2 (5)	12-2 (2)	9-12(3)	5
TU	9-2 (5)		9-2 (5)	5
WE	9-2 (5)	9-12 (3)	12-2 (2)	5
TH	9-2 (5)		9-2 (5)	5
FR	9-2 (5)	12-2 (2)	9-12(3)	5
SA				

WEEK 2

SU				
MO	9-2(5)		9-2 (5)	5
TU	9-2 (5)	9-11(2)	11-2 (3)	5
WE	9-2 (5)	12-2 (2)	9-12(3)	5
TH	9-2 (5)	9-11(2)	11-2 (3)	5
FR	9-2 (5)		9-2 (5)	5
SA				
				50

Utilization of Adjustable Work Hours

Employee worked all core hours as scheduled except on Wednesdays of each week (8 hours worked). The employee accounted for the remaining core hours by requesting 3 hours of annual leave on Wednesday of the first week and 2 hours of AL on Wednesday of the second week (5 hours leave). Employee worked non-core hours on Tuesdays and Thursdays of each week as scheduled (16 hours). While unable to work non-core hours on Mondays and Fridays of each week as scheduled, the employee performed duty on an "in lieu" basis from 2-6 p.m. on those days (16 hours). The employee also worked from 10-3 p.m. on Sunday of the second week "in lieu" of prescheduled non-core hours on Wednesdays of each week (5 hours).

WEEK 1

Days	Irregular Tour[1]	Core	Non-Core	In-Lieu	Leave	Addit.[2]	Total[3]
SU							
MO	12-6 p.m.	2		4			6
TU	9-2 p.m.		5				5
WE	9-12 p.m.				3-AL		3
TH	9-2 p.m.		5				5
FR	12-6 p.m.	2		4			6
SA							

WEEK 2

SU							
MO	2-6 p.m.			4			4
TU	9-2 p.m.	2	3				5
WE	12-2 p.m.				2-AL		2
TH	9-2 p.m.	2	3				5
FR	2-6 p.m.			4			4
SA	10-3 p.m.			5			5
		8*	16	21	5		50

*Employee accounted for 13 core hours by 8 hours duty and 5 hours of leave.

EXAMPLE #3

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 30 hours in a biweekly pay period consisting of 8 core hours and 22 non-core hours. The employee's work schedule is as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted For Non-Core	Total
SU				
MO	10-1(3)		10-1(3)	3
TU	10-1(3)	10-12(2)	12-1(1)	3
WE	10-1(3)		10-1(3)	3
TH	10-1(3)	10-12(2)	12-1(1)	3
FR	10-1(3)		10-1(3)	3
SA				

WEEK 2

SU				
MO	10-1(3)		10-1(3)	3
TU	10-1(3)		10-1(3)	3
WE	10-1(3)	10-12(2)	12-1(1)	3
TH	10-1(3)		10-1(3)	3
FR	10-1(3)	10-12(2)	12-1(1)	3
SA				
				30

Utilization of Adjustable Work Hours

The employee worked all core hours as scheduled except Thursday of the first week for which 2 hours sick leave were requested (6 hours worked and 2 hours leave). Employee worked from 2-5 p.m. on Mondays "in lieu" of non-core hours scheduled on those days (6 hours). The employee worked other non-core hours as scheduled. Because of an emergency, the employee was called back to work from 2-6 p.m. on Saturday of the second week (4 hours).

WEEK 1

Days	Irregular Tour[1]	Core	Non-Core	In-Lieu	Leave	Addit.[2]	Total[3]
SU							
MO	2-5 p.m.			3			3
TU	10-1 p.m.	2	1				3
WE	10-1 p.m.		3				3
TH	10-1 p.m.		1		2-SL		3
FR	10-1 p.m.		3				3
SA							

WEEK 2

SU							
MO	2-5 p.m.			3			3
TU	10-1 p.m.		3				3
WE	10-1 p.m.	2	1				3
TH	10-1 p.m.		3				3
FR	10-1 p.m.	2	1				3
SA	2-6 p.m.					4	4
		6	16	6	2	4	34**

**Hours accounted for during pay period: 34
Basic work requirement: 30
Authorized additional hours of intermittent duty: 4

APPENDIX B.
SAMPLE ALTERNATIVE WORKPLACE WORK AGREEMENT

The following constitutes an agreement between the (employer- VA approving official and organization) and (employee- name, title, grade, and organization), to the terms and conditions of this alternative workplace arrangement.

1. **Voluntary Participation.** The employee voluntarily agrees to work at the agency-approved alternative workplace indicated below and to follow all applicable policies and procedures. The employee recognizes the flexiplace assignment is not an employee benefit but an additional method the agency may approve to accomplish work.

2. **Trial Period.** The employee and management agree to try out the assignment for at least (specify number) months unless unforeseen difficulties require earlier termination.

3. **Salary and Benefits.** Management agrees that a flexiplace assignment is not a basis for changing the employee's salary and benefits.

4. **Duty Station and Alternative Worksite.** The employee and management agree that the employee's official duty station is (list duty station for regular office) and that the employee's approved alternative worksite is: (specify location, street address, etc.). The employee understands that all pay, leave, and travel entitlements are based on the official duty station. With reasonable notice to the employee, management has the right to change the days spent at the official duty station or alternative worksite.

5. **Official Duties.** The employee agrees to conduct official duties only when on duty at the regular office or alternative worksite. The employee agrees not to conduct personal business while in official duty status at the alternative worksite, for example, caring for dependents.

6. **Work Schedule and Tour of Duty.** Management and the employee agree that the employee's official tour of duty will be: (specify days, hours, and location).

7. **Time and Attendance.** The employee's supervisor will make sure the employee's timekeeper has a copy of the employee's flexiplace work schedule. The employee's time and attendance will be recorded as performing official duties at the official duty station or alternative worksite, as applicable.

8. **Leave.** The employee agrees to follow established office procedures for requesting and obtaining approval of leave.

9. **Overtime.** The employee agrees to work overtime only when ordered and approved by the supervisor in advance and understands that working overtime without such approval may result in termination of the flexiplace assignment and/or other disciplinary action.

10. **Equipment/Supplies.** The employee agrees to protect any Government-owned equipment and to use it only for official purposes. Management agrees to install, service, and maintain any Government-

owned equipment issued to the flexiplace employee. The employee agrees to install, service, and maintain any personal equipment used. Management agrees to provide the employee with the necessary office supplies and to reimburse the employee for business-related long distance telephone calls.

11. **Liability.** The employee understands that the Government will not be liable for damages to an employee's personal or real property while the employee is working at the approved alternative worksite, except to the extent the Government is held liable by the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act.

12. **Work Area (work-at-home only).** The employee agrees to provide a distraction-free worksite adequate for the performance of official duties.

13. **Worksite Inspection.** The employee agrees to permit the Government to inspect the alternative worksite during the employee's normal working hours to ensure proper maintenance of Government-owned property and conformance with safety standards. The employer will give the employee reasonable notice of a planned inspection.

14. **Alternative Worksite Costs.** The employee agrees that the Government will not be responsible for any operating costs that are associated with the employee using his or her home as an alternative worksite, for example, home maintenance or utilities. The employee understands that he or she does not relinquish any entitlement to reimbursement for authorized expenses incurred while performing official duties, as provided for by statute or regulation.

15. **Injury Compensation.** The employee understands that he or she is covered by the Federal Employees Compensation Act if injured while performing official duties at the alternative worksite. The employee agrees to notify the supervisor immediately of any accident or injury that occurs at the alternative worksite and to complete any required forms.

16. **Work Assignments/Performance.** The employee agrees to complete all assigned work according to procedures mutually agreed upon by the employee and the supervisor. The employee's performance will be evaluated against standards contained in the employee's performance plan.

17. **Cancellation.** The employee may cancel participation in the agreement at any time. Management may cancel the agreement if the employee's performance does not meet performance standards or if the assignment fails to benefit the mission of the work unit. The decision to cancel the flexiplace assignment is not subject to any formal appeal procedure. It may be grieved under applicable negotiated grievance procedures. Management agrees to allow the employee to resume his or her regular work schedule at the official duty station if the flexiplace assignment is canceled. Management agrees to follow any applicable negotiated procedures in canceling the assignment.

18**. Disclosure**. The employee agrees to protect Government/VA records from unauthorized disclosure or damage and will comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

19. **Standards of Conduct.** The employee agrees that he or she is bound by VA standards of conduct while working at the alternative worksite.

20. **Agreement.** Nothing in this agreement precludes management from taking any appropriate disciplinary or adverse action against an employee who fails to comply with the provisions of the agreement.

_____ _____

Employee Date

_____ _____

Employer (title of Approving Official) Date

_____ _____

Director, Central Office Human Resources Management Service (concurrence for VACO approvals) or Human Resources Management Officer (concurrence for local approvals) Date

HOURS OF DUTY AND LEAVE

PART III. LEAVE

CONTENTS

PARAGRAPH

PAGE

CHAPTER 1. GENERAL

1. AUTHORITY III-1
2. RESPONSIBILITIES III-1

CHAPTER 2. TITLE 5 LEAVE AND ABSENCE

1. SCOPE III-5
2. LEAVE ACCRUALS AND LEAVE CHARGES III-5
3. ANNUAL LEAVE III-7
4. SICK LEAVE III-10
5. ABSENCE FOR MATERNITY OR PATERNITY REASONS III-14
6. LEAVE IN CONNECTION WITH RETIREMENT III-16
7. LEAVE FOR FIELD FACILITY HEADS III-16
8. LEAVE IN CONNECTION WITH TRAVEL III-17
9. MILITARY LEAVE III-17
10. COURT LEAVE III-18
11. LEAVE FOR OFFICE OF WORKERS' COMPENSATION PROGRAM III-21
12. AUTHORIZED ABSENCES III-21
13. LEAVE WITHOUT PAY (LWOP) III-32
14. ABSENCE WITHOUT LEAVE (AWOL) III-33
15. ABSENCE OF DISABLED VETERANS III-34
16. HOME LEAVE III-34
17. FAMILY AND MEDICAL LEAVE III-34
18. BONE MARROW AND ORGAN DONOR LEAVE III-35
19. VOLUNTARY LEAVE TRANSFER PROGRAM III-35

CHAPTER 3. TITLE 38 LEAVE PROGRAM

1. COVERAGE III-47
2. POLICY III-47
3. GENERAL III-47
4. ANNUAL LEAVE III-48

CONTENTS

PARAGRAPH **PAGE**

CHAPTER 3. TITLE 38 LEAVE PROGRAM - Continued

5. SICK LEAVE III-51
6. ACCRUALS OF ANNUAL AND SICK LEAVE III-56
7. OTHER LEAVE III-60
8. RELIGIOUS, STATE AND LOCAL HOLIDAYS III-61
9. AUTHORIZED ABSENCE III-61
10. LEAVE WITHOUT PAY (LWOP) III-65
11. UNAUTHORIZED ABSENCE III-68
12. DISPOSITION OF LEAVE ON TRANSFER, SEPARATION, OR RETIREMENT III-68
13. DUTY AND LEAVE FOR RESIDENTS III-71

APPENDICES

III-A. SAMPLE SICK LEAVE QUESTIONS AND ANSWERS III-A-1
III-B. SAMPLE MEMORANDUM TO ALL EMPLOYEES—VOLUNTARY LEAVE TRANSFER PROGRAM III-B-1
III-C. SAMPLE APPLICATION MEMORANDUM—VOLUNTARY LEAVE TRANSFER PROGRAM III-C-1
III-D. SAMPLE MEMORANDUM TO APPROVED LEAVE RECIPIENT--VOLUNTARY LEAVE TRANSFER PROGRAM III-D-1
III-E. SAMPLE MEMORANDUM OF DISAPPROVAL AS LEAVE RECIPIENT--VOLUNTARY LEAVE TRANSFER PROGRAM III-E-1
III-F. SAMPLE MEMORANDUM FOR RESTORATION OF LEAVE--VOLUNTARY LEAVE TRANSFER PROGRAM III-F-1

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.

(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:

(1) Interpreting leave policies and regulations for operating officials.

(2) Providing for employee orientation on leave provisions and supervisory training in leave administration.

b. **Supervisor.** The supervisor is responsible, as authorized, for administering the leave and excused absence policies and regulations for employees under his or her supervision. This includes:

(1) Insuring that all subordinate supervisors receive appropriate training in administering leave policies and regulations; that employees are trained in proper use of leave, kept informed on leave matters and of the name or title of the leave-approving supervisor.

(2) Planning, scheduling, and rescheduling the more substantial periods of annual leave on a calendar year basis to avoid forfeiture cases.

(3) Acting promptly on requests for leave and determining the necessity for or acceptability of sick leave medical certificates.

(4) Maintaining control over attendance, leave and excused absence of employees under his or her control. Determining whether an employee's absence from regular duties constitutes official duty, approved leave, excused absence without charge to leave, or absence without leave, ensuring that the unit timekeeper is promptly notified.

(5) Assuring certification of time and attendance ETA posting is correct in all respects.

(6) Determining the proper leave charge when an employee requests sick leave and reports being engaged in outside employment; justifying and documenting any approval of sick leave while the employee is so engaged.

(7) Assuring an employee who has been on sick leave because of a contagious disease or other medical requirement imposed by management receives medical clearance for return to duty.

(8) Consulting with the Human Resources Management office for advice concerning, and interpretation of, leave regulations.

c. **Employee.** The employee is responsible for observing leave and excused absence policies and regulations which affect him or her, including:

(1) Being at the post of duty during official duty hours unless on approved leave or excused absence without charge to leave.

(2) Observing the time and attendance policies and procedures and using leave for the purpose for which it is intended.

(3) Requesting advance approval of annual leave and sick leave for medical, dental, or optical examination or treatment.

(4) Making timely reports of absences not previously approved.

(5) Reporting any outside employment during a time for which sick leave is requested.

(6) Submitting accurate statements about absences, applications for and use of sick leave; transferred leave; family and medical leave; and furnishing medical certificates when required.

(7) Scheduling and, if necessary, rescheduling annual leave to avoid forfeiture.

PART III. LEAVE

CHAPTER 2. TITLE 5 LEAVE AND ABSENCE
(To Be Used With 5 U.S.C. Chapter 63 and 5 CFR, Part 630)

1. SCOPE. This chapter provides the policies and guidelines to be used in administering the provisions of 5 U.S.C., chapter 63 and 5 CFR, part 630 for employees covered by this leave system. Hybrid title 38 employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B) are covered by the provisions of this chapter. There is a separate leave system for physicians and dentists, including medical and dental residents, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries employed under the authority of 38 U.S.C., chapters 73 and 74 (see part III, chapter 3).

2. LEAVE ACCRUALS AND LEAVE CHARGES

a. **General.** For information concerning rates of accrual, leave charges, maximum accumulations, and disposition of leave accounts, see 5 U.S.C. 6303. 6304, 6307 and 5 CFR 630. A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year. **NOTE:** *Part-time employees earn leave only when there has been established in advance a regular tour of duty on one or more days during each administrative workweek.*

b. **Crediting Leave.** Annual and sick leave which will be earned during the pay period shall be credited to an employee's leave account at the beginning of the pay period and may be used during such period.

c. **Leave Charges.** The minimum charge for any type of leave shall be a quarter hour (15 minutes). When employees are absent for less than 15 minutes and request leave, they cannot be required to work the remaining portion of the 15 minutes for which the leave is charged. Separate periods of absence in the same tour of duty, however may be totaled together and charged in 15 minute increments. Refer to paragraph 12f of this chapter for guidance concerning tardiness.

d. **Accruals and Charges for Employees in Stand-by Tours of Duty.** Employees occupying positions involving regular tours of duty in excess of 40 hours a week and for whom premium compensation is paid on an annual basis shall accrue and be charged leave in accordance with the provisions of 5 CFR 630.210 on uncommon tours of duty. Employees performing standby duty in addition to their regular tour of duty do not have a special leave accrual rate. However, these employees are charged leave on holidays in accordance with 56 Comp Gen. 551.

e. **Absence and Leave For Firefighters with Uncommon Tours of Duty**

(1) **Uncommon Tours Of Duty.** Firefighters covered by chapter 2, this part, will be placed on uncommon tours of duty for purposes of earning and charging leave.

(2) **Annual Leave Accrual.** Firefighters covered by chapter 2, this part, will accrue annual leave based on the number of hours in the firefighter's regular tour of duty, as shown below. Depending on the number of years of service for leave accrual purposes, leave accrual rates may vary for the last full pay period (PP) of the calendar year (CY):

ANNUAL LEAVE ACCRUALS

Weekly Regular Tour of Duty						
Years of Service	**56 Hours (Average)**		**60 Hours (Average)**		**72 Hours (Average)**	
	Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY	Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY	Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY
Less than 3	5 hours	21 hours	6 hours	6 hours	7 hours	12 hours
3 – 15	8 hours	24 hours	9 hours	15 hours	11 hours	13 hours
15 or more	11 hours	16 hours	12 hours	12 hours	14 hours	24 hours

(3) **Sick Leave Accrual.** Firefighters covered by chapter 2, this part, will accrue sick leave based on the number of hours in the firefighter's regular tour of duty, as shown in the following:

SICK LEAVE ACCRUALS

Weekly Regular Tour of Duty					
56 Hours (Average)		**60 Hours (Average)**		**72 Hours (Average)**	
Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY	Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY	Leave accrual per pay period, *except last PP*	Leave accrual, last full PP of CY
5 hours	21 hours	6 hours	6 hours	7 hours	12 hours

(4) **Charges to Leave or Other Absences.** Annual leave, sick leave, and leave without pay will be charged on the basis of ¼ hour for each ¼ hour of absence in an employee's scheduled tour. All scheduled hours of duty are considered to fall on regular workdays; employees are required to work all scheduled hours of duty or be charged for the absence. Employees will be charged for absences during overtime hours within their regularly scheduled tours of duty. Employees are expected to work on all Federal holidays falling within their regular tours of duty, or they will be charged for the absence.

(5) **Accumulated Leave.** Firefighters with accumulated leave balances who convert to a different regular work schedule (e.g., from a 40-hour schedule to a 60-hour schedule, from a 72-hour schedule to

a 60-hour schedule, etc.) should have their leave balances converted through use of the following conversion formulas:

a. (number of hours in leave balance) x 72 ÷ 40 (when change is from 40-hour workweek to 72-hour workweek);

b. (number of hours in leave balance) x 40 ÷ 72 (when change is from 72-hour workweek to regular 40-hour work week);

c. (number of hours in leave balance) x 72 ÷ 60 (when change is from 60-hour workweek to 72-hour workweek);

d. (number of hours in leave balance) x 60 ÷ 72 (when change is from 72-hour workweek to 60-hour workweek).

f. **Unscheduled Leave.** An employee who finds it necessary to be absent without having received prior approval shall request leave as early as practicable. To the extent possible, this should be done at the beginning of the tour of duty, but not later than 2 hours thereafter. For the same period of absence, daily reports will not be required. However, employees who are absent for more than 1 day on unscheduled leave may be requested to estimate the probable date of return to duty. Also, employees who are shift workers may be required to call their supervisor before returning to duty to facilitate the scheduling of all affected employees.

3. ANNUAL LEAVE

a. **Annual Leave Requests.** All requests for annual leave should be made in advance. Short periods of annual leave (3 days or less) may be approved verbally. Longer periods must be requested and approved on the Enhanced Time and Attendance (ETA) or other electronic system. There is no authority to approve annual leave from which the employee will not be returning to duty, unless such approval meets the needs of the service (34 Comp. Gen. 61). Requests for annual leave and leave without pay (LWOP) will be considered in the light of current and anticipated workloads. Employees should be encouraged to take annual leave for at least 2 consecutive weeks each year for purposes of rest and relaxation; and afforded the opportunity to use their annual leave to avoid leave forfeitures

b. **Leave for Alien Employees.** Under the discretionary provisions of 5 U.S.C. 6310, and by virtue of VA administrative action, alien employees who occupy positions outside the United States may be granted a leave of absence with pay, not in excess of the amount of annual and sick leave allowable to citizen employees.

c. **Advanced Leave.** Annual leave may be advanced only in an amount that can be earned by the end of the leave year in which it is granted. When an employee is serving under an appointment which will expire before the end of the leave year, annual leave may be advanced up to the amount the employee would otherwise earn during the term of the appointment.

d. **Annual Leave in Proximity to Overtime.** Any request for annual leave in proximity to overtime by the same employee will be scrutinized to assure that the granting of annual leave is in the interest of good administrative practice.

e. **Administrative Authority To Cancel Previously Approved Annual Leave.** The taking of annual leave is an absolute right of the employee subject to the right of the head of the department or establishment concerned to fix the time at which leave may taken (30 Comp. Gen. 611, citing 16 Comp. Gen. 481). In an unusual or emergency situation, previously approved annual leave may be canceled and the employee directed to return to duty. Generally, the authority to cancel leave will not be exercised unless there is an urgent unforeseen circumstance and it is feasible for the employee to return to duty. If an employee refuses to return to work when leave is canceled, the absence may be charged to absence without leave (AWOL). (5 U.S.C. 6302(d); 39 Comp. Gen. 611, citing 16 Comp. Gen. 481.)

f. **Administrative Approval for Restoration of Annual Leave.** Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries and facility heads are authorized to approve the restoration of annual leave as warranted by regulations and VA policy. The scheduling and, as necessary, rescheduling of the annual leave must be in writing. The ETA or other electronic system may be used. Documentation, which must be retained in accordance with regulations, must contain:

(1) The calendar dates the leave was requested and approved by the leave approving official;

(2) The date(s) and the amount (days/hours) on which the leave was scheduled for actual use.

