

HOURS OF DUTY AND LEAVE

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

1. 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](#). Significant changes include:

- a. Clarifies the procedures for requesting alternative work schedules and supervisory responsibilities of reminding employees of available workplace flexibilities;
- b. Revised the 72/80 Alternate Work Schedule to allow a tour of duty that begins on the last day of one pay period and ends on the first day of the next pay period to be credited in the previous pay period;
- c. Clarifies the procedures for requesting a telework agreement;
- d. Revised the in-lieu of holiday guidance for employees on compressed work schedules;
- d. Clarifies the appropriate category for approved authorized absences; provides clarification on disciplinary/adverse actions and the use of administrative leave; and
- e. Changes the two authorized rest periods during any single 8-hour period from 10 minutes each to 15 minutes each.

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

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."

CERTIFIED BY:

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

/s/
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Assistant Secretary for
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/s/
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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. **Alternate Work Schedules for Registered Nurses.**
 - (1) **72/80 Work Schedule.** Six regularly scheduled 12-hour tours of duty [] within a pay period that is considered for all purposes to be a full 80 hour pay period.
 - (2) **9-Month Work Schedule.** Nine months part-time with three months off duty within a fiscal year, paid at 75 percent of the full-time rate for such nurse's grade and step each bi-weekly pay period of the fiscal year.
 - (3) **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek (Sunday and Saturday).

e. **Basic Workweek**

- (1) For full-time employees (other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs) and expanded-function dental auxiliaries (EFDAs) appointed under 38 U.S.C. chapters 73 or 74), a basic workweek consists of a 40-hour workweek established in accordance with 5 CFR 610.111 and part II, chapter 2 of this handbook.
- (2) For full-time physicians and dentists appointed under 38 U.S.C. chapters 73 or 74, the basic workweek consists of a 40-hour tour of duty during the administrative work week (i.e., Sunday through Saturday). The workday shall not be less than 2 hours and may not exceed 12 hours. The 40-hour tour of duty may vary each administrative workweek, but must be determined prior to the beginning of the workweek. The basic workweek shall be completed within the 7-day period from Sunday to Saturday and must not cross over into the following administrative workweek of the 80-hour bi-weekly pay period.
- (3) Full-time physicians, dentists, podiatrists, chiropractors, 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.
- (4) For full-time nurses, nurse anesthetists, PAs and EFDAs, a basic workweek consists of a 40-hour workweek established in accordance with the provisions of part II, chapter 3 of this handbook. A 72/80 Work Schedule and the Baylor Plan (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. Employees under the 9-Month Work Schedule are considered part-time employees, except for purposes of health insurance per 38 U.S.C. 7456A(d)(4).

(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, □ changes in the starting time [greater than 15 minutes] 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 performed in excess of the employee's basic work requirement.

2. For part-time employees, overtime hours are those hours of work performed in excess of the basic work requirement for a day (but must be in excess of 8 hours) or for a week (but must be in excess of 40 hours).

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(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[, along with periodically reminding employees of workplace flexibilities available.]

(3) Facility directors are responsible for approving or discontinuing flexible and compressed work schedules for employees under their jurisdiction[, along with periodically reminding employees of workplace flexibilities available.]

(4) The Deputy Assistant Secretary for Human Resources Management and Labor Relations 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.

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(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,

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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 twenty-six pay periods, he or she shall be compensated for the overtime work under the FLSA.

(b) Night Differential

1. [1] 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.

[1]

[2]. 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 [and part-time] employee[s] 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. [1]

(e) SES. Members of the SES are not entitled to any form of premium 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 in excess of the basic work requirement. For part-time employees, overtime hours are those hours of work performed in excess of the basic work requirement for the day (but must be in excess of 8 hours) or for the week (but must be in excess of 40 hours). In order to qualify for callback overtime on a compressed tour, the period of callback must be outside of and unconnected with the employee’s basic work requirement and must qualify as overtime as stated above.

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 [and part-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. []

(4) **Absence and Leave**

(a) **Holidays**

1. Full-time Employees

[(a) **In Lieu of Holidays**

(1) All full-time employees on compressed work schedules are entitled to an "in lieu of" holiday when a holiday falls on a nonworkday. In such cases, the employee's holiday is the basic workday immediately preceding the nonworkday.

(2) There are three exceptions:

(a) If the nonworkday is Sunday, the next basic workday is the "in lieu of" holiday.

(b) If Inauguration Day falls on a nonworkday, there is no provision for an "in lieu of" holiday.

(c) If the head of an agency determines that a different "in lieu of" holiday is necessary to prevent an "adverse agency impact," he or she may designate a different "in lieu of" holiday for full-time employees under compressed work schedules. (See 5 U.S.C. 6131(b).)

(3) An employee is not entitled to another day off as an "in lieu of" holiday if a Federal office or facility is closed on a holiday because of a weather emergency or when employees are furloughed on a holiday.]

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) Procedures to request an Alternative Work Schedule.]

(1) Employees may submit a written request to their immediate supervisor for any workplace flexibility. The request must state the specific alternative work schedule, as well as the proposed work days, hours, etc. as applicable.

