HOURS OF DUTY AND LEAVE

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

2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook sets forth mandatory procedures previously contained in numerous other issuances. The pages in this handbook replace the corresponding page numbers in VA Handbook 5011. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5011 that is maintained on the [Office of Human Resources Management Web site](http://www.va.gov/hr/). The policy change:

   Provides guidance for Employee Leave Requests for Incarceration.

3. **RESPONSIBLE OFFICE:** The Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.


5. **RESCSSIONS:** None

**CERTIFIED BY:**

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

/s/
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**DISTRIBUTION:** Electronic Only
[b. Employee Leave Requests for Incarceration. It is not appropriate to approve leave of any kind for the period of absence required to serve a jail or prison sentence. Court ordered treatment as part of a sentence may not be considered incarceration. Supervisors must consult with their employee relations specialist before approving leave.

(1) Employees who are involuntarily detained or incarcerated following an arrest by a law enforcement authority, prior to a conviction, will have requests for annual leave or leave without pay (LWOP) considered based on the current and anticipated workload, the need for the employee’s service, and the likelihood the employee will return to work.

(2) Employees incarcerated following a conviction, including a criminal or civil contempt proceeding, will be considered absent without leave (AWOL), which is an unauthorized absence from duty. Leave requested as a result of an incarceration following a conviction will be denied.

(3) Employees will be informed that the charge to AWOL has been included in the time and attendance report. Employees will only be charged AWOL for the actual period of unauthorized absence due to incarceration.

(4) If the AWOL is later excused because the circumstances surrounding the absence for incarceration are such that leave would have been approved, the charge should be changed to annual leave, sick leave, or LWOP, as appropriate.

(5) If an employee does not inform management that a leave request is due to incarceration, but it is later learned the leave was due to incarceration, management must adjust any prior leave approval, as appropriate.

(6) Noncompliance with VA policy, including misrepresentation of the circumstances regarding a request for leave, constitutes grounds for disciplinary action, up to and including removal from Federal service. Supervisors must consult with their HR office to determine if disciplinary action, or a charge of AWOL, is appropriate for the misrepresentation of such leave requests.]

c.] 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.

d.] Advanced Annual 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. Employees should be offered advanced annual leave for foster care placement in their home or bonding with a healthy newborn or newly adopted child.
[e.] **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.

[f.] **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 be 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.)

[g.] **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. In VHA Central Office, Deputy Under Secretaries for Health and Chief Officers are authorized to approve restoration of annual leave for employees under their jurisdiction. The scheduling and, as necessary, rescheduling of the annual leave must be in writing. The Enhanced Time and Attendance (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.
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.

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.
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 bona fide 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 sick leave (or non-paid leave) for annual 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 of 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.
b. Leave Charges

(1) The minimum charge for leave shall be 1 day and multiples thereof for full-time physicians, dentists, podiatrists, chiropractors, and optometrists and a quarter hour (15 minutes) or multiples thereof for nurses, nurse anesthetists, physician assistants (PAs), expanded-functional dental auxiliaries (EFDAs) and part-time physicians, dentists, podiatrists, chiropractors, and optometrists. The minimum charge for leave for 7306 appointees shall be a quarter hour (15 minutes) and multiples thereof.

(2) Holidays and in-lieu days granted thereof will not be charged to 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. Employee Leave Requests for Incarceration. It is not appropriate to approve leave of any kind for the period of absence required to serve a jail or prison sentence. Court ordered treatment as part of a sentence may not be considered incarceration. Supervisors must consult with their employee relations specialist before approving leave.

(1) Employees who are involuntarily detained or incarcerated following an arrest by a law enforcement authority prior to a conviction will have requests for annual leave or LWOP considered based on the current and anticipated workload, the need for the employee’s service, and the likelihood the employee will return to work.

(2) Employees incarcerated following a conviction, including a criminal or civil contempt proceeding, will be considered absent without leave (AWOL), which is an unauthorized absence from duty. Leave requested as a result of an incarceration following a conviction will be denied.

(3) Employees will be informed that the charge to AWOL has been included in the time and attendance report. Employees will only be charged AWOL for the actual period of unauthorized absence due to incarceration.

(4) If the AWOL is later excused because the circumstances surrounding the absence for incarceration are such that leave would have been approved, the charge should be changed to annual leave, sick leave, or LWOP, as appropriate.

(5) If an employee does not inform management that a leave request is due to incarceration, but it is later learned the leave was due to incarceration, management must adjust any prior leave approval, as appropriate.
(6) Noncompliance with VA policy, including misrepresentation of the circumstances regarding a request for leave, constitutes grounds for disciplinary action, up to and including removal from Federal service. Supervisors must consult with their HR office to determine if disciplinary action, or a charge of AWOL, is appropriate for the misrepresentation of such leave requests.

[c.] Charging Annual Leave

(1) **Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs, 7306 Appointees in Title 5 or Hybrid Title 38 Occupations and Part-Time Employees.** The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof. *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.*

(2) **Full-Time Nurses and Nurse Anesthetists on the Baylor Plan.** Such nurses and nurse anesthetists shall be charged one hour of annual leave for each hour of annual leave taken. The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof. *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.* 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).

(3) **Full-Time Nurses and Nurse Anesthetists on 72/80 Work Schedule.** Such nurses and nurse anesthetists shall be charged leave at a rate of ten hours of leave for every nine hours of absence (charged 1.111 for each hour). Leave shall be charged only for absences from the basic workweek.

(4) **Full-Time Physicians, Dentists, Podiatrists, Chiropractors, and Optometrists Appointed Under 38 U.S.C. 7401, 7405 or 7306**

   (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) **Administrative Nonduty Days.** Although subject to duty 24/7, employees in this category may be granted scheduled days off during the administrative workweek. Employees are not charged annual leave on those administrative nonduty days.
[d.] 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.

[e.] 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 timekeeper 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.

[f.] Advanced Annual Leave Limits (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.

[g.] 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 VA Financial Policies and Procedures Travel Per Diem Volume XIV, 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 9b, of this chapter 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.

[h.] 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.

[i.] Voluntary Leave Transfer Program. See paragraph 20 of chapter 2, of 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) The minimum sick leave charge for full-time physicians, dentists, podiatrists, chiropractors, and optometrists appointed under 38 U.S.C. 7401, 7405 or 7306 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.

(2) Except as provided in subparagraph (3), the minimum sick leave charge for full-time nurses, nurse anesthetists, including those on the Baylor Plan, PAs, EFDAs, 7306 appointees in Title 5 and Hybrid Title 38 occupations 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.

(3) Full-time nurses and nurse anesthetists on a 72/80 Work Schedule shall be charged 1.111 hours of sick leave for each hour of sick leave taken. Leave shall be charged only for absences from the basic workweek. The minimum charge of annual leave for these employees is one quarter (15 minutes) and multiples thereof.

(4) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.