(3) The calendar date(s)/hours the canceled leave was rescheduled for use.

(4) The reason(s) for the subsequent canceling of approved leave (e.g., if because of an exigency of the public business). Documentation must include the beginning and ending dates of the exigency and a copy of the approval action.

(5) The date(s) during which the leave was rescheduled for use and the amount of leave (days/hours) that was rescheduled for use, including the amount of hours unused in excess of 240 hours.

g. **Separate Leave Account for Restored Annual Leave.** Restored annual leave must be credited to a separate leave account (5 U.S.C. 6304(d)(2)). The amount of restored leave does not in any way increase or change an employee's normal maximum permissible carry-over into the new leave year. The normal annual leave ceiling remains in effect for all employees. The separate leave account will include:

(1) The date the leave was restored for use;

(2) The amount credited;

(3) The deadline by which the restored leave must be used; and

(4) The amount of usage and balance.

h. **Time Limit for Use of Restored Annual Leave.** Annual leave restored under the provisions of 5 U.S.C. 6304(d)(1)(B) and 5 CFR 630.309 must be used not later than the last day of the second leave year following the year containing the date that:

(1) Annual leave was restored in correcting an administrative error (5CFR 630.306(a)(1)); or

(2) Exigency terminated that resulted in forfeiture (5CFR 630.306(a)(2)); or

(3) The employee is determined to have recovered from an illness and is able to return to duty (5 CFR 630.306(a)(3)).

NOTE: *Restored annual leave that is unused prior to the expiration of the time limit is forfeited, unless the employee separates before that time. In such a case, the lump-sum payment will include the amount of unused restored annual leave that has been credited to a separate account.*

i. **Restoration of Annual Leave.** The normal rule that requires annual leave in excess of the maximum permissible carry-over (usually 30 days) be automatically forfeited at the end of the leave year may be suspended under the following conditions:

(1) **Administrative Error.** Annual leave lost due to an administrative error may be restored so long as it was accruable after June 30, 1960 (5 U.S.C. 6304(d)(1)(a)(A)). In addition to permitting a retroactive change, there is continuing authority to permit the future restoration of all annual leave to which an employee is entitled in correcting an administrative error. If official records are not available to substantiate the amount of annual leave to be restored, an estimate of the employee's leave account is acceptable when accompanied by official statements clearly reflecting the factors which form the basis for the estimate.

(2) **Exigencies of Public Business.** Even with the best planning and scheduling of annual leave usage throughout the year, operational demands may not permit usage to avoid forfeiture of leave by some employees. The exigency, whether anticipated or unanticipated, must be of such importance to preclude the use of scheduled annual leave. The exigency should occur in such case where there is no reasonable alternative to the cancellation of the scheduled leave. There is a requirement that this annual leave be scheduled in advance for use, and in writing before the start of the third biweekly pay period prior to the end of the leave year. Normally, the decision to cancel scheduled annual leave because of exigencies should be made in advance unless a bonafide emergency precludes an advance decision.

(3) **Sickness.** When employees have scheduled annual leave in advance but are prevented from using it because of illness, they may substitute annual leave (or non-paid leave) for sick leave. However when separation is known in advance, the granting of annual leave is limited to cases where exigencies of service require such action (34 Comp. Gen. 61). Sickness is not in itself a basis for permitting annual leave to be forfeited and subsequently restored for later use. The supervisor still has the responsibility to schedule or reschedule the use of annual leave to avoid forfeiture, even though an absence because of illness occurred during the year (5 U.S.C. 6304 (d)(1)(C)).

NOTE: *For guidance on involuntary absence, see paragraph 4g of this chapter.*

4. SICK LEAVE

a. **Granting Sick Leave.** Sick leave shall be granted to an employee for any the following reasons (See examples in appendix A, this part):

(1) **Sick Leave for Personal Needs**

(a) When the employee is incapacitated for the performance of duties by physical or mental illness; pregnancy or childbirth;

(b) When the employee receives medical, dental, or optical examination or treatment (including adjustment of prosthetic devices); or

(c) When through exposure to a contagious disease, the presence of the employee at the place of duty would jeopardize the health of others.

NOTE: *Sick leave granted because of a contagious disease shall be limited to the period prescribed by regulations of local health authorities or certified by a physician where health regulations do not specify the period of isolation, quarantine or restricted movement.*

(2) **Sick Leave for Family Care and Bereavement**

(a) An employee may use sick leave to provide care for, or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such a condition, would justify the use of sick leave by the employee.

(b) An employee may use sick leave to make arrangements necessitated by the death of a family member or attend the funeral of a family member. This includes use of sick leave to make arrangements for and attend a funeral or memorial service; necessary travel, pre-funeral and after-funeral/burial gatherings or ceremonies, memorial services; and reading of the will.

NOTE: *A full-time employee may use 40 hours (5 workdays) of sick leave each leave year for family care and bereavement. An additional 64 hours (8 workdays) for a total of 13 workdays of sick leave may be used each year if the employee maintains a balance of at least 80 hours of sick leave in his or her account. Part-time employees and employees with uncommon tours of duty are also covered, and the amount of sick leave permitted is prorated in proportion to the average number of hours in the employee's scheduled tour of duty each week.*

(3) **Sick Leave to Care for a Family Member with a Serious Health Condition.** An employee may use a total of up to 12 administrative workweeks (480 hours) of sick leave each leave year to care for a family member with a serious health condition subject to the following limitations:

(a) If an employee previously has used any portion of the 13 days (104 hours) of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week (480 hours) entitlement.

(b) If an employee has already used 12 weeks (480 hours) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days (104 hours) in the same leave year for general family care purposes.

(c) An employee is entitled to a total of 12 weeks (480 hours) of sick leave each year for all family care purposes. In order to use the full 12 weeks of sick leave to care for a family member with a serious health condition, an employee must maintain a sick leave balance of 80 hours.

(4) **Sick Leave for Adoption.** An employee may use sick leave for purposes related to the adoption of a child. This may include: appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and any other activities necessary to allow the adoption to proceed. Sick leave may not be used by adoptive parents who voluntarily choose to be absent from work to bond with an adopted child.

b. **Sick Leave Requests**

(1) It is the responsibility of employees who are incapacitated for duty to report, or have some responsible person report, their illness as early as practicable. Generally this will be at the beginning of the tour of duty but not later than 2 hours thereafter, or at the time specified in the leave policy of the installation or by prior written direction in their particular case according to the circumstances of employment. Subsequent reports, if any, will be made to the immediate superior as required locally. Employees who expect to be absent more than 1 day should inform their supervisors of the approximate date that they expect to return to duty. Supervisors may ask their employees at the time to report periodically on their progress, but daily reports will not be required. It would be reasonable for a supervisor to require that an employee who has been absent a long time to call or notify the supervisor a day or so before expecting to return to duty. This is necessary to make appropriate staffing and work adjustments, particularly in cases of shift workers.

(2) An employee on sick leave for more than 3 workdays must enter a leave request into the ETA or other electronic system upon return to duty, and furnish satisfactory evidence of the need for sick leave during the period of absence. If the medical certificate is not considered a reasonable basis for approval of sick leave, the employee may be required to furnish additional evidence. Usually the employee health physician will make any contact with the employee's physician concerning medical diagnoses. When it would be unreasonable to require a medical certificate because of shortage of physicians, remoteness of locality, or the nature of illness which did not require a physician's services, the employee's signed statement of reasons why other supporting evidence is not furnished may be accepted in lieu of a required medical certification. An employee who has been absent because of illness and who is unable to furnish a medical certificate may be referred to the employee health physician for a medical recommendation.

(3) Generally the ETA or other electronic request for approved leave and medical certificates, or their equivalent, should not be required for periods of sick leave of 3 days or less. Where there is reason to believe that an employee is abusing the use of sick leave, a medical certificate may be required for any period of absence. The employee should be informed in advance, and in writing, that such a requirement

has been established in his or her case. The notice of requirement of a medical certificate should set a reasonable time after return to duty for submission of the certificate. Failure to furnish a medical certificate may be cause for disapproval of sick leave. Such failure will not of itself be the cause for disciplinary action.

(4) When an employee has been given notice that any sick leave request must be supported by a medical certificate, leave approving officials will review the case in not later than 6 months to determine whether the requirement for furnishing a medical certificate for approved sick leave may be eliminated. If it is determined that a medical certificate is no longer required for sick leave of 3 days or less, the employee shall be so notified in writing.

(5) An employee will not routinely be required to reveal the nature of illness as a condition of approval of leave. However, food handlers must disclose certain kinds of diseases upon return to duty in order that they may be examined to protect patients and others from certain types of communicable diseases. (See VA Handbook 5019, Occupational Health Services.)

(6) When illness occurs during a period of annual leave or LWOP, sick leave may be substituted for annual leave or LWOP, provided the illness is reported promptly to the employee's supervisor and the request is supported by medical certification or other acceptable evidence. Sick leave may be granted during annual leave or to become eligible for donated leave in accordance with 5 CFR 630.405.

c. **Prolonged Illness.** Employees who are not expected to return to duty because of prolonged incapacitation will, where possible, be granted all available sick leave and such annual leave that cannot be included in lump-sum payment. (Refer to the rules on the appropriate use and termination of annual leave balances for employees who are participants in the Voluntary Leave Transfer Program (5 CFR 630.909-910; and 5 CFR 630-1205) on the use of paid leave by employees while invoking their Family and Medical Leave entitlements.) Employees who can reasonably be expected to return to duty after a prolonged period of incapacitation may be advanced sick and annual leave or granted LWOP.

d. **Advanced Sick Leave.** 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. In the case of sick leave for family care and bereavement, any or all of the first 5 days (40 hours or its equivalent for part-time employees or employees on uncommon tours of duty) used for those purposes each leave year may be advanced. The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave (5 U.S.C. 6307(d); 5 CFR 630.404).

e. **Liquidation of Advanced Sick Leave**

(1) As current leave is accrued it must be applied against any advanced leave.

(2) At the employee's request, advanced sick leave may be liquidated by a charge against an equivalent amount of annual leave provided;

(a) The annual leave is substituted prior to the time it would be forfeited, and

(b) The approving official would have been willing to grant the annual leave had the employee requested it.

f. **Prohibition Against Substitution of Annual Leave for Sick Leave.** Annual leave cannot be retroactively substituted for regular sick leave.

g. **Sick Leave and Outside Employment**

(1) An employee who engages in outside employment (whether self-employed or working for others) during any part of the time for which he or she requests sick leave, shall notify the supervisor of the outside employment.

(2) Normally, employees may not be granted sick leave due to personal illness or injury for any period during which it is known that they perform outside employment. Any exceptions to this rule must be justified and documented. An exception to the rule might be where employees confined at home because of pregnancy or recuperation from illness or injury, engage in sedentary work such as telephone solicitation work, writing, or other similar activities. In some cases of injury, such as those involving broken limbs, while the nature of the injury might prevent employees from carrying out the official duties, it might not prevent them from engaging in some form of simple sedentary work.

h. **Involuntary Annual and Sick Leave**

(1) An employee shall not be placed on involuntary annual leave as a disciplinary measure, or during an advance notice period of proposed separation, removal, or suspension for more than 30 calendar days. (See 5 CFR 752.404 and VA Handbook 5021 - Enforced annual leave during a notice period is a suspension).

(2) Other than as provided in subparagraph (1) above, an employee may be placed on involuntary annual or sick leave when the needs of the service dictate. In field facilities, such action must be approved by the facility head, and in Central Office by Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries. Such leave shall be terminated when the employee reports for duty and is determined able to perform his or her duties.

(3) Employees, who, because of illness (mental or physical) are unable to perform their duties, may be placed on involuntary sick leave. Administration Heads, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries and field facility heads must approve such actions. Such sick leave will be

terminated when the employee reports for duty and competent medical authority determines that the individual is able to perform assigned duties.

(4) When an employee, because of vicious or intemperate conduct or illness (mental or physical) reasonably may not be regarded as ready, willing and able to perform assigned duties for the time being and such conduct or physical or mental condition creates an emergency situation constituting an immediate threat to Government property or to the well-being of the employee, other workers, or the general public, the employee may be placed on sick or annual leave, or in a LWOP status (38 Comp. Gen. 203) as leave account balances or circumstances may require. When the immediate emergency has been relieved and there has been an opportunity to evaluate the circumstances of the incident with the result that initiation of disciplinary measures (suspension without pay or removal) are decided upon, the procedural steps for suspension may follow in due course. If, in the meantime, the employee appears for duty and is determined to be ready and able to perform assigned duties, continuation of the enforced leave would be unauthorized. Refer to the information on excused absence in paragraph 12j for instructions about enforced absence in a pay status without charge to leave when the employee is ready and able to perform assigned duties, but it is determined not to be in the public interest to restore the employee to active duty after involuntary leave; or it is in the interest of the Government to have the employee off the job during investigation preliminary to a determination whether to impose a suspension.

i. **Leave Accumulation for Overseas Employees.** Refer to 5 U.S.C. 6304(b) and 5 CFR 630, subpart F for information about leave for employees recruited for service outside the United States and District of Columbia.

5. ABSENCE FOR MATERNITY OR PATERNITY REASONS

a. General

(1) Leave related to maternity reasons may consist of sick leave, annual leave, LWOP, or Family and Medical Leave. Statutory and regulatory procedures for implementing Family and Medical Leave entitlements are found in 5 U.S.C. 6381-6387 and 5 CFR 630.1201-1211. Pregnancy will not jeopardize an employee's job.

(2) The granting of leave for maternity reasons will take into consideration the need for protecting the mother and the infant, to avoid occupational hazards to other employees, and for maintaining work requirements. Leave for maternity reasons is not to be construed as sanctioning the use of sick leave for infant care or the conditions of pregnancy without regard to whether the employee is incapacitated for duty or undergoing medical treatment.

b. Notice and Starting Date of Leave

(1) An employee shall be encouraged to report a pregnancy to her supervisor as soon as it is an established fact so that any necessary steps may be taken (a) to protect the employee's health or modify work or working conditions and (b) to plan for any necessary staffing during her prospective absence.

(2) The date on which an employee becomes incapacitated for duty by pregnancy and confinement will be determined according to the circumstances of each individual case. Under no circumstances will a department-wide, facility-wide, or office-wide practice be adopted of establishing such a date uniformly for all persons.

c. **Review of Working Conditions**

(1) When an employee reports her pregnancy, administrative officials shall immediately determine (with advice from the employee health physician and the employee's personal physician, where necessary), whether her duties and work surroundings involve exposure to health hazards peculiar to her condition. Where possible, such hazards should be reduced or eliminated.

(2) Pregnant employees shall not be permitted to perform heavy lifting, continuous standing or moving about or be exposed to toxic substances or contagious diseases (as used here, the term contagious disease means any illness that can be transmitted directly or indirectly from one person to another). Where such conditions exist in an employee's regularly assigned duties, reasonable efforts shall be made to detail or temporarily reassign her to other available work that she is qualified to perform, and to provide her with gainful employment as long as she is not incapacitated for duty.

(3) When there is any question as to the physical ability of the employee to perform her job without hazard to her health, the employee health physician shall consult the employee's personal physician concerning her health before making a determination as to her fitness for continuing in a duty status.

d. **Granting Leave.** Employees who are incapacitated for duty or who require medical examination or treatment because of pregnancy or confinement will be granted leave as indicated below, provided a medical certificate or other acceptable evidence of such is submitted:

(1) When an employee is not expected to return to duty following pregnancy and confinement, she will be granted accumulated and accrued sick leave, consistent with medical needs. Where resignation or separation occurs, the action will be taken at the expiration of leave, except that action will be taken at an earlier date where required for the purpose of terminating time-limited employment or reduction in force.

(2) Where the employee expects to return to duty following pregnancy and confinement, she may be granted such accumulated and accrued annual leave as required. Advanced sick leave in cases of serious disability, annual leave, LWOP and Family and Medical Leave, may be granted under conditions meeting the criteria for such leave.

e. **Absence for Paternity Reasons.** A male employee may request annual and sick leave, LWOP, and Family and Medical Leave for purposes of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons (see CFR, part 630, subparts C, D, I, and L for appropriate guidance and application).

6. LEAVE IN CONNECTION WITH RETIREMENT

a. **General**

(1) The general rule that an employee is to be paid a lump sum for the annual leave to his or her credit at the time of separation, applies also in retirement cases.

(2) Employees who make it known that they are contemplating optional retirement, will generally not be authorized annual leave from which they will not return to duty, unless it meets the needs of the service.

(3) If incapacitated for work, an employee retiring for any reason may be granted sick leave up to and including the date of retirement.

b. **Disability Retirement**

(1) An employee who is incapacitated for work and who has an application pending for disability retirement may be granted all available sick leave requested. However, it would be inappropriate to grant advanced sick leave pending a decision from OPM on the claim. There is no authority requiring an employee to refund the amount paid for leave advanced prior to separation when the employee is retired for disability or is unable to work because of illness (29 Comp. Gen. 234).

(2) The employee with a pending claim for disability retirement may also be granted annual leave pending final action by OPM. When disability retirement has been approved, additional annual leave should not be granted (34 Comp. Gen. 61). Upon request of the employee, LWOP may be granted even though the employee has a sick or annual leave balance.

(3) Upon receipt of approval of disability retirement, any sick leave remaining to the credit of the employee shall be granted as recommended in Section 60A6.1-2B-D in Chapter 60, The OPM CSRS and FERS Handbook for Personnel and Payroll Offices.

(4) This policy will apply except when not administratively practicable because of an overriding requirement for separation as of a specific date. (See reduction-in-force procedures in part IV of VA Handbook 5005 for VA policy about retaining employees on the rolls on approved earned sick leave even though other employees in the same competitive level with higher retention standing are adversely affected in a reduction in force.)

7. LEAVE FOR FIELD FACILITY HEADS

a. **Approval.** Heads of field facilities may avail themselves of annual, sick, military or court leave without higher level approval. They must, however, obtain the approval of advanced sick or annual leave in excess of 5 days. Periods of extended sick leave (as in the case of utilization of all accrued sick leave prior to or after application for optional retirement) also must be approved by Central Office. The heads of field facilities may also avail themselves of LWOP not to exceed any period of 10 workdays and authorized absence not to exceed any period of 5 workdays, without approval of their appropriate organization heads. The 5 days of authorized absence shall be exclusive of any travel properly associated with the absence. All

other leave and absences of field facility heads must be approved by appropriate Administration Heads, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries.

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).

(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).

b. **Effect of Military Leave on Civilian Pay.** An employee's civilian pay remains the same for periods of military leave under 5 U.S.C. 6323(a) and (c), including any premium pay an employee would have received if not on military leave. For military leave under 5 U.S.C. 6323(b), the employee's 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 in order to retain both civilian and military pay.

c. **Eligibility.** Regular full-time and part-time employees (permanent, temporary indefinite, temporary pending the establishment of a register, or term appointment for more than 1 year), who are members of the National Guard or a Reserve component of the Armed Forces are eligible for military leave when ordered to perform military duty. Intermittent, or temporary (time limited to 1 year or less) employees are not eligible for military leave (5 U.S.C. 6323(a)(1) 2 and (b) (See 18 Comp. Gen. 538.)

d. **Granting and Charging Military Leave.** To the extent authorized by law, military leave shall be granted for active and inactive duty training, or engaging in field or coast defense training when appropriate documentation pertaining to these activities is presented to the leave-approving official. Military leave is credited to full-time and part-time employees on the basis of an 8-hour workday. The minimum charge to leave is 1 hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay. Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) will now be charged only the amount of military leave necessary to cover the period of training and necessary travel. Non-workdays (weekends and holidays) that occur within the period of military service will not be charged to military leave. **NOTE:** *Military leave is charged if an employee is schedule to work on a holiday.*

e. **Final Approval.** Final approval of military leave shall be contingent upon the employee furnishing certification from the military authorities confirming that military duty was performed for the period that military leave was granted.

f. **Advance Notice.** All eligible employees will be encouraged to notify approving officials as far in advance as possible of their need for military leave so that arrangements can be made to prepare for their absences while on leave.