(2) The immediate supervisor must meet or confer directly with the requesting employee within 10 business days after receipt of a written request for an alternative work schedule to understand fully the nature of and need for the requested flexibility.

(3) The supervisor must carefully consider the request and any supporting information provided by the employee and provide a written decision to the employee within 20 business days after receipt of the initial request, or within the timeframes set forth in an applicable collective bargaining agreement. Supervisors must consider VA's mission-related requirements and the impact on VA operations when rendering a decision. If the supervisor is unable to grant the employee's request due to mission-related requirements and the impact on VA operations, the supervisor should work with the employee to determine if there are alternatives available that are beneficial to VA and the employee.

(4) If the supervisor denies the employee's request for a workplace flexibility, the employee has the right to file a grievance in accordance with the procedures outlined in VA Handbook 5021, Part IV, or applicable collective bargaining agreement.]

[(b) 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.

[(c) **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.

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(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.

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b. **Administrative and Non-Duty Days and Days Off.** Full-time physicians, dentists, podiatrists, chiropractors, 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, chiropractors, 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. **Establishment of Regularly Scheduled Administrative Workweeks.**

(1) When the official responsible for work scheduling knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, that official shall reschedule the employee’s regularly scheduled administrative workweek to correspond with those specific days and hours. The official shall inform the employee of the change and shall be responsible for ensuring that the change is recorded on the employee’s time card or its electronic equivalent.

(2) In the exercise of this authority, officials shall prescribe individual hours of duty and changes to such hours as far in advance as possible. Such officials are also to give employees consideration in arranging schedules so long as such consideration is compatible with VA work requirements.

(3) 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 Alternate Work Schedules such as a 72/80 Work Schedule and the Baylor Plan shall be scheduled in advance in each administrative workweek.

(a) The basic workweek for a registered nurse working a 72/80 Alternate Work Schedule will consist of six regularly scheduled 12-hour tours of duty [] within a [] pay period. Under this work schedule the registered nurse is considered for all purposes to have worked a full 80 hour pay period. [A registered nurse on a 72/80 Alternate Work Schedule that has a scheduled 12-hour tour of duty that begins in one pay period and ends in a new pay period should be credited for time worked in the new pay period to the pay period that the registered nurse’s tour of duty actually began.]

(b) The basic workweek for a registered nurse working the 9-Month Alternate Work Schedule will consist of five 8-hour days, exclusive of the meal period, with 3 months off duty within a fiscal year.

(c) The basic workweek for registered nurses working the Baylor Plan work schedule will 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).

(d) 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 an Alternate Work Schedule only at the beginning of the administrative workweek and taken off at the end of the administrative workweek.

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h. **Accountability.** Timekeeping documents shall reflect actual hours worked by full-time, part-time, and intermittent employees. Failure to appropriately monitor compliance with the policies and procedures in this handbook, or failure to properly account for time and attendance may result in appropriate disciplinary and/or legal action.]

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 following guidance is provided:

(a) When a holiday falls on [a nonworkday which is] Sunday, the employee's next workday shall be the day observed as the holiday for that employee.

(b) When a holiday falls on [any other nonworkday], 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. Otherwise eligible part-time employees required to work on holidays are [] entitled to holiday premium pay for such service. However, employees whose absence is not authorized will be considered absent without leave and shall lose pay for the day.

c. In-Lieu Non-workday. An in-lieu non-workday may be granted to full-time physicians, dentists, podiatrists, chiropractors, 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. Nurses working on 72/80 work schedules who are not scheduled to work on a holiday shall not be entitled to an in-lieu of holiday.*

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(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) **Flexitime.** 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 flexitime 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, [] changes in the starting time [greater than 15 minutes,] 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 [consecutive] hours [] 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 "overtime hours" refers to officially ordered or approved hours of work performed in excess of the employee's basic work requirement.

2. For part-time employees, overtime hours are those hours of work performed in excess of the basic work requirement for a scheduled period of service day (but must be in excess of 8 consecutive hours) or for a week (but must be in excess of 40 hours), or in excess of 80 hours in the pay period.

(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. **Review of Alternative Work Schedules.** (See chapter 2, paragraph 12g(5).)]

f.] **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[, and with periodically reminding employees of workplace flexibilities available.]

(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.

g.] **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.

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(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).

(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 [12]f(3) of this part.)
- (4) **Computation of Additional Pay for Employees on Flexible Schedules**

(3) **Absence and Leave**

(a) **Holidays**

1. Full-Time Employees

[(a) **In Lieu of Holidays**

(1) All full-time employees on compressed work schedules are entitled to an "in lieu of" holiday when a holiday falls on a nonworkday. In such cases, the employee's holiday is the basic workday immediately preceding the nonworkday.

(2) There are three exceptions:

(a) If the nonworkday is Sunday, the next basic workday is the "in lieu of" holiday.

(b) If Inauguration Day falls on a nonworkday, there is no provision for an "in lieu of" holiday.

(c) If the head of an agency determines that a different "in lieu of" holiday is necessary to prevent an "adverse agency impact," he or she may designate a different "in lieu of" holiday for full-time employees under compressed work schedules. (See 5 U.S.C. 6131(b).)

