



Transportation Security Administration

# Office of Human Capital

## TSA MD 1100.63-1, Handbook

### Absence and Leave

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Transportation  
Security  
Administration

*This Handbook and all related Attachments and/ or Appendices contain stipulations to implement the provisions of [TSA MD 1100.63-1, Absence and Leave](#). Until such time as TSA MD 1100.63-1 is rescinded, the Management Directive, Handbook, and any Attachments or Appendices are considered TSA policy, and must be applied accordingly.*

**Summary of Changes:**

All sections of the handbook have been revised. The following sections were added: Definitions, Compensatory Time Off, Home Leave, and Administrative Leave.

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**A. DEFINITIONS**

1. Absence Without Leave (AWOL): Status of an employee absent from duty without authorization. An employee who is AWOL is not in an approved leave status.
2. Absent – Uniformed Services (Absent-US): A temporary approved absence from duty in a nonpay status granted at the employee’s request to perform duty with the uniformed services. Formerly known as Leave Without Pay – Uniformed Services (LWOP-US). It is coded in webTA as LWOP-US.
3. Administrative Leave: The placement of an employee in a paid non-duty status when the employee’s continued presence in the workplace may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests. Generally, administrative leave is implemented (1) during the notice period for an employee whose removal or indefinite suspension has been proposed or (2) during the period of an official investigation or management inquiry. Administrative leave must be approved by a designated official. The duration of administrative leave must be kept to a minimum.
4. Administrative Workweek: Any period of seven consecutive 24-hour periods designated by the Assistant Secretary or appropriate designee. Generally, the administrative workweek begins on Sunday and ends on Saturday.
5. Administratively Acceptable Documentation/Evidence: Documentation such as employee self-certification, medical documentation, or other documentation sufficient to warrant approval of a leave request that an employee may be required to provide to his/her supervisor or designated management official to support a request for leave.
6. Adoption: A legal process in which an individual becomes the legal parent of another person’s child. For use of sick leave and FMLA leave, the legal process includes all necessary and related travel.
7. Annual Leave: A form of paid leave earned by an employee on the basis of years of Federal service which may be used for vacations, rest and relaxation, family needs, other outside activities, emergencies not covered by sick leave, and other personal business.
8. Alternative Work Schedule: A generic term that applies to either Flexible Work Schedules (FWS), Compressed Work Schedules (CWS), or Variable Work Schedules (VWS).
9. Approved Leave: An employee’s absence from the work place has either been requested by the employee, initiated by management, or is in accordance with applicable federal statutes, regulations, and agency policy. Such leave is either approved by the employee’s immediate supervisor or by a higher level management official within the agency. Categories of leave that meet the definition of "approved

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leave" include: annual leave, sick leave, leave without pay, compensatory time off, military leave, excused absence, and administrative leave.

10. Approving Official for Voluntary Leave Transfer Program (VLTP): The management official (Federal Security Director or Business Management Office Director) at the local/office level with the delegated authority to approve employee VLTP leave recipient applications. The representative (VLTP Coordinator) within the Office of Human Capital (OHC) who has final approval authority of an employee's application to become a leave recipient in the VLTP. Applications denied at the local/office level are forwarded to OHC for final determination. (See number 76 below.)
11. Basic Work Requirement: The number of hours an employee is required to work or to account for by charging leave, excused absence, holiday leave hours, compensatory time off, or time off as an award. The basic work requirement does not include overtime hours.
12. Biweekly Pay Period: The two-week period for which employees are scheduled to perform work.
13. Bone Marrow Donor Leave: Excused absence from duty that is granted to an employee to serve as a bone marrow donor and to have tests performed related to the donation of bone marrow. Excused absence is without loss of pay or charge to an employee's personal leave accounts and can be up to seven (7) workdays per calendar year.
14. Committed Relationship: A relationship in which the employee and the domestic partner of the employee are each other's sole domestic partner and are not married to or domestic partners with anyone else, and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).
15. Compensatory Time Off for Religious Observances: A form of compensatory time off that may be earned by employees for performing work outside of the basic work requirement for the purpose of religious accommodation.
16. Compensatory Time Off for Travel: A form of compensatory time off that may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.
17. Compensatory Time Off in Lieu of Overtime Pay: Hours that may be earned by an employee, in lieu of overtime pay, for irregular or occasional overtime work.
18. Compressed Work Schedule: For full-time positions, work schedules consisting of less than 10 days and no more than 80 hours per pay period. For part-time positions,

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work schedules consisting of less than 10 days and no more than 64 hours per pay period. For part-time Transportation Security Officers (TSOs) hired after April 2, 2007, work schedules consisting of no more than four days per week and no more than 50 hours per pay period.

19. Continuation of Pay (COP): The continuation of an employee's regular pay for up to 45 calendar days of wage lost due to disability and/or medical treatment after a work-related traumatic injury. COP is recorded in the payroll system as traumatic injury leave. TSA policy and procedures for the Workers' Compensation Program can be found in [TSA MD 1100.00-6, Workers' Compensation Program](#), and the accompanying [Handbook](#).
20. Conventional Work Schedule: For full-time positions, work schedules consisting of five days per week, eight hours per day and 40 hours per week (80 hours per pay period). For part-time positions, work schedules consisting of five days per week, no more than 32 hours per week (no more than 64 hours per pay period). For part-time Transportation Security Officers (TSOs) hired after April 2, 2007, work schedules consisting of five days per week, no more than five hours per day, and no more than 25 hours per week (no more than 50 hours per pay period).
21. Court Leave: Authorized absence from duty, without loss of pay or charge to an employee's personal leave accounts, for the purpose of service as a juror or for service in a nonofficial capacity as a witness when one of the parties is the Federal, State, or local government.
22. Covered Service Member:
  - (a) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
  - (b) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment.
23. Domestic Partner: An adult in a committed relationship with another adult, including both, same-sex and opposite-sex relationships.
24. Essential Functions: The fundamental job duties of the employee's position.
25. Excused Absence: Administratively authorized absence from duty, without loss of pay or charge to an employee's personal leave accounts, which may be granted under specific circumstances by an authorized management official. Authority to grant excused absence is limited. See Section I of this handbook. Excused absence is not



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authorized for use as an award or reward for any circumstances, including superior performance or perfect attendance.

26. Extended Leave: Annual leave, sick leave, or leave without pay (LWOP) of 30 or more calendar days.
27. Family and Medical Leave Act (FMLA): Law that provides eligible employees up to 12 or 26 administrative workweeks of leave without pay during a 12-month period for certain personal and family emergencies. The law also provides job, benefits and pay protection to employees who invoke their right to use leave under this authority.
28. Family Member:
  - (a) For the purpose of **sick leave, voluntary leave transfer program, and funeral leave**, a spouse and the spouse's parents; children, including adopted and step children and their spouses; parents and their spouses; siblings and their spouses; grandparents and their spouses, grandchildren and their spouses; domestic partners and their parents; domestic partners of the aforementioned family members; and any individual related by blood or affinity whose relation to the employee is the equivalent of a family relationship.
  - (b) For the purpose of basic **FMLA**, a spouse, a child under 18 years of age, a child 18 years of age or older who is incapable of self-care because of a mental or physical disability, and parents of the employee.
29. Foster Care: 24-hour care for children in substitution for, and away from, their parents or guardian. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.
30. Full-Time Employees: Employees who have a work schedule consisting of 80 hours in a biweekly pay period.
31. Funeral Leave (Member of the Armed Forces): Excused absence of up to three (3) days granted to an employee to make arrangements for or to attend a funeral or memorial service of an immediate family member who died as a result of wounds, injury, or disease incurred while serving as a member of the armed forces in a combat zone. The definition of family member is the same as that used for sick leave. (See number 28 above.)
32. Foreign (Overseas) Duty Assignment: The assignment of a TSA employee to a position with a foreign (overseas) duty location. A duty station of Alaska, Hawaii, or a U.S. territory, possession, or commonwealth is **not** considered a foreign duty assignment.
33. Health Care Provider: Generally, this is a licensed Doctor of Medicine or Doctor of Osteopathy; any health care provider recognized by the Federal Employee Health Benefits Program or a provider who is licensed or certified under Federal or state law

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- to provide the service in question; a Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or a Native American, including an Eskimo, Aleut and native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders.
34. Home Leave: Leave earned by eligible employees while on a foreign (overseas) duty assignment for the specific use of visiting the United States. The leave may be used in the United States – the 50 states, the District of Columbia, and all its territories, possessions, and commonwealths.
35. Human Resources (HR) Liaison: The HR specialist, administrative officer or other individual in an employee's organization who facilitates the distribution and processing of information related to human resources.
36. In Loco Parentis: Refers to an individual who had day-to-day responsibility for the care or financial support of an employee or a covered service member when either was a child; or a situation in which an employee has day-to-day responsibility for the care or financial support of a child. A biological or legal relationship is not necessary.
37. Incapacity: The inability to work, attend school or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition.
38. Intermittent Leave: Leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of 15 minutes to several weeks. For leave taken under FMLA, it is leave taken in blocks of time less than the employee's entitlement to 12 or 26 administrative workweeks of unpaid leave for certain family and medical needs.
39. Leave Approving Official: An employee's immediate supervisor or higher level supervisor within an employee's chain of supervision, including individuals serving in acting supervisory positions, and individuals designated by a management official to assume leave approval responsibilities for a specified period of time.
40. Leave Donor: An employee whose voluntary written request for transfer of annual leave, sick leave or compensatory time off in lieu of overtime pay hours to the corresponding leave account of a Voluntary Leave Transfer Program (VLTP) leave recipient is approved by TSA.
41. Leave Recipient: An employee for whom TSA has approved an application to receive annual leave, sick leave or compensatory time off in lieu of overtime pay hours donated through the Voluntary Leave Transfer Program (VLTP).
42. Leave Without Pay (LWOP): A temporary approved absence from duty in a nonpay status that may be granted at the employee's request. In general, an employee may not be placed on LWOP unless it is at the employee's request.

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43. Leave Without Pay – Office of Workers’ Compensation Program (LWOP-OWCP): A temporary approved absence from duty in a nonpay status granted when an employee has a work-related temporary disability associated with an accepted OWCP claim. Proper acceptable medical documentation should support the temporary disability.
44. Leave Without Pay – Uniformed Services (LWOP-US): See Absent – Uniformed Services (Absent-US).
45. Management Official: For the purposes of leave, a management official is an employee’s immediate supervisor or higher level supervisor within an employee's chain of supervision. Management officials for leave purposes also include individuals serving in acting supervisory positions and individuals designated by a management official to assume leave approval responsibilities for a specified period of time.
46. Meal Break: A minimum of 30 minutes of unpaid time set aside for eating. Generally a meal break may be 30 to 60 minutes in length and extends the employee’s workday by an equivalent amount. A meal break is **not** considered to be part of the basic workweek/work requirement, except in those situations when the supervisor requires the employee to perform his or her regular duties while eating.
47. Medical Documentation - Use of Sick Leave: A form of administratively acceptable documentation which may be required to support a request for sick leave. When required, medical documentation at a minimum must include the following:
- (a) Date the medical condition began;
  - (b) A clear statement that the employee is or was incapacitated for duty;
  - (c) Information on how the condition affects the employee’s ability to perform the duties of the position;
  - (d) The expected duration of the employee’s absence; and
  - (e) The signature of the employee’s personal physician or authorized health care provider.
48. Medical Documentation – Basic FMLA Leave: Medical documentation that is required when requesting basic FMLA leave for a serious health condition and, at a minimum, must include:
- (a) The date the serious health condition began;

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- (b) The probable duration of the serious health condition or a statement that the serious health condition is a chronic or continuing condition with an unknown duration;
  - (c) Whether the patient is presently incapacitated and the likely duration and frequency of the episodes of incapacitation;
  - (d) The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a general statement as to the patient's incapacitation and examination or treatment to be provided by the health care provider;
  - (e) When the request is for the employee's condition, a statement from the health care provider that the employee is unable to perform one or more of the essential functions of his/her position as identified by a management official; and
  - (f) When the request is to care for a family member, medical documentation must include items (a) – (d) above and a statement from the health care provider that the employee's family member requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety or transportation needs; and would benefit from the employee's care or presence. Employees are also required to provide a statement on the care they will provide for the family member and an estimate of the time period needed to provide this care.
49. Medical Emergency: A medical condition that an employee or the employee's family member experiences that results in the employee being absent from work for at least 24 hours without pay (or 30% of the pay period for part-time employees) resulting in a substantial loss of income because of the unavailability of paid leave. The medical emergency must be substantiated by medical documentation.
50. Medical Review Officer: Medical professional acting on behalf of TSA who reviews medical documentation and provides a medical opinion as it relates to the condition for which the employee has requested leave.
51. Military Leave (Emergency): Time off for eligible employees who perform military duties in support of civil authorities in the protection of life and property as ordered by a State Governor or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as ordered by the President or the Secretary of Defense. Eligible employees may receive up to 22 workdays of military leave (emergency) each calendar year. Employees will have their civilian pay reduced by the amount of the military pay that corresponds to the 22 days of military leave (emergency) authorized.
52. Military Leave (Regular): Time off at full pay for eligible employees to participate in active duty, active duty training and inactive duty training as a member of the

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- National Guard or as a Reservist of the Armed Forces. Full-time employees receive 120 hours of military leave (regular) each fiscal year. Part-time employees receive a prorated amount based on the tour of duty reflected on the SF-50, Notification of Personnel Action.
53. Next of Kin of a Covered Service Member: The nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:
- (a) Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions;
  - (b) Brothers and sisters;
  - (c) Grandparents;
  - (d) Aunts and uncles; and
  - (e) First cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of leave under FMLA.
54. Organ Donor Leave: Excused absence from duty granted to an employee to serve as an organ donor. The excused absence is without loss of pay or charge to an employee's personal leave accounts and can be up to thirty (30) workdays each calendar year.
55. Overtime: Hours worked in excess of eight (8) hours in a day or 40 hours in a week for an employee on a conventional work schedule or in excess of 80 hours in a pay period for a full-time employee on a compressed work schedule. For a part-time employee hours in excess of the compressed work schedule for a day (must be over 8) or for a week (must be more than 40). All overtime hours must be officially ordered and approved prior to the work being performed and must be approved in writing.
56. Parent: A biological parent, an adoptive parent, a legal guardian, or an individual who stands or stood in loco parentis to an employee when the employee was a minor. For the use of sick leave, voluntary leave transfer program, and funeral leave, the definition of parent includes the parents of employee's spouse or domestic partner.
57. Parent of a Covered Service Member: A covered service member's biological, adoptive, step or foster father or mother, or any other individual who stands or stood in loco parentis to the covered service member. This term does not include parents-in-law.
58. Part-Time Employees: Employees with work schedules consisting of between 16 and 32 hours per week (between 32 and 64 hours per pay period). For part-time

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Transportation Security Officers (TSOs) hired after April 2, 2007, work schedules consisting of 16 to 25 hours per week (no more than 32 to 50 hours per pay period).