10. COURT LEAVE

a. **General.** The legal citations and decisions and interpretations of the Comptroller General and VA policy will be followed in:

(1) Granting court leave;

(2) Advising employees when jury and witness fees must be collected and turned over to the agent cashier or payroll office; when it is permissible to retain fees; when no jury or witness fee should be collected;

(3) Continuing an employee on official duty for the time required to testify in his or her official capacity whether on behalf of the Federal Government, that of the District of Columbia, State or local government, or a private party;

(4) Continuing an employee on official duty for the time required to testify in an unofficial capacity on behalf of the Federal Government or that of the District of Columbia; and

(5) Determining entitlement to compensation when performing jury or witness service.

b. **Department Policy on Jury Service.** VA considers jury duty a civic responsibility. Requests for release of employees from jury duty shall be made only in exceptional situations, such as (1) to provide critically necessary patient care, or (2) when the services of the employees are absolutely necessary to meet important deadlines. In such cases, the head of the field facility concerned or the Administration Head, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries for Central Office employees under their jurisdiction, may direct a letter to the court which has requested the services, explaining the facts and requesting that the employees be released from duty.

c. **Return to Duty after Court Leave.** Employees who are granted court leave and are excused or released by the court for any day or substantial portion of a day are expected to return to their regular VA duties, except when:

(1) Only a small portion of the workday would be involved and thus no appreciable amount of VA service would be rendered; or

(2) The distance from the court to the place of duty is such that this would be an unreasonable requirement; or

(3) The regular tour of duty occurs at night (see Comp. Gen. 26413 (1946)).

d. **Witnesses.** The following VA interpretations are given as guides in answering certain questions on testimony of employees in courts of law. Federal employees who are summoned as witnesses are authorized court leave under 5 U.S.C. 6322.

(1) **Testimony for the Government in an Official or Unofficial Capacity**

(a) When a VA employee's testimony is required in an official or unofficial capacity, or when producing official records in litigation in which the Federal Government or District of Columbia is a party, the employee is to be considered in an official duty and pay status while so engaged. The employee in such circumstances will not be carried on court leave. (5 U.S.C. 6322(b); 38 Comp. Gen. 142(1958); and 5 Civilian Personnel Law Manual (CPLM) 2-21 (1990).)

(b) When a VA employee's testimony is required in an official capacity on behalf of a State or local government, the employee is to be considered in an official duty and pay status. If testimony is in an unofficial capacity on behalf of a State or local government, the employee will be carried on court leave (Comp. Gen. 83, 84 (1947)).

(c) For a discussion of fees when testifying for the Federal Government, District of Columbia, State or local governments, see MP-1, part II, chapter 2, paragraph 12b for instructions about authorizing travel and per diem at Government expense.

(2) **Testimony in Private Litigation in an Official and Unofficial Capacity (5 U.S.C. 5515, 5537, 6322)**

(a) When the value of the witness' testimony in private litigation arises from the employee's official capacity and the employee is subpoenaed to testify in that capacity, or to produce official records, the employee will be carried in an official duty and pay status during the period of necessary absence in responding to such subpoena. No charge will be made to court leave (15 Comp. Gen. 196; 27 Comp. Gen. 86). In those circumstances where the employee testifies in a State Court, the employee should be instructed to collect authorized witness fees and allowances for expenses of travel and subsistence. All amounts authorized over and above the amount of actual expenses will be accounted for and deposited as miscellaneous receipts (15 Comp. Gen. 196).

(b) In any case where the value of the witness's testimony arose while serving in an official capacity as an officer or employee of another Government agency or the District of Columbia Government, the employee may be regarded as having been in an official duty status while testifying in court and may be paid the regular compensation for the period involved (Comp. Gen. B-160343). The employee will be instructed to collect authorized witness fees and allowances for expenses of travel and subsistence. All amounts authorized over and above the amount of the actual expenses will be paid into miscellaneous receipts.

(c) Court leave will be granted to employees who appear as witnesses in an unofficial capacity on behalf of a private party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a *party*. In these cases, the employee is not entitled to retain fees received as an unofficial witness. In a judicial proceeding involving only private parties, the employee is required to take annual leave or leave without pay to appear in such a proceeding and is entitled to retain any fees paid for the witness service.

(d) Precedent Comptroller General decisions, including those cited above, may be found on the OPM website under Leave Administration, Index of Laws, Regulations, and other references related to leave administration.

11. LEAVE FOR OFFICE OF WORKERS' COMPENSATION PROGRAM

a. **Retention on Rolls.** An employee who has a claim pending with the Office of Workers' Compensation Programs (OWCP) and who is incapacitated for work shall be granted any leave or LWOP necessary to retain the employee in an employment status until such time as the claim is acted upon, except in case of an overriding requirement for separation, such as reduction-in-force or removal for cause. If the OWCP determines that an employee is permanently and totally disabled, the employee should be separated. (An employee's election between retirement and employees' compensation is discussed in the OPM CSRS and FERS Handbook.)

b. **Substitution of Annual or Sick Leave for LWOP.** Employee who request LWOP pending adjudication of their claims may, if their claims are disallowed, and they are still employed, be retroactively granted annual or sick leave.

c. **Substitution of LWOP for Annual or Sick Leave**

(1) 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 non-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).

(2) The substitution should be made promptly, and the OWCP will be notified of the employee's last day in pay status. For leave record purposes, the request for substitution should 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 make the election within 1 year of the time it is determined that the employee has sufficiently recovered from the disability to be able to make a reasoned decision. The employee's election should be in writing and is not subject to revocation.

d. **Extended LWOP.** 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. If the OWCP accepts the employee's claim, but does not determine that the employee is permanently and totally disabled, the granting of leave without pay should be in accordance with current leave procedures.

12. AUTHORIZED ABSENCES

a. **General.** An employee may be given authorized absence without charge to leave when:

(1) The activity is considered to be of substantial benefit to VA in accomplishing its general mission or one of its specific functions, or

(2) The activity will clearly enhance an employee's ability to perform the duties of the position presently occupied or may be expected to prospectively occupy, or

(3) The basis for excusing the employee is fairly consistent with prevailing practices of other Federal establishments in the area concerning the same or similar activities.

b. **Voting and Registration**

(1) Approving officials may excuse employees without charge to leave for voting and registration.

(2) Officials responsible for administering the leave program shall assemble information concerning hours during which polls are open in areas in which their employees reside and make administrative determinations as to the amount of absence that may be authorized without charge to leave.

(3) All employees shall be notified of these determinations and of the local procedure to be followed.

c. **Civil Defense and Disaster Activities**

(1) **VA Programs.** Employees required to be absent from their normal duties because of planning, training, or other similar responsibilities in VA's own disaster and civil defense program will be considered to be in an official duty status.

(2) **Community Programs.** Responsible officials in Central Office and heads of field facilities may, from year to year, authorize employees under their jurisdiction who have volunteered and been selected for civil defense assignments to participate in pre-emergency training programs and test exercises conducted by any State or political subdivision thereof. Employees may be authorized to participate in these programs or exercises without charge to leave up to a total of 40 hours during a calendar year.

(3) **State Guard or Civil Air Patrol.** Employees called by State or local authorities to emergency duty for protective or rescue work in the State Guard (any State military organization which is not a part of the National Guard) or Civil Air Patrol shall be excused by the facility head without charge to leave for such duty for a period of not more than 3 workdays for any one incident. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries may approve such absence in excess of 3 days but not to exceed 5 workdays. Absence for this purpose beyond 5 days for one incident must be charged to annual leave or to LWOP if annual leave is not available. (See paragraph 9 for instruction on granting military leave to a National Guardsman who is called to duty for law enforcement.)

d. **Participation in Military Funerals.** Employees who are veterans of any war, campaign, or expedition (for which a campaign badge has been authorized) or members of honor or ceremonial groups of organizations of such veterans may be excused from duty without loss of pay or deduction from their annual leave, for such time as may be necessary, but not in excess of 4 hours in any one day, to enable them to participate as active pallbearers or as members of firing squads or guards of honor in funeral ceremonies for members of the Armed Forces of the United States whose remains are returned from abroad for final interment in the United States. Where a national cemetery is on or adjacent to VA grounds, employees may be excused without charge to leave to participate in any military funeral.

e. **Blood Donor Programs.** Employees who give blood without compensation to the Red Cross (or any similar organization), to any VA patient or employee, or to replace blood required by any VA employee, may be excused without charge to leave for any portion of the day blood is donated which may be desirable for rest and recuperation.

f. **Tardiness or Brief Periods of Absence.** An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused when the reasons for the absence appear to be adequate to the leave approving official. Unexcused absences or tardiness may be handled by either:

(1) Allowing the employee to use earned compensatory time, annual leave, or LWOP to cover the period of the absence. However, in this case, if the leave charge exceeds the period of absence, the employee will not be required to work during the period covered by leave.

(2) Charging the time absent to AWOL.

NOTE: *In order for tardiness to be a basis for disciplinary action, the time lost must be charged to AWOL; any prior tardiness that had been excused, or charged to leave or compensatory time, may be used merely to cite a pattern of tardiness.*

g. **Taking Examinations**

(1) **Civil Service Examinations.** Employees required to take civil service examinations in connection with a pending placement action within VA shall be excused without charge to leave for the time necessary for this purpose. Employees' absence when taking open competitive civil service examinations on their own initiative shall be charged to leave.

(2) **VA Placement Matters.** Employees required to report for placement interviews or examinations in connection with placement within VA will be authorized absence for the time involved when such matters are conducted during the employees' regular work-hours.

(3) **Medical Examination and Treatment.** Employees who are examined or treated in VA facilities for illness or minor non-duty-connected injury, or who are ordered for VA employment or civil service medical examinations, vaccinations, X-rays, etc., or who are authorized to participate in any VA or civic health or immunization program, will be excused without charge to leave for the time necessary to be examined, treated, or vaccinated. This authority to excuse employees for medical examinations or treatment is limited to brief periods, usually not to exceed 1 day (44 Comp. Gen. 333).

(4) **Duty Connected Injury or Illness** (see paragraph 11 regarding Workers' Compensation Programs)

(a) An employee who suffers a duty-connected injury or illness will be excused without charge to leave for any absence during a workday (including local travel time) required for initial examination or outpatient treatment by a United States medical officer, or any duly qualified physician or at any hospital of the employee's choice.

(b) When disability starts, employees having leave credits may elect to use such leave to cover all or any part of the absence. In such cases, compensation for disability will not begin and the time periods specified in OWCP regulations will not begin to run until leave has ceased.

(c) An employee who sustains a disabling job-related traumatic injury may elect continuation of regular pay for a period not to exceed 45 days, instead of using leave credits. In these cases, the employee will be excused without charge to leave for any fraction of a day or shift on the day of the injury with no charge to the 45-day period. This 45-day period starts on the first full calendar day or first full shift when disability begins.

(d) An employee who chooses to take LWOP instead of paid leave while securing examination and treatment as outlined in subparagraph (b) above, may receive OWCP compensation payments for this time if the case meets the criteria for such payment under the OWCP rules and regulations.

(5) **Armed Forces Examinations.** Employees will be excused without charge to leave, generally not to exceed 1 day, to obtain physical examination to determine fitness for entry on extended active duty or assignment to active duty with the Armed Forces, or to determine qualifications for retention in reserve components provided no military pay is received for the period.

h. **Conferences or Conventions**

(1) **Attendance at National Conventions of Service Organizations.** Prior approval of the Secretary, or Deputy Secretary, is required for attendance at National Conventions of veterans' services organizations as a representative of VA. When approved, such absence will be without charge to leave.

(2) **Attendance at Meetings**

(a) The opportunity for development afforded by participation in professional, administrative, or technical meetings is a significant factor in creating the kind of working atmosphere which helps to attract and retain competent personnel, and improve the work of the agency. Attendance at gatherings of scientists or other professional, technical, or administrative persons is a positive means of facilitating effective communication of ideas and information in areas of significant agency need. Therefore, a scientist, or other professional or administrative, or technical employee of any kind who desires to attend a professional, technical, or administrative meeting is encouraged to request approved absence for this purpose. Such requests will be processed as expeditiously as possible and reasonable efforts will be made to distribute opportunities for attendance widely among those who are eligible.

(b) Employees may be excused without charge to leave to attend meetings which are concerned with the functions or activities of VA, or which will contribute to improved conduct, supervision, or management of those functions or activities. This will include meetings, conventions (religious retreats in the case of Chaplains) or conferences of recognized professional technical, or administrative organizations and of private organizations if attendance at the meetings will contribute to improved conduct, supervision, or management of the functions or activities of VA. However, representatives of labor organizations may not be granted excused absence for meetings concerning internal labor organization matters.

(c) Excused absence may be approved for attendance at meetings even if travel at Government expense is not approved. However, the period of authorized absence without charge to leave for travel at the employee's expense will not exceed the time for which per diem would have been paid had travel been authorized at Government expense.

i. **Training**

(1) **General.** Employees may be excused to attend educational lectures, seminars, courses of instruction, etc., in the VA in-service training programs and to participate in other training as defined in 5 U.S.C. 4104. While absent from the usual worksite for such activity, the employee is considered to be on official duty during normal work-hours.

(2) **Representing Labor Organizations**

(a) Administration Heads, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries in Central Office and facility directors may excuse labor organization representatives without charge to leave for training sponsored by labor organizations or the agency where the training will be of benefit to both the agency and the labor organization within the purposes of Title VII of Public Law 95-454.

(b) Normally attendance at labor organization conventions is considered internal organization business unless there is clear and unequivocal information to the contrary.

(c) Requests for excused absence for training of a labor organization representative should be submitted by the employee in writing together with information supplied by the exclusive organization setting forth the content of training, its duration, a statement of how the training is related to the employee's performance of VA duties and a statement that the training is required. In addition, the employee's request should be submitted sufficiently in advance so that the facility can review the matter and make a decision.

j. **Pending Suspension or Removal (38 Comp. Gen. 203)**

(1) When an employee who has been on involuntary sick or annual leave or on LWOP under authority contained in paragraph 4g reports for duty and is determined to be ready and able to perform assigned duties, but it is determined to not be in the public interest to restore the employee to active duty, that person may be continued off duty in a pay status without charge to leave for the short time necessary to effect suspension with citation of appropriate reasons, in accordance with OPM and VA instructions.

(2) During investigation of employees for wrong-doing, such as suspected theft or fraud, when it is in the interest of the Government to have the employee off the job preliminary to determination to suspend him or her or initiate removal action; but when the employee is ready and able to perform duties and any conduct or physical or mental condition does not create an emergency situation, the employee may be relieved from duty and continued in a pay status without charge to leave for such time as is necessary to effect suspension. (See paragraph 4g for instructions concerning involuntary absence in a leave status.)

k. **Participation in Hearings, Appeals**

(1) VA employees required or authorized to be present at VA or other Federal hearings or boards will be authorized absence from normal duties without charge to leave for that purpose.

(2) The responsible supervisor, with the advice of the Human Resources Office, will grant the employee, and designated representative if he or she is a VA employee, a reasonable amount of time during regular working hours without charge to leave for preparation of reply to charges, preparation of a case for presentation in a hearing, or preparation of an appeal either with VA or to the designated Federal agency. Generally one day will be sufficient for any of these absences. However, the supervisor will take into consideration the complexity of the case and length of the charges or hearing record in determining what may be considered a reasonable amount of time.

l. **Participation in Civic Organizations.** The absence of facility directors is authorized and they may authorize other responsible officials to attend periodic meetings of local civic organizations without charge to leave.

m. **Absence for Congressional Medal of Honor Holders.** When all Congressional Medal of Honor holders are invited, employees who are Medal of Honor holders shall be excused without charge to leave for sufficient time to attend or participate in events such as:

(1) Inaugurations of the President of the United States.

(2) Conventions of the Congressional Medal of Honor Society.

(3) Memorial Day or Veterans Day services.

n. **Meetings with Labor Organizations and Other Groups.** Employees representing labor organizations may be excused in accordance with the provisions of Title VII of Public Law 95-454. See 5 U.S.C. 7131 regarding official time.

o. **Rest Periods**

(1) Heads of VA establishments may authorize brief periods during which employees may interrupt their work to obtain refreshments, or relief from fatigue or constant attending to duty. There may not be more than two such periods during any single 8-hour period and they should normally not exceed 10 minutes each and should be regulated to maintain adequate coverage of essential functions at all times.

(2) Employees may be permitted to partake of refreshments at their desks or other workspace during such periods, except where good taste would indicate otherwise.

p. **Securing Government Equipment, Supplies, Records, or Property.** An employee shall be allowed reasonable time as determined by management without charge to leave during the tour of duty to pick up and return equipment, records, or property of any kind used in the performance of official duties.

q. **Wash-up Time.** Where necessary, employees shall be excused without charge to leave for a reasonable time as determined by management before the end of a tour of duty to wash up.

r. **Change of Uniforms.** An employee who is required to wear a uniform and who is not permitted to wear it home, shall be excused without charge to leave for a reasonable time as determined by management after the beginning of a tour of duty to change to a uniform and before the end of a tour of duty to change to street clothes. In those cases where administrative necessity requires the changing into and out of uniforms outside the employee's tour of duty, compensation under the overtime pay regulations will be provided when appropriate. (See part II, chapter 3, paragraph 2 of this handbook).

s. **Change in Facility**

(1) An employee who is being transferred for the convenience of the Government from one VA facility to another may be excused without charge to leave for the time required, not to exceed 2 workdays, to make arrangements for moving. If the employee is authorized absence not to exceed 10 calendar days to make a round trip in an official travel and duty status to find housing at the new location; time required for getting settled at the new location, not to exceed 1 workday, may be granted as excused absence without charge to leave. Where no advance round trip is made to the new location, the employee may be authorized absence not to exceed 5 workdays with no charge to leave to find housing and move into it within one year after the change in facility.

(2) If a VA employee transfers to another Federal agency and that agency authorizes a round trip to find housing, VA will maintain the employee in a duty status during the authorized round trip of absence (See MP-1, part II, chapter 2, paragraph 13h).

t. **Funerals**

(1) An employee is entitled to not more than 3 days of excused absence (funeral leave) under the provisions of 5 U.S.C. 6326. This excused absence is authorized for the employee to make arrangements for or attend the funeral or memorial service of an 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 (as determined by the President in accordance with section 112 of the Internal Revenue Code). See CFR 630. 801-804.

(2) While the leave authorized by Section 6326 is a matter of right and must be granted when appropriate, for reasons indicated below, VA is continuing a previously established administrative policy that an employee will be granted excused absence without charge to leave or loss of pay to attend the funeral of an immediate family member who while serving in the Armed Forces died as the result of wounds, disease or injury incurred in the line of duty. Normally, the amount of this excused absence will be limited to a maximum of 8 hours. Under unusual circumstances, however, additional excused absence as considered reasonable may be granted. This excused absence will not be in addition to that authorized under Section 6326. However, it may be appropriate to approve excused absence under this administrative policy when it would not be a right under Section 6326, such as when a member of the Armed Forces is killed in the line of duty when not in a combat zone.

u. **Weather and Emergency Situations**

(1) **Definition.** An emergency situation may be caused be heavy snow, severe icing, flooding, earthquakes, hurricanes, massive power failures, fuel shortages, major fires, strikes, public transportation crises, riots, mass demonstrations, etc. The emergency must be general rather than personal in scope and impact. It should be severe enough to prevent employees in significant numbers from reporting for work, or may necessitate the closing of Federal facilities in whole or in part. Usually, an emergency of this type will be the subject of a public declaration of emergency by appropriate Governmental authority.

(2) **Employees Providing "Critical" Services.** There are certain critical VA operations which cannot be curtailed even though it may be generally necessary to excuse employees for all or part of a day.