(3) An employee is not entitled to another day off as an "in lieu of" holiday if a Federal office or facility is closed on a holiday because of a weather emergency or when employees are furloughed on a 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).

7. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES

a. **General.** This section provides mandatory hours of duty and leave policies and procedures related to a 72/80 Work Schedule and the Baylor Plan and applies to nurses and nurse anesthetists appointed at

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VA health-care facilities under 38 U.S.C. 7401(1) or 7405a(1)(A). This section also provides procedures related to the 9-Month Work Schedule for certain nurses and nurse anesthetists appointed under 7405a(1)(A). This section applies to all such nurses who are providing direct patient care services. The use of Alternate Work Schedules is authorized by the Secretary in order to obtain or retain the services of registered nurses at any Department health-care facility.

b. References

(1) 38 U.S.C. 7401(1), 7405a(1)(A) and 7456A.

c. Definitions. The following definitions shall apply:

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

(2) Alternate Work Schedules for Registered Nurses.

(a) **72/80 Work Schedule.** Six regularly scheduled 12-hour tours of duty [] within a pay period that is considered for all purposes to be a full 80 hour pay period.

(b) **9-Month Work Schedule.** Nine months full-time with three months off duty within a fiscal year, paid at 75 percent of the full-time rate for such nurse's grade and step each bi-weekly pay period of the fiscal year.

(c) **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek (Sunday and Saturday).

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

(4) **Bi-weekly Pay Period.** The pay period covering two administrative workweeks.

(5) **Overtime Work.** For full-time Alternate Work Schedule employees the term overtime hours refer to hours of work officially ordered or approved and performed outside of and in addition to the basic work requirements.

(6) **Nurses.** A registered nurse (RN) or nurse anesthetist appointed under 38 U.S.C. 7401(1) or 7405a(1)(A), but does not include graduate nurse technicians, nurse technicians, student nurse technicians, or the Chief Nursing Officer of the Nursing Services in VA Central Office, who is appointed under 38 U.S.C. 7306.

(7) **Tour of Duty.** Under Alternate Work Schedules, an employee's tour of duty is synonymous with the employee's basic work requirement set by the authorizing official.

(8) **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

i. **Time and Attendance Records.** (see chapter 2, paragraph [12]f(3)) of this part.

j. **Computation of Pay for Registered Nurses on Alternate Work Schedules.** Policies concerning pay administration for nurses on Alternate Work Schedules such as a 72/80, 9-Month and the Baylor Plan are contained in VA Handbook 5007, Pay Administration.

k. **Computation of Additional Pay for Registered Nurses on Alternate Work Schedules.** Policies concerning pay administration for nurses on Alternate Work Schedules such as a 72/80, 9-Month and the Baylor Plan are contained in VA Handbook 5007, Pay Administration.

l. **Overtime Hours.** Paragraph 6(c) of this chapter contains a definition of overtime hours for employees on Alternate Work Schedules. Such employees, however, are also eligible for call-back overtime if they meet the conditions outlined in VA Handbook 5007. To ensure the continuity of patient care services, and only when necessary, management can require mandatory overtime. For nurses working under the Alternate Work Schedule, overtime means:

(1) **72/80 Work Schedule.** A registered nurse is entitled to overtime pay for performing officially ordered or approved overtime services as follows:

(a) Service in excess of 72-hour tour of duty within a 80 hour pay period.

(b) Service in excess of 12 hour for any day included in the nurse's regularly scheduled 72-hour tour of duty.

(c) Service in excess of 8 consecutive hours on a day other than a day the nurse is regularly scheduled to work a 12-hour tour of duty.

(d) Service in excess of 80 hours during a pay period.

(2) **9-Month Work Schedule.** A nurse is entitled to overtime pay for performing officially ordered or approved overtime service as follows, regardless of whether it is performed during the 9-month duty period or the 3-month off duty period:

(a) Service in excess of 40 hours in an administrative workweek.

(b) Service in excess of 8 consecutive hours. For nurses on compressed work schedules, overtime pay is payable for service performed in excess of the employee's daily work requirement.

(3) **Baylor Plan.** A nurse on the Baylor Plan is entitled to overtime pay under 38 U.S.C. 7453(e) or (i) for performing officially ordered and approved overtime service as follows:

(a) Service in excess of 24 hours on the weekend.

(b) Service in excess of 8 consecutive hours on a day other than Saturday or Sunday.

CHAPTER 4. ALTERNATIVE WORKPLACE ARRANGEMENTS (TELEWORK)

1. PURPOSE. This chapter sets forth Departmental policies and procedures on alternative workplace arrangements (telework). Telework provides employees with the opportunity to perform their work at locations other than the traditional office setting.