59. Pay Status: Hours spent working or on paid leave.
60. Reduced Leave Schedule: For FMLA purposes, this is a leave schedule that reduces the employee's usual number of hours of work per workday or workweek. The number of hours by which the schedule is reduced are counted as hours of leave taken under FMLA.
61. Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves: inpatient hospital care; continuing treatment by a health care provider; pregnancy; ongoing treatment for a chronic condition; permanent/long-term conditions that require supervision; and non-chronic conditions that require multiple treatments.
62. Serious Injury or Illness:
- (a) In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), "serious injury or illness" means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
  - (b) In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period 5 years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy, "serious injury or illness" means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.
63. Set Aside Accounts: Annual leave and sick leave balances that an employee may accumulate while using leave donated through the VLTP. A full-time employee may not accumulate more than 40 hours each of annual leave and sick leave while in the VLTP. Amounts are pro-rated for a part-time employee.
64. Sick Leave: A form of leave earned by an employee, which the employee may use for:
- (a) Medical, dental, or optical examination or treatment;
  - (b) Incapacitation by physical or mental illness, injury, pregnancy or childbirth;

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- (c) Communicable disease that would jeopardize the health of others by the employee being present on the job;
  - (d) Absence from work for adoption-related activities;
  - (e) Care of a family member for general medical conditions or a serious health condition; or
  - (f) Bereavement purposes.
65. Son or Daughter: A biological, adopted or foster child; a stepchild; a legal ward; or a child of a person who stood in loco parentis, including the son or daughter of an employee's spouse or domestic partner. For basic FMLA leave, the child must be under 18 years of age or if 18 years of age or older, incapable of self-care because of a mental or physical disability.
66. Son or Daughter of a Covered Service Member: A covered service member's biological, adopted, or foster child, stepchild, legal ward or a child for whom the covered service member stood in loco parentis, and who is of any age.
67. Son or Daughter on Active Duty: The employee's biological, adopted or foster child; stepchild; legal ward or a child for whom the employee stood in loco parentis, who is on active duty or a call to active duty status, and who is of any age.
68. Spouse: An individual who is a husband or wife of the employee pursuant to a marriage that is a legal union between one man and one woman. This includes common law marriage between one man and one woman in states where common law marriages are recognized.
69. Substantial Loss of Income: Twenty-four hours of leave without pay for a full-time employee experiencing a medical emergency. For a part-time employee, this equates to thirty percent (30%) or more of the average number of hours in the employee's biweekly scheduled tour of duty.
70. Summons: A subpoena or an official written request or invitation issued by the court or authority responsible for the conduct of the judicial proceeding.
71. Time-Off Award: Time off from duty granted to an employee that may be used for the same purposes as annual leave, without loss of pay or charge to the employee's annual leave, sick leave or compensatory time off accounts. Time-off awards recognize employee accomplishments, and must be used within 26 pay periods (one year) of the effective date of the award.
72. Tour of Duty: The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty), which constitute an employee's regularly scheduled administrative workweek.

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73. United States (U.S.): The 50 states, the District of Columbia, and all its territories, possessions, and commonwealths. Specific information on U.S. Territories, possessions, and commonwealths can be found by visiting [www.USA.gov](http://www.USA.gov).
74. Unscheduled Leave: An absence from duty that is not requested and not approved in advance of the absence and in accordance with established leave requesting procedures. Calling in prior to the start of the shift or leaving work prior to completion of the shift for an unexpected illness or a personal emergency is unscheduled leave. For the absence to be considered for approval, the employee must follow established procedures and provide any required documentation to support the absence. However if the employee is ill, generally the absence would be covered by sick leave and approved, and the employee would be held accountable for following established leave requesting procedures.
75. Voluntary Leave Transfer Program (VLTP): Agency program that allows employees to donate leave to other employees who are in a LWOP status as a result of a medical emergency or natural disaster that results in a personal loss (e.g., loss of home or personal property).
76. VLTP Coordinator: The individual who manages the overall VLTP for the agency and who has final approval authority of an employee's application to become a VLTP leave recipient.



**B. GENERAL LEAVE POLICIES AND PROCEDURES**

1. Requests for Leave

- (a) Supervisors or designated management officials are responsible for informing employees, in writing, of the leave requesting procedures for their organizational unit and should provide annual reminders of the procedures or more frequent reminders if changes occur. [HCM 630-5, Local Attendance and Leave Guidance](#), provides TSA policy and procedures for establishing local guidelines for attendance and the use of leave.
- (b) The [OPM Form 71, Request for Leave or Approved Absence](#), is the required method for employees to use when requesting leave.

**NOTE:** Local offices are not authorized to modify the OPM Form 71 or to develop and use other forms to request leave.

- (c) An employee who wishes to take leave is required to inform his or her supervisor in advance of the request following established procedures. Leave requests should include the day(s), type of leave requested, and number of hours. If the request is for less than a full day, it must include specific hours (from-to).
- (d) When an employee is, or will be, on an extended absence for 30 or more calendar days, airport/office management must notify the Office of Security, Personnel Security Division (PerSec) following the policy and procedures outlined in [HCM 300-2, Security-Related Notification Requirements for Extended Absence, Return to Duty, Restoration, and Reinstatement](#).
- (e) Employees requesting unscheduled leave are required to follow local notification procedures. Generally, employees must notify management 60 minutes prior to the start of the employee's scheduled shift. In the event the employee is presented with circumstances that would reasonably preclude him/her from contacting management, notification should be made as soon as possible. Administratively acceptable documentation may be required. On a case-by-case basis, management determines to approve or deny employee requests for unscheduled leave. Failure to submit a completed OPM Form 71 along with any required documentation upon return to duty or failure to follow leave requesting procedures may result in a charge of AWOL for the absence.
- (f) Employees who request leave under the Family and Medical Leave Act (FMLA) are strongly encouraged to submit required medical documentation with the OPM Form 71. The employee's health care provider may provide the necessary documentation on his/her letterhead or through the use of forms WH-380E, Certification of Health Care Provider for Employee's Serious Health

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Condition or WH-380F, Certification of Health Care Provider for Family Member's Serious Health Condition. See Section O of this Handbook.

- (g) Employees are responsible for scheduling and using restored annual leave, projected "use or lose" annual leave, compensatory time off in lieu of overtime pay, compensatory time off for travel, and time-off awards to avoid forfeiture.
- (h) Employees may use compensatory time off and annual leave for vacations, rest and relaxation, family needs, personal business and for situations generally covered by sick leave.
- (i) Employees may be required to provide "administratively acceptable" medical documentation when requesting to use compensatory time off or annual leave in place of sick leave. Questions regarding "administratively acceptable" medical documentation should be addressed to local HR Liaisons or field counsel.
- (j) Once an employee is approved for disability retirement, he/she may not request or continue to use leave (paid or unpaid) beyond the end of the biweekly pay period in which the Office of Personnel Management (OPM) approves disability retirement for the employee.

2. Charging Leave

- (a) The minimum charge for most leave categories is 15 minute increments. However, military leave is charged in one-hour increments, and home leave is charged in increments of one-day based on an 8 hour day.
- (b) Employees may not be charged leave on holidays, regular non-workdays and non-workdays authorized by administrative order. When a non-workday is authorized by administrative order, an announcement will be issued by the Office of Human Capital identifying the date and reason for the non-workday.
- (c) Employees who are scheduled to work on a holiday (or other day designated as a non-workday by administrative order for most employees), and do not report to work should be charged absence without leave (AWOL) if the absence is not approved.
- (d) Management may not charge annual leave, sick leave, compensatory time off, or AWOL to an employee who refuses to work overtime or who does not report for scheduled overtime duty. Failure of an employee to report for scheduled overtime is not tracked in the payroll system. Management should document and track the employee's failure to report for scheduled overtime duty and take appropriate corrective or disciplinary action, as warranted.
- (e) Part-time employees are only charged leave for absences that occur on days and hours the employee is regularly scheduled to work. A part-time employee is charged leave for non-overtime hours the employee is unable to work during the

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regularly scheduled workweek as long as the schedule is established in advance of the start of the workweek. A part-time employee is not charged leave for non-overtime hours scheduled after the start of the workweek.

- (f) TSA Office of Security Operations (OSO) canine handlers on approved leave (e.g., annual leave, sick leave, time-off awards, or LWOP) for the entire workday and continuing to provide care and feeding the canine receive one hour of non-overtime pay and are charged leave for the remaining hours in the workday. If the canine handler is not providing care and feeding the canine (i.e., the canine is kenneled.), the employee is charged leave for the entire workday.

*Example:* A canine handler who works a conventional work schedule, 8 hours per day – 5 days per week, is charged 7 hours of leave and receives 1 hour of regular pay when on approved leave for the entire workday. If the canine is kenneled, the canine handler is charged 8 hours of leave.

3. Approving/Denying Leave

- (a) Supervisors and designated management officials maintain the discretion to approve annual leave and compensatory time off requests based on the needs and workload of the organizational unit.
- (b) Generally, supervisors and designated management officials will not deny sick leave requests unless there is specific knowledge of employee misuse or abuse of sick leave or the employee does not provide administratively acceptable medical documentation when required.
- (c) Approved leave requests (OPM-71) must be filed with the employee's time and attendance records. A copy of the approved leave request should be provided to the employee.
- (d) When denying a leave request, the supervisor or designated management official must indicate the reason for the denial on the OPM Form 71.
- (e) Denied leave requests must be filed with the employee's time and attendance records. A copy of the denied leave request must also be provided to the employee.

4. Attendance

Employees are expected to report for work on time and fit for duty and are expected to be on duty at all times during their tour of duty except during meal breaks and approved absences.

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5. Insufficient Leave Balance

- (a) If an employee is out of the office on approved extended sick leave and has an insufficient leave balance to cover the absence, the employee will be placed on leave without pay (LWOP) if the supervisor or designated management official is unable to reach the employee or the employee's representative. The employee is responsible for contacting the supervisor to determine other available leave options and will have the option of substituting appropriate paid leave for any period in which LWOP was charged in this circumstance.

**NOTE:** This is an exception to the general rule that prevents management from placing an employee on LWOP without a request by the employee. See section K of this handbook.

- (b) Employees are responsible for requesting only the leave that is available or will be available on the date of the requested leave. Employees may request advance leave under the provisions of section C subsection 4 or section D subsection 8 of this handbook. However, there is not an entitlement to be granted advance leave.
- (c) An employee who has exhausted his/her personal leave will be granted LWOP for absence related to illness when the employee has provided administratively acceptable documentation to cover the absence. In these circumstances, the employee cannot be charged absence without leave (AWOL). However, this does not entitle the employee to be approved for LWOP for an indefinite period of time.
- (d) An employee who exhausts all of his or her annual leave may request LWOP to cover absences. However, the employee is not entitled to LWOP under these circumstances.
- (e) When management has approved a period of annual leave, sick leave, or compensatory time off and the employee has an insufficient leave balance, the employee must be given the option to request another form of appropriate leave or to cancel the leave request. Management may not charge an employee AWOL for an approved period of leave when the employee has an insufficient leave balance.

**Example:** In pay period 14, Mary requests and is approved to take 40 hours of annual leave in pay period 24. In pay period 16, Mary has a medical emergency and she is out of work for 8 weeks. She exhausts all available sick leave, annual leave, and compensatory time off. In pay period 22, Mary's supervisor reviews her leave balances and realizes Mary will have 20 hours of annual leave available for use in pay period 24. Mary's supervisor should give her the opportunity to request another form of appropriate leave or the leave request may be cancelled. If management takes no action, Mary will receive a

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combination of her available annual leave and LWOP for the period of approved leave. Mary cannot be charged AWOL under these circumstances.

- (f) Management has the authority to cancel an approved leave request based on the need to meet mission requirements or when the employee has insufficient leave to cover the absence. Employees failing to report for duty when leave has been cancelled may be charged AWOL. Notification of cancelled leave should be made in writing as far in advance of the approved leave dates as possible. TSA is not responsible for any expenses incurred resulting from the cancellation of an employee's leave request.

**NOTE:** Management should not cancel leave that has been approved for medical procedures/treatments (e.g., x-rays, inpatient or outpatient surgery).

6. Medical Treatment for Disabled Veterans

- (a) Under the provisions of Executive Order 5396 a disabled veteran must be granted annual leave, sick leave, or leave without pay (LWOP), as appropriate, for medical treatment upon the employee's request and presentation of an official statement from a medical authority that such treatment is required.
- (b) Granting or authorizing a leave of absence to a disabled veteran is only mandatory when the treatment, examination, or absence is in connection with the disability.
- (c) The veteran must give prior notice of specific days and hours that absence is required for medical treatment in order that arrangements may be made for carrying on the work during his or her absence.

7. Safe Guarding Medical Documentation

- (a) Medical documentation relating to an employee or an employee's family member **must not** be attached to the employee's time and attendance records, including OPM form 71s, and must not be included in the employee's Official Personnel Folder (OPF), eOPF, or locally maintained employee files. Medical documentation must be stored and maintained in a separate file as outlined below.
- (b) When medical documentation is received from an employee, it should be protected/secured at all times and not left out for access/viewing by unauthorized individuals.
- (c) Medical documentation must be kept in a separate file; be treated as sensitive, confidential information; and stored in a locked cabinet.
- (d) Access will be restricted to the employee's immediate supervisor and/or specified management officials on a "need to know" basis. This "need to

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know” basis applies to leave approving officials and other agency representatives (i.e., Office of Chief Counsel and Office of Human Capital) with the authority to make decisions or to provide advice and guidance relating to the employee’s request for leave related to the medical condition or any other employment issue. It does not apply to management officials who merely want to gain information on an employee out of personal interest.

- (e) HR Specialists, administrative officers, and other individuals assigned or detailed to engage in HR functions **must not** discuss or disclose medical information to anyone, including management officials, who does not have a need to know, without proper authorization from the affected employee.

***Example:*** An employee’s medical condition should not be a topic at staff meetings or “water cooler” discussions.

- (f) Individuals performing timekeeping functions **do not** have a need to know the medical reason an employee has requested sick leave, LWOP, other paid leave, or leave under FMLA. Information concerning an employee’s or an employee’s family member’s health condition should not be kept with the payroll records or recorded in the payroll system.

8. Tardiness

- (a) The supervisor may excuse occasional or unavoidable periods of tardiness, not in excess of 30 minutes.

***Example:*** Unavoidable tardiness would include a major accident that closes part of the main interstate and prevents a significant number of employees from reporting for duty on time.

***Example:*** The shuttle bus that transports employees from the parking lot to the terminal breaks down and employees have to wait for a replacement.

***Example:*** The employee leaves his/her home well in advance to arrive at work on time. There is a major traffic accident that causes a severe backup in traffic (announced on the media) and all alternate routes are also affected. The individual contacts the airport to advise of the situation, yet is still 17 minutes late. Management has the discretion to disregard the tardiness as it was no fault of the employee. This results in no formal action against the employee and no charge to leave.

**NOTE:** The above examples are not meant to be all inclusive and should not prevent designated management officials from exercising sound judgment to grant excused absence to groups or individual employees where warranted.

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- (b) If the conditions or frequency of the tardiness do not warrant approval of leave, the tardiness may be charged to absence without leave (AWOL), in multiples of 15 minutes, to cover the period of absence.
- (c) The minimum charge for AWOL is 15 minutes. Additional charges are in 15 minute increments. An employee may not be charged AWOL for absences or tardiness in increments of less than 15 minutes, and cannot be prevented from working if the absence or tardiness is less than 15 minutes. If an employee arrives at work more than 15 minutes late but less than an additional increment of 15 minutes, the employee may only be charged AWOL for 15 minutes.

**Example:** An employee arriving at work 20 minutes late may only be charged 15 minutes of AWOL, or an employee arriving at work 40 minutes late may only be charged 30 minutes of AWOL.

**Example:** The employee is 20 minutes late for work and has no acceptable explanation (just over slept). The individual could be charged 15 minutes of AWOL or be allowed to take 15 minutes of annual leave (or compensatory time off, if accrued). In addition, management could impose appropriate disciplinary action depending upon the individual's attendance history. Beyond this, management could allow the individual to stay beyond their normal working hours to make up the tardiness. While this is a possible option, it should not become the routine manner to address the underlying issue. If allowed to happen on a regular and recurring basis, the individual will not come to work on time because they know that no leave will be charged and they can make up the time. This has a major impact on the morale of co-workers and makes it harder for management to deal with the real issue (attendance).

- (d) Habitual tardiness is a basis for disciplinary action. Supervisors should document such tardiness and take the necessary action to address the problem.

**Example:** The employee has day care issues and is late for work (5-10) minutes every day. The individual cannot be charged 15 minutes of leave (or AWOL) as the tardiness does not equate to 15 minutes. Management must counsel the employee and determine if changing the individual's starting time will correct the tardiness or initiate appropriate administrative action, e.g., letter of reprimand, suspension, etc.

9. Holidays

- (a) The TSA benefits package includes ten Federal holidays each calendar year. For pay and leave purposes, the observed day or the employee's in lieu of holiday is the holiday.
- (b) Employees (excluding members of the Transportation Security Executive Service) who are authorized or required as part of their assigned duties to work

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on a holiday, will receive holiday premium pay for non-overtime hours of work performed.