(a) **VA Medical Centers, Domiciliaries, and Outpatient Clinics.** All employees of these facilities are deemed to be providing critical services. Incumbents of these positions are required to be at work regardless of emergency situations or any general dismissal authorization.

(b) **Other VA Facilities.** Heads of other types of VA facilities should identify positions that are also deemed to be providing a critical service. Except for office closings, incumbents of these critical positions are also required to be at work regardless of emergency situations or any general dismissal authorization. Employees so designated should be made aware, preferably in writing, of the special requirements placed on them for reporting to, or remaining at, their work-sites in emergency situations.

(c) **Identification.** It may be necessary to provide employees of critical positions with some identification that would enable them to commute at times when only emergency travel is allowed on the highways.

(3) **Absences Due to Emergency Situations.** Where it is determined that an employee in a non-critical position made every reasonable effort to get to work and was unable to do so, excused absence without charge to leave may be authorized. These excused absences do not generally apply to employees who provide critical services as discussed in paragraph (2) above, because of the need to assure continuity of essential VA operations. However, in a rare instance, where certain employees who provide critical services make every reasonable effort to get to work and are unable to do so, the facility Director may approve excused absence without charge to leave as provided in paragraph (8)(a) below.

(4) **Early Dismissals**

(a) When early dismissal is authorized, excused absence without charge to leave may be granted to employees who are in duty status. This includes employees deemed to be providing critical services. For this purpose, employees are considered to be in duty status if they are:

1. Actually on duty at time of dismissal;

2. Excused from duty (or on approved leave) at the time of dismissal with the expectation that they will return to duty before the close of the business day; or

3. On duty when the office issues formal notification of the scheduled early dismissal, but request and are granted leave between notification and actual dismissal.

(b) Employees who are not in a duty status as described above when notification of dismissal occurs after opening hours will be charged appropriate leave for the entire period of absence.

(5) **Tardiness.** Under emergency situations, some tardiness may be excused without charge to leave if it is determined on an individual or general basis that the tardiness was not reasonably avoidable. This includes employees deemed to be providing critical services.

(6) **Coordinated Group Actions.** Except for VA employees providing critical services, where there are two or more Federal installations in the community, there should be a coordinated effort in group dismissals or in excusing groups of employees from reporting for duty. In this regard, facility directors are advised to coordinate actions with other local VA installations, Federal Executive Boards and other Federal agencies. Where it appears that consistent action cannot be obtained locally, facilities should seek advice and coordination through appropriate Departmental channels.

(7) **Unusable Workspace.** Where an emergency situation makes the workspace unusable and no other suitable space can be provided as a worksite, employees may be excused from duty without charge to leave. This includes employees deemed to be providing critical services.

(8) **Authority for Excusing Employees From Duty**

(a) **Field Facilities**

1. Field facility heads are authorized to excuse employees from duty and from reporting to duty up to two consecutive days as outlined in subparagraphs (1) through (7) above.

2. The appropriate Central Office administration or staff office head must approve any period of excused absence for field facility employees in excess of two consecutive workdays.

(b) **Central Office**

1. Only the Secretary may issue orders excusing all employees from duty or excusing groups of employees.

2. An Administration Head, Assistant Secretary, or Other Key Official or designee may excuse an individual employee for any tardiness and for absence, not to exceed one workday, due to weather or public emergency situations.

(9) **Emergencies of Indefinite Duration.** Where it is necessary to close operations for some prolonged or regularly recurring period (such as during a fuel crisis), the use of excused absence is inappropriate. Other options, which should be considered, are as follows:

(a) **Maximum Use of Details or Temporary Relocation.** Every effort should be made to keep employees at work at affected facilities. Therefore, employees could possibly be detailed or relocated for useful work to facilities where operations have not been curtailed.

(b) **Extended Work Day and Use of Compensatory Time.** Employees may be granted compensatory time off where overtime worked is either irregular or occasional in nature. Under these emergency circumstances discussed herein, employees could be offered the opportunity to work 2 additional hours on each of 4 days with the overtime to be taken as compensatory time off on the 5th day within the same workweek.

NOTE: *VA policy on compensatory time for GS and FWS employees can be found in part II, chapter 3, paragraph 5 of this handbook.*

(c) **Use of Annual Leave.** General Schedule employees who do not wish to work overtime hours for compensatory time and Federal Wage System employees may use any annual leave which is available to them. While the taking of annual leave can be at the request of any employee, agencies have the authority to place employees with sufficient annual leave to their credit (including any annual leave that will accrue to the employees during the year) on annual leave at times considered appropriate by management. In exercising the authority to place employees on annual leave, agencies must comply with the provisions in negotiated agreements.

(d) **Use of Leave Without Pay.** In the absence of earned leave that will accrue during the year, or if an employee prefers not to use accumulated leave, an employee can be placed on leave without pay, but only at the employee's request.

(e) **Furlough.** Furlough, while not precluded, should generally be used only as a last resort.

v. **State or Local Holidays.** If an office is closed on a State or local holiday because it is determined that Federal work may not be properly performed, as provided in part II, chapter 3 of this handbook, absence on such day is not chargeable to leave for any employee of the office. This is so even if such absence occurs within a period of approved leave, or at the beginning or end of approved leave. Such approved time off is considered authorized absence without charge to leave.

w. **Parades, Ceremonies and Civic Activities.** Employees may be excused to attend officially authorized parades and ceremonies, or civic activities consistent with the prevailing practice among all Federal agencies in the local area. Employees in a leave status immediately prior to or following such a period will be charged leave for the entire period.

x. **Federal Wage System Operations**

(1) All members of local wage survey committees, while performing committee duties, and all data collectors, while performing duties connected with the data collection function, are to be considered on official assignment to the interagency function, not on leave.

(2) For testifying at hearings provided by the local wage survey committee, administrative leave (excused absence without charge to leave) may be granted for a limited number of representatives of local labor organizations which have exclusive recognition for wage employees in the wage area and which wish to present facts or views on the wage survey. Unless otherwise provided for in a negotiated agreement, a limit of one representative for each such labor organization at a given installation normally will be considered adequate to present the views of that organization. Additional representatives of the organization may be permitted to testify but normally will not be granted excused absence without charge to leave in order to do so, unless the wage survey committee requests their presence as witnesses. Time off for testifying by employees as individuals will be charged to annual leave, or LWOP if no annual leave is available.

(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.

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.

(2) LWOP in excess of 30 calendar days should not be granted unless there is reasonable expectation that the employee will return to duty, except as provided for disability retirement and OWCP cases. Examples of purposes for which the approval of LWOP is proper include:

(a) **Educational Purposes.** When the course of study or research is in line with a type of work which is being performed by the agency and the employee might reasonably expect assignment to such work.

(b) **Temporary Service With Non-Federal Public or Private Enterprise.** Where the experience to be gained by the employee will serve VA interests.

(c) **Recovery From Illness or Disability Not of a Permanent Nature.** When continued employment would threaten impairment of the employee's health, or the health of other employees.

(d) **Protection of an Employee's Status During Any Period**

1. Pending final action by OPM on a claim for disability retirement, whether or not sick and annual leave has been exhausted, or

2. Pending action by OWCP, U.S. Department of Labor, on a claim resulting from employment-connected injury or disease, or pending determination by the OWCP that the injured employee is permanently and totally disabled, or

3. Pending return to duty from working in a program in which the Federal Government is participating or encouraging (e.g., Peace Corps volunteers), or

4. Pending return to duty from serving on a temporary basis as an officer or representative of an employee organization.

c. **Approval of LWOP**

(1) Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries or their designees for field facility employees may approve LWOP for any period of time.

(2) Field facility heads, or their designees, may approve LWOP for any period of 1 year or less for occupants of noncentralized positions. They may approve LWOP for 30 days or less for employees at their facilities who occupy centralized positions.

(3) The appropriate Central Office official must approve requests for LWOP or extensions of LWOP which exceed the above authority. However, exceptions which may be approved locally include OWCP and disability retirement claimants.

d. **Notice to Employee.** Employees granted LWOP for more than 30 calendar days must be notified that:

(1) They can usually expect to return to their former position. However, it may become necessary in the interest of the service to reassign them to other positions during their absence or upon their return;

(2) In the event of reduction in force during their absence, which affects their position, they will be given the same consideration as employees in a duty status;

(3) If they are reached for reduction in force reassignment to a position in another organizational element, their LWOP will be subject to termination if their active services are required by the organizational element; and

(4) They should communicate with their supervisor at least 2 calendar weeks before the expiration of their LWOP to arrange for their return to duty.

e. **Human Resources Management Office Records.** LWOP in excess of 30 consecutive calendar days will be documented on a Personnel Action Request, forwarded to the Human Resources Management office for appropriate action and filed in the employee's personnel folder.

14. ABSENCE WITHOUT LEAVE (AWOL)

a. Absence without leave (AWOL) is an unauthorized absence from duty. The employee receives no pay for such absence. The leave-approving official should document the reason or reasons for charging an absence to AWOL at the time the decision is made. This may be done by a written statement on the reverse 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.

b. 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.

15. 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.

16. 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.")

17. FAMILY AND MEDICAL LEAVE

a. Under Title II of the ***Family and Medical Leave Act (FMLA)*** full-time and part-time employees who have been employed for at least the previous 12 months are entitled to receive up to 12 administrative workweeks of unpaid leave (LWOP) during any 12-month period for specific family and medical needs.

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 630.1201-1211 by the Office of Personnel Management.

18. 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 authorized absence (to be coded in the ETA as donor leave – DL) 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.

19. 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, optometrists, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries in the VHA as covered by chapter 3, this part.

(3) **Family Member.** Means the following relatives of the employee:

(a) Spouse, and parents thereof;

(b) Children, including adopted children, and spouses thereof;

(c) Parents;

(d) Brothers and sisters, and spouses thereof; and

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

(4) **Leave Donor.** An employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by the donor's employing facility.

(5) **Leave Recipient.** A current employee for whom the designated VA official, or in the case of a non-VA employee, his or her employing agency; has approved an application to receive annual leave from the annual leave accounts of one or more leave donors.

(6) **Medical Emergency.** A medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period of time and result in a substantial loss of income to the employee because of the unavailability of paid leave.

(7) **Approving Official.** The official designated in subparagraph c below.

(8) **Uncommon Tour of Duty.** Any tour of duty in excess of 40 hours per week, for example, the tour of duty of firefighters.

c. **Responsibilities**

(1) **The Deputy Assistant Secretary for Human Resources Management** is responsible for developing departmental policies and procedures related to the administration of the voluntary leave transfer program and for evaluating the effectiveness of this program.

(2) **The Deputy Assistant Secretary for Finance** is responsible for payroll policies and record keeping related to the voluntary leave transfer program.

(3) **Administration Heads, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries** or their designees are responsible for approving or disapproving applications to become a leave recipient from employees under their jurisdiction in accordance with this policy.

(4) **Human Resources Management Officers (HRMOs)** are responsible for the following actions:

(a) Developing local policy and procedures in coordination with Fiscal Officers, to ensure that employees are promptly and properly informed of their rights and responsibilities under this program;

(b) Notifying employees about this program (see sample in appendix III-B);

(c) Reviewing applications from potential leave recipients to ensure that the application meets the criteria of this program and that all required information has been provided before forwarding such applications to the approving official for final decision;

(d) Preparing appropriate letters for the approving official to issue to applicants informing them of their approval as a participant, or their ineligibility for the program (see sample in appendix III-D and III-E);

(e) Monitoring, in conjunction with the employee's supervisor, the status of a leave recipient to ensure that a medical emergency continues to exist;

(f) Notifying the Payroll Office of the approval of an employee to be a leave recipient and termination of that leave recipient's medical emergency;

(g) Reviewing the written requests of potential leave donors to ensure compliance with subparagraph f below;

(h) Establishing and maintaining records on the administration of this program, in conjunction with the Payroll Office, as required under subparagraph 19o of this chapter.

(5) **Payroll Offices** are responsible for:

(a) Developing local policy and procedures in coordination with HRMOs to ensure that employees are promptly and properly informed of their rights and responsibilities under this program;

(b) Reviewing the written requests of employees who wish to donate annual leave to a specified leave recipient to ensure that the potential leave donor's request is in compliance with subparagraph g below;

(c) Administering and monitoring the actual transfer of annual leave from leave donors to the specified leave recipients;

(d) Monitoring and controlling the accrual of leave by leave recipients while in a leave transfer status to ensure compliance with limitations in subparagraph k below;

(e) Effecting the transfer of leave between the VA facility and other VA facilities or Federal agencies, when appropriate;

(f) Notifying the leave recipient and leave donor(s) of the transfer of annual leave to the account of the leave recipient;

(g) Ensuring prompt cessation of the transfer of annual leave to a leave recipient upon termination of the recipient's medical emergency;

(h) Determining the amount and distribution of any annual leave to be restored to leave donors and effecting the restoration of such annual leave; and

(i) Establishing and maintaining necessary leave and other records for the administration of this program (see subparagraph o below).

(6) **Supervisors** are responsible for:

(a) Ensuring that employees under their supervision are aware of information published in connection with this program;

(b) Monitoring, in conjunction with the HRMO, the status of a leave recipient under their supervision to ensure that a medical emergency continues to exist; and,

(c) Promptly notifying the HRMO of the termination of a leave recipient's medical emergency.

d. **Application to Become a Leave Recipient**

(1) Employees affected by a medical emergency may make written application to the designated approving official through the HRMO to become leave recipients. If any such employees are not capable of making application on their own behalf, a personal representative of the potential leave recipient may make written application on their behalf.

(2) Each application shall contain the following information concerning the potential leave recipient;

(a) The name, position, title, and grade or pay level of the potential leave recipient;

(b) The reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring one, the approximate frequency of the medical emergency (see sample in appendix III-C);

(c) Certification from one physician, or other appropriate expert, with respect to the medical emergency; and,

(d) Any additional information that may be requested by the HRMO to support the application, including additional certifications from other physicians or appropriate experts with regard to the medical emergency.

(3) The HRMO will make requests for additional medical certifications with the advice of the Employee Health Physician and concurrence of the approving official. If a potential leave recipient is required to obtain certification from two or more sources, the employing facility shall ensure, either by direct payment to the expert involved or by reimbursement to the employee, that the potential leave recipient will not have to pay those expenses resulting from obtaining certification from more than one source. Actual payment/reimbursement will be charged to the appropriation from which the employee is paid.

(4) Concurrent with the submission of the application, the employee may also submit the applications of potential leave donors (leave donor applications will be completed in accordance with subparagraph f below). If the application to become a leave recipient is approved, this may expedite the actual transfer of leave.

e. **Approval of Application to Become a Leave Recipient**

(1) HRMOs shall expeditiously review all applications to determine that the potential leave recipient meets the criteria of a *"medical emergency,"* as defined in paragraph 19b(6) of this chapter.

(2) Before forwarding the application to the approving official, the HRMO shall determine that the absence from duty without available paid leave (disregarding any advanced leave) because of the medical emergency has been (or is expected to be) at least 24 work hours (3 calendar days for certain title 38 employees and 14.5 hours for nurses on the Baylor Plan, or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours in the employee's biweekly scheduled tour of duty). A leave recipient may use annual leave transferred to the recipient's annual leave account under this program only for the purpose of the medical emergency for which the leave recipient was approved.

(3) In making a determination as to whether a *"medical emergency"* is likely to result in a substantial loss of income, no factors will be considered other than whether the absence from duty without available paid leave has been, or is expected to be at least 24 work hours (3 calendar days for certain title 38 employees and 14.5 hours for nurses on the Baylor Plan, 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 biweekly scheduled tour of duty).

(4) If the application is approved, the leave recipient (or the personal representative who made application on behalf of the leave recipient) will be advised, in writing, within 10 days (excluding Saturday, Sundays, and legal public holidays) after the date the application was received that:

(a) The application has been approved (see appendix III-D);

(b) Other employees of the leave recipient's facility or other VA facilities may request the transfer of annual leave to the annual leave account of the leave recipient and requests to donate annual leave from employees of other Federal agencies will be considered; and

(c) The leave recipient (or the personal representative who made application on behalf of the leave recipient) is responsible for notifying those employees who may wish to be leave donors of the approval of the application.

(5) If the application is not approved, the applicant (or the personal representative who made application on behalf of the leave recipient), will be advised, in writing, within 10 days (excluding Saturdays, and Sundays, and legal public holidays) after the date the application was received that the application has not been approved and of the reasons for its disapproval (see sample in appendix III-E).

(6) For bargaining unit employees, prior to forwarding a denial letter to the approving official, the Human Resources Management Officer will discuss the case with the union and provide them with a 48-hour comment period. Approval letters for bargaining unit employees will be simultaneously sent to the union and the employee.

f. **Transfer of Annual Leave**

(1) An employee may submit a voluntary written request to transfer a specified number of hours (or days, as appropriate for certain title 38 employees) from his or her annual leave account to the annual leave account of a specified VA leave recipient. This request will be submitted on VA Form 0239, Leave Transfer Authorization, through the HRMO to the Payroll Office. If all or part of the leave may not be transferred in accordance with provisions in subparagraphs (2) through (5) below or in paragraph 19g of this chapter, the employee will be so advised by either the HRMO or the Payroll Office. Otherwise, the Payroll Office, in writing will advise the employee that his/her annual leave account has been reduced and leave credited to the designated recipient. The Payroll Office will provide a copy of the written notice to the designated leave recipient.

(2) The minimum amount of annual leave that may be transferred from a title 5 employee, or title 38 employee who is charged leave in hours, is 4 hours. The minimum amount of annual leave that may be transferred from a title 38 employee who is charged leave in whole day increments is one day. Title 5 employees may transfer to title 38 employees and vice-versa, provided the transfer is in accordance with subparagraph 5 below. The Payroll Office is responsible for making the necessary conversions for transfers of annual leave between leave systems in accordance with the VHA Supplement to MP-4, part II.

(3) Transfers of annual leave from a VA employee of one facility to a leave recipient of another VA facility are subject to all the provisions of this policy and will be coordinated between the fiscal offices of the facilities involved. The leave donor's Payroll Office shall reduce the amount of annual leave credited to the leave donor's leave account, as appropriate, and the Payroll Office will notify the leave recipient's Payroll Office in writing of the amount of annual leave to be credited to the leave recipient's annual leave account.

(4) Except as provided in subparagraph h below, annual leave may be transferred only from a leave donor employed by VA. Annual leave of VA employees may be transferred to approved leave recipients employed at other Federal agencies in accordance with subparagraph i.

(5) Annual leave may not be transferred to an employee's immediate supervisor. The HRMO is responsible for verifying this information on Part II of VA Form 0239.

(6) Transferred annual leave may be substituted retroactively for periods of LWOP or used to liquidate an indebtedness for advanced annual or sick leave granted on or after a date established by the leave recipient's HRMO at the beginning of the period of medical emergency for which LWOP or advanced annual or sick leave was granted.

g. **Limitations on Donations of Annual Leave**

(1) In any one (1) leave year, no leave donor may donate an amount of annual leave that is more than a total of one-half of the amount of annual leave the donor would be entitled to accrue during the leave year in which the donation is made.

(2) A leave donor who is projected to have annual leave that otherwise would be subjected to forfeiture at the end of the leave year under 5 U.S.C. 6304(a) may donate no more than the lesser of:

(a) One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made; or

(b) The number of hours or calendar days remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

(3) The Payroll Office is responsible for verifying that the above criteria are met on Part III of VA Form 0239.

(4) The approving official may waive the limitations on donations of annual leave under paragraphs (1) and (2) above. The HRMO and Payroll Office may certify in writing that the available donations are insufficient to remedy the income loss of the employee experiencing a medical emergency, before consideration of a waiver may be made. Such waivers must be in writing. If a waiver is granted, the Payroll Office will so note in Part III of VA Form 0239 for each donor affected and attach a copy of the written authorization.

h. **Transfer of Annual Leave from Employees of Other Federal Agencies**

(1) The VA facility employing the leave recipient shall accept the transfer of annual leave from leave donors employed by one or more Federal agencies if:

(a) The leave donor is a family member of the leave recipient, as defined in paragraph 19b(3)(a)-(e) of this chapter; or

(b) The HRMO with the advice of the Payroll Office determines that the amount of annual leave donated to the leave recipient within the department may not be sufficient to meet the needs of the leave recipient; or

(c) The HRMO determines that the acceptance of leave transferred from another Federal agency would further the purpose of the voluntary leave transfer program.