2. COVERAGE. This chapter covers all VA employees in telework suitable positions.

3. EXCLUSIONS

a. Employees who have been officially disciplined for absence without approved leave (AWOL) for more than 5 days in any calendar year after December 9, 2010.

b. Employees who have been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

4. RESPONSIBILITIES

a. Under Secretaries, Assistant Secretaries, Other Key Officials, or their designees, are responsible for implementation and administration of telework programs and this policy within their organizations; ensuring that managerial, logistical, organizational, or other barriers to implementation and successful functioning of the telework program are removed and approving or discontinuing telework arrangements in VA Central Office. Each Administration and Staff Office will be required to provide timely employee participation data to meet the Departmental annual reporting requirement. Reporting data will be submitted to the Office of Human Resources Management, Worklife and Benefits Service upon request.

b. Facility Directors are responsible for implementing telework programs and approving or discontinuing telework arrangements for employees under their jurisdiction **and periodically remind employees of the workplace flexibilities available.** The responsibility for approving or discontinuing telework arrangements may be delegated as far down as first level supervisors. The approval of telework arrangements must be coordinated with facility Human Resources Management Officers and Information Security Officers (ISO).

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 suitability and employee eligibility for telework arrangements and for coordinating the completion of the User's Remote Computing Security Agreement with employees. The Agreement is available in the "[VA Remote Access Guidelines](#)." Supervisors must then ensure that the employee coordinates the request for remote access through the ISO. 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.

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e. Employees are responsible for:

(1) Maintaining productivity and for fulfilling their obligation to account for their scheduled daily tour of duty. Participants may be permitted to work at home or other telework worksites full days or a portion of a day. Leave may be requested for the period of time not worked.

(2) Working with their supervisor in completing the User's Remote Computer Security Agreement and coordinating the request for remote access with the facility ISO.

5. DEFINITIONS

a. **Ad Hoc Telework.** Telework that occurs on an occasional, non-routine basis. Telework that occurs to complete short-term special assignments or to accommodate special circumstances even though the telework arrangement may occur continuously for a limited and specific period of time.

b. **Alternative Work Site.** The worksite location where the teleworker works away from the traditional office.

c. **Classified Documents.** Documents that have been officially designated as either Confidential, Secret, or Top Secret.

d. **Continuity of Operations Planning (COOP).** Planning to ensure that the capability exists to continue agency essential functions across a wide range of emergencies, either natural or declared.

e. **Docking Station.** A piece of equipment that is used with an agency issued laptop computer to allow for the convenient and quick connection of peripheral and/or telecommunications.

f. **Official Duty Station.** The city/town, county, and State in which the employee works as determined by the employing agency.

g. **Regular and Recurring Telework.** An approved telework schedule where eligible employees work at an alternative work site on a regular, recurring, and ongoing basis. Employees may work as few as one day per month or as many as five days per week.

h. **Telework.** A flexible work arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

i. **Telework Agreement.** A required written agreement, completed and signed by an employee and appropriate officials, outlining the terms and conditions of an alternative workplace arrangement (telework).



[j]. Telework Coordinator. VA employee designated in each facility to handle the responsibilities of maintaining a record of employees under telework agreements and any other duties requested by management to help manage a facility's telework program.

[k]. Virtual Office or Virtual Workplace. A work environment in which employees work cooperatively from different locations using a computer network (in lieu of a single building or other single physical location) to perform work-related duties. As opposed to a single location site (facility) where workers are housed, the virtual office is typically a collaborative computer network where workers gather electronically to collaborate and/or carry out other work-related activities. The actual physical locations of the employees working in a virtual office can be temporary or permanent and can be nearly anywhere, such as their homes, satellite offices, hotel rooms, corporate offices, shared work spaces, airports, airplanes, or trains.

6. POLICIES AND PROCEDURES

a. It is the policy of VA to encourage the use of alternative workplace arrangements. Managers and supervisors should permit eligible employees to participate in telework to the maximum extent possible provided it does not diminish employee performance or Departmental operations. Telework supports VA goals for improving environmental stewardship and providing employees with greater worklife flexibilities, as well as providing an effective and efficient means to continue performing mission critical functions during local or national incidents.

b. Managers and supervisors must determine whether a position is suitable for telework and whether the employee is eligible to participate in a telework arrangement. Managers and supervisors also must issue notification letters to employees apprising them of their eligibility to participate in telework (see sample letters in appendices A and B). The procedures for the notification may be determined at the local level with appropriate bargaining unit involvement.

c. Telework is not an employee entitlement. An employee's participation in telework is voluntary, and approval will be based on management's determination that telework supports the mission of the organization and does not diminish either employee performance or agency operations. Management may disapprove or terminate an alternative workplace arrangement if it is not compatible with or does not contribute to the organization's mission. Telework notification letters should be provided in writing and include the business-based rationale for the decision. This is a matter for local negotiation.

d. Employees who meet the criteria for telework may participate in telework arrangements in accordance with applicable laws and collective bargaining agreements. Participation in a telework arrangement is subject to supervisory approval. Whenever appropriate, management may consider establishing telework arrangements to meet its needs as well as those of employees. Telework provides managers, supervisors, and employees with alternatives to the traditional worksite in accomplishing work objectives. Telework may be used as a reasonable accommodation for employees with qualifying disabilities under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* Detailed guidance on reasonable accommodation may be found in VA Handbook 5975.1.