- (c) An employee must be in a pay status for at least one hour on the workday before or the workday after a holiday in order to receive holiday (leave) pay. There is not a requirement for the hour to be the last hour of the workday before the holiday or the first hour of the workday after the holiday.
- (d) An employee in a nonpay status (LWOP, AWOL, or suspension) during a period that includes a holiday will not receive holiday (leave) pay.
- (e) An employee on Absent-US and using military leave during a period that includes a holiday will receive holiday (leave) pay.
- (f) An employee, who is not excused from duty and fails to report for duty when required/scheduled to work on a , will be charged AWOL and will not receive payment for the holiday.
- (g) TSA OSO canine handlers excused from duty on a holiday (or day designated as the employee's in lieu of holiday) and continuing to provide care and feeding the canine receive holiday leave pay for the non-overtime hours in the daily tour and one hour of overtime pay. If the canine handler is not providing care and feeding the canine (i.e., the canine is kenneled.), the employee only receives holiday leave pay.

***Example:*** A canine handler who works a conventional work schedule, 8 hours per day – 5 days per week, receives 8 hours of holiday leave pay and 1 hour of overtime pay when excused from duty on a holiday and continuing to provide care and feeding the canine. If the canine is kenneled, the canine handler receives 8 hours of holiday leave pay.

10. Meal Breaks

- (a) A minimum 30-minute unpaid meal break shall be scheduled for any employee who works a daily tour of duty of at least eight (8) hours. Employees may not skip a meal break in order to reduce the work schedule or to extend the workday to receive additional compensation. In addition, employees are not authorized to take meal breaks at the start or end of a shift.
- (b) A meal break is usually not provided if an employee is scheduled to work five (5) or fewer hours a day or if an employee works a split shift as the break between shifts can be used for such purposes. However, management has the discretion to grant a meal break to an employee scheduled to work less than eight (8) hours in a day.



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- (c) The length of the meal break extends an employee's workday by an equivalent amount of time (30 to 60 minutes). In most cases, the maximum amount of time that may be allotted for meal breaks is 60 minutes.

**Example:** A full-time employee works a conventional schedule of 5 days a week, 8 hours a day and is scheduled from 8:00 am to 4:30 pm. The employee will complete eight hours of work and have 30 minutes for an unpaid meal break for a total of 8 ½ hours. An employee with a ten-hour workday and a 60 minute meal break will complete 10 hours of work and have 60 minutes for an unpaid meal break for a total of 11 hours.

**NOTE:** The Office of Security Operations has developed [OD-400-30-5 Screener Meal and Rest Breaks](#) and it continues to apply for members of the TSO workforce.

**NOTE:** An employee choosing a meal break longer than 30 minutes will not create an entitlement to premium pay (e.g., night differential or Sunday premium pay) that did not exist with a 30 minute meal break.

- (d) Extended meal breaks in excess of 60 minutes, but no more than 120 minutes, may be authorized only for employees working a flexible work schedule (FWS), and only when the extended workday (i.e., the total number of hours – scheduled tour and meal break) can be accommodated effectively within organizational needs.
- (e) Meal breaks cannot be skipped or moved to the beginning or end of the workday to shorten the actual workday or to minimize leave usage. Generally, meal breaks should not occur during the first or last three hours of the employee's workday.
- (f) Employees cannot decide to work through the meal break in an attempt to extend the workday to receive additional compensation (e.g., overtime pay). Any additional work must be directed by management, not because the employee decides he/she wants to work additional hours.
- (g) "On-the-job" meal breaks (eating while on paid time for the purpose of freeing up the time allotted for the meal break for other personal business) are prohibited.

## 11. Travel and Training

- (a) Employee schedules should be adjusted to match travel and training schedules.
- (b) When local travel or training is completed prior to the end of the employee's scheduled workday, management should assign work, when practical. When determining if it is practical for the employee to perform work, management should consider the time to travel to the work location and any tasks the

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employee must complete prior to beginning duties such as changing into a uniform and any “homework” or projects the employee needs to complete for the next class.

- (c) When travel or training outside of the local commuting area is completed prior to the end of the employee’s scheduled workday, management should assign work, when practical. When determining if it is practical for the employee to perform work, management should consider the time to travel to the work location and any tasks the employee must complete prior to beginning duties such as changing into a uniform and any “homework” or projects the employee needs to complete for the next class. Employees should be notified of any work assignments prior to the start of the travel.
- (d) When travel or training is completed 4 or more hours before the end of the employee’s scheduled workday, the employee must contact his/her supervisor. Based on the needs of the operational unit, the end time of the employee’s workday, the employee’s distance from the duty location, and any tasks the employee must complete prior to beginning duties such as changing into a uniform and any “homework” or projects the employee needs to complete for the next class, the supervisor will determine if it is practical for the employee to report for duty.
- (e) Employees may also be required to work prior to travel or training, when practical.
- (f) If it is not practical to assign work, the employee cannot be charged personal leave or AWOL. The employee will receive excused absence for the remainder of the workday.
- (g) An employee directed to return to duty may request and be granted annual leave, compensatory time off, if available, or LWOP in lieu of returning to duty for the remainder of the workday.
- (h) An employee who fails to return to duty when directed may be charged AWOL.

**C. ANNUAL LEAVE**

1. General Information

- (a) Employees may use annual leave for vacations, rest and relaxation, family needs, other outside activities, emergencies not covered by sick leave and other personal business.
- (b) Employees are responsible for requesting only the leave that is available or will be available on the date of the requested absence.
- (c) Employees are responsible for scheduling and using annual leave throughout the leave year to avoid forfeiture of annual leave.
- (d) Employees detailed to other offices, engaged in training/development programs, or assigned to special projects remain responsible for scheduling leave to avoid forfeiture.
- (e) Employees should not expect to be granted leave for the same holidays or weeks year after year. Employees should not assume that having projected “use or lose” annual leave near the end of the leave year requires that management approve requests to use the projected “use or lose” annual leave.
- (f) Designated management officials maintain the discretion to approve when annual leave is taken based on the needs and workload of the organizational unit. Designated management officials will notify an employee in writing when a request for annual leave has been denied.
- (g) Both approved and denied requests for annual leave must be filed with the employee’s time and attendance records.
- (h) TSA is not responsible for, nor will it reimburse employees for any expenses incurred as a result of cancelled or disapproved annual leave requests. Employees must ensure that leave is approved before making such arrangements and supervisors will make every effort not to cancel previously approved leave requests.
- (i) Employees may request the use of annual leave for instances generally covered by sick leave. Generally this is done when an employee has an insufficient amount of sick leave to cover an absence or when an employee is trying to build up his or her leave balance. Employees are reminded that approval of annual leave is based on the needs of the organization. Employees may be required to provide “administratively acceptable” medical documentation when substituting annual leave for sick leave.

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*Example:* At the start of the leave year, Jim had 200 hours of sick leave. Unexpected surgery required Jim to use 180 hours of sick leave, leaving him with a 20-hour sick leave balance. In an effort to rebuild his sick leave balance, he has requested to use annual leave for routine medical appointments and other events that normally qualify for sick leave.

2. Earning Rates of Annual Leave

- (a) An employee whose current appointment is for more than 90 days will earn and accrue annual leave beginning with the first full biweekly pay period worked.
- (b) Employees who join TSA in the middle of pay period or separate before the end of the pay period will not earn annual leave for that pay period.
- (c) Members of the Transportation Security Executive Service (TSES) accrue annual leave at the rate of 8 hours per pay period regardless of their length of service.
- (d) Full-time employees (80-hour biweekly work schedule) earn annual leave at the following rates:

Creditable Service	Leave Category	Maximum Leave Earnings Per Pay Period
Less than 3 years	4 hours	4 hours for each full biweekly pay period; i.e., 104 hours (13 days) per leave year
3 years but less than 15 years	6 hours	6 hours for each full biweekly pay period except for the last full pay period of the calendar year when they earn 10 hours. ; i.e., 160 hours (20 days) per leave year
15 years or more	8 hours	8 hours for each full biweekly pay period; i.e., 208 hours (26 days) per 26-period leave year.

- (e) Part-time non-TSES employees, who have a regularly assigned tour of duty on at least 1 or more days each administrative workweek of each pay period or who are on a flexible work schedule and have an established biweekly work requirement, earn annual leave. Part-time employees earn leave at the following rates:

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Creditable Service	Leave Category	Maximum Leave Earnings Per Pay Period
Less than 3 years	1 hour for every 20 non-overtime hours in a pay status	4 hours for each full biweekly pay period
3 years but less than 15 years	1 hour for every 13 non-overtime hours in a pay status	6 hours for each full biweekly pay period except for the last full pay period of the calendar year when they may earn up to 10 hours
15 years or more	1 hour for every 10 non-overtime hours in a pay status	8 hours for each full biweekly pay period

- (f) “Part-time Carryover Hours” Part-time non-TSES employees with less than 3 years, 3 years but less than 15 years, and 15 or more years of creditable service who work non-overtime hours in excess of multiples of 20, 13, and 10, respectively in a pay period, will carry over the excess hours into the next pay period for leave accrual purposes. These excess hours are referred to as “part-time carryover hours” or part-time unapplied hours.

*Example:* Melinda has 2 years of creditable service and works 64 hours per pay period.

She works 64 hours in pay period 1, accrues 3 hours of annual leave in the pay period and carries over 4 hours for leave accrual purposes into the next pay period ( $64/20 = 3$  hours of annual leave and 4 carryover hours).

In pay period 2, she works 64 hours + 4 carryover hours from the previous pay period for a total of 68 hours. She accrues 3 hours of annual leave and 8 carryover hours ( $68/20 = 3$  hours of annual leave + 8 carryover hours).

In pay period 3, she works 64 hours + 8 carryover hours = 72 hours. She accrues 3 hours of annual leave and 12 carryover hours ( $72/20 = 3$  hours of annual leave + 12 carryover hours).

In pay period 4, she works 64 hours + 12 carryover hours = 76 hours. She accrues 3 hours of annual leave and 16 carry over hours ( $76/20 = 3$  hours of annual leave + 16 carryover hours).

In pay period 5, she works 64 hours + 16 carryover hours = 80 hours. She accrues 4 hours of annual leave ( $80/20 = 4$  hours of annual leave).

And the process begins again in the next pay period.

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- (g) If an employee's current appointment is less than 90 days, the employee does not earn/accrue annual leave, even though an estimate of leave may show on the employee's leave and earnings statement.
- (h) Supervisors are responsible for **not** granting use of annual leave to employees on appointments of less than 90 days.
- (i) Employees on appointments of less than 90 days may not use annual leave until having served under consecutive appointments for a continuous period of 90 days or more without a break in service.

**Example:** A summer intern joins TSA from July 1 to Sept 15. This appointment is less than 90 days. The intern does not accrue leave. However, if the intern accepts another appointment with TSA from September 16 to November 30, the intern would accrue leave as the appointments are continuous for 90 days or more. The employee would also receive a lump sum payment of any unused annual leave upon termination of this temporary appointment.

- (j) Employees in the following categories are entitled to a pro rata credit of annual leave for working a fractional pay period:
  - (1) Employees whose tour of duty changes from full-time or part-time to intermittent.
  - (2) Employees whose tour of duty changes from intermittent to full-time or part-time.
  - (3) Employees carried in a LWOP status while in receipt of disability compensation from the Office of Workers' Compensation Programs (OWCP).
- (k) The following table may be used as a guide in determining the amount of pro rata credit for annual leave:

Days Worked in a Bi-Weekly Pay Period	Annual Leave Accrual Rate		
	4 hr Leave Category	6 hr Leave Category	8 hr Leave Category
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7

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3. Approval of Annual Leave Requests

- (a) The employee's supervisor or other designated management official is responsible for approving or disapproving leave requests.
- (b) The supervisor or designated management official is also responsible for ensuring/confirming that the employee has or will accrue sufficient leave to cover the requested absence. Although the time and attendance system reflects "available hours" for annual leave, this does not necessarily result in a current positive leave balance for the employee. The "available hours" are a projection of the leave that will be earned during the remainder of the leave year.
- (c) In the event that a request for leave is denied, the supervisor will inform the employee in writing on the OPM Form 71 of the reason for the denial as soon as possible. A copy of the denied leave request must be provided to the employee.
- (d) Supervisors or designated management officials are responsible for managing the use of unscheduled annual leave requests. Employees may be required to substantiate requests for unscheduled annual leave with administratively acceptable documentation.
- (e) Supervisors or other designated management officials are responsible for informing employees, in writing, of the leave requesting procedures for their organizational unit and should provide annual reminders of the local procedure. HCM 630-5, *Local Attendance and Leave Guidance*, provides TSA policy and procedures for establishing local guidelines for attendance and the use of leave.
- (f) Supervisors are responsible for informing employees of dates for scheduling annual leave for vacations and the date for scheduling annual leave to avoid end of year leave forfeiture.

4. Advancing Annual Leave

- (a) Full-time and part-time employees may be advanced no more than the amount of annual leave they would accrue in the remainder of the leave year. The advance of annual leave is not an entitlement.
- (b) Management officials are to consider whether an employee is expected to return to work in time to liquidate the advanced leave prior to the end of the leave year and continue employment with TSA long enough to liquidate advanced leave before approving its use.
- (c) Employees must request advance annual leave in writing before it is needed. In addition, employees must exhaust all available accrued and accumulated annual leave, restored annual leave, compensatory time off in lieu of overtime pay, compensatory time off for travel, and time-off awards before using advanced annual leave.

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- (d) Should an unforeseen situation arise where the employee was unable to request advance leave before it was needed, management may grant advance annual leave on a case-by-case basis.
- (e) The decision to advance annual leave for any employee shall be based on the employee's reason for requesting advance leave, organizational workload, the anticipation that the employee will return to duty and continue employment with TSA long enough to liquidate the indebtedness, and the interests of TSA.
- (f) In rare instances, supervisors or designated management officials may grant advance annual leave to employees who have not completed their trial period. The supervisors or designated management officials must consider whether the employee is likely to continue employment with TSA past the trial period before approving advance leave.
- (g) Employees may not be advanced annual leave during a period of active military duty.
- (h) Generally, TSA will require employees separating from Federal Service to reimburse the agency with a payment equal to the dollar value of any advanced annual leave that has not been liquidated.
- (i) Indebtedness related to advance annual leave is waived for deceased employees.

5. Maximum Leave Accumulation (by category)

- (a) TSA employees with a permanent duty station in the United States may accumulate and carry over a maximum of 240 hours of annual leave from one leave year into the next leave year.
- (b) Foreign (Overseas) Duty Assignments.
  - (1) An employee assigned to a foreign duty location is eligible to accumulate and carry over a maximum of 360 hours of annual leave from one leave year into the next leave year if he/she resided in the United States at the time of accepting the foreign duty assignment or if he/she transfers to a TSA foreign duty assignment from an overseas position at another Federal agency where he/she was eligible to accumulate and carry over a maximum of 360 hours of annual leave.
  - (2) An employee on a detail or temporarily promoted to a foreign duty assignment is not eligible to maintain a maximum accumulation of 360 hours of leave.
  - (3) An employee traveling on temporary duty (TDY) travel is not eligible to maintain a maximum accumulation of 360 hours of annual leave.