(2) Before accepting the transfer of annual leave from a leave donor employed by another Federal agency, the VA HRMO shall verify that the potential leave donor's employing agency has approved the leave donor's request to transfer annual leave to the specified leave recipient. If approved, the Payroll Office of the VA facility will coordinate the transfer of annual leave with the Payroll Office of the other Federal agency.

i. **Transfer of Annual Leave to Employees of Other Federal Agencies**

(1) VA employees who wish to donate annual leave to a leave recipient in another Federal agency shall forward their request to their own HRM office on VA Form 0239. In addition to the name of the leave recipient, the donating employee shall indicate the name and address of the Federal agency employing the leave recipient.

(2) The HRM office shall ascertain that the leave recipient's employing agency has made any determination that may be required under 5 CFR 630.906(f). (see subparagraph h above).

(3) If the recipient's employing agency will accept the leave donation, the Payroll Office shall verify the availability of annual leave in the leave donor's annual leave account and determine that the amount of annual leave to be donated does not exceed the limitations under subparagraph g above.

(4) Upon satisfying these requirements, the VA donor's Payroll Office shall reduce the amount of annual leave credited to the leave donor's leave account, as appropriate, and the Payroll Office will notify the leave recipient's employing agency in writing of the amount of annual leave to be credited to the leave recipient's annual leave account.

j. **Use of Transferred Annual Leave**

(1) A leave recipient may use annual leave transferred to the recipient's annual leave account under this program only for the purpose of a medical emergency for which the leave recipient was approved. Any annual leave or sick leave accrued or accumulated and available for use during the medical emergency, except as provided in paragraph 19k below, must be exhausted before any transferred annual leave may be used.

(2) The approval and the use of transferred annual leave shall be subject to all of the conditions and requirements imposed by chapter 63 of title 5, United States Code and the provisions of this chapter, except that transferred annual leave may accumulate without regard to the limitation imposed by 5 U.S.C. 6304(a), or other provisions of this part.

(3) Annual leave transferred to a specified leave recipient may not be:

(a) Transferred to another leave recipient, except as provided in paragraph 19m(5)(c) below.

(b) Included in a lump-sum payment under 5 U.S.C.5551 or 5552; or

(c) Made available for re-credit under 5 U.S.C. 6306 or the provisions of this part, as appropriate, upon reemployment by a Federal agency.

k. **Accrual of Leave While in a Transferred Leave Status**

(1) Except as otherwise provided in this paragraph, while an employee is in a transferred leave status, annual and sick leave shall accrue to the credit of the employee at the same rate as if the employee were in a paid leave status under subchapter I of chapter 63 of title 5 U.S.C. or chapter 3, this part for title 38 employees, as appropriate, except that:

(a) The maximum amount of annual leave that may be accrued by an employee while in a transferred leave status in connection with any particular medical emergency may not exceed 40 hours (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); and

(b) The maximum amount of sick leave that may be accrued by an employee while in a transferred leave status in connection with any particular medical emergency may not exceed 40 hours (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).

(2) Any annual or sick leave accrued by an employee under this paragraph:

(a) Shall be credited to an annual leave or sick leave account, as appropriate, separate from any leave account of the employee under subchapter I of chapter 63 or title 5, U.S.C. or chapter 3, this part, as appropriate; and

(b) Shall not become available for use by the employee, and may not otherwise be taken into account under subchapter I of chapter 63 of title 5, U.S.C. or part II, chapter 1 of this handbook, as appropriate, until, under subparagraph (3) below, it is transferred to the appropriate leave account of the employee under subchapter I of chapter 63 of title 5, U.S.C. or part II, chapter 1 of this handbook, as appropriate.

(3) Any annual or sick leave accrued by an employee under this chapter shall be transferred to the appropriate leave account of the employee under 5 U.S.C. Chapter 63, subchapter I, or chapter 3, this part, as appropriate when the employee exhausts all donated leave, or effective as of the beginning of the first pay period beginning after the date on which the employee's medical emergency terminates as described in paragraph 19 l below.

(4) If the employee's medical emergency terminates as described in paragraph 19 l(1)(a), no leave shall be credited to the employee under subparagraph (3) above.

l. **Termination of Medical Emergency**

(1) The medical emergency affecting a leave recipient terminates:

(a) When the leave recipient's Federal service is terminated;

(b) At the end of the biweekly pay period in which the leave recipient or a personal representative provides the HRM office with a written notice that the leave recipient is no longer affected by a medical emergency;

(c) At the end of the biweekly pay period determined by the HRMO, after written notice and opportunity for the leave recipient (or personal representative) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency; or

(d) At the end of the biweekly pay period in which the leave recipient's HRMO receives notice that OPM has approved the leave recipient's application for disability retirement under the Civil Service Retirement System or the Federal Employees Retirement System.

(2) The HRMO, in coordination with the employee's supervisor, shall continuously monitor the status of the leave recipient's medical emergency to ensure that he or she is still affected by it.

(3) Upon termination of the leave recipient's medical emergency, the HRMO shall notify the Payroll Office immediately. No further requests for transfer of annual leave to the leave recipient may be granted, and any unused-transferred annual leave remaining to the credit of the leave recipient shall be restored to the leave donors, in accordance with subparagraph m below.

m. **Restoration of Transferred Annual Leave**

(1) Any transferred annual leave remaining to the credit of a leave recipient when the individual's medical emergency terminates shall be restored, as provided below and to the extent administratively feasible, by transfer to the annual leave accounts of the leave donors, who, on the date leave restoration is made, are employed by a Federal agency and subject to chapter 63 of title 5, U.S.C. or part II, chapter 1 of this handbook, as appropriate.

(2) The amount of unused transferred annual leave to be restored to each leave donor shall be determined by Payroll Office as follows:

(a) Divide the number of hours or, when applicable, for certain title 38 employees, the calendar days of unused transferred annual leave by the total number of hours of annual leave transferred to the leave recipient;

(b) Multiply the ratio obtained in (2)(a) above, by the number of hours of annual leave transferred by each leave donor eligible for restoration under subparagraph (1) above; and

(c) Apply the formula for proration (see VHA Supplement to MP-4, part II, paragraph 1D.05) for any cases in which donor and recipient were under different leave systems; and

(d) Round the result obtained in (2)(b) above to the nearest 15-minute increment of time established by the leave donor's leave system to account for annual leave.

(3) If the total number of eligible leave donors exceeds the total number of hours or, for certain title 38 employees, days of annual leave to be restored, no unused transferred annual leave shall be restored. In no case shall the amount of annual leave restored to a leave donor exceed the amount transferred to the leave recipient by the leave donor.

(4) If the leave donor retires from Federal service, dies, or is otherwise separated from Federal service before the date unused transferred annual leave can be restored, the employing facility of the leave recipient shall not restore the unused transferred annual leave.

(5) At the election of the leave donor, unused transferred annual leave restored to the leave donor under subparagraph (1) above may be restored by:

(a) Crediting the restored annual leave to the leave donor's annual leave account in the current leave year;

(b) Crediting the restored annual leave to the leave donor's annual leave account effective as of the first day of the first year beginning after the date of election; or

(c) Donating such leave in whole or part to another leave recipient.

(6) If a leave donor elects to donate only part of his or her restored leave to another leave recipient under paragraph 5(c) above, the donor may elect to have the remaining leave credited to the leave donor's annual leave account under subparagraphs 5(a) or (b), above.

(7) Transferred annual leave restored to the account of a leave donor under paragraph 5(a) or (b) above shall be subject to the limitation imposed by 5 U.S.C. 6304(a) for title 5 employees or by chapter 3 of this part, for title 38 employees under the title 38 leave system at the end of the leave year in which the restored leave is credited to the leave donor's annual leave account.

n. **Prohibition of Coercion**

(1) An employee, to include a supervisor, may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave.

(2) For the purpose of subparagraph (1) of this paragraph, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion or compensation).

(3) Management and supervisory officials should not take any actions to solicit or to encourage or discourage employees under their supervision to donate leave under this program. This does not preclude these officials from making a personal decision to donate their leave in accordance with this chapter.

o. **Records and Reports**

(1) OPM requires agencies to maintain records and may require periodic reports concerning the administration of the voluntary leave transfer program for the purpose of evaluating the desirability, feasibility, and the cost of a voluntary leave transfer program.

(2) In order to comply with any requests from OPM, the HRMO and Payroll Office, as appropriate, will establish and maintain records relating to the local administration of the voluntary leave transfer program. The information maintained shall include:

(a) The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;

(b) The grade and pay level of each leave recipient and leave donor;

(c) The total amount of annual leave transferred to each leave recipient's annual leave account;

(d) The total amount of transferred annual leave used by each leave recipient;

(e) The estimated direct and indirect costs of processing leave transfer requests, transferring leave between the accounts of leave donors and leave recipients, monitoring the use of transferred leave, restoring unused leave to the accounts of leave donors, and other activities related to administering the voluntary leave transfer program; and

(f) Any additional information OPM or VA Central Office may require.

(3) When requested, each facility will provide specific information to Central Office regarding the program.

CHAPTER 3. TITLE 38 LEAVE PROGRAM

1. COVERAGE

a. This chapter establishes the policies and procedures for leave administration for full-time and part-time physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs), appointed under authority of 38 U.S.C., chapters 73 and 74.

b. This chapter also establishes the policies and procedures for leave administration for medical and dental residents appointed under authority of 38 U.S.C. 7406. (This chapter does not cover medical and dental residents paid through disbursement agreements.) The Under Secretary for Health, or designees, will establish the annual leave system for residents, not to exceed that amount provided full-time employees.

c. As used in this chapter, and unless otherwise indicated, any reference to "nurse(s)" includes nurse anesthetist(s) but does not include the Chief Consultant, Nursing Strategic Healthcare Group; and "employee(s)" includes those personnel indicated in subparagraph a (both full-time and part-time, unless otherwise specified). The leave provisions contained in this chapter for full-time physicians and dentists shall apply to the Chief Consultant, Nursing Strategic Healthcare Group;

d. Persons other than those indicated in subparagraphs a through c above employed under authority of 38 U.S.C., chapter 73 and 74, are subject to the provisions of 5 U.S.C., chapter 63. Graduate nurse technicians and allied health trainees who are appointed under authority of 38 U.S.C. 7405(a)(1)(D) are included in this category.

e. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and are not entitled to leave benefits.

2. POLICY

a. The proper care and treatment of patients shall be the primary consideration in granting of leave.

b. The VA leave program for employees shall be administered fairly and uniformly within the meaning of the provisions of this chapter.

3. GENERAL

a. **Advanced Leave.** Neither annual nor sick leave shall be advanced to an employee when it is known that the employee will retire or be separated before the amount advanced can be earned, or when it is reasonable to expect that the employee will not return to duty.

b. **Leave Charges**

(1) The minimum charge for leave shall be 1 day and multiples thereof for full-time physicians, dentists, podiatrists, and optometrists and a quarter hour (15 minutes) or multiples thereof for nurses, nurse anesthetists, PAs, EFDAs and part-time physicians, dentists, podiatrists and optometrists.

(2) Holidays and in-lieu days granted thereof will not be charged to leave.

(3) For full-time physicians, dentists, podiatrists, and optometrists, the conditions of duty, leave, and administrative nonduty days which prevail during any one week (Sunday through Saturday) shall determine the nature of the charge to annual and sick leave.

4. ANNUAL LEAVE

a. **Annual Leave.** The granting of annual leave shall be a matter of administrative discretion as to when and in what amount it may be authorized. Requests for annual leave shall be acted upon in the light of essential medical services and with due regard to the welfare and preferences of individual employees. Employees should be encouraged to take annual leave for at least 2 consecutive weeks each year for purposes of rest and relaxation.

b. **Charging Annual Leave**

(1) **Days on Which Work is Performed.** For the purpose of charging annual leave to all eligible employees, the following will be considered as days on which work is performed:

(a) Sick leave.

(b) Military leave.

(c) Court leave.

(d) All authorized absences as set forth in paragraph 9.

(2) **Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs and Part-Time Employees.** The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof (see subparagraph (3) below for the formula for computing leave for full time nurses and nurse anesthetists on the Baylor Plan). When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.

(3) **Full-Time Nurses and Nurse Anesthetists on the Baylor Plan.** Such nurses and nurse anesthetists shall be charged 1.667 hours of annual leave for each hour of annual leave taken. Leave shall be charged only for absences from the basic workweek. (For the definition of basic workweek for these employees, see paragraph 2d of chapter 3, part II).

(4) **Full-Time Physicians, Dentists, Podiatrists and Optometrists**

(a) **Minimum Charge.** The charge of annual leave for these employees is 1 calendar day. Charges for leave in excess of 1 day will be in multiples of 1 calendar day. When a scheduled day's work extends over portions of 2 calendar days, leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days.

(b) **Method of Charge.** The conditions of duty, leave, and administrative nonduty days which prevail during any one week (Sunday through Saturday) will determine the nature of the charge to annual leave which is made for absence during that particular week in applying the provisions below, with the one exception as indicated in subparagraph 3 below. It is immaterial for the application of these provisions whether or not the administrative nonduty days (a) fall on weekends, (b) are consecutive days of the week, or (c) are consistently the same days of each week.

1. **When No Duty is Performed.** If no duty is performed during the workweek, the employee will not be authorized any administrative nonduty days, and the entire 7 days of the workweek (Sunday through Saturday) will be charged to annual leave. If a holiday or an in-lieu day occurs in the calendar week, that day will not be charged to annual leave.

2. **If Duty is Performed on One or More Days.** If duty is performed on at least 1 or more days during the workweek, any approved periods of annual leave during that same week will be charged on a day-for-day basis, subject to the conditions of subparagraph 3 below.

3. **Administrative Nonduty Days.** All administrative nonduty days which fall wholly within a period of approved annual leave will be charged to annual leave. Holidays or in-lieu days will not be charged to annual leave.

4. **Examples of Charge**

a. Employee "X" has a scheduled tour of duty Monday through Friday and requests 2 weeks of annual leave. The first duty day missed will be a Monday and the last duty day missed will be a week from the following Friday. Applying subparagraph 1 above, since no duty is being performed in either of the 2-week periods, then all 7 days (Sunday through Saturday) of each week is charged to annual leave. Employee "X", therefore, is charged 14 days annual leave.

b. Employee "Y" is scheduled to have Wednesday and Thursday as administrative nonduty days during a particular week. Employee works on a Sunday and takes annual leave Monday through Saturday of that week. Applying subparagraph 3 above, the entire 6-day period, Monday through Saturday, would be charged to annual leave.

c. Employee "Z" has Sunday and Monday (the first 2 days of the week) scheduled as administrative nonduty days. On Tuesday morning, "Z" calls in by telephone and requests annual leave for the remaining days of the week, Tuesday through Saturday. If this request is granted then no duty would be performed during that workweek, and applying subparagraph 1 above, all 7 days of the week would be charged to annual leave.

d. Employee "A" has a scheduled tour of duty Monday through Friday and requests annual leave for the entire week. The first duty day missed will be Monday and the last duty day missed will be Friday which is a national holiday. Since no duty is performed during the workweek Sunday through Saturday, the charge to annual leave for employee "A" is 6 days (Sunday through Thursday and Saturday) as provided is subparagraph 1a above. The holiday will not be charged to annual leave.

5. **Supervisory Responsibility.** It will be the responsibility of supervisory personnel at all levels to ensure that each employee fully understands the manner of charging for authorized annual leave. This is especially important in such cases as described in subparagraph 4c above, wherein it is necessary in accordance with these provision to charge annual leave for a day (or days) on which the employee normally would have been excused without charge to annual leave.

c. **Procedure for Requesting Annual Leave**

(1) Annual leave will be requested in advance by all employees except when unusual or unforeseen circumstances prevent the employee from making the request in advance. Under such circumstances, the employee will notify, as soon as possible, the person authorized to approve leave.

(2) Except as provided in subparagraph (3) below, requests for annual leave not in excess of 3 days may be made verbally. If the request is approved in advance of the dates of requested leave, the employee should enter the request into the Enhanced time and Attendance (ETA) system. However, if the request cannot be entered into the ETA by the employee prior to the commencement of the leave period, the supervisor will report the amount of leave to be taken to the unit timeclerk who will make proper posting daily in the ETA system. Requests for leave of more than 3 days will be made into the ETA system unless not practicable.

(3) Full-time nurses and nurse anesthetists on the Baylor Plan may verbally request 2 workdays of annual leave and, if approved, enter the request into the ETA system when practicable. Requests for leave of more than 2 workdays shall be made in the ETA system.

NOTE: *Any requests, submitted by nurses, nurse anesthetists, PAs, and EFDAs for annual leave in proximity to overtime by the same employee will be reviewed to assure that the granting of annual leave is in the interest of good administrative practice.*

d. **Advanced Annual Leave** (see paragraph 6f(3), this chapter)

(1) Annual leave may be advanced at any time during the calendar year.

(2) All credits of annual leave which become due while there is an indebtedness of annual leave will be applied to the reduction of the indebtedness.

e. **Leave in Connection With Travel**

(1) 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 will be charged for the period of interruption or delay. Where an employee has been authorized to travel by privately owned conveyance for the individual's convenience, leave will be charged for travel time during the employee's 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. When use of privately owned conveyance is authorized or approved as being advantageous to the Government, and the employee uses excessive travel time to enable the individual 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. Where absence for a part of a day is involved, paragraph 11b is appropriate as a guide in determining the charge to leave for excessive absence by an employee who travels by privately owned conveyance for the individual's convenience.

(2) Travel time used to transfer from one facility to another, when the transfer is arranged for reasons other than for the convenience of the Government, will be charged to annual leave or to leave without pay when annual leave is not available.

f. **Involuntary Leave.** Employees may be placed on involuntary annual leave when the needs of the service dictate. When an employee reasonably may not be regarded as ready, willing and able to work, the employee may be placed on involuntary annual leave or in a leave without pay status, as the employee's leave account and the circumstances may require.

g. **Voluntary Leave Transfer Program.** See paragraph 19 of chapter 2, this part.

5. SICK LEAVE

a. **Sick Leave.** Sick leave shall be granted to employees when they are incapacitated for the performance of their duties because of personal illness, disease, injury, pregnancy and confinement, for necessary medical, dental or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee; or when through exposure to contagious disease the presence of the employee at the post of duty would jeopardize the health of others.

b. **Charging Sick Leave**

(1) For the purposes of charging sick leave to all eligible employees, the following will be considered as days on which work is performed**:**

(a) Annual leave

(b) Military leave

(c) Court leave

(d) All authorized absences as set forth in paragraph 9.

(2) The minimum sick leave charge for full-time physicians, dentists, podiatrists, and optometrists is 1 calendar day and multiples thereof. When a scheduled day's work extends over portions of 2 calendar days, sick leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days. No charge to sick leave will be made for absence of these employees on administrative nonduty days occurring immediately prior to a period of approved sick leave or following the termination of sick leave. Sick leave will be charged, however, for any administrative nonduty days occurring wholly within a period of approved sick leave. Holidays and in-lieu days granted therefor will not be charged to sick leave.

(3) Except as provided in subparagraph (4) below, the minimum sick leave charge for full-time nurses, nurse anesthetists, PAs, and EFDAs and part-time employees is one quarter hour (15 minutes) and multiples thereof. Sick leave for these employees will be charged as approved and used.

(4) Full-time nurses and nurse anesthetists on the Baylor Plan shall be charged 1.667 hours of sick leave for each hour of sick leave taken. Leave shall be charged only for absences from the basic workweek.

(5) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.

c. **Procedure for Requesting and Approving Sick Leave for All Employees**

(1) **Responsibility for Approving Sick Leave.** It is incumbent on every individual responsible for approving applications for sick leave to ascertain that the circumstances of absence justify approval, and that sick leave is available. If for any reason an employee's statement or the medical certificate furnished is not considered satisfactory, the person authorized to approve leave will take necessary steps to obtain additional evidence in support of the employee's request for sick leave.

(2) **Notification of Illness.** An employee who is absent from duty on account of sickness will notify the person authorized to approve leave or other appropriate persons as early as practicable on the first day of such absence or as soon thereafter as possible.

(3) **Submission of Application.** Sick leave not in excess of 3 days (two workdays for full-time nurses and nurse anesthetists on the Baylor Plan), may be approved without a medical certificate. However, in cases that indicate excessive absence on account of illness or where there appears to be an abuse of the sick leave privilege, medical certificates may be required for any period of absence provided the employee has been informed in advance, in writing, that such a requirement has been established for that person. All requests for sick leave must be entered into the ETA system and will be entered within 2 days after the employee's return to duty unless the leave was requested in advance. Requests for sick leave in excess of 3 days will be supported by a medical certificate or other evidence administratively acceptable, e.g., where a doctor is not available or where the employee's illness does not require a doctor, proper certification, in writing, by the employee may be accepted instead. Medical certificates or other evidence of illness which may be required will be submitted within 15 days after the employee's' return to duty.