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e. The primary intent of the telework program is to support the mission of the office in an alternative work setting. Telework may not be used as an alternative to or in lieu of dependent care.

f. Telework arrangements may be established at [] the employee's residence, satellite centers, and other temporary alternative workplace arrangements such as hoteling (workspaces assigned for use by reservation on an as-needed basis), hot desking (locating workspaces assigned on a first come, first served basis), hotel rooms, airports, and virtual offices when determined by work unit supervisors to be consistent with the mission of VA.

g. Prior to initiating, modifying, or terminating a telework arrangement that affects employees in a collective bargaining unit, appropriate labor relations obligations must be fulfilled.

h. It is recommended that telework agreements be reviewed at least annually, but no more than quarterly (unless there are specific concerns with the agreement) to determine the impact on work operations.

i. If management determines that a telework arrangement is not meeting the operational needs of the organization, the arrangement will be modified no sooner than two weeks after the employee is notified, or in accordance with the required notice periods specified in applicable collective bargaining agreements. Supervisor modification or termination of the arrangement [or an employee's request to terminate an arrangement] requires two weeks notice except where:

- (1) Otherwise specified in a collective bargaining agreement;
- (2) Work-related circumstances require otherwise, e.g., an emergency situation;
- (3) Management determines that the teleworker is not meeting performance criteria;
- (4) The employee breached information security protocol or;

(5) The employee works overtime without prior advanced approval. Employees are not authorized to work overtime unless ordered and approved by the supervisor in advance. Unauthorized overtime will not be credited. Telework agreements may be terminated for employees who work unauthorized overtime. The decision to terminate the agreement should be made on a case-by-case basis based upon the circumstances after discussion with the employee.

j. Equal employment opportunity principles are fully applicable to the operation of this program.

k. Employees with mission-critical duties and those who may be required to telework in the case of a Continuity of Operations (COOP) event, office closure to the public due to adverse or inclement weather, or pandemic health crisis must have an approved telework agreement in place.

[l]. Adequate office coverage must be maintained. Teleworkers, therefore, may be required to return to the traditional worksite on scheduled telework days based on the needs of the office. In such instances, a recall to the office for operational reasons [or in support of a mission requirement] is not a termination of the telework agreement. Requests by teleworkers to change their scheduled telework days in a particular week or bi-weekly pay period should be accommodated by the supervisor where practicable, and consistent with mission requirements.

[m]. A new telework agreement should be completed if the employee is assigned to work under a new supervisor.

[n]. Telework is not intended to serve as a substitute for dependent/elder care. Telework arrangements involving the employee providing dependent/elder care to any individual shall not be authorized. The opportunity to participate in telework is offered only with the understanding that it is the responsibility of the employee to ensure that a proper work environment is maintained (e.g. dependent/elder care arrangements are made so as not to interfere with the work, personal disruptions such as non-business telephone calls and visitors are kept to a minimum, etc).

7. TELEWORK CRITERIA

a. **Participation.** Employee participation in a telework arrangement is voluntary. Managers should allow eligible employees to telework to the maximum extent practicable without diminished employee or organizational performance.

(1) VA employees selected for telework arrangements must occupy a suitable position and have a performance rating of at least Fully Successful, or equivalent. Employees may be denied eligibility to telework if they do not have a history of being “reliable, responsible, and able to work independently.” Both full-time and part-time employees may participate in a telework arrangement. Telework is not recommended for trainee or intern positions or during the first 90 days of any probationary period.

(2) The supervisor is responsible for determining the requirements and expectations of a telework arrangement to include the appropriate number of days. This should be done in collaboration with the employee. Each arrangement to telework is to be considered individually and documented in a written agreement. The original should be maintained by the supervisor with a copy provided to the employee. A copy must also be provided to the organizational telework coordinator for tracking purposes.

(3) All teleworkers and their immediate supervisors must receive training designed to provide the employee and supervisor with a smooth transition to telework. The training module is available via the Talent Management System.

b. **Position Suitability**

(1) Management officials are responsible for determining which positions are appropriate for telework arrangements consistent with labor relations obligations.

Period remote computer surveillance may be conducted on the GFE to ensure information security policy compliance. Technical requirements for computer connections to the VA network by teleworkers will be published and issued by the Chief Information Officer (CIO). Offices sponsoring telework must also ensure that adequate technological security protections are in place on all electronic devices issued to telework participants. If Federal and VA information security policies, procedures and guidelines are not followed, telework must be terminated. Prior notice to the employee is not required for enforcement and reporting of security violations. Additional security policy information and clarification can be obtained from the VA Office of Information and Technology, Office of Cyber and Information Security (005S). (See VA Directive 6500, Automated Information Systems Security).

d. Security and Privacy Considerations

(1) Classified documents (hard copy or electronic) may not be taken to, used, or stored at an employee's home office. [] The employee must return to the traditional office to access and work on such documents or materials. Privacy Act materials and VA data and systems may be accessed remotely provided that the employee agrees to protect Government/VA records from unauthorized disclosure or damage. The employee must also comply with all legal requirements (for example, Privacy Act of 1974, 5 U.S.C. § 552a), policies and procedures (for example, VA Directive and Handbook 6500) identified by the Administration or Staff Office as necessary to protect the VA data and systems to which the employee will have access under the telework arrangement. Prior notice to the employee is not required to terminate telework arrangements due to security violations.