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- (4) When an employee with an annual leave balance above 240 hours is reassigned from a foreign (overseas) duty location to a duty station in the United States, a personal leave ceiling will be established on the date the employee departs the overseas duty station. The personal leave ceiling will be the lesser of 360 hours or the amount of leave to the employee's credit at the end of the pay period which includes the date the employee departs from the overseas duty location.
- (c) Members of the Transportation Security Executive Service (TSES).
- (1) The maximum annual leave accumulation for employees in the TSES is 720 hours.
  - (2) An employee moving from a TSES position to a non-TSES position who has a leave balance of more than 240 hours will be allowed to have a personal leave ceiling. The personal leave ceiling will be the lesser of 720 hours or the amount of leave to the employee's credit on the effective date of the reassignment.
- (d) Joining TSA from an agency with leave ceilings above 240 hours.
- (1) Prior to October 14, 2010, employees who transferred to TSA from an agency that allows employees to maintain an annual leave balance higher than the maximum for the appointed position at TSA retain the higher balance as a personal leave ceiling.
  - (2) Effective October 14, 2010, employees who transfer to TSA from an agency that allows employees to maintain an annual leave balance higher than the maximum accumulation for the appointed position will have their leave ceiling set to the maximum accumulation for the appointed position (e.g., United States duty location – 240 hours, foreign duty location – 360 hours, or TSES position – 720 hours).
  - (3) Employees are responsible for scheduling and using annual leave to avoid forfeiture. Leave in excess of the maximum accumulation at the end of the leave year will be forfeited and will not be eligible for restoration.
  - (4) TSA will not make a monetary payment for any leave forfeited under these circumstances.
- (e) Reducing personal leave ceilings.
- (1) Employees with personal leave ceilings are responsible for scheduling and using leave to lower their personal leave ceiling to the maximum accumulation for the position held (i.e., United States duty location – 240 hours, foreign duty location – 360 hours, or TSES position – 720 hours).

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- (2) An employee with a personal leave ceiling may carry over from one leave year to the next all accumulated leave up to his/her personal leave ceiling. Whenever an employee with a personal leave ceiling uses more annual leave in a leave year than he/she earns, the balance carried forward becomes his/her new leave ceiling, if the balance is still above the maximum carryover for the position held (i.e., United States duty location – 240 hours, foreign duty location – 360 hours, or TSES position – 720 hours).

*Example:* An employee departs an overseas assignment and returns to the United States with 300 hours of annual leave to his/her credit. The employee accrues 72 additional hours of annual leave in the remainder of the leave year. To avoid forfeiture of annual leave, the employee must use 72 hours of annual leave. The employee may not carryover more than 300 hours of annual leave. In the next leave year, the employee begins the year with 300 hours of accumulated annual leave. The employee will accrue 208 hours of annual leave in the leave year. The employee uses 270 hours of annual leave during the year. The employee's maximum carryover is now 240 hours ( $300 + 208 = 508$ ;  $508 - 270 = 238$ ). The employee scheduled and used annual leave to bring his/her balance below 240 hours, the maximum accumulation for the current position held.

- (3) At the end of the leave year, unused annual leave above the maximum accumulation does not result in a higher leave ceiling for the employee. Unused annual leave in excess of the employee's maximum accumulation is forfeited.
- (4) Restoration of forfeited annual leave does not result in a higher leave ceiling. Restored annual leave is maintained in a separate leave account and must be used by the end of the leave year ending two years after the leave year in which the leave was restored.
- (5) Annual leave forfeited because of placement on administrative leave, granting of excused absence, or holidays is not eligible for restoration.

6. Scheduling Annual Leave to Avoid Forfeiture

- (a) An employee who accumulates more annual leave than he/she is allowed to carry over into the next leave year will forfeit unused leave over his/her maximum (i.e. 240 hours, 360 hours, 720 hours).
- (b) To avoid forfeiture of leave because of scheduling conflicts, employees must request and have the use of excess annual leave approved in writing on or before November 1 of each year. This does not guarantee that the employee will have excess leave restored if he or she is unable to use the leave.

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Subsection 8 below provides information on requesting restoration of forfeited annual leave.

- (c) TSA will issue an annual reminder to employees on scheduling annual leave to avoid forfeiture. However, employees are responsible for scheduling and using annual leave throughout the leave year to prevent forfeiture.
- (d) An employee deciding not to take scheduled leave (makes a personal decision he/she must be at the work place) or failing to schedule leave **does not** constitute an exigency of the public business (legitimate business need).
- (e) A denied leave request does not result in the leave being eligible for restoration.
- (f) While on a period of administrative leave, employees retain the responsibility to schedule and use restored annual leave, projected 'use or lose' annual leave, and/or compensatory time off to avoid forfeiture. Projected "use or lose" annual leave that is forfeited as a result of an employee being placed on administrative leave is not eligible for restoration and will not be restored.

7. Restoration of Annual Leave

- (a) Only leave that was requested and approved in writing on or before November 1 is eligible for restoration.
- (b) A denied leave request does not result in the leave being eligible for restoration.
- (c) If scheduled and approved annual leave is forfeited, it can be restored for employee use if it meets one of the criteria set below.
  - (1) *Exigencies of the Public Business.* Annual leave that was scheduled and approved but canceled as the result of an operational demand (exigency) is eligible for restoration. The supervisor must show that there was no reasonable alternative to canceling leave and that another employee could not perform the work.
  - (2) *Sickness.* Absent unusual circumstances, annual leave scheduled during the last *quarter* of the leave year that could not be used because of an employee's illness or injury would be approved for restoration.
  - (3) *Administrative Error.* Annual leave forfeited because of administrative error (failure to change a leave accrual rate, incorrect service computation date, etc.) will be restored in cases where the error was made by an agency representative.
- (d) Annual leave forfeited because of placement on administrative leave, granting of excused absence, or holidays is not eligible for restoration. This includes instances where agencies are closed due to inclement weather or an Executive

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Order is issued closing the Federal Government for Christmas Eve, the day after Christmas or some other incident.

8. Requesting Restoration of Annual Leave

- (a) Employees who forfeit annual leave because of exigencies of the public business, sickness, or administrative error may request to have the leave restored following the end of the leave year. **Leave must be forfeited before a request for restoration can be submitted.**

**NOTE:** The Assistant Secretary has the authority to grant blanket leave restoration for the entire agency, specific components of the organization, and/or specific groups of employees.

- (b) Employees must complete [TSA Form 1185, Annual Leave Restoration Request](#), when requesting restoration of annual leave.
- (c) Employee requests for restoration of annual leave must include evidence that the forfeited leave was scheduled and approved on or before November 1 and the reason(s) why the leave could not be used or rescheduled to avoid forfeiture. Employees may include signed OPM-71s, emails or other written documentation that includes an explanation by the management official designated to approve leave for the employee. In addition, the employee should provide documentation to substantiate the number of hours to be restored.
- (d) When leave has been canceled due to exigencies of the public business, the supervisor or designated management official must show that there was no reasonable alternative to canceling the leave and that another employee could not perform the work.
- (e) The supervisor or designated management official must certify that the employee is eligible for restored leave and that the information submitted is factual.
- (f) The employee's request and supervisor's or designated management official's certification must be forwarded by the first Saturday in February to the appropriate Assistant Administrator, or their designated officials, for final approval.
- (g) All decisions to approve or deny an employee's request for restoration of forfeited leave must be made by the first Saturday in March.
- (h) The authority to approve requests for restoration of annual leave may be delegated **in writing** no lower than two levels above the employee's designated leave approving official. In addition, this authority may be delegated no lower than Special Agents in Charge for Federal Air Marshal Service employees and no lower than Assistant Federal Security Directors at airports.

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- (i) If the request is approved, the employee and his/her leave approving official should be notified. To ensure the leave is restored, the HR Specialist or Liaison must submit a copy of the approved TSA Form 1185 to the HR payroll services provider for processing.
- (j) If the request is disapproved, the employee and his/her leave approving official must be notified, in writing. The notification should contain the reason for the disapproval.

**Example:** The leave was not scheduled and approved prior to November 1, and/or the leave did not meet one of the criteria for restoration.

- (k) Local offices are responsible for maintaining a copy of all approved and denied leave restoration requests and supporting documentation with the employee's payroll records.

9. Use of Restored Annual Leave

- (a) Restored annual leave is maintained in a separate leave account and does not change the employee's annual leave ceiling.
- (b) Restored annual leave must be used by the end of the leave year ending two years after the leave year in which the leave was restored.

**Example:** Annual leave forfeited in leave year 2010 and restored in leave year 2011, must be used by the end of the 2012 leave year.

- (c) The chart below identifies the year in which restored annual leave must be used. Restored annual leave not used within this timeframe will be forfeited and will not be restored again.

Year Annual leave was Earned and Forfeited	Year Annual Leave is Restored	Date Restored Annual Leave Must Be Used on or Before to Avoid Forfeiture
2002	2003	January 7, 2006
2003	2004	January 6, 2007
2004	2005	January 5, 2008
2005	2006	January 3, 2009
2006	2007	January 2, 2010
2007	2008	January 1, 2011
2008	2009	December 31, 2011
2009	2010	January 12, 2013
2010	2011	January 11, 2014
2011	2012	January 10, 2015
2012	2013	January 9, 2016

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2013	2014	January 7, 2017
2014	2015	January 6, 2018
2015	2016	January 5, 2019

10. Creditable Service for Annual Leave

- (a) All civilian service that is potentially creditable for Civil Service Retirement Service (CSRS) and the Federal Employee Retirement Service (FERS) is creditable for annual leave accrual. Potentially creditable civilian service includes service that could be credited if the employee made deposits to the retirement fund. Such deposits are not required in order for the employee to receive credit for annual leave accrual purposes.
  - (b) Employees with military service who did not retire from the military receive full credit for annual leave accrual purposes for uniformed service, including active duty and active duty for training.
  - (c) Military retirees receive annual leave accrual credit for:
    - (1) Actual service during a war declared by Congress (includes World War II covering the period December 7, 1941, to April 28, 1952) or while participating in a campaign or expedition for which a campaign badge is authorized; or
    - (2) All active duty when retirement was based on a disability received as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war as defined in 38 U.S.C. 101(11).
- NOTE:** "Period of war" includes World War II, the Korean conflict, Vietnam era, the Persian Gulf War, or the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.
- (d) Effective November 26, 2006, employees, who join TSA while on terminal/transitional leave and prior to the effective date of military retirement, will no longer receive full credit for their military service for leave accrual purposes. Individuals appointed while on terminal/transitional leave are subject to the same restrictions on service credit as other military retirees.
  - (e) Employees hired with an annual leave recruitment incentive receive a service credit adjustment for service time (experience) that would otherwise not be creditable for the purpose of determining leave accrual rates. [TSA MD 1100.57-3, Recruitment, Referral, Relocation, and Retention Incentives](#), contains the policy and procedures for the annual leave recruitment incentive.

**11. Lump Sum Payment of Annual Leave**

- (a) When an employee separates from Federal service, he or she will receive a lump sum payment for all accumulated and accrued unused annual leave. The lump sum payment will equal the pay the employee would have received if he or she had used the annual leave.
- (b) If an employee accepts a position with another Federal agency that accepts only a portion of the employee's accumulated and accrued annual leave, the employee is not eligible to receive a lump sum payment from TSA for the excess leave.
- (c) The employee's lump sum payment is calculated by multiplying the number of unused hours of accumulated and accrued annual leave by the employee's applicable hourly rate of pay, plus other types of pay the employee would have received while on annual leave, excluding any allowances that are paid for the sole purpose of retaining an employee. The following types of pay are included in lump sum payment calculations:
  - (1) Rate of basic pay
  - (2) Locality pay or other similar geographic adjustment
  - (3) Across-the-board annual adjustments (e.g. Comparability Equivalent Increase (CEI))
  - (4) Law Enforcement Availability Pay (LEAP)
  - (5) Non-foreign area cost-of-living allowances (COLA) and post differentials
  - (6) Foreign area post allowances
- (d) Holidays are counted as workdays in projecting the lump sum leave period.
- (e) If a TSA employee is reemployed prior to the expiration of the period of annual leave (i.e., period used to calculate the lump sum), he or she must refund the portion of the lump sum payment that represents the period between the date of reemployment and the expiration of the lump sum period. TSA will credit the appropriate amount of annual leave to the employee's account after receipt of the repayment.

**D. SICK LEAVE**

1. General Information

- (a) Sick leave may be granted to employees for any of the following reasons:
  - (1) Medical, dental, or optical examination or treatment;
  - (2) Incapacitation due to physical or mental illness, injury, pregnancy, or childbirth;
  - (3) To prevent exposure of a communicable disease to other employees and/or the general public;
  - (4) To participate in activities related to the adoption of a child; and
  - (5) For medical related family care and bereavement purposes.
- (b) Limited amounts of sick leave may be used to provide general medical care for a family member and bereavement purposes and to provide care for a family member with a serious health condition. The maximum amount of sick leave that may be used in a leave year to provide care (general medical care or serious health condition) for family members, adoption purposes, and bereavement purposes is 480 hours subject to the limitations defined in subsections 4, 5, and 6 below.
- (c) Employees must use the OPM form 71, Request for Leave or Approved Absence, to request sick leave.
- (d) Management officials are responsible for informing employees in writing of the correct sick leave requesting procedures for the organizational unit. HCM 630-5, *Local Attendance and Leave Guidelines*, provides TSA policy and procedures for establishing local guidelines for attendance and the use of leave.
- (e) Supervisors or other designated management officials are responsible for approving and disapproving sick leave requests, in writing, for their employees. Employees should be given a copy of the approved/disapproved leave requests.
- (f) Designated management officials may place an employee in an AWOL status if the employee is required to substantiate an absence with administratively acceptable documentation and fails to do so.

**NOTE:** Supervisors should document any instances where an employee does not show up for work and does not follow established leave requesting procedures. The failure to follow procedures may be the basis for disciplinary



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action even if the employee provides acceptable medical documentation for the absence.

- (g) When administratively acceptable documentation is required, it should be submitted no later than 15 calendar days after the date requested by management. If despite the employee's diligent, good faith efforts he/she is unable to provide the requested documentation, the documentation can be provided within a reasonable period of time. Generally, the documentation should be submitted no later than 30 calendar days after the date requested.
- (h) Employees are responsible for managing their leave needs and making every effort to avoid requests for unscheduled sick leave.
- (i) Employees are required to make advance requests for sick leave for planned medical, dental, or optical examinations or treatment.
- (j) In the event of an emergency, employees must follow the call-in/notification procedures established by their organization. At a minimum the employee will provide an estimate of the time that he/she expects to be absent because of the illness.
- (k) Employees separating from Federal service do not receive a lump sum payment for sick leave to their credit.

2. Earning Rates of Sick Leave and Maximum Accumulation

- (a) Earning of sick leave is not affected by length of service.
- (b) Full-time employees earn 4 hours of sick leave for each full biweekly pay period in a pay status.
- (c) Part-time employees with an established tour of duty earn sick leave at a rate of 1 hour for each 20 non-overtime hours of paid duty status with a maximum of 4 hours of sick leave per pay period. Part-time carryover hours also apply to the earning of sick leave. See section C subsection 2(f) of this handbook.
- (d) There is no limit on the amount of sick leave an employee may accumulate and carryover from one leave year to the next.

3. Administratively Acceptable Documentation and Medical Documentation

- (a) Employees are required to provide "administratively acceptable" evidence to their supervisor when requesting sick leave. Administratively acceptable documentation may be medical documentation, employee self-certification, or other documentation sufficient to warrant approval of a sick leave request.

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- (b) The supervisor or designated management official will determine if the documentation submitted is administratively acceptable. The type of administratively acceptable documentation may vary based on the timing, type and length of a request.
  - (c) Self-certification and generic health care provider notes with statements such as “under my care” or "received treatment" are sufficient forms of documentation for employees with planned medical, dental or optical treatment.
  - (d) For absences of more than 3 days when the employee has been notified that medical documentation is required, generic statements such as “under my care” and “received treatment” generally will not be considered administratively acceptable.
  - (e) When medical documentation is required, it should apply only to the current medical condition that incapacitated the employee and at a minimum, provide the following:
    - (1) Date the medical condition began;
    - (2) Clearly state that the employee is/was incapacitated for duty;
    - (3) Provide information on how the condition affects the employee’s ability to perform the duties of the position;
    - (4) Identify the expected duration of the employee’s absence; **and**
    - (5) Have the signature of the employee’s personal physician or authorized health care provider.
  - (f) If the provided medical certification is unclear or does not indicate that the employee is incapacitated for duty, supervisors or designated management officials may request the employee provide additional information or clarification from the health care provider. Medical documentation may also be referred to an agency-authorized physician for review and clarification.
  - (g) Supervisors and management officials may not contact the employee’s health care provider to obtain medical information.
  - (h) Medical documentation of an employee or an employee’s family member shall be safe guarded at all times. See section B subsection 7 of this handbook.
4. Use of Sick Leave for General Family Medical Care and Bereavement Purposes
- (a) Sick leave for family care includes:

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- (1) Providing care for a family member as a result of physical or mental illness, injury, pregnancy or childbirth, medical, dental, or optical examination or treatment; or
  - (2) Making arrangements necessitated by the death of a family member, attending the funeral of a family member, and/or travel to the locale where services will be held.
- (b) Full-time employees are allowed to use up to 104 hours of sick leave each leave year for general medical care of a family member and bereavement purposes.
- (c) Part-time employees may use a pro-rated amount of sick leave for general medical family care and bereavement purposes based on the employee's tour of duty.