(4) **Medical Examination for Employees Who Are VA Claimants or Beneficiaries.** Employees who are ordered by proper authority in VA to report for physical examination or observation as claimants or beneficiaries of VA will be granted sick leave. "Authorized absence" will not be granted for this purpose. (See par. 9j for type of leave granted for medical examinations of employees who are not VA claimants or beneficiaries.)

(5) **Medical Treatment for Disabled Veteran-Employees.** On presentation by a veteran employee who has a service-connected disability or any other disability of a statement from medical authority that treatment is required, annual or sick leave will be granted, if available; otherwise, LWOP will be granted. The granting of such leave is mandatory provided that the veteran gives prior notice of definite days and hours of absence for medical treatment (Executive Order 5396, dated July 17, 1930).

(6) **Sickness During Annual Leave.** When sickness occurs during a period of annual leave of any employee, the period of illness may be charged as sick leave and the charge against annual leave reduced accordingly. Application for such substitution of sick leave for annual leave will be made promptly and will be supported by a medical certificate or other evidence determined to be acceptable.

(7) **Sick Leave During LWOP.** When sickness occurs during an approved period of LWOP and lasts 3 or more consecutive days (2 or more consecutive workdays for full-time nurses and nurse anesthetists on the Baylor Plan), the period of illness may be charged to sick leave, in accordance with provisions set forth below. It is incumbent on the facility to inform the employee when approving LWOP of the provisions of these subparagraphs with particular emphasis on subparagraph (a) below.

(a) Employee immediately on becoming incapacitated notifies the individual's supervisor of illness; or, if unable to do so promptly because of the serious nature of the illness, notifies the supervisor as soon thereafter as possible. The supervisor will advise the employee of the receipt of the notice and that a copy of the notice, with the copy of communication from the supervisor, will be made a matter of record.

(b) Illness will be substantiated by a medical certificate or other acceptable evidence of illness following recovery. At the time the supervisor advises the employee of the receipt of the notification of illness, the employee will also be advised that the provision of this subparagraph will be met promptly.

(c) Sick leave may not be granted during LWOP, but on actual return to duty, substitution will be made for the period of illness providing the foregoing requirements are met. Under no circumstances will sick leave be advanced to cover illness which has occurred during a period of LWOP.

d. **Advanced Sick Leave** (see paragraph 6f(3) this chapter)

(1) A request for advanced sick leave will be supported by a medical certificate.

(2) A full-time employee who is injured in the line of duty and who has exhausted accrued and accumulated sick leave, and who is not in receipt of workers' compensation benefits, may, at the discretion of the approving official, be advanced sick leave not in excess of the maximum outlined in this chapter.

(3) All accruals of sick leave which become due while an employee is indebted for sick leave will be applied to the indebtedness. Advanced sick leave may also be liquidated, at the employee's request, by a charge against an equivalent amount of annual leave provided:

(a) The annual leave is substituted prior to the time it would be forfeited.

(b) The approving official would have been willing to grant the annual leave had the employee requested it.

(4) Only the Under Secretary for Health and facility directors or their designees are authorized to grant advanced sick leave.

e. **Leave for Pregnancy and Confinement**

(1) The services of pregnant employees should be utilized to the extent their health will permit. However, such utilization may not extend beyond the period when an employee fails to meet the physical requirements of the assignment. Therefore, employees will be encouraged to report pregnancy as soon as it is an established fact. The earliest possible knowledge of such condition will provide the opportunity to protect the employee's health and permit such planning as may be necessary for proper staffing during the employee's prospective absence.

(2) Pregnancy and the physical condition incident thereto will ordinarily be established from medical evidence submitted by an employee's personal physician. However, in those cases when there is any question as to an employee's physical ability to perform her duties without hazard to her health, examination by the facility personnel physician or other appropriate staff physician will be conducted. The date during an employee's pregnancy on which the employee reaches the point of being incapacitated for duty will be determined medically according to the circumstances of the individual case.

(3) An employee will be granted accumulated and accrued sick leave consistent with the medical need therefore when it has been established that she is unable to perform her duties due to pregnancy. In addition, advanced sick leave, annual leave, advanced annual leave, and LWOP may be authorized consistent with the provisions of this chapter.

(4) An employee who expresses the intention to resign because of pregnancy will be informed of entitlement to accumulated and accrued sick leave, consistent with the medical need therefor.

f. **Contagious Disease**

(1) Sick leave will be granted:

(a) When a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee.

(b) When, through exposure to contagious disease, the presence of the employee at the post of duty would jeopardize the health of others.

(2) The use of sick leave for contagious disease is authorized in connection with quarantine, isolation, and restriction of movement by the patient or employee. The determination that the disease is contagious will be made by health authorities having jurisdiction, whether the employee or patient is at home or in some other area.

g. **Involuntary Sick Leave.** Employees who because of illness (mental or physical) are unable to perform their duties may be placed on involuntary sick leave. Such sick leave will be terminated when the employee presents himself or herself for duty and it is determined by competent medical authority that the individual is able to perform his/her duties.

h. **Prolonged Illness**

(1) Employees who are not expected to return to duty because of prolonged incapacitation will, where possible, be granted all available sick leave and such annual leave that cannot be included in a lump-sum payment.

(2) Employees who can reasonably be expected to return to duty after a prolonged period of incapacitation may be advanced sick leave and annual leave or granted LWOP.

i. **Sick Leave for Family Care and Bereavement**

(1) **Definitions.** For purposes of this subparagraph, "family member" means: spouse and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(2) **Leave for Family Care.** In addition to the reasons for granting sick leave in this paragraph, leave approving officials may grant or advance sick leave for:

(a) Care of a family member as a result of physical or mental illness; injury; pregnancy; childbirth or medical, dental or optical examination or treatment;

(b) Arrangements necessitated by the death of a family member;

(c) Attending the funeral of a family member; or

(d) Adoption (appointments with adoption agencies, social workers and attorneys; court proceedings; required travel; or any other activities necessary for the adoption to proceed).

(3) **Limitations on Sick Leave for Family Care.** Leave under paragraphs (2)(a) through (2)(c) are limited as follows:

(a) Full-time employees charged leave on a daily basis may take up to 7 days of sick leave in a leave year; however, if they maintain a balance of 15 days of sick leave, they may take an additional 8 days of sick leave, or up to 15 days of sick leave in a leave year.

(b) Full-time employees charged leave on an hourly basis may take up to 40 hours of sick leave in a leave year; however, employees maintaining a balance of 80 hours of sick leave may take an additional 64 hours of sick leave, or up to 104 hours of sick leave in 1 leave year. Leave taken by employees on the Baylor Plan is to be multiplied by 1.667 when determining these limitations.

(c) Part-time employees may take up to 1 workweek of sick leave and if they maintain a balance of at least 2 workweeks of sick leave, they may take up to the amount of sick leave they would accrue in 1 leave year.

(4) **Relation to Family and Medical Leave Act.** Sick leave under paragraph (2) above does not count towards an employee's entitlement under the Family and Medical Leave Act (5 U.S.C. 6381-6387) unless the employee notifies the leave approving official in advance of intent to substitute sick leave for leave without pay taken under the Family and Medical Leave Act.

(5) **Leave Approving Officials.** Leave approving officials may grant or advance sick leave to title 38 employees as described in paragraph (2) above; however, approvals or denials are to be consistent with the limitations in paragraph (3) above as well as the criteria for approving or advancing sick leave.

(6) **Record Keeping.** Title 38 employees are not covered by the "Federal Employees Family Friendly Leave Act," Pub. L. 103-388. However, to monitor use of this type of leave and to ensure consistency between payroll practices for title 5 and title 38 employees, the record keeping procedures found at 5 CFR 630.408 will be used.

6. ACCRUALS OF ANNUAL AND SICK LEAVE

a. **Accruals for Full-Time Physicians, Dentists, Podiatrists, or Optometrists.** Annual and sick leave shall accrue to full-time physicians, dentists, podiatrists, or optometrists during full biweekly pay periods while in a leave with pay status or in a combination of pay and nonpay status. Annual and sick leave will accrue for fractional pay periods as authorized by the Under Secretary for Health (see VHA Supplement, MP-4, part II, tables 1.02 and 1.02.1).

b. **Accruals for Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs or Part-Time Employees.** Annual and sick leave shall accrue to full-time nurses, nurse anesthetists, PAs, EFDAs, or part-time employees during each full biweekly pay period while in a leave with pay status or in a combination of

pay and leave without pay status. Such an employee who initially enters on duty on the first workday after the beginning of the pay period shall be deemed to have been appointed at the beginning of the pay period, thereby enabling completion of a full biweekly pay period for leave accrual purposes. For example, an employee who's first workday is after a Monday holiday which occurs the first week of the pay period shall be deemed to have been appointed at the beginning of the pay period for leave accrual purposes.

c. **Accruals During Periods of Suspension.** Annual and sick leave shall accrue to full- and part-time employees during a period of suspension provided the employee is restored to duty and it is determined that the suspension was not justified.

d. **Accrual Rate**

(1) **Full-time Physicians, Dentists, Podiatrists, and Optometrists**

(a) Annual leave shall accrue for full-time physicians, dentists, podiatrists, and optometrists at the rate of 30 days per leave year.

(b) Sick leave shall accrue for full-time physicians, dentists, podiatrists, and optometrists at the rate of 15 days per leave year.

(2) **Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs**

(a) Annual leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 8 hours for each full biweekly pay period.

(b) Sick leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 4 hours for each full biweekly pay period.

(3) **Part-Time Employees**

(a) Annual leave shall accrue for part-time employees at rate of 1 hour for each 10 hours in a pay status.

(b) Sick leave shall accrue for part-time employees at the rate of 1 hour for each 20 hours in a pay status.

(c) Hours in a pay status which do not equal the number necessary for a minimum annual or sick leave credit of 1 hour for part-time employees will be carried forward and combined with subsequent pay status hours.

e. **Reduction of Leave Accruals**

(1) **Full-Time Physicians, Dentists, Podiatrists, and Optometrists**

(a) Annual leave accruals for full-time physicians, dentists, podiatrists, and optometrists shall be reduced when the individual has had 12 or more calendar days of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full 12-calendar-day period.

(b) Sick leave accruals for full-time physicians, dentists, podiatrists, and optometrists shall be reduced when the individual has had 24 or more calendar days of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full 24-calendar-day period.

(2) **Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs.** A full-time nurse, nurse anesthetist, PA or EFDA who is in a nonpay status for the entire leave year shall not earn leave for the year. Leave accruals shall be reduced for a nonpay status of 80 hours or more in a leave year. This reduction shall be at the rate of 8 hours of annual leave and 4 hours of sick leave for each 80 hours in a nonpay status. **NOTE:** *In making this computation each hour a full-time nurse or nurse anesthetist on the Baylor Plan is in a nonpay status shall be considered to be 1.667 hours.* For this purpose, included shall be all hours in a nonpay status (other than nonpay status during a fractional pay period when no leave accrues) while the individual is on the rolls during the leave year in which the leave accrues; excluded shall be a period covered by refund for unearned advance leave. If a reduction in leave credits results in a debit to the annual leave account at the end of the leave year:

(a) The debit may be carried forward as a charge against annual leave to be earned in the next leave year; or

(b) The individual may be required to refund the amount paid to the employee for the period covering the excess leave that resulted in the debit.

(3) **Part-Time Employees.** Since annual and sick leave for part-time employees will be credited only on pay status hours, no necessity exists for reducing accruals without pay absences.

f. **Maximum Leave Accumulation**

(1) **Annual Leave**

(a) **Full-Time Physicians, Dentists, Podiatrists or Optometrists.** A full-time physician, dentist, podiatrist or optometrist may carry forward not more than 120 days of accumulated annual leave at the end of any leave year.

(b) **Full-Time Nurses, PAs or EFDAs.** A full-time nurse, PA, or EFDA may carry forward not more than 685 hours of accumulated annual leave at the end of any leave year.

(c) **Part-Time Employees.** A part-time employee may carry forward not more than 240 hours of accumulated annual leave at the end of any leave year except that an employee converted to part-time from full-time may carry forward more hours of unused annual leave as indicated below.

1. The maximum carryover will be the lesser of the number of hours converted to part-time or 685 hours. For physicians, dentists, podiatrists, and optometrists, 7 calendar days of annual leave will equal 5

workdays of annual leave which will be converted to hours, in accordance with the conversion formula contained in VHA Supplement to MP-4, part II, paragraph ID.05.

2. When accumulated annual leave of more than 240 hours is reduced by usage so that the balance at the end of the leave year is less than the balance at the beginning of the leave year, such difference may not be restored from earnings in the ensuing year. The accumulated leave ceiling of 240 hours may be restored from subsequent earnings. Accrued annual leave not used during the leave year which would cause the maximum ceiling limitation of 240 hours of the balance as determined above to be exceeded at the beginning of the ensuing leave year will be forfeited.

(d) **Restoration of Annual Leave**

1. Annual leave which is lost at the end of a leave year by operation of an accumulated annual leave limit under this chapter because of (1) administrative error when the error causes a loss of annual leave otherwise accruable; (2) exigencies of the public business when the annual leave was scheduled in advance; (3) sickness of the employee when the annual leave was scheduled in advance; or (4) the employee being in a missing status as defined in 5 U.S.C. 5561(5); shall be restored to the employee.

2. The restoration, maintenance, and disposition of annual leave under subparagraph 1 will be accomplished in the same manner as for VA employees subject to the provisions of 5 U.S.C. chapter 63 under sections 6304(d)(2) and (e), 6302(f), and 5562. (See chapter 2, this part). This includes the same leave restoration approval criteria and requirements and, as applicable, maintenance of leave in separate accounts for the prescribed time limit or payment in lump sum for the value of the leave (including payment for claims by separated employees). This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

(2) **Sick Leave.** There shall be no limitation on the amount of accumulated sick leave which an employee may carry forward at the end of a leave year.

(3) **Advanced Leave**

(a) **Full-Time Physicians, Dentists, Podiatrists, and Optometrists**

1. Annual leave not to exceed 30 calendar days at any time may be advanced to full-time physicians, dentists, podiatrists, and optometrists appointed under authority of 38 U.S.C. 7306, 7401(1) or 7405(a)(1)(A), except that such leave for temporary full-time employees appointed under authority of section 7405(a)(1)(A) shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.

2. Sick leave not to exceed 45 calendar days at any time may be advanced to full-time physicians, dentists, podiatrists, and optometrists appointed under authority of 38 U.S.C. 7306, 7401(1) or 7405(a)(1)(A). However, sick leave shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.

(b) **Full-Time Nurses, PAs, and EFDAs**

1. Annual leave, not to exceed 208 hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA at any time.

2. Sick leave, not to exceed 312 hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA at any time.

(c) **Part-Time Physicians, Dentists, Podiatrists, Optometrists, Nurses, Nurse Anesthetists, PAs and EFDAs.** Part-time physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PAs and EFDAs may be advanced annual and sick leave based on the ratio which their employment bears to full-time employment and the amount of annual and sick leave that may be advanced to a full-time employee covered by subparagraph (3)(a) and (b) above. For example, a half-time employee who is not on a time limited appointment may be advanced up to 104 hours of annual leave and up to 156 hours of sick leave at any time during the leave year.

(d) **Leave Advanced During Time-Limited Appointments.** Advance sick and annual leave may not exceed the amount an employee can accrue during the remainder of any time limited appointment.

NOTE: *Sick leave may be advanced to full- or part-time employees irrespective of whether or not there is annual leave to the employee's credit.*

7. OTHER LEAVE

a. **Military Leave**

(1) A full-time employee appointed under authority of 38 U.S.C. 7306, 7401(1), or 7405 (a)(1)(A) not limited to 1 year or less is eligible for and shall be granted military leave in the same manner as other Federal employees. However, those employees on 24/7 schedules will be charged military leave on a daily basis.

(2) A part-time employee appointed under authority of 38 U.S.C. 7405(a)(1)(A) 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), and 7405(a)(1)(A) 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

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 applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

b. **State and Local Holidays.** If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in paragraph 5d of chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

9. AUTHORIZED ABSENCE. An authorized absence is an absence administratively approved, which does not result in a charge to leave of any kind, or in loss of basic salary. The following will be used as the *guide* in determining the types of absences from duty which may be authorized without charge to leave.

a. **Rest and Relaxation.** The Under Secretary for Health and facility directors or the professional person acting for them are authorized to approve absence for not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, and optometrists who have been required to serve long hours in the care and treatment of patients.

b. **Tardiness or Absence for Part of a Day**

(1) A full-time physician, dentist, podiatrist, or optometrist will be charged a full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave. This authority to approve absence for tardiness and absence for portions of a day will be exercised only when such absence from duty is of short duration and will not be interpreted to cover absences of a major portion of the day wherein annual or sick leave should be properly charged.

(2) It is incumbent upon supervisory officials to ensure that full-time nurses, nurse anesthetists, PAs, and EFDAs and part-time employees discharge their obligation to VA in terms of the number of hours for which payment is made and the number of hours actually worked in accordance with the pre-established tour of duty. An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused. In other instances, absences or tardiness will be charged to annual leave or LWOP (with the employee's consent), or absence without leave, as appropriate. The charges to leave will come as a result of appropriate reporting in the ETA system.

(3) Repeated instances of tardiness or unexcused absences during scheduled working hours will be considered a disciplinary matter under the provisions of VA Handbook 5021 or as a matter for appropriate action with regard to probationary employees and temporary full- and part-time employees under the applicable provisions of VA Handbook 5021.

c. **Hearings Before Federal Boards, VA Boards and Committees.** Absence of employees required to appear before Federal boards, before VHA boards, or before other VA boards or committees as witnesses or as participants in the matter under consideration will be approved without charge against leave.

d. **Injury in Line of Duty.** An employee who suffers a duty-connected injury or illness shall be excused without charge to leave for *initial* examination or outpatient treatment (including local travel time) by a United States medical officer or hospital, or any duly qualified physician or hospital of the employee's choice. Any absence from duty the first full workday (or shift) after the illness or injury, however, shall be charged to sick leave, LWOP or continuation of pay, as appropriate.

e. **Voluntary Participation in Civic Health Programs.** Absence of employees who participate in civic health programs such as mass chest X-rays and mass vaccinations or immunizations, uncompensated blood donor programs, etc., may be approved without charge to leave for this purpose. Participants in an uncompensated blood donor program may be excused without charge to leave for any portion of the day blood is donated which may be desirable for rest and recuperation.

f. **Administratively Required Vaccinations and Immunizations.** Time used for administratively required vaccinations or immunizations will not be charged against an employee's leave.

g. **Conventions, Conferences, and Professional and Scientific Meetings**

(1) Prior approval of the Secretary or Deputy Secretary, is required for attendance at national conventions of veterans' service organizations as a representative of VA. When approved, such absence will be without charge to leave.

(2) Facility directors, or their designees, are authorized to approve the absence of full- and part-time employees to attend international, national, sectional, State and local medical, dental, nursing, and scientific meetings and conferences held in the United States, U.S. Territories and Possessions, and Puerto Rico. The Under Secretary for Health, or a designee, may approve similar absences for VACO employees. Absences without charge to leave may be authorized for the necessary time to attend such meetings and conferences, including the allowed travel time not to exceed the time required for air travel. Approvals as specified in M-8, part IV, chapter 2 must be obtained before these absences are authorized. Requests involving authorized absence to attend activities outside the United States must be approved in accordance with M-8, part V, chapter 6. Intermittent employees will not be granted authorized absence under this policy.

h. **Education and Training.** Facility directors, or their designees, are authorized to approve without charge to leave the absence of full-time employees to attend education and training activities (lectures, seminars, courses of instruction, etc.) in accordance with the provisions of M-8, part IV, chapter 2. The

Under Secretary for Health or chief consultants may authorize such absences for VACO employees. **NOTE:** *Any approvals required by M-8, pt. IV, Ch. 2, will be secured before these absences can be authorized.* Part-time staff appointed under Section 7405(a)(1) (A) may be similarly granted authorized absence from scheduled duty for the purpose mentioned herein. Intermittent employees will not be granted authorized absence for this purpose.

i. **Teaching**

(1) Full-time employees may accept *teaching* responsibilities in private and public colleges and universities, provided the teaching obligations do not conflict with the performance of their duties in VHA. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge leave.