(2) If any legal requirements (for example, Privacy Act of 1974, 5 U.S.C. § 552a), Departmental or office policies and procedures change (for example, VA Directive and Handbook 6500), the employee, upon proper notice, must agree to comply with the changed requirements. Failure to so agree constitutes a basis for termination of the employee's participation in the program.

e. **Emergency Closure and Dismissal Impact on Telework.** On a day when the official duty station facility is closed for all or part of a day, the following rules apply:

(1) **Unscheduled Leave or Unscheduled Telework Days.** In the event of an emergency, government agencies may be closed to the public, however employees may request unscheduled leave or unscheduled telework. The employee is not *required* to perform work at the alternate work site unless it is specified in the written telework agreement. However, if the employee *voluntarily* chooses to perform any work at the alternate worksite, the employee is not entitled to additional compensation such as overtime, compensatory time, or credit hours.

(2) **Late Openings.** On a day when an employee is scheduled to work at the alternate worksite and the employee's official duty station facility opens late, the employee is required to perform their full alternate worksite schedule if scheduled to work from that location.

(3) **Late Arrivals and Early Dismissals.** On days when a late arrival or early dismissal occurs, the employee is required to perform their full alternate worksite schedule if scheduled to work from that location.

8. PROCESS FOR ESTABLISHING A TELEWORK AGREEMENT

- a. Management must first identify an employee's position as suitable for telework, determine whether the employee is eligible to participate in telework, and notify the employee of his or her eligibility in writing, regardless of whether the employee has submitted a request to telework.
- b. Eligible employees interested in telework should discuss the matter with their supervisor and, if they would like to telework, submit a request.
- c. The supervisor will consider the request and determine whether telework is an appropriate work arrangement. When the supervisor and employee agree that the alternative workplace arrangement is an acceptable option, additional discussions should be held regarding the employee's work schedule, work requirements and job expectations.
- d. Upon completion of the mandatory telework training course, including the Information Security Awareness Training and VHA Privacy Policy Training, as applicable, the employee must complete [VA Form 0740, Telework Agreement](#), which lists all terms and conditions for the telework alternative workplace arrangement, coordinate the request for remote access through the ISO in accordance with VA Directive 6500, and collaborate as needed with the facility's Telework Coordinator.

[9. PROCEDURES TO REQUEST A TELEWORK AGREEMENT

- (1) Employees may submit a written request to their immediate supervisor to telework. The request must state the specific work schedule, as well as the proposed work days, hours, etc. as applicable.
- (2) The immediate supervisor must meet or confer directly with the requesting employee within 10 business days after receipt of a written request to telework to understand fully the nature of and need for the requested flexibility.
- (3) The supervisor must carefully consider the request and any supporting information provided by the employee and provide a written decision to the employee within 20 business days after receipt of the initial request, or within the timeframes set forth in an applicable collective bargaining agreement. Supervisors must consider VA's mission-related requirements and the impact on VA operations when rendering a decision. If the supervisor is unable to grant the employee's request due to mission-related requirements and the impact on VA operations, the supervisor should work with the employee to determine if there are alternatives available that are beneficial to VA and the employee.
- (4) If the supervisor denies the employee's request to telework the employee has the right to file a grievance in accordance with the procedures outlined in VA Handbook 5021, Part IV, or applicable collective bargaining agreement.]

[10]. REFERENCES

- a. 5 CFR, part 531, subpart F, January 1, 2015 (Locality Pay)

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- b. 5 U.S.C. § 552a, Privacy Act of 1974.
- c. 38 U.S.C. § 501, 5701, and 7421(a).
- d. Public Law 104-52, § 620 (31 U.S.C. 1348), November 19, 1995.
- e. Public Law 104-191, the Health Portability and Accountability Act of 1996 (HIPAA).
- f. Public Law 106-346 Sec. 359, October 23, 2000.
- g. Public Law 111-292, Telework Enhancement Act of 2010, December 9, 2010.
- h. VA Directive and Handbook 6500, Information Security Program, September 18, 2007.
- i. VA Directive 6502, VA Enterprise Privacy Program, May 5, 2008.

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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 [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.]

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 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.)

submitted within 15 calendar days after the employee returns to work. 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 630.40[6].

c. **Time Limitation for Medical Documentation.** All supporting documentation for use of sick leave must be submitted by the employee no later than 15 calendar days after the employee returns to work. If, due to circumstances beyond the control of the employee, he or she is unable to provide the documentation within 15 calendar days, the employee must provide the evidence or medical certification no later than 30 calendar days after returning to work. An employee who does not provide the required evidence within 30 calendar days is not entitled to sick leave.

d. **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.

e. **Advanced Sick Leave**

(1) [Advanced] [s]ick leave not in excess of 13 days (104 hours) [should be offered and if requested must be granted, subject to sick leave limitations] to a full-time employee with no time limit in his or her appointment:

(a) For medical, dental or optical examination or treatment;

(b) To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;