**Example:** A part-time employee who works 20 hours a week may use a maximum of 52 hours of sick leave for general medical family care or bereavement purposes each leave year.

- (d) Generally, sick leave for bereavement purposes will be limited to a maximum of 3 workdays. Management may on a case-by-case basis approve additional use of sick leave for bereavement purposes, but may not exceed the 104 hour leave year limitation of sick leave use for general family medical care and bereavement purposes.
- (e) There is not a requirement for employees to maintain a minimum sick leave balance when using sick leave for general medical family care or bereavement purposes.

5. Sick Leave to Care for a Family Member with a Serious Health Condition

- (a) Full-time employees may use a maximum of 12 administrative workweeks (480 hours) of sick leave to care for a family member with a serious health condition. This limitation does not apply when sick leave is used to care for a covered service member under the military family leave provisions of FMLA. See section O, subsection 17 of this handbook.

**NOTE:** Sick leave to care for a family member with a serious health condition should not be confused with an employee's entitlement to unpaid leave under the Family and Medical Leave Act (FMLA).

- (b) Part-time employees may use a pro-rated amount of sick leave to care for a family member with a serious health condition based on the employee's tour of duty.

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*Example:* A part-time employee with a regular 40-hour biweekly tour of duty would be able to use up to 240 hours of sick leave in a leave year to care for a family member with a serious health condition.

- (c) There is not a requirement for employees to maintain a minimum sick leave balance when using sick leave to care for a family member with a serious health condition.
- (d) A serious health condition for the use of sick leave to care for a family member with a serious health condition is defined the same as for use of leave under the Family and Medical Leave Act (FMLA). See section O of this handbook.

6. Sick Leave for Adoption Purposes

- (a) Employees may use up to 480 hours of sick leave in a leave year for purposes related to the adoption of a child including:
  - (1) Appointments with adoption agencies, social workers and attorneys;
  - (2) Court proceedings;
  - (3) Required travel related to the adoption;
  - (4) Periods of time for bonding and care that are required by the overseeing adoption agency or court; and
  - (5) Any other activity that is necessary for the adoption process to proceed.
- (b) Employees must provide administratively acceptable evidence for absences related to adoption. Additionally, employees must provide as much notice as possible when requesting absences related to adoption. Unscheduled sick leave will rarely be granted for absences related to adoption unless the employee is able to demonstrate that the inability to provide advance notice is beyond his or her control, e.g., employee notified that a child has become available and he or she must immediately pick up the child.

7. Approval of Sick Leave Requests

- (a) In general, supervisors shall not deny employee use of accrued sick leave unless there is specific knowledge of employee misuse or abuse.
- (b) The availability of sick leave does not constitute an employee entitlement to unscheduled absences on a regular basis.
- (c) Authorized management officials have the discretion to disapprove sick leave requests for non-emergency medical, dental or optical examination or treatment

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if it is determined that the employee's services are needed to accomplish mission requirements.

- (d) During periods of staffing shortages or organization peak periods, employees may be required to schedule non-emergency and routine medical appointments on days and in timeframes that reduce adverse impact on the organization.
- (e) Management must plan the schedule to permit employees to take leave for non-emergency medical, dental or optical examination or treatment within a reasonable time consistent with the medical care providers' availability.
- (f) If an employee is out of the office on approved extended sick leave and has an insufficient leave balance to cover the absence, the employee will be placed on leave without pay (LWOP) if the supervisor or designated management official is unable to reach the employee or the employee's representative. The employee is responsible for contacting the supervisor to determine other available leave options and will have the option of substituting appropriate paid leave for any period in which leave without pay was charged in this circumstance.

**NOTE:** This is an exception to the general rule that prevents management from placing an employee on LWOP.

- (g) Employees may not be granted sick leave for care and bonding with a healthy newborn. However, sick leave may be used for bonding when the bonding is court ordered in connection with the adoption of a child.
- (h) Employees may not be granted sick leave to perform outside employment, including self-employment, or to seek employment.
- (i) Employees may not be granted use of sick leave for absences related to military service unless the requirements for use of sick leave are met (e.g. the employee suffers from a physical or mental ailment).
- (j) An employee approved for disability retirement may not continue to use sick leave beyond the end of the pay period in which the Office of Personnel Management (OPM) approves disability retirement for the employee.

8. Advance Sick Leave

- (a) Sick leave may be advanced to employees who have exhausted all of their available sick leave. The advancement of sick leave is not an employee entitlement.
- (b) Designated management officials retain the authority to approve advance sick leave requests but may delegate the authority as appropriate for the efficient operation of the organization.

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- (c) A full-time employee may be granted up to a maximum of 30 days (240 hours) of advance sick leave for a personal illness, medical appointments, adoption purposes, or to provide care for a family member. The total amount of sick leave that may be advanced to a part-time employee is prorated based on his/her tour of duty.
- (d) A full-time employee's advance sick leave balance shall not exceed 240 hours at any time. This amount is pro-rated for part-time employees.
- (e) Employee requests for advance sick leave must be submitted on the OPM Form 71 and be accompanied by administratively acceptable medical documentation.
- (f) The supervisor or designated management official may not advance sick leave without the employee making a request for advance leave.
- (g) When warranted, sick leave may be advanced whether or not the employee has an annual leave or compensatory time off balance. However, the supervisor or designated management official must consider whether the employee will continue employment with TSA long enough to repay the indebtedness.
- (h) Employees may not be advanced sick leave during a period of active military duty.
- (i) Employees cannot be advanced sick leave for care of a covered service member if the employee has not invoked FMLA to care for a covered service member under the provisions of section O of this handbook.
- (j) An employee may repay advanced sick leave by one of the following:
  - (1) A charge against annual leave provided this action is not for the purpose of avoiding a forfeiture of annual leave at the end of the leave year;
  - (2) Substituting donated leave, received under the Voluntary Leave Transfer Program, for the advance sick leave;
  - (3) Accrual of sick leave; or
  - (4) A monetary settlement upon separation from Federal Service.
- (k) Indebtedness related to advance sick leave is waived for employees approved for disability retirement and for deceased employees.

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9. Documentation for Absences of 3 Workdays or Less

- (a) Supervisors and other designated management officials have the authority to request administratively acceptable documentation for sick leave absences of three workdays or less.
- (b) Generally, employee self-certification will be sufficient for absences of three workdays or less.
- (c) An employee whose leave record indicates possible abuse of sick leave may be required to submit a medical certificate, or other acceptable documentation, in support of any future request for sick leave, regardless of length.
- (d) ***If administratively acceptable documentation is required for absences of three workdays or less, employees should, under normal circumstances, be notified in advance of the requirement.***

10. Documentation for Absences of More Than 3 Workdays

- (a) For an absence of more than three workdays, supervisors or other designated management officials may require an employee to submit a health care provider's certification of the medical reason for the leave or other satisfactory evidence as to the reason for the absence.
- (b) A reasonable statement from the employee and self-certification for the absence may be considered acceptable documentation for an absence of more than three workdays.
- (c) Employees on sick leave for 30 calendar days or more are required to submit detailed medical documentation from the health care provider to substantiate the absence. The employee may be required to subsequently submit documentation every 30 calendar days that identifies the employee's progress and expected return to work date.
- (d) Employees on extended sick leave may be required to provide documentation certifying that they may return to duty if exposure to their medical condition could pose a health threat to co-workers or the general public. If required, employees will be notified in advance of their return that such documentation is required.
- (e) An employee occupying a position with established physical requirements whose medical condition prevented him/her from performing the essential functions of the position may be required to provide written medical certification from the health care provider of the employee that he/she is able to perform the essential functions of his/her position. When documentation is required, documentation must be required from all similarly situated employees (i.e., same occupation, same serious health condition, same physical restrictions,

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within the same management chain) and employees will be notified in advance of their return that such documentation is required.

11. Excessive Use of Unscheduled Sick Leave

- (a) Supervisors or other authorized management officials are responsible for monitoring unscheduled use of sick leave. Excessive use of unscheduled leave should be addressed immediately.
- (b) Excessive use of unscheduled sick leave could serve as the basis for requiring an employee to substantiate all absences with administratively acceptable documentation.
- (c) An employee suspected of abusing sick leave privileges through the use of excessive unscheduled sick leave may be placed on leave restriction.

12. Substitution of Sick Leave for Annual Leave

- (a) If an employee becomes ill within a period of annual leave, the employee may be granted sick leave for the period of illness.
- (b) If an employee's family member becomes ill during a period the employee is on annual leave, the employee may be granted sick leave for the period of illness.

***Example:*** While on a family vacation, the employee's child becomes ill requiring hospitalization. The employee may be granted sick leave to provide care to the child.

- (c) An employee's must request the change to sick leave as soon as possible, generally within one pay period, and must provide administratively acceptable documentation to substantiate the illness.

13. Re-credit of Sick Leave

- (a) Employees who transfer to TSA from other Federal agencies will have all sick leave credited to their sick leave account at TSA. If transferring from a different leave system, 7 calendar days of sick leave are deemed equal to 5 workdays of sick leave.
- (b) If an employee previously left Federal Service and is now returning to join TSA, the employee's sick leave may be re-credited regardless of the length of the break in Federal service.
- (c) Employees who separated from the Federal Government and returned before December 2, 1994, are not eligible to have their sick leave re-credited. If the employee returned on or after December 2, 1994, all sick leave may be re-credited.



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- (d) Employees who have had their sick leave used in the computation of an annuity may not have that sick leave re-credited upon joining TSA.
- (e) Employees separating from Federal service do not receive a lump sum payment for sick leave to their credit.

**E. COMPENSATORY TIME OFF**

1. General

- (a) There are three types of compensatory time off that may be earned and used by TSA employees – compensatory time off in lieu of overtime pay; compensatory time off for travel; and compensatory time off for religious observances.
- (b) Compensatory time off is earned and used in 15 minute increments.
- (c) The [OPM Form 71](#) is the required method for employees to use when requesting to use compensatory time off.

**NOTE:** Local offices are not authorized to develop or use other forms to request leave.

- (d) Employees are responsible for managing use of leave including compensatory time off.
- (e) Supervisors and designated management officials maintain the discretion to approve compensatory time off based on the needs and workload of the organizational unit.

2. Compensatory Time Off in Lieu of Overtime Pay

- (a) Compensatory time off in lieu of overtime pay is a form of compensatory time off that is earned by employees in lieu of receiving overtime pay. The provisions for earning compensatory time off in lieu of overtime pay can be found in [TSA MD 1100.55-8, Premium Pay](#).
- (b) Compensatory time off in lieu of overtime pay may not be earned in place of holiday premium pay for performing work on a holiday.
- (c) Employees may use compensatory time off in lieu of overtime pay for vacations, rest and relaxation, family needs, personal business and for situations generally covered by sick leave.
- (d) Effective **January 4, 2009**, all compensatory time off in lieu of overtime pay earned or accrued must be used within one year (26 pay periods) of the date earned or accrued.
- (e) At the end of the 26 pay period time limit or when the employee separates from TSA, all unused compensatory time off in lieu of overtime pay hours will be forfeited by exempt employees and will be paid out for non-exempt employees at the overtime rate at which the hours were earned.

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- (f) Exempt and non-exempt employees placed in a nonpay status (Absent-US) status when called to or volunteering for active military duty or separating from TSA when called to or volunteering for active military duty will receive a lump sum payment for unused compensatory time off in lieu of overtime pay hours. Payments will be made at the overtime rate in effect when the compensatory time off in lieu of overtime pay hours were earned. The HR specialist/liaison should make a written request to the HR Services Provider to ensure payment is made.
- (g) Exempt and non-exempt employees placed in a leave without pay (LWOP-OWCP) status or separating from Federal service because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81 will receive a lump sum payment for unused compensatory time off in lieu of overtime pay hours. Payments will be made at the overtime rate in effect when the compensatory time off in lieu of overtime pay hours were earned. The HR specialist/liaison should make a written request to the HR Services Provider to ensure payment is made.
- (h) Employees moving from non-TSES positions to TSES positions will forfeit all unused compensatory time off in lieu of overtime pay hours.
- (i) Forfeited compensatory time off in lieu of overtime pay hours cannot be recredited to the employee.
- (j) Members of the TSES may not earn or use compensatory time off in lieu of overtime pay.

3. Compensatory Time Off for Travel

- (a) Compensatory time off for travel is a form of compensatory time off that may be earned by employees for time spent traveling when the time is not otherwise compensable.
- (b) Time is considered to be compensable when the employee is engaged in the performance of work and entitled to receive regular pay, overtime pay, or compensatory time off in lieu of overtime pay.
- (c) The provisions for determining hours of work while traveling and the procedures for requesting compensatory time off for travel can be found in TSA MD 1100.55-8, *Premium Pay*.
- (d) Compensatory time off for travel is credited to the employee after completion of the travel.
- (e) Generally, employees will forfeit any compensatory time off for travel that is not used within 26 pay periods of the pay period in which it was earned. Exceptions may be found in TSA MD 1100.55-8, *Premium Pay*.

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- (f) Forfeited compensatory time off for travel hours cannot be recredited to the employee.
- (g) Compensatory time off for travel is not paid out under any circumstances.
- (h) Employees may use compensatory time off for travel for vacations, rest and relaxation, family needs, personal business and for situations generally covered by sick leave.

4. Religious Accommodation and Compensatory Time Off for Religious Observances

- (a) Compensatory time off for religious observances is a form of compensatory time off that may be earned by employees for performing work outside of the normal tour of duty for purpose of religious accommodation.
- (b) All TSA employees, including members of the TSES, are eligible to earn and use compensatory time off for religious observances.
- (c) To earn compensatory time off for religious observances, employees should submit a written request to their supervisor for an adjusted work schedule in advance of the date of the religious observance. The request should specifically state that the request is for religious purposes and should provide acceptable documentation of the desire to abstain from work.
- (d) When deciding whether an employee's request for an adjusted work schedule should be approved, management should not make any judgment about the employee's religious beliefs or his or her affiliation with a religious organization.
- (e) Management may allow employees to work the compensatory hours within two pay periods before or after the date the accommodation is needed.
- (f) Requests for use of compensatory time off for religious observances should not be granted without simultaneously scheduling the hours during which the employee will make up the time.
- (g) An employee should only be allowed to accumulate the number of hours of compensatory time off for religious observances needed to cover a previous or anticipated absence from work for religious observances.
- (h) Employees should not be allowed to "bank" excess compensatory time off for religious observances hours for an unknown future use.
- (i) Employees not wishing to earn compensatory time off for religious observances may use available compensatory time off in lieu of overtime pay; available

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compensatory time off for travel; LWOP; and accrued, accumulated, or advance annual leave to accommodate a requested absence for religious observance.

- (j) Absent an undue hardship on agency operations, organizational units must allow employees to adjust their work schedules to accommodate their religion.
- (k) Organizations shall contact the Office of Chief Counsel before denying a request for religious accommodation.
- (l) Pay limitations do not apply to the earning of compensatory time off for religious observances.
- (m) Earning compensatory time off for religious observances does not create an entitlement to premium pay (e.g., overtime or night differential) for the hours worked.
- (n) Employees separating from TSA with a compensatory time off for religious observances balance to their credit will receive payment for the hours at the non-overtime rate in effect at the time the hours were earned.
- (o) Employees placed in a nonpay (Absent-US) status when called to or volunteering for active military duty or separating from TSA when called to or volunteering for active military duty will receive a lump sum payment for unused compensatory time off for religious observances hours. Payments will be made at the non-overtime rate in effect when hours were earned. The HR specialist/liaison should make a written request to the HR Services Provider to ensure payment is made.
- (p) Employees placed in a leave without pay (LWOP-OWCP) status or separating from Federal service because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81 will receive a lump sum payment for unused compensatory time off for religious observances hours. Payments will be made at the non-overtime rate in effect when hours were earned. The HR specialist/liaison should make a written request to the HR Services Provider to ensure payment is made.
- (q) Employees separating from TSA with a negative compensatory time off for religious observances balance will be required to liquidate the indebtedness. Employees will be required to make payment for the hours at the non-overtime rate in effect at the time the hours were used.
- (r) Indebtedness related to negative compensatory time off for religious observances balances is waived for deceased employees.