(2) This policy permits part-time employees to fulfill teaching responsibilities in private and public colleges and universities when it serves the VA mission of veteran patient care or the education of VA employees. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge to leave. (This does not preclude the granting of annual leave or leave without pay where remuneration is involved.)

j. **Medical Examinations**

(1) No charge for absence will be made against the leave of an employee who is designated by proper VA authority to report to a VA Medical Center or other VA facility with medical facilities for medical examination or observation to determine fitness to remain on duty or for the purpose of recommending retirement from Federal employment.

(2) No charge will be made for necessary absences of an employee who is required to report for annual physical examinations, chest X-rays, or other types of medical examinations required in connection with VA employment.

(3) Employees ordered to undergo physical examinations to determine their fitness for extended active duty in the Armed Forces, and who do not receive military pay and allowances from the Armed Forces for this period, will be excused without charge to leave for a period not to exceed 1 workday. Absence in excess of 1 workday will be charged to annual leave, or LWOP, if annual leave is not available. Employees who receive military pay and allowances from the Armed Forces will be charged annual leave, or LWOP if annual leave is not available, for the entire period of absence for this purpose.

NOTE: *The discretion to excuse employees for medical examination or treatment, subparagraphs j and k, is limited to brief periods, usually 1 day or less. When an initial examination is not completed in 1 day, whether the employee is in or out of the hospital, the employee may be excused without charge to leave for a somewhat longer period than 1 day; however, the additional time to hospitalize an employee after an initial examination or to require additional and more extensive tests and examinations may not be regarded as excused absence without charge to leave or loss of pay, even though periods of duty may intervene between the initial examination of an employee and the additional test, examinations or hospitalization that may be necessary as a result of the initial examinations.*

k. **Medical Treatment.** Employees may be excused for visits to the Employee Health Unit or other emergency facility for treatment of a minor illness.

l. **Examinations.** Absences of physicians, dentists and residents to undergo an American Specialty Board examination, podiatrists and optometrists to undergo examination by an approved specialty board, nurses to undergo examination for certification by an appropriate national certifying body, and physician assistants to undergo the official Physician Assistant Certification Examination prepared by the National Board of Medical Examiners and graduate nurse technicians for registration, will be authorized. The amount of absence authorized will not exceed the time actually required for taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

m. **Pending Emergency Suspension.** Ordinarily, employees will be retained in a pay and active duty status during an inquiry or investigation into an incident of misconduct or pending a decision on a proposed discharge. In instances where it is determined that an employee's continued presence at work might reasonably pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee may be placed in a paid non-duty status (i.e., authorized absence for timekeeping purposes) for a brief but reasonable period of time. The facility Director may approve such authorized absence in order to conduct an investigation into the situation and/or to obtain the Under Secretary for Health's decision on a request to effect a suspension (see VA Handbook 5021).

n. **Bone-Marrow and Organ Donor Leave.** An employee is entitled to 7 days of paid time off in a leave year to serve as a bone-marrow donor, and 30 days of paid time off in a leave year to serve as an organ donor. Employees may take this leave without charge to other types of leave or reduction in pay. This leave is in addition to other types of leave and is creditable as regular duty for all purposes, such as leave accrual, retirement, and proficiency rating.

o. **VA Policy.** The authorized absence policy, contained in chapter 2 of this part, for title 5 employees is also applicable to employees under this chapter for the following types of absences:

(1) Absence for Congressional Medal of Honor holders.

(2) Duty connected injury or illness.

(3) Change in facility.

(4) Civil Defense and disaster activities.

(5) Funerals.

(6) Meetings with labor organizations and other groups.

(7) Parades, ceremonies, and civic activities.

(8) Participation in civic organizations.

(9) Participation in military funerals.

(10) Representing labor organizations.

(11) Voting and registration.

(12) Weather and emergency situations.

(13) VA placement matters.

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 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 nonpay 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.

(4) Employees may be granted LWOP for pregnancy and confinement as provided in paragraph 7d.

(5) The minimum charge for LWOP for full-time physicians, dentists, podiatrists, and optometrists will be 1 calendar day and will be charged in the same manner as annual leave. The minimum charge for full-time nurses, nurse anesthetists, PAs, EFDAs and part-time employees will be one quarter hour (15 minutes).

b. **Conditions Which Will Be Met for Approval of Leave Without Pay.** Except for the employees indicated in subparagraph a (2), (3) and (4) above, LWOP will not be approved unless the conditions set forth below are met.

(1) There is expectation that the employee will return to duty in VA at the expiration of the LWOP period. At the discretion of the facility Director the employee may be required to signify such intentions by submitting a signed statement to that effect to be made a matter of record.

(2) The needs of the service with respect to patient care will not be unduly hampered by the employee's absence.

(3) The contribution or service of the employee is such to merit granting LWOP, as evidenced by supervisory evaluation.

(4) It is clearly indicated that one or more of the following advantages will accrue to the service.

(a) The value of the employee will be increased.

(b) Training of the employee in a specialty needed by VA.

(c) Retention of a capable employee in an area where recruitment of qualified personnel is difficult.

(d) Protection or improvement of employee's health.

c. **Notice to Employee.** Employees granted LWOP for more than 30 days will be notified in writing by the Chief of Service that:

(1) There is no assurance of their assignment to their former position or facility on the expiration of the approved period of LWOP, although it will be the policy to make every effort to return them to the facility which granted the LWOP, except under the circumstances enumerated below:

(a) When the employee requests reassignment to another facility and there is a suitable vacancy there and both facilities concur in the transfer. Such transfers will be handled by the facilities concerned, if the action normally does not require prior approval of VACO.

(b) When VACO may wish to offer the employee assignment elsewhere in the interests of the service. For example, the services of a nurse returning from educational LWOP might be required at another facility as an associate chief, nursing service for education.

(c) In the event a staff adjustment is necessary while an employee is on LWOP, the employee is subject to being declared surplus on the same basis as other on-duty employees.

(2) They should communicate with their supervisor at least 2 weeks before the expiration of their LWOP to arrange for their return to duty.

d. **Action by the Human Resources Office.** The Human Resources Management Office of the facility which granted the LWOP will maintain necessary controls to insure that a vacancy is available for the return of the employee to duty. In unusual circumstances where it is not possible to return the employee to the facility the employee left, VACO assistance in placing the employee may be requested.

e. **Human Resources Office Records.** LWOP for more than 30 calendar days will be documented on Standard Form 52, Request for Personnel Action, forwarded to the Human Resources Management Office for appropriate action and filed in the employee's personnel folder.

11. UNAUTHORIZED ABSENCE

a. **General.** Unauthorized absence is any absence from duty which has not been approved. An employee who is absent without approval for any cause will explain to the person authorized to approve leave, at the earliest practicable time, the cause of this absence and the failure to ask for permission to be absent. If it is found that the employee was absent without sufficient cause, or that the failure to obtain permission to be absent is not satisfactorily accounted for, the time lost will be counted as unauthorized absence and pay will be forfeited in the applicable amount.

b. **Charging Unauthorized Absence.** The minimum charge for unauthorized absence for full-time physicians, dentists, residents, podiatrists, and optometrists is 1 calendar day. The minimum charge for unauthorized absence for full-time nurses, nurse anesthetists, PAs and EFDAs and part-time employees is 15 minutes and multiples thereof.

12. DISPOSITION OF LEAVE ON TRANSFER, SEPARATION, OR RETIREMENT

a. **Lump-Sum Leave Payments**

(1) The provisions of 5 U.S.C., chapter 55, subchapter VI, which provide for lump-sum payment of annual leave, are for application to employees appointed under 38 U.S.C., chapter 73 and 74. Lump-sum payments are based upon the amount of annual leave to the credit of an employee on the date of separation. There is no authority to grant annual leave immediately prior to separation when it is known in advance that the employee is to be separated except where exigencies of the service require such action (34 Comp. Gen. 61).

(2) Lump-sum payments for full-time nurses and nurse anesthetists on the Baylor Plan are also based on the amount of annual leave to the credit of a nurse or nurse anesthetist on the date of separation. However, the lump-sum payment to such nurse or nurse anesthetist shall be based on the applicable hourly rate of base pay in effect for a similar employee's service outside the Baylor Plan, i.e., the annual rate of basic pay divided by 2080.

(3) Special pay for physicians and dentists is considered basic pay for the purpose of lump-sum leave payments unless there is a refund liability. See 38 U.S.C. 7438.

b. **Recredit of Leave-Different Leave System.** OPM is authorized by 5 U.S.C. 6308 to regulate the transfer and recredit of leave when different leave systems are involved. (See VHA Sup., MP-4, pt. II, par. 1D.05, for conversion formula.)

c. **Disposition of Annual Leave Account**

(1) **Changes During Employment in VHA**

(a) When an employee is serving in an appointment which provides for leave accrual, and is subsequently converted or appointed without a break in service to another type of appointment which also provides for leave accrual, accumulated and accrued leave will be credited to the employee's account

irrespective of the differences in the accrued rates. For example, an employee serving in an appointment under section 7401(l) who is converted to an appointment under section 7406 as a resident will have the leave earned under the section 7401(l) appointment credited to the leave account under the latter appointment. **NOTE:** *This example assumes the individual would be entitled to payable leave as a resident. If the individual were transferring to a nonpayable leave system, he or she would receive a lump-sum payment for the accrued annual leave.*

(b) An employee converted to a position in which no payable leave is earned will be given a lump-sum payment as provided in subparagraph a above.

(c) Graduate nurse technicians employed in VHA are covered by 5 U.S.C., chapter 63. If the appointment of the graduate nurse technician is converted to a full-time nurse in VHA during the biweekly pay period, the individual will be considered in a graduate nurse technician status for leave purposes until the end of such pay period. Annual leave will be credited under the leave system for nurses from the beginning of the first complete biweekly pay period under the appointment as a registered nurse.

(2) **Separation for Advocating Overthrow of the Government of the United States.** When separation of an employee is for advocating or being a member of an organization that advocates the overthrow of the Government of the United States by force or violence, no lump-sum payment will be made for annual leave remaining to the employee's credit (23 Comp. Gen. 677).

(3) **Death.** On the death of an employee, compensation for all accumulated and current accrued annual leave will be paid in an amount equal to the compensation the decedent would have received had the employee remained in the service until the expiration of the period of such annual leave.

d. **Credit and Recredit of Sick Leave**

(1) **Changes During Employment in VHA.** An employee serving in an appointment which provides for leave accrual who is subsequently converted or appointed without a break in service to another type of appointment which also provides for leave accrual will be credited with sick leave to the employee's account irrespective of any difference in accrual rates.

(2) **Recredit of Sick Leave.** Sick leave will be recredited to an employee upon reemployment after a break in service. Sick leave will also be recredited to an employee after being changed from a leave-earning to non-leave-earning status in the service and later being returned to a leave-earning status.

e. **Reemployment During Period Covered by Lump-Sum Payment.** An employee who previously served under the VHA leave system and is reemployed in VA under an appointment within the purview of the leave provisions of this chapter during the period covered by lump-sum payment will refund to VA an amount equal to the compensation covering the period between the date of reemployment and the end of the period covered by the lump-sum payment. It is the responsibility of the appointment officer to ascertain if new appointees are entering on duty prior to the expiration of leave represented by lump-sum payment. Collection of required refunds will be made by the employing facility prior to employment. When a hardship would be imposed on a prospective employee by requiring refund of lump-sum

payment in full prior to reemployment, the individual may be placed on the rolls and installment collections made by payroll deductions. Arrangements for such deductions will be approved by the Fiscal Officer. Installment deductions will be large enough to permit complete repayment at an early date, and in no event later than 6 months from date of reemployment. The amount of leave represented by the required lump-sum payment refund will not be credited to the employee until the entire indebtedness has been liquidated. The employee will be entitled to take leave earned subsequent to the date of reemployment.

f. **Disposition of Leave on Retirement**

(1) **Disability Retirement**

(a) The fact that an employee has executed SF 2801, Application for Retirement, is not to be interpreted as the employee's notice of intention not to return to duty.

(b) Pending decision of OPM on a claim for disability retirement, the employee may be granted currently credited leave before being placed in a nonpay status. However, advanced sick leave will not be granted pending such a claim.

(c) On receipt of approval of the disability retirement from OPM, leave as recommended in OPM Operating Manual 831-1, section S10-11, will be granted.

(2) **Optional Retirement**

(a) The general rule that an employee retiring on an optional basis may not be granted annual leave immediately prior to separation (sub par. a above) applies to optional retirement.

(b) Any unliquidated advanced leave will be adjusted to date of separation, except when the employee's separation is also due to disability, evidence of which will be supported by an acceptable medical certificate. In such cases, no adjustment for advanced leave will be required.

g. **Restoration of Veterans After Military Service.** The provisions of part III, chapter 6 of VA Handbook 5005 will apply to employees who are reemployed in positions which entitle them to the benefits of this chapter.

h. **Indebtedness for Advanced Leave on Separation From the Service.** An employee will make refund for any unliquidated advanced annual and sick leave on separation. This does not apply in cases of death, retirement for disability, disability supported by an acceptable medical certificate, or entering on active duty in the military service, when such entry is without a break in service from the civilian position. The Fiscal Office will be responsible for initiating action to effect recovery of the indebtedness.

13. DUTY AND LEAVE FOR RESIDENTS. Duty and leave provisions for full-time physicians and dentists, as contained in this chapter, are applicable to full-time residents appointed under authority of 38 U.S.C. 7406 except as otherwise indicated below. Residents appointed on an intermittent basis, including residents on disbursement agreements, are not entitled to any leave, except as specifically provided below. The term "resident" as used in this paragraph refers to medical and dental residents.

a. **Annual Leave**

(1) **General.** Facility directors are authorized to establish a local annual leave system, tailored to conform to the system existent at the index hospital, for all medical and dental residents subject to the limitations and procedures herein described. The index hospital used for this purpose will be the same index hospital approved by the Under Secretary for Health or designee, and used to establish resident stipends in accordance with VA Handbook 5007, appendix III-E. Sick leave, military leave, court leave, holidays and holiday in-lieu days, and authorized absence covered under the provisions of subparagraphs b, c, d, e, and f below, in the amounts provided, will not be included in the local annual leave system, whether or not available at the index hospital.

(2) **Procedures**

(a) Facility directors will survey their index hospital for a complete description of the operable annual leave system. The annual leave system at the index hospital includes all types of annual leave available for use by the house staff, such as vacation leave, personal leave, death-in-family leave, leave to attend education and training activities (under conditions not authorized by sub par. f below), day off for birthday, etc. For this purpose, each type of annual leave available at the index hospital and accorded to residents will then be classified into one of two categories as follows:

1. **Payable.** Resident payable leave is defined as leave which is a vested entitlement, payable by the index hospital if not used by the resident.

2. **Nonpayable.** Resident nonpayable leave is defined as leave which is available for use by the resident at the index hospital, normally subject to certain conditions or approvals, and is not payable by the index hospital if not used. Examples of leave at the index hospital which would be classified as nonpayable include death-in-family leave granted only if the event occurs, leave to attend a meeting or conference not otherwise covered by official VA leave or authorized absence, vacation leave which is lost if not used, personal leave, etc. All leave not fully meeting the definition of payable leave, above, will be classified as nonpayable leave.

(b) After the total leave system of the index hospital has been classified per the above definitions, directors will establish the VA annual leave plan to match these classifications, on a day-for-day basis. Prior to implementation, and whenever the plan changes in the future, the VA matching annual leave plan will be approved by the Deans Committee. In matching leave systems, 1 full week of leave at the index hospital translates to 7 calendar days of leave in the VA system. However, in VA, the total of payable and nonpayable annual leave for all purposes available to a resident under the VA matching leave system may not in any event exceed 30 calendar days in a leave year, but may consist of any combination of payable and nonpayable annual leave up to a maximum of 30 calendar days total, in conformance with

the plan at the index hospital. If the index hospital provides different annual leave plans among specialties or different annual leave plans depending on level of training, the VA system will match these plans.

(c) The annual leave plan established at the facility, including applicable regulations and local policy, will be published and distributed by the facility to all residents and other interested parties. Three copies of the annual leave plan will be forwarded for technical review to the Office of the Chief Academic Affiliations Officer (14), VACO. Additional copies will be forwarded whenever the plan changes.

(d) If both payable and nonpayable annual leave are included in the facility leave plan, then all VA residents with full-time appointments will earn both payable and nonpayable annual leave simultaneously, proportionate to service, in accordance with the plan established by the facility. Residents with intermittent appointments will not earn payable leave.

(e) In some situations, leave may be granted by the index hospital for any variety of personal reasons individually approved by the department chairman or chief of service. When constructing the VA matching leave plan, each and every circumstance and condition for granting annual leave *will be clearly defined*, and may not be dependent on a VA official's determination of the validity, urgency, necessity, or propriety of the leave request. The VA approving official's determination in granting or denying a leave request should be based only on consideration of patient care needs in sparing the services of the requester. The facility annual leave plan will specify the exact circumstances and number of days for each type of annual leave available. If difficulty is encountered in constructing the VA matching plan because of a lack of any systematized basis for granting certain types of leave at the index hospital, then directors will investigate the circumstances closely so as to extrapolate a workable system from the index hospital's practices. This can be accomplished by determining the average experience of the index hospital with respect to various types of leave or by taking their best estimate of the circumstances and number of days available for each type of leave. If further difficulty is encountered, the problem will be referred to the Deans Committee for resolution, and an advisory opinion may be requested of the Office of Human Resources Management (051), VACO.

(f) In prorating annual leave, a resident will earn, for each day in a pay status, the proportionate amount of payable leave plus the proportionate amount of non-payable leave in accordance with the plan established at the facility. The general principles regarding proration of leave credits, charges, and reductions contained in VHA Supplement to MP-4, part II, chapter 1, section B, will be followed, as applied to the amount of payable and nonpayable annual leave authorized at the facility. All annual leave will accrue and be earned proportionate to service. For example, in a nonpayable annual leave system which provides for 14 days of vacation leave and 2 days for death-in-family leave, annual leave would accrue at the rate of 16 days per year for the purposes specified. No pooling of leave is permitted on a full-time equivalent basis or through any other mechanism. All annual leave is earned by and vested in the name of an individual resident, and may not be transferred to the account of any other resident. With respect to nonpayable leave, the term "earn" is used as a matter of clarity and convenience to express the rate of accumulation of this type of leave which directors may grant or advance to an individual resident, and implies no entitlement under the lump-sum payment provisions of 5 U.S.C. 5551 and 5552.

(g) Notwithstanding any other provision in subparagraphs (a) through (f) above, facility directors may authorize either of two leave pool systems. Regardless of the type of pool system, the total amount of leave credited to the pool at the beginning of each academic year or leave year will be based on the proportionate amount of leave which will actually be earned by each resident according to the planned rotation schedule. All leave used will be charged to the pool and the amount of leave will be reduced accordingly. The leave pool will be carefully monitored and immediately adjusted to reflect changes in rotation schedules and staffing. Should leave usage exceed leave credited to the pool in any training year or leave year due to unforeseen circumstances, the negative balance may be carried forward into the following year and the pool will be adjusted accordingly. Similarly, if the matching leave plan provides payable leave or permits unused nonpayable leave to be carried forward into the next leave year, the positive leave pool balance may be carried forward into the following year and the pool will be adjusted accordingly. Facilities will ensure that the postgraduate levels of residents using leave fairly represent the postgraduate levels of all residents rotating through the facility. Intermittent appointments will not bar the use of leave pool arrangements; however, paid and WOC residents in exchange programs (see VA Handbook 5007, appendix III-E) may not be included unless a written exception is granted by the Chief Academic Affiliations Officer (14). Pool systems are not appropriate for sick leave or any other type of absence that cannot be included in a facility's matching leave plan.

1. Under the first leave pool system, which is the only leave pool system that may be authorized if any portion of the matching leave plan permits payable leave, VA allows a designated number of residents to use leave included in the annual leave pool without regard to the amount of annual leave actually earned by those particular residents. For example, if a facility is allocated 10 positions which are encumbered by 10 different residents each quarter and the matching leave plan calls for 21 days of payable or nonpayable annual leave at each postgraduate level, a 210-day leave pool could be available for use by any 10 of the 40 residents rotating through the facility. Other teaching facilities would assume leave responsibility for the remaining 30 residents. The 10 residents for whom VA accepts leave responsibility would be identified by name at the beginning of the academic year. VA would pay each of those residents for any leave used in accordance with the facility's matching leave plan. All such service at either the VA medical center or other teaching facility will be creditable for leave accrual purposes. A designated resident may be placed on the payroll at any time during the academic year for the purposes of utilizing VA paid annual leave. If payable leave is part of the matching leave plan, residents for whom VA accepts leave responsibility will have entitlement under the lump-sum payment provision of 5 U.S.C. 5551 and 5552 for unused payable leave. For such a resident leaving the program prematurely, lump-sum payment will be prorated to the total amount of paid training provided the individual by VA and affiliated hospitals. To the extent practicable, prorating will be consistent with index hospital policy.