(c) To provide care for a family member who has been exposed to a communicable disease when the family member's presence in the community would jeopardize the health of others according to the health authorities having jurisdiction or by a health care provider; or

(d) To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

(2) [Advanced] [s]ick leave not in excess of 6 weeks (240 hours) [should be offered and if requested must be granted, subject to sick leave limitations] to a full-time employee with no time limit in his or her appointment:

(a) When incapacitated for the performance of his or her duties due to physical or mental illness, injury, pregnancy, or childbirth;

(b) For a serious health condition of the employee or a family member;

(c) When the employee has been exposed to a communicable disease and the employee's presence in the community would jeopardize the health of others according to the health authorities having jurisdiction or by a health care provider;

(d) For purposes relating to the adoption of a child; or

(e) For the care of a covered servicemember with a serious injury or illness when the employee is exercising his or her Family and Medical Leave Act entitlement under 5 U.S.C. 6382(a)(3).

(3) For part-time employees and employees on uncommon tours of duty, the maximum amount of sick leave advanced shall be prorated according to the number of hours in the employee's regularly scheduled workweek.

(4) 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.

(5) There may not be more than 30 days (240 hours) of advanced sick leave on an employee's record at any one time (5 CFR 630.402(b)).

(6) The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave.

(7) It is not appropriate to approve advance sick leave to an employee when it is known, or reasonably expected, that the employee will not return to duty, e.g., when the employee has applied for disability retirement.

(8) Medical certification requirements as set forth in VA Handbook 5011, Part III, Chapter 2, paragraphs 4b and c are applicable when requesting advance sick leave.

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 [VA Financial Policies and Procedures Travel Per Diem Volume XIV, chapter 2.]

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. []. (Inactivity Duty Training is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training VA will follow regulations provided in Department of Defense Instruction Number 1215.19, March 14, 1997; Uniform Reserve, Training and Retirement Category Administration; Enclosure 4, Definitions; E4.1.15). **NOTE:** See paragraph 12z of this chapter for VA policy regarding excused absence upon return from certain active duty.

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

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

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

(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 [VA Financial Policies and Procedures Travel Administration Volume XIV, chapter 1, and VA Financial Policies and Procedures Travel Per Diem Volume XIV, chapter 2] for instructions about authorizing travel and per diem at Government expense.

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(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 [Administrative Absence] 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 [Administrative Absence] 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 [Administrative Absence] 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 [Administrative Absence]. 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 [Administrative Absence], 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 [Excused Absence] 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 [Administrative Absence]. 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 [Official Duty Status] 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 [shall be excused without charge to leave Official Duty Status] 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, [shall] be excused without charge to leave [Official Duty Status] 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 [Administrative Absence for remainder of the day of injury] 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.

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(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 [Administrative Absence], 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 [Official Duty Status].

(2) Attendance at Meetings

(a) Employees may be excused without charge to leave [Official Duty Status] 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.

(b) 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 [Official Duty Status or Administrative Absence if not directly related to specific duties but considered gainful knowledge to achieve VA missions] 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.

(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 [Official Duty Status] 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 [Official Duty Status] 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 [Official Duty Status] 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 [Official Duty Status]. 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) [Managers will not routinely place an employee in an administrative leave status pending disciplinary, adverse or performance based action. While management is determining whether or not such action is appropriate, the employee in question will be detailed to other duties. Exceptions will only be made if the employee is a direct threat to themselves or others, to the Department's mission, or to Federal Government property. All exceptions must be documented. Managers will take this guidance into consideration and review any existing cases where employees are on administrative leave pending disciplinary action. All exceptions must be consulted through the respective General Counsel.]

(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 [Administrative Absence] for such time as is necessary to effect suspension. (See paragraph 5i 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 [Official Duty Status] for that purpose.

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(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 [Official Duty Status] 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.

1. **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 [Official Duty Status].

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 [Administrative Absence] 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 [Official Duty Status – coded Union Official Time] 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 [Official Duty Status] 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 [15] minutes each and should be regulated to maintain adequate coverage of essential functions at all times.

(2) Employees may be permitted [Official Duty Status] 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 [Official Duty Status] 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 [Official Duty Status] 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 [Official Duty Status] 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 [Administrative Absence] for the time required, not to exceed 2 workdays, to make arrangements for moving. If the employee is authorized absence [Official Duty Status] 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 [Administrative Absence]. 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 [Administrative Absence] 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 [VA Financial Policies and Procedures Relocation Packages Volume XIV, chapter 8]).

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 [Administrative 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 [Administrative Absence] 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.

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(1) **Definition.** An emergency situation may be caused by 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. [Personal impact situations such as an employee's absence as recommended in accordance with the Centers for Disease Control and Prevention (CDC) guidelines may also meet the definition of emergency situation for these purposes.]

(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 [Administrative Absence] may be authorized. These excused absences do not generally apply to employees who provide critical services as discussed in paragraph (2), 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).

(4) Early Dismissals

(a) When early dismissal is authorized, excused absence without charge to leave [Administrative Absence] 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 [Administrative Absence] 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 [Administrative Absence]. 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 [Administrative Absence]. 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 [Administrative Absence] 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 [Administrative 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 [Administrative Absence].