**F. MILITARY LEAVE**

1. General Information

- (a) Supervisors and other designated management officials are required to approve requests for absence from duty for employees who must complete an obligation to the military. Employees may use available military leave, annual leave, other appropriate available paid leave, leave without pay (LWOP), or absent-uniformed services (Absent-US) during the period of absence.
- (b) Authorized management officials (e.g., FSDs, SACs, equivalent level positions, or higher level positions) may contact an employee's commanding officer to request that training for a reservist be rescheduled if the employee's absence would cause an undue hardship for the organizational unit. If the military duty is unable to be rescheduled, TSA has no authority to deny the employee's request for absence to complete the military obligation.
- (c) Military leave is a form of leave that may be used by eligible employees for performing certain types of active or inactive military duty. Use of military leave is an approved absence from official duty, with pay, for an employee who is a member of the National Guard or a reservist of the Armed Forces.
- (d) Military leave is charged in 1-hour increments. Military leave may only be charged for hours that the employee would otherwise have worked for TSA and received pay.
- (e) Military leave cannot be charged for regular days off or holidays.
- (f) When a holiday occurs during a period when military leave is used, including periods of Absent-US, the employee will not be charged military leave, but will receive holiday (leave) pay for the holiday.

**Example:** An employee on Absent-US was normally scheduled to work Tuesday through Saturday. Thursday of week one of the pay period is Thanksgiving. The employee has requested to use military leave for week one of the pay period. The employee will be charged military leave on Tuesday, Wednesday, Friday, and Saturday. The employee will receive holiday (leave) pay for Thursday, Thanksgiving Day.

- (g) An employee on Absent-US should not be returned to duty when requesting to use military leave or annual leave. The processing of an SF-52, Request for Personnel Action, returning the employee to duty is not required for the employee to use military leave or annual leave.
- (h) Eligible employees may be granted military leave for various reasons. The two most common types of military leave requested and granted are military leave

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(regular) and military leave (emergency). More information on both types of military leave is provided in this Section.

- (i) Employees who work a normal tour of duty between 6:00 pm and 6:00 am will receive night differential when using military leave as if the night work had been performed.
- (j) Eligible members of the Transportation Security Officer (TSO) workforce (TSOs, Expert TSOs, Lead TSOs, Master TSOs, and Supervisory TSOs) who work a normal tour of duty that includes a split-shift will receive split-shift differential when using military leave as if the split-shift work had been performed.
- (k) Employees may not be advanced annual leave or sick leave during a period of active military duty.
- (l) Employees serving on active military duty cannot perform work for TSA or receive compensation for such work during the period of active duty.
- (m) Employees called to military duty must inform their supervisor in advance of the duty either verbally or in writing. Advanced notice is not required if military necessity prevents giving advance notice or giving advance notice is otherwise impossible or unreasonable.
- (n) **Management does not have the authority to mandate the receipt of military orders prior to the individual's absence.** Management also cannot deny the employee's request to be absent from duty to complete a military obligation in the absence of such orders. However, to use military leave (regular or emergency,) the employee will provide the supervisor with a copy of the military orders, annual drill schedule, or other documentation identifying the dates of the military obligation.
- (o) TSA or local management officials may not require a specific format for the military orders, annual drill schedule, or other documentation identifying the dates of the military obligation.
- (p) Employees called to military duty for 30 calendar days or more should complete [TSA Form 1169 Employees Entering Extended Military Active Duty Checklist](#). Completion of this form will ensure the employee's benefits are properly tracked and maintained.
- (q) TSA policy, procedures, and requirements for employment and reemployment of members of the uniformed services can be found in [TSA MD 1100.30-17, Uniformed Services Employment and Reemployment](#), and TSA [Handbook](#) on Uniformed Services Employment and Reemployment.

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- (r) If after completing a period of military service an employee is not eligible to be returned to duty at TSA based upon not meeting reemployment criteria, there is no change to the leave record for the period of military service.

2. Eligibility

- (a) Full-time permanent employees or non-permanent employees with appointments of one year or more are eligible for military leave.
- (b) Part-time employees with a scheduled tour of duty between 16 and 32 hours per week are eligible for military leave.
- (c) Employees with temporary appointments (not to exceed) of less than one year are not eligible for military leave. However, management must approve requests for annual leave, compensatory time off, LWOP, or Absent-US for these employees to complete an obligation to the military.

3. Military Leave (Regular)

- (a) Military leave (regular) allows employees to participate in active duty, active duty training, and inactive duty training without loss of pay or time.
- (b) Active duty and active duty training include full-time training duty, annual training duty, full-time National Guard duty, and Active Guard and Reserve duty.
- (c) Inactive 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.
- (d) Employees using military leave (regular), annual leave, or compensatory time off are entitled to their full civilian pay for the type of leave taken, as well as pay for their military service.

4. Accumulation and Charging of Military Leave (Regular)

- (a) Full-time employees receive 120 hours of military leave per fiscal year. It is calculated on the basis of an 8-hour workday for a total of 15 days.
- (b) Employees may use military leave in one-hour increments and are only charged military leave for hours the employee would otherwise have worked for TSA and received pay. Employees may not be charged military leave for holidays or regular days off that occur during the period of military absence.

**Example #1:** Jane's tour of duty is Monday thru Friday. If called to military duty, she may not be charged military leave for Saturday and Sunday, which are her regular days off.



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**Example #2:** Tom works 6 hours a day Friday through Tuesday. If called to military duty, he would not be charged military leave for Wednesday and Thursday, which are his regular days off, and would only be charged 6 hours for each of his normal workdays.

- (c) Military leave is not accrued throughout the year. Eligible employees are credited with the full 15-day (120 hours for full-time employees) entitlement of military leave on October 1 of each fiscal year **or** the first day of employment.

**Example:** Mary joined TSA on August 25 and is a member of the Air Force Reserve. She is immediately eligible to use 15 days of military leave or to carry that military leave, if unused, into the next fiscal year.

- (d) Employees are not required to return from military duty to a civilian position before using military leave earned during a new fiscal year.

**Example:** Raquel is called to active duty for 12 months beginning on July 1. On October 1, Raquel will be eligible to use 15 days of military leave for the new fiscal year.

- (e) Employees may carry a maximum of 120 hours (15 days) of military leave into the next fiscal year. This would allow an employee to use up to 240 hours (30 days) of military leave in any given fiscal year. If an employee's military orders cross fiscal years, an employee has the potential to use up to 360 hours (45 days) of military leave in a calendar year. The amounts are pro-rated for part-time employees.
- (f) The military leave entitlement of part-time employees is based on the number of hours in the employee's regularly scheduled biweekly pay period (tour of duty reflected on the SF-50, Notification of Personnel Action).

**Example:** John works 24 hours per week and would therefore be entitled to 72 hours (9 8-hour days) of military leave per fiscal year (48 hours per pay period ÷ 80 hours = .6 X 120 hours = 72 hours of military leave).

- (g) Leave in excess of the employee's available military leave may be charged to annual leave, compensatory time off, or LWOP at the request of the employee. Absent an employee specifying a paid leave category, the employee will be placed in a LWOP status.
- (h) Employees may use sick leave during a period of military service when the employee is incapacitated (ill or injured).
- (i) Employees may not be advanced annual leave or sick leave during a period of active military duty.

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- (j) Management may not require an employee to use personal leave (e.g., annual leave, compensatory time off, time-off awards, etc.) to cover a period of military duty.

5. Military Leave (Emergency)

- (a) Eligible employees may receive 22 workdays of military leave (emergency) per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor.
- (b) This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation. The 22 days of military leave (emergency) are in addition to the 15 days of military leave (regular) described above.
- (c) The term contingency operation is defined in 10 U.S.C. § 101(a)(13) as an operation that –
  - (1) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
  - (2) Results in the call or order to, or retention on, active duty of members of the Uniformed Services as authorized in 10 U.S.C. §§ 688, 12301(a), 12302, 12304-5, 12406, 10 U.S.C. Chapter 15, or any other provision of law during a war or during a national emergency declared by the President or Congress.
- (d) Employees will have their civilian pay reduced by military pay that corresponds to the 22 workdays of military leave (emergency) authorized under this section of the handbook. Upon return to duty, the employee is responsible for remitting payment equal to that of the military pay received during the 22 workdays. Employees must be informed of this stipulation when it is determined that they are eligible for the 22 workdays of military leave (emergency) or when they request to use the 22 workdays of military leave (emergency).
- (e) Because the employee receives salary from TSA, the employee must remit payment equal to military pay (less any travel, transportation or per diem allowances) received during the 22 workdays. This payment along with the employee's name, social security number, and a short statement explaining the reason for the payment should be sent via regular mail to the address below.

USDA, NFC  
Administrative Collections  
P.O. Box 790342  
St. Louis, MO 63179-0342

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6. Other Military Leave Authorities

- (a) Full-time employees who are members of the National Guard of the District of Columbia are entitled to unlimited military leave with pay for parade or encampment duty ordered or authorized under Title 39, District of Columbia Code. This applies to each day of service the National Guard, or a portion thereof, is ordered by the commanding general to perform.
- (b) Reserve and National Guard Technicians called under 5 U.S.C. § 6323 (d) are entitled to 44 workdays of military leave for duties overseas under certain conditions.

7. Granting Excused Absence for Returning Employees

- (a) An Executive Memorandum was signed on November 14, 2003, granting five (5) days of excused absence to employees returning to their civilian positions after performing active military duty in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or other military operations under Executive Order 13223. This is an authorized absence from duty without loss of pay and without charge to the employee's personal leave accounts.
- (b) Effective August 26, 2008, eligible TSA employees returning from active military duty in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or other military operations under Executive Order 13223 will receive five (5) days of excused absence for each deployment of 42 or more consecutive calendar days.
- (c) An employee does not qualify for excused absence for active duty of less than 42 consecutive days or for an accumulation of 42 or more days of active duty if at least one of the activations does not meet the 42 consecutive day standard.
- (d) Employees may not be granted more than five (5) days of excused absence in a 12-month period. The 12-month period begins on the first day of excused absence and ends 365 days later.
- (e) Generally, the five (5) days is based on an 8 hour workday resulting in employees receiving the equivalent of one week of excused absence.
- (f) The excused absence should be granted after the return to duty date has been established and prior to the employee's resumption of duties with TSA, and all five (5) days must be taken consecutively. The employee cannot be granted the five (5) days of excused absence while in an Absent-US status. If the employee has already returned to duty, the excused absence shall be granted as soon as possible at a time mutually agreeable to the employee and their organization.

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- (g) The five (5) days of excused absence may not be “banked” for use at a future time.
- (h) Employees who separate prior to being granted excused absence for this purpose do not have an entitlement to payment for any time not granted.
- (i) When excused absence is granted for this purpose, a notation should be made on the employee’s time and attendance record.

## **G. HOME LEAVE**

### 1. General Information

- (a) Home leave is a form of leave earned by eligible employees while on a foreign duty assignment for the specific purpose of visiting the United States. Home leave is granted at the discretion of TSA.
- (b) Home leave is earned in addition to annual leave and sick leave.
- (c) Home leave may accumulate without limit.
- (d) An employee's home leave balance is transferred or credited to his or her leave account when moving between agencies or upon reemployment without a break in service of more than 90 calendar days.
- (e) Home leave may not be used as terminal leave or the basis for any lump sum payment upon separation from TSA or Federal service.

### 2. Eligibility

- (a) A current TSA employee is eligible to accrue home leave if he/she:
  - (1) Resided in the United States at the time of accepting a foreign duty assignment **and**
  - (2) Is eligible to maintain an annual leave ceiling of 360 hours (45 days based on an 8 hour day) in accordance with section C of this handbook.
- (b) An employee who transfers to TSA from another Federal agency is eligible to continue accruing home leave if, immediately prior to the transfer, he/she:
  - (1) Held a permanent position in a foreign location **and**
  - (2) Was accruing home leave.
- (c) Employees traveling on temporary duty (TDY) travel and those assigned to positions in Alaska, Hawaii, or United States commonwealths, territories, or possessions are not considered to be on a foreign duty assignment and are **not** eligible to accrue home leave.

### 3. Accrual Rate

- (a) Home leave is earned in daily units. Therefore, home leave is credited to an employee's leave account in multiples of one day (based on an 8 hour day).

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- (b) Home leave accrual begins on the effective date of the employee's foreign duty assignment and ends when the employee is either returned to a position in the United States or is separated from TSA, whichever occurs first.
- (c) Home leave earning rates vary based on certain employment conditions. Eligible employees accrue home leave at the following rates:
- (1) An employee who holds a TSA position that requires the incumbent to accept assignments as directed to anywhere in the world (i.e., on a mandatory mobility agreement), the employee earns up to 15 days of home leave for each 12 months of continuous service while on a foreign duty assignment(s).
  - (2) An employee who is serving at a post for which payment of a foreign or non-foreign (but not tropical) differential rate of 20 percent or more is authorized, the employee earns up to 15 days for each 12 months of continuous service while on a foreign duty assignment(s).
  - (3) An employee, who does not meet the requirements of a or b above, but is serving at a post that has a foreign or territorial (but not tropical) differential of at least 10 percent but less than 20 percent authorized, the employee earns up to 10 days of home leave for each 12 months of continuous service while on a foreign duty assignment(s).
  - (4) Employees serving at a post not covered by the above subsections earn a maximum of 5 days of home leave for each 12 months of continuous service while on a foreign duty assignment(s).
- (d) The following chart identifies the rates at which home leave is accrued:

Months of Service Completed While on a Foreign Duty Assignment*	Number Of Home Leave Days Earned Each Month		
	Maximum 15 Days	Maximum 10 Days	Maximum 5 Days
1	1	0	0
2	2	1	0
3	3	2	1
4	5	3	1
5	6	4	2
6	7	5	2
7	8	5	2
8	10	6	3
9	11	7	3
10	12	8	4
11	13	9	4
12	15	10	5

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*\* This chart identifies the amount of home leave earned for each completed month of service while on a foreign duty assignment for each of the three categories of home leave accrual.*

- (e) For an employee whose foreign duty assignment is interrupted by a tour of duty in the Armed Forces of the United States, home leave will not be accrued for the duration of active duty military service.
- (f) While on a foreign duty assignment, home leave will not accrue for time spent in a nonpay status that exceeds two workweeks (80 hours) within each 12 months of continuous service.
- (g) When an employee returns to a position in the United States, unused home leave will be held in abeyance. Should the employee receive another foreign duty assignment, his/her unused home leave will be recredited. Approval and use of recredited home leave is subject to all provisions and restrictions in this section of the handbook.
- (h) All unused home leave is forfeited when an employee has a break in Federal service of more than 90 calendar days.

4. Approval and Use of Home Leave

- (a) Home leave approval is at the discretion of management and must be approved in advance by the supervisor or designated management official.
- (b) Although home leave accrual begins at the start of the foreign duty assignment, there is a specific window in which home leave can be approved for an employee's use: The employee must:
  - (1) First serve a continuous, 24 month period on a foreign duty assignment, and
  - (2) Have more than 6 months remaining on his/her foreign tour of duty after returning from home leave.
- (c) Home leave can only be used for time spent in the United States.
- (d) Home leave is charged in one day increments (based on an 8 hour day). This means an employee who requests home leave while on an alternative work schedule would need to have his/her work schedule adjusted to a conventional schedule (5 days per week, 8 hours per day) for the pay period(s) in which home leave is scheduled and approved.
- (e) Home leave may not be charged for holidays, regular non-workdays and non-workdays authorized by administrative order.

