

Must VA researchers take annual leave to participate on NIH Study Sections?

When inviting VA researchers to participate on study sections, NIH has begun notifying them that they must participate as a faculty member (from the affiliate university) not as a VA employee. The explanation from NIH is that the Consolidated Appropriations Act, 2019 (Section 708), which states that “No funds appropriated in this Act, or any other Act, may be used for interagency financing of any board (other than Federal Executive Boards), commission, council, committee or similar group, unless there is prior and specific statutory authority for such entity to receive financial support from more than one agency”. While this provision has been part of the annual appropriations acts for at least the past 20 years, it has recently received increased attention for reviewers serving on FACA committees. HHS is in the process of sorting out whether this means that they are legally able to use Federal employees from non-HHS agencies on our FACA committees under this provision.

You can use Administrative leave, also known as Authorized Absence (AA) for professional development activities such as attending scientific meetings, conferences, teaching, participation on NIH study sections, etc. Administrative leave or AA is being away from the VA without being charged for leave. All you need is approval from your supervisor.

See Handbook 5001 page III-62. Essentially, the supervisor is making a judgement that being away IS ADVANTAGEOUS to the VA, and the person should not be charged his/her leave.

Administrative leave/AA may be given to full-time or part-time employees.

There is no annual limit to the amount of Administrative Leave/AA that you can take.

Two years ago, OPM proposed to limit the amount of administrative leave that could be taken. It was in a law about three years ago, and OPM is writing regulations. This has NOT BEEN IMPLEMENTED YET. OPM regs were expected 60 days after their proposed rule. That was two years ago so apparently other federal agencies as well as the general public objected to how they framed the definitions. This was all about how OPM defines “administrative leave”. If administrative leave is done strictly for discipline/union/adversarial relationships, then there won’t be a cap on other sorts of Admin leave including authorized absence. (In other words, OPM wanted to limit the amount of time that agencies could put people on administrative leave during union or disciplinary issues.)

You can travel any distance on Administrative leave/AA

The 50-mile radius from your VA has to do with travel reimbursement. The VA does not pay for your travel when you are on AA. If VA is paying, you must be on official VA duty status.

Administrative leave/AA is not an official duty status

You cannot officially represent the VA while on AA. Officially representing the VA would be an activity like giving a talk on behalf of VA leadership who would have vetted your slides, negotiating a contract on behalf of the VA, etc. The VA does not pay for your travel while on AA. (There is an exception where people are using the \$1000/yr for CME and the VA does pay for travel.) Your NPC cannot pay for travel while on AA, because the NPC can only pay for travel while on VA duty status.

You can talk about your VA research while on AA/administrative leave or while on annual leave. All you need is approval from your supervisor (which could be given as part of blanket approval).

Listing the VA as a support of your research is permissible while on AA or annual leave.

You can only accept the honoraria while on annual leave. You cannot accept honoraria while on active VA duty or on AA because of the dual compensation.

Honorarium while on AL becomes payment to the traveler as an individual (for tax purposes).