2. An Administration Head, Assistant Secretary, or Other Key Official or designee may excuse an individual employee for any tardiness and for absence [Administrative 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:

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(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 [Holiday Excused] without charge to leave.

w. **Parades, Ceremonies and Civic Activities.** Employees may be excused [Official Duty Status] 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.

[z. Returning from Active Military Duty

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

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

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

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

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

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

d. An employee may substitute up to 26 administrative workweeks of accrued and accumulated sick leave when using FMLA under 5 U.S.C. 6382(a)(3) to provide care for a covered servicemember. Substituted sick leave will be prorated for part-time employees and employees on uncommon tours of duty (5 CFR 630.403).

19. BONE MARROW AND ORGAN DONOR LEAVE

a. In connection with serving as a bone marrow or organ donor, an employee, in any calendar year, is entitled to [Excused Absence] authorized absence [] without loss of or reduction in pay (5 U.S.C. 6327) as follows:

- (1) Not to exceed 7 days of paid leave to serve as a bone marrow donor; and
- (2) Not to exceed 30 days of paid leave to serve as an organ donor

b. Other types of approved leave may also be used in addition to organ donor leave.

20. VOLUNTARY LEAVE TRANSFER PROGRAM

a. **General.** Under this program, the unused accrued annual leave of a VA employee, or an employee of another Federal agency, may be transferred for use by a VA or other Federal employee who needs the leave because of a medical emergency.

b. Definitions

(1) **Agency.** An *Executive agency*, as defined in 5 U.S.C. 105.

(2) **Employee.** Has the meaning given that term in 5 U.S.C. 6301(2); and physicians, dentists, nurses, podiatrists, chiropractors, optometrists, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries in the VHA as covered by chapter 3, this part.

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

- (a) Sons and daughters, and parents thereof;
- (b) Children, including adopted children, and spouses thereof;
- (c) Parents, and spouses thereof;
- (d) Brothers and sisters, and spouses thereof;
- (e) Grandparents and grandchildren, and spouses thereof;

(f) Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (b) through (e) of this definition; and

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

(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 [20]o 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).

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 [20]b(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.

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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 [20]g 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 [20]b(3)(a)-[g] 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

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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 [20]k 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 [20]m(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 [20]l below.

(4) If the employee's medical emergency terminates as described in paragraph [20]l(1)(a), no leave shall be credited to the employee under subparagraph (3) above.

1. 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

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(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.

[(e) An agency may deem a medical emergency to continue for the purpose of providing leave recipient an adequate period of time within to receive donations of annual leave.]

(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.

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(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.

c. **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.

d. **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.*

e. **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.

f. **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 11b is appropriate as a guide in

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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.

g. **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.

h. **Voluntary Leave Transfer Program.** See paragraph [20] 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) 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.

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 part II, chapter 2, 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 [Administrative Absence] for not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, chiropractors, 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, chiropractor, or optometrist will be charged a full day's leave for absence for a part of a day, unless the absence [Administrative 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. Generally, "short duration" means less than one hour. However, additional authorized absence may be granted for unusual or unforeseen circumstances. Such additional authorized absence should not be approved as a matter of routine. When approving authorized absence, approving officials will consider any potential adverse impact on patient care as well as the frequency of requests for authorized absence by the employee.

(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 [Administrative Absence]. 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.

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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 [**Official Duty Status**].

d. **Injury in Line of Duty.** An employee who suffers a duty-connected injury or illness shall be excused without charge to leave [**Administrative Absence for the remainder of the day of injury**] 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 [**Administrative Absence**] 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 [**Official Duty Status**].

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 [**Official Duty Status**].

(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 [**Official Duty Status**] 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 [**VHA Handbook 1400.01**] must be obtained before these absences [**Official Duty Status or Administrative Absence if not directly related to specific duties considered gainful knowledge to achieve VA mission**] are authorized. Requests involving authorized absence to attend activities outside the United States must be approved in accordance with [**VHA Handbook 1400.06**]. 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 [**VHA Handbook 1400.01**] The Under Secretary for Health or chief consultants may authorize such absences for VACO employees.

NOTE: Any approvals required by [VHA Handbook 1400.01] 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 [Administrative Absence].

(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 [Administrative Absence]. (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 [Official Duty Status] 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 [Administrative Absence] 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.

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k. **Medical Treatment.** Employees may be excused [Official Duty Status] for visits to the Employee Health Unit or other emergency facility for treatment of a minor illness.

1. **Examinations.** Absences of physicians, dentists and residents to undergo an American Specialty Board examination, podiatrists, chiropractors, 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 [Official Duty Status] 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).

[NOTE: Managers will not routinely place an employee in an administrative leave status pending disciplinary, adverse or performance based action. While management is determining whether or not such action is appropriate, the employee in question will be detailed to other duties. Exceptions will only be made if the employee is a direct threat to themselves or others, to the Department's mission, or to Federal Government property. All exceptions must be documented. Managers will take this guidance into consideration and review any existing cases where employees are on administrative leave pending disciplinary action. All exceptions must be consulted through the respective General Counsel.]

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 [Excused Absence] 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.