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- (f) Home leave may be used in conjunction with annual leave, compensatory time off or leave without pay (LWOP).
- (g) Prior to approving home leave, supervisors should consider if:
  - (1) The employee is within the window for using home leave (see (b) of this subsection above);
  - (2) The leave will be used while visiting the United States; **and**
  - (3) Whether the employee has an excessive amount of projected “use or lose” annual leave or an abundance of compensatory time off accrued that should be used to avoid forfeiture.
- (h) The granting of home leave does not confer an entitlement to payment of travel and transportation expenses.
- (i) An employee has no entitlement to use home leave solely on the basis that he or she is eligible to earn home leave.
- (j) Annual leave may not be substituted for periods previously charged to home leave to avoid forfeiture of annual leave at the end of the leave year.

5. Refund of Home Leave

- (a) An employee will be indebted for any home leave used when he or she fails to return to a foreign duty assignment after a period of home leave. TSA can waive this requirement if it is determined that the employee’s reason(s) for the failure to return was beyond the employee’s control. Procedures for waiver of employee indebtedness may be found in [TSA MD 1000.4, Waiver of Employee Indebtedness](#).
- (b) The indebtedness can be liquidated by:
  - (1) A charge against the employee’s annual leave or
  - (2) Reimbursing TSA for the monetary value of the home leave used.
- (c) This indebtedness must be liquidated within 12 months of taking the home leave or when the employee separates from TSA whichever is earlier.



## **H. COURT LEAVE**

### **1. General Information**

- (a) Court leave is an authorized absence from duty, without loss of pay or charge to an employee's personal leave accounts, for the purpose of service as a juror or for service in a nonofficial capacity as a witness when one of the parties is the Federal, State, or local government.
- (b) Full-time, part-time, intermittent and temporary employees are eligible for court leave. The leave will be documented as "Court Leave" in the time and attendance records.
- (c) Part-time and intermittent employees may only be granted court leave for those days and hours that occur during their normal tour of duty.
- (d) There is no limit on the amount of court leave that may be granted to an employee.
- (e) Employees must submit a summons or equivalent document when requesting court leave. Employees may also be required to provide documentation certified by the clerk of the court or other appropriate official that demonstrates proof of attendance. If proof of attendance is required, the employee must be notified of the requirement in advance of using court leave.
- (f) Employees who work a normal tour of duty between 6:00 pm and 6:00 am shall be granted court leave, including night differential, for their tour of duty even though jury or witness service is performed between 6:00 am and 6:00 pm.
- (g) Management is expected to use reasonable judgment in granting court leave for the entire workday when an employee's shift starts early in the morning, late afternoon, late at night or the middle of the regular workday.

***Example:*** The employee is required to report for jury duty at 8:00 am and is expected to remain at the court house until 5:00 pm. The employee's normal tour of duty is 3:00 pm to 11:30 pm. In this case, management should adjust the employee's schedule. Absent unusual circumstances, the employee should not be required to report for duty at the end of the court day. The employee would receive 8 hours of court leave and applicable night differential as if he/she had worked his/her normal tour of duty.

- (h) Employees in a nonpay status (LWOP, AWOL, suspension, or furlough) when called to jury duty or called to provide services as a witness are not entitled to court leave. An employee must be scheduled for paid leave or normal duty in order to qualify for court leave.

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- (i) When a holiday occurs during the period an employee is called to jury duty or to provide services as a witness, the employee does not receive court leave. Eligible employees receive holiday (leave) pay.
- (j) When a holiday occurs during the period an employee is called to jury duty or to provide services as a witness and the employee is normally required to work on a holiday, the employee receives holiday (leave) pay. The employee does not receive holiday premium pay.
- (k) Employees do not receive court leave for jury duty or service as a witness on a regular day off. Management should consider adjusting the employee's work schedule when jury duty or service as a witness impacts the employee's regular day off.

2. Service as a Juror

- (a) Employees shall be granted court leave when summoned to serve as a juror in U.S. Courts and State Courts (including municipal courts); in courts of the District of Columbia; and in courts in a territory or possession of the United States.
- (b) In general, TSA will not request that employees be excused from jury duty. Exceptions may include key officials whose services cannot be spared for an extended period of time.
- (c) Assistant Administrators must provide final approval of all proposals to have an employee excused from jury duty.

3. Service as a Witness

- (a) Employees shall be granted court leave when summoned to testify in a non-official capacity as a witness in a proceeding in which a State, local government or the United States is a party.

***Example:*** John has been summoned as a witness in a case where the State of Kentucky has charged the defendant with assault. John is a full-time employee required to testify on a day that he would otherwise work. He is therefore eligible for court leave on that day.

- (b) An employee summoned or assigned by TSA to testify in an official capacity on behalf of the United States Government or a local government is *not* entitled to receive court leave for service as a witness. The employee is performing duties as a result of his or her position, and is therefore in an official duty status and paid accordingly.

**NOTE:** An employee required to testify in an official capacity on a regular day off must be compensated accordingly.

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- (c) An employee called as a witness in a nonofficial capacity in a judicial proceeding involving only private parties must take annual leave, compensatory time off, if available, or LWOP for such appearances and is entitled to retain any fees or expenses paid for such services.

*Example:* Jane's sister is suing the individual who damaged her car in an accident. Jane was a passenger in the car and has been called as a witness. Jane will not receive court leave on the day she has to report to court. Jane must use her personal leave or leave without pay for the absence.

- (d) An employee named as a defendant must take annual leave, compensatory time off, if available, or LWOP for the judicial proceedings.

4. Fees and Expenses for Service as Juror or Witness

- (a) Employees called to serve as jurors or witnesses in court proceedings to which the United States, a State, or local government is a party are directed to collect all fees and expenses payable to them as a result of their service.
- (b) Fees received for jury or witness service on a non-workday, a holiday or while in a nonpay status may be retained by the employee.
- (c) In certain counties, money received in connection with jury service is considered expense money rather than a jury service fee. If monies received are designated as expense reimbursement – expenses for lunch, transportation, parking, tolls, etc., the payments may be retained by the employee and are not credited against the employee's salary.
- (d) Employees must reimburse TSA for jury or witness fees received because TSA is paying the employee's salary through court leave. Upon receipt of the check from the court, the employee must endorse and make the check payable to the U.S. Treasury. The check must be submitted to the address below.

TSA Headquarters, West Tower  
Accounting Branch, TSA-9  
601 South 12<sup>th</sup> Street  
Arlington, VA 20598-6009

- (e) An employee reporting for jury service should inquire of an official of the court to determine if payment to be received is considered fees for jury service or expenses. The employee must obtain documentation from a court official to substantiate that payment received is considered expense money.
- (f) An employee receiving witness fees when testifying in an official capacity must also reimburse TSA for witness fees received.

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5. Dismissal from Service as a Juror or Witness

- (a) If an employee on court leave is dismissed from duty as a juror or witness at least 4 hours before the end of the employee's workday, the employee must contact his/her supervisor. Based on the needs of the office, the end time of the employee's workday and the employee's distance from the office, the supervisor will determine if it is practical for the employee to return to duty for the remainder of the day. If it is not practical for the employee to return to duty, the employee will continue on court leave for the remainder of the day.
- (b) An employee directed to return to duty may request and be granted annual leave, compensatory time off, if available, or LWOP in lieu of returning to duty for the remainder of the workday.
- (c) An employee will be charged absence without leave (AWOL) if:
  - (1) The employee is dismissed from jury duty or service as a witness and directed to return to duty but does not; or
  - (2) Service as a juror or witness is cancelled for the day but the employee does not report for duty.

**I. EXCUSED ABSENCE**

1. General Information

- (a) Excused absence is an approved absence from duty authorized without loss of pay and without charge to an employee's personal leave accounts.
- (b) Use of excused absence must be administered with extreme care and only granted for events and activities considered in the best interest of TSA and/or the Federal government as a whole.
- (c) Assistant Administrators or equivalent positions and designees (i.e. Area Directors, SACs, FSDs at the airports, and other designated management officials) have the authority to grant excused absence in accordance with the provisions of this section and related policies and published TSA guidelines.
- (d) Designated management officials may grant no more than the maximum amount of excused absence identified for each of the approved uses below. When authorized, the appropriate Assistant Administrator must approve the use of excused absence beyond the maximum amounts identified below.
- (e) The decision to grant an excused absence in accordance with the provisions of this section and related policies and published TSA guidelines is a matter of management discretion. Excused absence may be approved only for employees who would otherwise be in a duty status or on paid leave.
- (f) Restored annual leave, "use or lose" annual leave, and compensatory time off hours that are forfeited based on applicable TSA policies and procedures as a result of an employee being granted excused absence are not eligible for restoration and will not be restored or recredited to the employee's leave account.
- (g) Excused absence is not authorized for use as an award or reward for any circumstance, including superior performance or perfect attendance. Management may grant an employee time off for work accomplishments in accordance with the provisions of [TSA MD 1100.45-1, Awards and Recognition](#).
- (h) Excused absence may not be granted to attend a job interview at another TSA location or at another agency. The employee will need to request annual leave, compensatory time off, if available, or leave without pay for travel to and from the interview and to participate in the interview process. If the interview is local or a telephone interview is possible, the employee could participate in the interview during a meal break or during a split-shift break.

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2. Registration and Voting

- (a) Designated management officials may grant employees up to a maximum of three (3) hours of excused absence to vote or register for an upcoming election.
- (b) Typically, polling places throughout the United States are open for extended periods of time and within an employee's normal commuting distance. Therefore, excused absence should rarely be needed.
- (c) Employees are not guaranteed the maximum amount of excused absence. Management will provide the amount that provides the least impact on the operations of the organization.
- (d) Employees must request excused absence for voting in advance of the Election Day. Employees are responsible for knowing the election laws of their respective state and local governments and for knowing the hours of the polling location.
- (e) Advance requests for excused absence provides management time to adjust schedules and determine how much time to allow and how many employees can be granted excused absence at the beginning of the workday and how many at the end of the workday.
- (f) If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is either not permitted or not possible, the employee may be granted a maximum of one (1) workday to make the trip to the voting place to vote. If more than one (1) workday is needed the employee may request annual leave, compensatory time off, if available, or leave without pay for the additional period of absence. Employees must request excused absence at least seven (7) calendar days in advance and provide administratively acceptable documentation that clearly notes that absentee voting is not permitted.
- (g) For employees who vote in jurisdictions that require registration in person, time off to register may be granted on substantially the same basis as for voting. Excused absence may not, however, be granted if registration can be accomplished on a non-work day and the place of registration is within reasonable 1-day, round trip travel distance of the employee's place of residence.
- (h) Employees may not be granted excused absence to vote by absentee ballot.
- (i) Employees may not be granted excused absence to engage in volunteer work as a pollster or to serve as an election official.

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3. Military and Law Enforcement Funerals

- (a) Designated management officials may grant limited amounts of excused absence for military and law enforcement funerals.
- (b) Employees who are *veterans* may be excused from duty without loss of pay or a charge to annual leave for the time necessary, not to exceed four (4) hours in any one day, to participate as active pallbearers or honor guards in funeral ceremonies for members of the Armed Forces whose remains are returned from abroad for final interment in the United States.
- (c) Federal law enforcement officers may be granted excused absence to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty. Attendance at the service is considered to be an official duty.

4. Funeral Leave (Member of the Armed Forces)

- (a) Designated management officials may grant excused absence for funerals and memorial services of members of the Armed Forces.
- (b) Employees may be granted up to three (3) days of excused absence to attend the funeral or memorial service of a family member who dies as a result of wounds, disease, or injury incurred while serving as a member of the armed forces in a combat zone.
- (c) The definition of family member for the purpose of funeral leave is a spouse and the spouse's parents; children, including adopted children and their spouses; parents and their spouses; siblings and their spouses; grandparents and their spouses; grandchildren and their spouses; domestic partners and their parents; domestic partners of the aforementioned family members; and any individual related by blood or affinity whose relation to the employee is the equivalent of a family relationship.
- (d) Employees may only be approved for the amount of excused absence (up to 3 days) required to attend or make arrangements for the funeral or memorial service of the family member.
- (e) Excused absence is not available to employees to attend or make arrangements for the funeral or memorial service of any individual except as provided in 4(b) above.

5. Change of Duty Station

- (a) If an employee is directed to accept a position at another duty station outside of his/her current commuting area (beyond 50 miles from the current duty station), the employee may be granted up to a maximum of 40 hours of excused absence to enable him/her to make pre and post moving arrangements. The employee is

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responsible for submitting the request for excused absence including a justification through the employee's chain of supervision. The appropriate Assistant Administrator or Area Director retains the authority to grant excused absence for this purpose which may not be delegated.

- (b) When an employee is relocating to or returning from a foreign (overseas) duty station, the employee may be granted up to a maximum of 40 hours of excused absence to make pre and post moving arrangements such as, arranging for packing/unpacking and shipping/receiving of household goods and arranging for storage of household goods. Generally, the employee may be granted up to 16 hours in the United States and up to 24 hours at the foreign duty station. The employee is responsible for submitting a request for excused absence including a justification through the employee's chain of supervision. The request must include the reason for the excused absence, the amount of time requested, and why the specific situation can only be accomplished during normal work hours. Only the Assistant Administrator or Area Director in the employee's chain of supervision has the authority to grant excused absence for this purpose. This authority may not be delegated.
- (c) Employees who are granted a change in duty station at their request are not entitled to receive excused absence under this authority. The Assistant Administrator for the Office of Human Capital (AA/OHC) may grant exceptions to this policy if it is deemed in the best interest of TSA. All requests for exception to the policy must be submitted through the appropriate Assistant Administrator to the AA/OHC for approval. The request must include a justification that outlines the benefit to TSA in granting excused absence.
- (d) Each excused absence granted to facilitate a change in duty station must be documented and signed off by the appropriate Assistant Administrator or Area Director.

6. Career Transition Assistance Related to a Workforce Reduction

- (a) Designated management officials may grant a reasonable period of excused absence generally not to exceed three (3) workdays (24 hours for a full-time employee and a prorated amount for part-time employees) for career transition related activities of employees who have received a workforce reduction separation notice.
- (b) The amount of excused absence granted will be determined on a case-by-case basis taking into account workload and need to accomplish the mission.

7. Professional Organizations' Conferences and Conventions

- (a) Supervisors and designated management officials have the discretion to grant employees excused absence to attend conventions, conferences, and meetings of



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professional organizations when it is determined that attendance will enhance the knowledge, skills and abilities of the employee and thereby benefit TSA.

- (b) The employee's attendance at the conference or meeting must not have an adverse impact on the office, the work of the office or other employees.
- (c) Although the employee is granted excused absence, TSA is not obligated to pay (or reimburse the employee) for any cost (e.g., conference fees, travel expenses, etc.) related to the conference or convention.
- (d) The supervisor or designated management official may approve excused absence for the length of the conference.

8. Leave for Bone Marrow and Organ Donations

- (a) Designated management officials may grant excused absence for bone marrow and organ donations.
- (b) Employees may be granted up to seven (7) workdays of excused absence each calendar year to serve as bone marrow donors and to have tests performed related to the donation of bone marrow.
- (c) Employees may be granted a maximum of 30 workdays of excused absence each calendar year to serve as organ donors.
- (d) Employees are required to provide appropriate medical documentation when excused absence is granted for bone marrow or organ donations.

9. Blood Donations

- (a) Designated management officials may grant excused absence for blood donations.
- (b) An employee may be granted up to four (4) hours of excused absence to make blood donations to onsite blood drives, the Red Cross, local hospitals, blood banks, or similar nonprofit organizations. The granting of excused absence for this purpose may only be done if there is no adverse impact on the organization.
- (c) The purpose of the excused absence is to provide a reasonable amount of time for traveling to and from the donation site and to recuperate after donating blood.
- (d) Employees are not guaranteed and do not automatically receive 4 hours of excused absence to donate blood.
- (e) Management officials have the authority to establish timeframes available for employees who want to participate in on-site blood drives or off-site blood

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donation. This determination will be based on the operational needs of the organization.