2. Under the second leave pool system, which cannot be authorized if any portion of the matching leave plan permits payable leave, residents are permitted to use leave included in the annual leave plan on a "first-come-first-served" basis without regard to the amount of leave actually earned by those particular residents. For example, if a facility is allocated 10 positions, which are encumbered by 10 different residents each quarter and the matching leave plan calls for 21 days of nonpayable annual leave at each postgraduate level, a 210-day leave pool could be available for use by any of the 40 residents rotating through the facility until the leave pool is exhausted.

3. The Chief of Staff is directly responsible for establishing controls over leave pools and leave usage and will ensure that these controls are strictly adhered to the overall administration of the annual leave program.

(3) **Administration**

(a) Payable and nonpayable leave will be granted and charged to residents in 1-day increments, for each calendar day of leave, requested, approved, and charged in the normal fashion per provisions of paragraph 6a(4). In addition, annual leave may be granted by the authorized official only when it has been approved in advance by the House Staff Review Committee or when the authorizing official is acting under criteria established by the committee. Annual leave granted for purposes which were matched as payable leave at the index hospital will be chargeable to payable leave in VA, and leave granted for purposes which were matched as nonpayable leave at the index hospital will be chargeable to nonpayable leave in VA. Nonpayable leave will be granted only on such occasions and for such purposes as the index hospital grants similar leave; for example, 2 days of leave available at the index hospital to attend the funeral of a close family member will be included as 2 days of nonpayable leave in the VA annual leave system, but will be granted only if the event occurs.

(b) Facility directors may approve the advancement of annual leave, both payable and nonpayable, to residents proportionate to expected service, not to exceed the amount of their payable and nonpayable leave yearly earning rate. Also, the amount of advanced annual leave will not exceed that which can be earned during the remainder of their VA training period. Directors are cautioned regarding the advancement of annual leave in that any excess leave, both payable and nonpayable, which has been granted and which has not been earned by a resident at the time of separation from VA rolls will require an appropriate reduction for the value thereof in the final salary payment. Service chiefs responsible for a resident's training will notify Fiscal Service within 2 days of separation if any excess annual leave over that earned has been granted. If Fiscal Service is unable to withhold the appropriate amount from the final salary check for any reason, the value of the excess annual leave taken by a resident will become a debt owed by that person to the United States and will be processed for collection.

(c) If the facility matching annual leave system provides for any portion of payable leave, then the following will apply to all residents at that facility:

1. The leave year (both for payable and nonpayable leave) will be as indicated in paragraph 5d of this chapter.

2. Up to 120 days of unused payable leave to a resident's credit at the end of the leave year will be carried forward into the next leave year and the value thereof will be paid on separation in accordance with the lump-sum leave payment provisions of 5 U.S.C. 5551 and 5552.

3. Unused nonpayable leave to a resident's credit at the end of the leave year may be carried forward into the next leave *year if this is the practice at the index hospital*. Only the amounts and types of nonpayable leave which the index hospital carries forward at the end of each leave year will also be carried forward in the VA system. Not more than a combined aggregate total of 120 days of payable leave and nonpayable leave may be carried forward into the next year. If it is not the practice at the

index hospital to carry forward nonpayable leave balances from one leave year to the next, which is the more common situation, then the VA annual leave plan will also follow this policy. As an alternative, the facility Director may permit VA residents to carry forward their nonpayable annual leave balances into the next calendar year and subsequently forfeit all nonpayable annual leave balances at the end of the index hospital's leave year rather than at the end of the calendar leave year. This option may be elected only where the index hospital's leave year is different than the calendar leave year, where the index hospital does not allow the residents to carry over nonpayable annual leave, and where it is impossible to schedule the use of nonpayable annual leave so as to avoid forfeiture of such leave at the end of the calendar leave year. The use of and justification for using the delayed forfeiture date will be fully documented in the annual leave plan and all residents will be informed in advance of the forfeiture date. Issuance of a copy of the leave plan documented as indicated above to each resident will suffice for this purpose. In any event, accumulated balances of nonpayable leave are not an entitlement and will not be paid on separation.

(d) If the facility matching annual leave system provides only for nonpayable leave and contains no portion of payable leave, then the following will apply to all residents at that facility:

1. The leave year for nonpayable leave purposes will be July 1 and through June 30. Where the index hospital's leave year is different than these dates, however, the facility Director may, as an alternative, use the same leave year as that of the index hospital of nonpayable annual leave purposes. In any case, the dates of the leave year used for these purposes will be documented in the annual leave plan. Where the later leave year is used, the plan will document that this is the leave year used by the index hospital. (The leave year for other purposes, such as sick and military leave will continue to be the calendar leave year indicated in paragraph 5d of this chapter.

2. Up to 120 days of unused nonpayable leave to a resident's credit at the end of the leave year may be carried forward into the next year *if this is the practice at the index hospital*. If it is not the practice at the index hospital to carry forward unused nonpayable leave balances from one leave year to the next, which is the more common situation, then the VA annual leave plan will also follow this policy. In any event, accumulated balances of nonpayable leave are not an entitlement and will not be paid on separation.

(e) Extreme care will be exercised in establishing the VA annual leave system in terms of matching the index hospital. The VA annual leave system will conform *in policy and in practice* with that of the index hospital, subject to the constraints described herein. A signed letter describing the leave system at the index hospital does not in itself constitute sufficient documentation for establishing the matching VA annual leave system. Directors will fully satisfy themselves at all times that the annual leave system established for VA residents conforms to the actual practices of the index hospital.

(f) The PAID system will accommodate the recording and compilation of *payable leave only* for full-time residents in accordance with each individual facility plan. (See coding instructions in MP-6, Pt. V, supp. No. 1.5, ch. 3. App. A.) The PAID system will not be involved in accounting for nonpayable leave except as may be incorporated in PAID instructions. Facilities will establish their own control systems to record and compile the earning and use of nonpayable leave for all residents, full-time and intermittent. The control systems established locally will provide that a strict daily record be kept, showing accumulated balance, amount used and for what purposes. Service chiefs responsible for the house

officer's training are also responsible for maintaining the records and control systems necessary with regard to nonpayable leave. The Chief of Staff is directly responsible for the accuracy and adequacy of all records maintained by service chiefs in this connection.

(4) **Changes.** Facilities may modify or change their leave plans only on a prospective basis, at the beginning of a pay period, or on July 1 if only nonpayable leave is involved. Facilities should make a regular annual review of their leave plan to determine its currency and accuracy.

b. **Sick Leave**

(1) **Full-Time.** The sick leave provisions for full-time physicians and dentists contained in paragraph 7 are applicable to sick leave for full-time residents except that the maximum amount of sick leave which may be advanced may not exceed 15 calendar days. The Chief Academic Affiliations Officer (14) may approve exceptions to these provisions under unusual circumstances when requested.

(2) **Intermittent.** Facility directors may grant authorized absence for illness not to exceed 15 days per year of training to each resident who is appointed on an intermittent basis. The Chief Academic Affiliations Officer (14) may approve additional authorized absence under unusual circumstances when requested. The extent of such absence will be in proportion to service and may be authorized at any time during appointments. These absences are not an entitlement and do not accrue from year to year. The amount of these absences which may be granted will be reduced in the same manner as sick leave is charged under paragraph 7a. The service chief responsible for the resident's training is also responsible for controlling and documenting absences for this purpose. The Chief of Staff is directly responsible for the accuracy and adequacy of all records maintained by service chiefs in this connection.

c. **Military Leave**. Full-time residents whose periods of training in VA are not limited to 1 year or less are entitled to the same military leave benefits provided full-time physicians and dentists.

d. **Court Leave.** Full-time residents are eligible for and will be granted court leave in the same manner as other eligible Federal employees.

e. **Holidays.** The holiday provisions for full-time physicians and dentists contained in part II, chapter 3 of this handbook, and paragraph 8 of this chapter, are applicable to residents under this paragraph.

f. **Authorized Absence.** The authorized absence provisions for full-time physicians and dentists in paragraph 9 also apply to residents under this paragraph except the provisions pertaining to education and training in paragraph 9 (residents may be detailed to non-VA institutions for these purposes per VA Handbook 5007, part II, appendix E, and the provisions pertaining to participation in civic organizations in paragraph 9n. Absences of residents to undergo American Specialty Board and State licensure examinations will be authorized. The amount of absence authorized will not exceed the time actually required for taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

APPENDIX A. SAMPLE SICK LEAVE QUESTIONS AND ANSWERS

- **Sick Leave for Family Care and Bereavement**

Q. *Jerry wants to take 2 weeks off when his wife comes home from the hospital with their new baby. Can he use sick leave? How much?*

A. Full-time employees may use 40 hours of sick leave each year to provide medical care and assistance to family members. An additional 64 hours of sick leave may be used if they maintain a balance of at least 80 hours of sick leave in their sick leave account. Part-time employees and employees with uncommon tours of duty are permitted to use sick leave in an amount that is prorated in proportion to the average number of hours in their weekly scheduled tour of duty. Since Jerry is a new employee and has only 72 hours of sick leave, he is limited to the use of 40 hours of sick leave for family care at this time.

Q. *Sharon is a new employee and has a balance of 23 hours of sick leave in her account. Sharon has requested sick leave to care for her son who broke his leg falling out of a tree. How much sick leave can she use?*

A. Sharon may use her 23 hours of sick leave to care for her son (if she has not previously used sick leave for family care.) Since an employee may use up to 40 hours of sick leave without regard to the 80-hour requirement, the supervisor could advance 17 hours of sick leave to Sharon, enabling her to use 40 hours. However, there is no entitlement to advance sick leave. Advancing leave is always agency discretion.

Q. *Joel has been named executor of his mother's estate. He used 20 hours of sick leave to make arrangements for and attend the funeral. It is now 3 months later. Joel has requested 32 hours of sick leave to meet with the lawyers and to appear in probate court. He has 289 hours of sick leave. Is he entitled to sick leave?*

A. An employee may use sick leave to "make arrangements necessitated by the death of a family member." This may include funeral arrangements and other immediate actions necessary, including the reading of the will. However, for absences necessary to settle the estate of the deceased, annual leave and leave without pay (at the agency's discretion) are appropriate.

- **Sick Leave to Care for a Family Member with a Serious Health Condition**

Q. *John wants to use some of his 600 hours of sick leave to be with his wife while she is in labor and delivery and stay with her and the new baby afterwards. He has requested 12 weeks of sick leave.*

A. John is entitled to use sick leave to care for his wife. However, the entitlement to use sick leave is limited to the period of his wife's incapacitation--generally 6 to 8 weeks for most births. There is no entitlement to use sick leave to care for a healthy newborn.

- **Sick Leave for Family Care and Bereavement and Sick Leave to Care for a Family Member with a Serious Health Condition**

Q. *Jennifer has 500 hours of sick leave in her account and her husband Mel has more than 1,000 hours of sick leave. Their daughter has the flu. Jennifer has used 72 hours of sick leave for general family care purposes this year, and Mel has used 40 hours. They decide to alternate days off on sick leave to care for their daughter. How much leave can each of them use?*

A. Jennifer is limited to an additional 32 hours at this time, since she has already used 72 hours for general family care purposes and is limited to the use of 104 hours (13 days) to care for a family member. Mel may use an additional 64 hours of sick leave for general family care purposes.

Q. *After 2 days, Jennifer's daughter is rushed to the hospital with a severe asthma attack as a result of complications of the flu. She will be hospitalized until the asthma is under control and her condition stabilizes (at least 2-3 days). Jennifer and Mel request additional sick leave for family care. How much sick leave can Jennifer and Mel use at this time?*

A. Jennifer has now used 80 hours of sick leave (she has 420 hours of sick leave remaining in her account) and Mel has used 48 hours of sick leave for family care purposes. Asthma is considered a "serious health condition." Employees are entitled to use up to a total of 12 weeks (480 hours) of sick leave to provide care to a family member with a serious health condition. This means Jennifer and Mel may each use up to 480 hours of sick leave, less any sick leave previously used for family care, as long as each of them can maintain a sick leave balance of at least 80 hours at all times. Mel may use up to a maximum of 432 hours in the remainder of the leave year. (He has already used 48 hours). However, Jennifer is limited to 340 hours -- if she uses more than 340 hours, she will be unable to maintain the required 80-hour balance.

- **Sick Leave for Adoption**

Q. *Carl and his wife are in the process of adopting a child. He will need to take a number of days off from work to finalize the adoption. How much sick leave can Carl use for adoption purposes?*

A. Carl may use an unlimited amount of sick leave for purposes related to the adoption of a child. For example: Appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any period of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and any other activities necessary to allow the adoption to proceed. **Sick leave may not be used by adoptive parents who voluntarily choose to be absent from work to bond with an adopted child.**

APPENDIX B. SAMPLE MEMORANDUM TO ALL EMPLOYEES VOLUNTARY LEAVE TRANSFER PROGRAM

TO: All Employees

FROM: Director

SUBJ: Voluntary Leave Transfer Program

1. The voluntary leave transfer program permits Federal employees to donate annual leave to other Federal employees who are experiencing a medical emergency. For the purpose of this program, a medical emergency is a medical condition of an employee or a family member of the employee that is likely to require the employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

2. Any employee who has experienced or is experiencing a medical emergency, as described above, may make a written request to become a participant in the voluntary leave transfer program. The request must contain the following information: (a) name, position title, and grade or pay level of the potential leave recipient; (b) the reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring one, the approximate frequency of the emergency; and (c) certification from a physician, or other appropriate expert, with regard to the medical emergency. Additional information may be requested to support the application.

3. Completed requests in memorandum form should be forwarded to me through the Human Resources Management Officer. Applicants will be notified within 10 workdays of their eligibility to participate in the program as leave recipients.

4. In order to ensure the privacy of those who wish to participate in the program, employees who are eligible and are approved as leave recipients will have the discretion of determining their own means of informing potential leave donors from within VA. Potential donors from other Federal agencies may be considered in accordance with the regulations governing the program.

5. The donation of leave is entirely voluntary. However, employees may not donate leave to their immediate supervisor(s). There are also minimum requirements and limitations on the amount of leave that can be donated. Employees who are interested in donating annual leave to a specific recipient may contact the Human Resources Management office for additional information.

6. Annual leave donations will be transferred from the accounts of donors to the leave recipient's account. These leave donations will be used for the recipient's current leave charges and to liquidate any advanced leave indebtedness. When the leave recipient's medical emergency no longer meets the criteria of this policy (for example, the employee is able to return to duty), the remaining annual leave in that person's account will be re-credited to donors on a prorated basis in accordance with OPM regulations and VA policy.

7. VA supports the concept of the leave transfer program. However, the decision to apply to become a leave recipient, or to donate leave, is personal and must be made on a completely voluntary basis**.**

(SIGNATURE)

APPENDIX C. SAMPLE APPLICATION MEMORANDUM VOLUNTARY LEAVE TRANSFER PROGRAM

DATE:

TO: Director ( )

THRU: Human Resources Management Officer ( )

FROM: John L. Doe

SUBJ: Voluntary Leave Transfer Program

1. I, John L. Doe, Clerk-Typist, GS 312-3, am applying to become a leave recipient under the voluntary leave transfer program.

2. On January 1, 2XXX, I was involved in an automobile accident and suffered multiple injuries. At present I am undergoing therapy for both my wrists and one leg, all of which were broken in the accident. My physician, Dr. John A. Smith, anticipates that I will not be able to return to duty until approximately August 1, 2XXX. Attached is a copy of his medical report which indicates the treatment I have received, current therapy plans, and the prognosis of my case.

3. Due to this accident, I have used all of my accrued annual and sick leave. I have also been granted 30 days of advance sick leave, and I am currently on leave without pay (LWOP).

4. If I am approved for this program, I understand that it will be my responsibility to inform employees who may wish to donate annual leave on my behalf.

5. Thank you for considering this application.

(NAME)

Attachment

APPENDIX D. SAMPLE MEMORANDUM TO APPROVED LEAVE RECIPIENT VOLUNTARY LEAVE TRANSFER PROGRAM

DATE:

TO: Name of Applicant

FROM: Decision Official

SUBJ: Voluntary Leave Transfer Program

1. I am pleased to inform you that you meet the requirements for participation in the voluntary leave transfer program and have been approved as a leave recipient for the period of your medical emergency.

2. At your discretion, you may inform other employees that you have been approved as a leave recipient and they may request the transfer of annual leave to your account to be used in connection with your medical emergency. Leave donations from employees of other Federal agencies may be accepted in some circumstances, in accordance with the regulations governing the program. All donations are voluntary, and the minimum amount of leave that may be transferred from a donor is four hours or, for certain title 38 employees, one day. Employees you supervise may not donate leave to you.

3. Please contact (Human Resources Management Officer or designee) on (Telephone Number) in the near future for additional information about this program and your responsibilities as a leave recipient.

4. We sincerely hope that this program will be of assistance to you during your medical emergency.

(Signature)

cc: Human Resources Management Office
Payroll

APPENDIX E. SAMPLE MEMORANDUM OF DISAPPROVAL AS LEAVE RECIPIENT/VOLUNTARY LEAVE TRANSFER PROGRAM

DATE:

TO: Name of Applicant

FROM: Decision Official

SUBJ: Voluntary Leave Transfer Program

1. We have carefully reviewed your request to become a leave recipient under the voluntary leave transfer program and the circumstances of your request. However, based on our evaluation, you do not meet the criteria established for participation in the program. Specifically, you have not presented evidence that your medical emergency will require that you be absent from duty without available paid leave for a least 24 work hours.* Therefore, we are unable to approve your request.

2. You may contact (Name), (Title of Human Resources Management Official), and (Telephone Number) if you desire additional information related to the program and your application.

(Signature)

***Another example:** The reasons for your absence are not associated with a medical emergency you or a family member are experiencing.

APPENDIX F. SAMPLE MEMORANDUM FOR RESTORATION OF LEAVE/VOLUNTARY LEAVE TRANSFER PROGRAM

DATE:

TO: Name of Donor

FROM: Human Resources Management Officer

SUBJ: Restoration of Transferred Annual Leave

1. You donated annual leave to John Doe to help him during his medical emergency. Mr. Doe's emergency has ended. Five hours of annual leave will be restored to you on November 19, 2XXX.

2. Any transferred annual leave remaining to the credit of a leave recipient when that individual's medical emergency terminates is restored, in accordance with VA Handbook 5011, part III, chapter 2, and to the extent administratively feasible, by transfer to the annual leave accounts of the leave donors who, on the date leave restoration is made, are employed by a Federal agency and subject to chapter 63 of title 5, U.S.C. or VA Handbook 5111, part III, chapter 2, as appropriate. The amount of annual leave to be restored to each leave donor is determined by the fiscal office in accordance with provisions in the above policy.

3. If you retire from Federal service, die, or are otherwise separated from Federal service before the date unused transferred annual leave can be restored, the unused transferred annual leave will not be restored.

4. You may elect to have your portion of the unused-transferred annual leave restored by:

(a) crediting the restored annual leave to your annual leave account in the current leave year;

(b) crediting the restored annual leave to your annual leave account effective as of the first day of the first leave year beginning after the date of election; or

(c) donating such leave in whole or part to another leave recipient.

5. If you elect to donate only part of your restored leave to another leave recipient under paragraph 4(c) above, then you may elect to have the remaining leave credited to your annual leave account under paragraph 4(a) or (b) above.

6. Transferred annual leave restored to your account under paragraph 4(a) or (b) above shall be subject to the limitation imposed by 5 U.S.C. 6304(a) for title 5 employees or by VA Handbook 5011, part III, chapter 3, for title 38 employees under the title 38 leave system at the end of the leave year in which the restored leave is credited to your annual leave account.

7. Please indicate your election on the attached memorandum and return it to the Human Resources Management Office within 2 workdays. Contact (name of human resources official) on (telephone number) if you would like to know the names of currently approved leave recipients, or have any other questions.

(Name)

Attachment