- (f) If an employee is not accepted as a blood donor, only the time necessary for the trip to and from the blood center is allowed as an excused absence.
- (g) Excused absence is not authorized for employees who sell blood. Employees may request annual leave, compensatory time off, if available, and LWOP for this purpose.

**10. Officially Sponsored Physical Fitness Programs, Fitness Centers, and Health Units**

- (a) When excused absence is authorized for DHS/TSA officially-sponsored and administered physical fitness programs, a broadcast message will be issued identifying the event and the maximum number of hours that may be granted.
- (b) Employees may be granted excused absence to participate in DHS/TSA officially-sponsored and administered physical fitness programs. Although the event is officially sanctioned and employees may receive excused absence, participation is voluntary and employees are therefore not covered by worker's compensation while participating.
- (c) Employees appointed to law enforcement positions may be granted official duty hours to maintain physical fitness requirement under the provisions of [TSA MD 1100.88-1, Law Enforcement Position Standards and Hiring requirements](#).
- (d) Employee participation in on-site fitness centers is completely voluntary. Employees may not be granted excused absence to use the facility and are not covered by worker's compensation unless working in the center in an official capacity.
- (e) Employees who become ill during the workday may be granted a reasonable amount of excused absence for visits to the nearest health unit. If the employee is sent home for recuperation after a non-work related injury, the employee must request leave for the portion of the workday following the health unit examination.
- (f) Employees may be granted up to four (4) hours of excused absence to receive agency sponsored immunizations (e.g., flu shots) when the immunizations are administered at an off-site location. Only the time necessary for the trip to and from the off-site location and a reasonable amount of time to receive the immunization is allowed as excused absence.

**11. Disruptions to Operations**

- (a) Federal Security Directors (FSD) are delegated authority to excuse employees, including Transportation Security Officers (TSO) from duty for a limited period

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of time when brief disruptions to the operations occur such as cancellation of flights due to adverse weather conditions or mechanical issues. FSDs may re-delegate this authority to grant excused absence no lower than the Assistant Federal Security Director (AFSD).

***Example:*** A category 4 airport has three flights per day. The first flight lands at 6:00 am and departs at 6:30 am. The next one lands at 9:00 am and departs at 9:30 am. The last flight lands at 4:00 pm and departs at 4:30 pm.

*Afternoon Flight Cancellation.* TSA is notified at 3:00 pm that the 4:00 pm flight will not be landing or taking off due to weather conditions (or mechanical problems, or lack of passengers). The TSOs at the airport have completed all required training and have thoroughly cleaned the TSA areas. The FSD is authorized to grant excused absence for the remainder of the shift to the TSOs who are on duty at the airport. The TSOs will be paid for the remainder of the shift. The granting of excused absence will be documented.

*Morning Flight Cancellation.* TSA is notified at 5:00 pm that the 6:00 am flight scheduled for the next morning will not be landing or taking off due to weather conditions (or mechanical problems, or lack of passengers). The TSOs at the airport have completed all required training and other duties are not available for the TSOs to perform. The FSD is authorized to grant excused absence to the TSOs who are scheduled to work the next morning. The TSOs are contacted and advised to report to work two hours later than their scheduled reporting time the next morning. This will be considered an excused absence and thus the TSOs will be paid for these two hours. The granting of excused absence will be documented.

- (b) Before excusing employees from duty, FSDs must ensure that there are no other duties available or practical for the employees to complete, such as training requirements. If all of the TSOs on duty are unable to be excused from duty, FSDs are responsible for ensuring that the same TSOs are not excused from duty each time a disruption occurs.
- (c) Each instance of excused absence for brief disruptions to the operations must be documented through official records within the Time and Attendance system. Additionally, back-up documentation must include:
  - (1) The date;
  - (2) The reason for the disruption;
  - (3) The position titles of the employees excused from duty;
  - (4) The number of hours of excused absence;

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- (5) A general description of the employees (i.e., position titles and the number of employees in each position) required to remain on duty; and
  - (6) The reason these employees were not excused from duty.
- (d) FSDs are not authorized to grant excused absence for:
- (1) Disruptions of operations lasting more than one (1) day;
  - (2) Airport closure for runway resurfacing or repair;
  - (3) Reduction in flights due to seasonal fluctuations;
  - (4) Airport closure and/or reductions in flights due to airlines discontinuing service to the airport; or
  - (5) Lack of work.
- (e) In the above instances, FSDs must seek guidance from Headquarters as assignment to other duty locations, reductions in work schedules, or furlough may be appropriate for the situations listed above.
- (f) For disruptions to operations resulting from emergencies, management should follow [TSA MD 1100.61-1, \*Emergency Dismissals and Closures\*](#), and guidance issued by the AA/OHC.

12. Absences to Perform Community Service

- (a) Employee absences to perform community or other volunteer service should be charged as annual leave, compensatory time off, if available, or LWOP.
- (b) Employees may be granted excused absence to participate in certain volunteer activities sponsored by or authorized by DHS or the Assistant Secretary and are directly related to TSA's mission, vision and core values.
- (c) When excused absence is authorized for volunteer service, a broadcast message will be issued identifying the event and the maximum number of hours that may be granted.

13. Absences Due to On-the-Job Injuries

- (a) An employee injured in the performance of duty will be excused from duty without charge to leave for the time required for medical examination and treatment on the date of injury.

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- (b) If the employee's injury requires immediate hospitalization, the employee should be granted excused absence from the time of the injury to the end of the employee's shift for that day.
- (c) Employees who suffer job related injuries outside the United States and are unable to obtain adequate local treatment, may be granted excused absence for the time necessary to travel to an approved medical facility.
- (d) An employee may not receive excused absence on the date of injury if medical treatment was not received. If the employee does not receive medical treatment and does not remain at work, the employee must use personal leave (annual leave, sick leave, compensatory time off, if available, or LWOP) for the absence.

**J. ADMINISTRATIVE LEAVE**

1. General Information

- (a) Administrative leave is the placement of an employee in a paid non-duty status when the employee's continued presence in the workplace may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests.
- (b) Assistant Administrators or equivalent positions, Area Directors, Federal Security Directors, Special Agents in Charge, and higher level management officials have the authority to approve administrative leave in accordance with the provisions of this section, related policies and published TSA guidelines. The authority to approve administrative leave may not be delegated.
- (c) Authorized management officials, identified above, may approve up to 30 calendar days of administrative leave for the purposes identified below.
- (d) Requests to grant administrative leave in excess of 30 calendar days must be submitted to the Assistant Administrator for the Office of Human Capital (AA/OHC) for approval/denial. All requests must be submitted through the appropriate Assistant Administrator or equivalent position to the AA/OHC, must include supporting documentation, and have concurrence from the appropriate Assistant Administrator or equivalent position.
- (e) Decisions to place an employee on administrative leave for any length of time pending the outcome of a proposed removal, proposed indefinite suspension, official investigation, or management inquiry must be supported by appropriate documentation. This documentation must include:
  - (1) A statement detailing the allegation(s) against the employee;
  - (2) Alternatives to use of administrative leave that were considered;
  - (3) A justification as to why the employee cannot remain in the workplace;  
and
  - (4) The number of days required.
- (f) If approved, administrative leave must be coded correctly in WebTA.
- (g) During a period of administrative leave, the employee is responsible for requesting appropriate personal leave when absent due to personal reasons (i.e., annual leave when on vacation or attending to personal business and sick leave when ill or for medical appointments/treatments).

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- (h) While on a period of administrative leave, employees retain the responsibility to schedule and use restored leave, projected “use or lose” leave, and compensatory time off to avoid forfeiture. Restored annual leave or “use or lose” annual leave that is forfeited as a result of an employee being placed on administrative leave is not eligible for restoration and will not be restored. Once forfeited, compensatory time off will not be restored.

2. Proposed Removals and Proposed Indefinite Suspensions

- (a) An employee whose removal or indefinite suspension has been proposed is entitled to remain in a duty or other paid leave status during the advance notice period.
- (b) In circumstances where management determines that the employee’s continued presence in the workplace during the notice period may pose a threat to the employee or others, result in the loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, management may place an employee on administrative leave during the notice period.
- (c) TSA managers that have been delegated this authority may approve seven (7) calendar days of administrative leave for this notice period. In instances where the notice period extends more than seven (7) calendar days, or when circumstances warrant the approval of additional days of administrative leave, authorized management officials may, after consultation with OHC Employee Relations staff, approve up to 30 calendar days.

3. Official Investigations and Management Inquiries

- (a) Generally, the use of administrative leave during official investigations and management inquiries should be rare and considered only when all other options have been exhausted and administrative leave is considered to be the best alternative to protect the employee or others or to preserve the efficient operation of the workplace.
- (b) Management shall consider whether there are any appropriate alternatives, i.e., assigning the employee to duties where he/she is no longer a threat to safety, the agency mission, or government property.
- (c) TSA managers that have been delegated this authority may approve up to a total of 30 calendar days during official investigations and management inquiries.
- (d)

**K. LEAVE WITHOUT PAY (LWOP)**

1. General Information

- (a) LWOP is a temporary approved absence from duty in a nonpay status that may be granted at the employee's request. LWOP is charged in 15 minute increments. In general, an employee may not be placed on LWOP unless it is at the employee's request.
- (b) As with any form of leave, periods of LWOP are requested using an OPM Form 71 and must be recorded in the employee's time and attendance records.
- (c) LWOP may not be charged for periods of unauthorized absence. Absence without leave (AWOL) is used for unauthorized absences. See section L of this handbook for more information on AWOL.
- (d) Generally, up to six (6) months of LWOP in a calendar year is creditable service for determining leave accrual rates, service computation dates, and other benefits, i.e., Federal Employee Health Benefits coverage, Federal Employee Group Life Insurance coverage, and retirement.
- (e) As with other leave categories, approval of LWOP, in most cases, is at the discretion of management. Approval or disapproval will be based on the reason for the request and the needs of the organization.
- (f) Each request for LWOP should be examined carefully to determine that the value to TSA (e.g., the benefits to TSA for allowing an employee to pursue educational opportunities) or the serious needs of the employee are sufficient to offset the loss of the employee's services and the costs and administrative inconveniences that result when an employee is in a LWOP status.

2. Use of LWOP

- (a) LWOP may be approved for personal reasons when employees have limited or no available paid leave. Generally, LWOP will not be approved for employees with more than 80 hours of annual leave available. The circumstances surrounding the employee's leave balance should be carefully monitored to ensure that the lack of available paid leave is not the result of excessive unscheduled absences or suspected leave abuse.
- (b) Employees may request LWOP for educational purposes when the course of study or research supports the interests of the TSA. Such requests must identify the course of study, how it relates to the employee's position and the mission of the organization, and the amount of time required to complete the course work.



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- (c) LWOP may be approved for employees awaiting approval of a disability retirement claim.
- (d) An employee receiving compensation from the Office of Workers' Compensation Programs (OWCP) may be approved for LWOP, including periods that exceed 6 months. All LWOP incurred by an employee while receiving compensation from OWCP is creditable service.
- (e) Employees who are absent for military service may be granted LWOP for all periods of absence for military service regardless of their available annual leave balance, including periods that exceed 6 months. All active duty military service time is creditable service for leave accrual purposes, service computation, benefits, and other job entitlements. For periods of military service over 30 days, employees should complete [TSA Form 1169, Employees Entering Extended Military Active Duty Checklist](#). Completion of this checklist allows employees to specify their intent regarding leave, health and life insurance, retirement, and the Thrift Savings Plan. For additional information concerning use of military leave, see section F of this handbook.
- (f) Disabled veterans must be granted paid leave or LWOP to participate in required medical treatment related to the disability under Executive Order 5396, dated July 17, 1930. The leave must be requested in advance and be supported by documentation from a medical authority that the treatment is required.
- (g) Eligible employees are entitled to up to a maximum of 12 or 26 administrative workweeks of LWOP in a 12 month period under the Family and Medical Leave Act (FMLA) for certain personal and family emergencies. For additional information on the policies and procedures related to FMLA, see section O of this handbook.
- (h) Employees may not be granted LWOP for the sole purpose of pursuing or engaging in outside employment. For the use of LWOP, other employment includes any position or opportunity, including internships, for which the employee receives a monetary payment.
- (i) Designated management officials may grant a reasonable period of LWOP (generally not to exceed five (5) days) for career transition related activities for employees who have received an involuntary workforce reduction separation notice. The amount of LWOP granted will be determined on a case-by-case basis taking into account workload and need to accomplish the mission.
- (j) TSA employees on LWOP approved for non-work periods under a seasonal work schedule may engage in other Federal employment while on LWOP.

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3. Extended Use of LWOP

- (a) All requests for LWOP in excess of 30 consecutive calendar days must be made in advance.
- (b) Each request should define the benefits or the serious needs to the employee and the value to TSA.
- (c) Each request for LWOP should be examined carefully to assure that the value to TSA or the serious needs of the employee are sufficient to offset the loss of the employee's services and the costs and administrative inconveniences that result when an employee is in a LWOP status. Consideration should be given as to how the employee's work will be accomplished during the employee's absence and whether an undue burden will be placed upon other employees.
- (d) Before approving requests for LWOP over 30 calendar days, there should be a determination that there is a reasonable expectation that the employee will return to duty at the end of the absence.
- (e) Unless otherwise provided in this handbook, the maximum amount of LWOP that may be approved for an employee is 6 months.
- (f) Extensions beyond 6 months will be granted by the Assistant Administrator for Human Capital (AA/OHC) only in very rare cases where it is determined to be in the best interest of TSA. The appropriate Assistant Administrator is responsible for submitting requests for extensions to the AA/OHC for approval.
- (g) If the request for over 30 consecutive calendar days of LWOP is approved, an SF-52, Notification of Personnel Action, must be prepared and submitted by the HR specialist/liaison for the appropriate program office for processing.
- (h) Employees approved for over 30 calendar days of LWOP should complete the *LWOP-NTE Benefits Checklist*. Completion of this checklist allows employees to specify their intent regarding health and life insurance, retirement, and the Thrift Savings Plan to ensure all information concerning their benefits is correctly processed.

4. Effects of Nonpay Status on Leave and Benefits

- (a) Employees will not earn annual leave or sick leave in the pay period in which they reach an accumulated total of 80 hours of LWOP. The LWOP may have been accumulated in more than one pay period but only the pay period in which the employee's cumulative total of LWOP is 80 hours will he or she not earn leave. If the employee returns to a paid status for any amount of time in a subsequent pay period, the employee will again earn leave until he/she accumulates another block of 80 hours of LWOP. At the beginning of each leave year, employees' accumulated LWOP balance is zero (0).

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***Example:*** Jane accumulates 40 hours of LWOP in pay period 4 and accumulates another 40 hours of LWOP in pay period 5. Because Jane's cumulative LWOP total is 80 hours in pay period 5, she did not earn sick or annual leave during pay period 5. However, if Jane returns to a paid status for 1 day in pay period 6, she would earn leave in that pay period.

- (b) Leave accrual for part-time employees will continue to be based on the number of non-overtime hours in a paid status.
- (c) After 6 months of LWOP in a calendar year, an employee's timeframe for moving to the next leave accrual category is extended.
- (d) Extended periods of LWOP have the potential to impact employee salary and other benefits. See chart titled *Effects of Nonpay Status* in Appendix A for more information on how LWOP impacts employee benefits.

**L. ABSENCE WITHOUT LEAVE (AWOL)**

1. General Information

- (a) An employee's time may be charged as absence without leave (AWOL) when an employee fails to report for duty without prior approval, has an unauthorized absence from the workplace during the workday, or does not give proper notification for an absence.
- (b) The minimum charge for AWOL is 15 minutes. Additional charges are in 15 minute increments. An employee may not be charged AWOL for absences or tardiness in increments of less than 15 minutes and cannot be prevented from working if the absence or tardiness is less than 15 minutes. If an employee arrives at work more than 15 minutes late but less than an additional increment of 15 minutes, the employee may only be charged AWOL for full 15 minute increments.

***Example:*** An employee arriving at work 10 minutes late may not be charged AWOL. An employee arriving at work 20 minutes late may only be charged 15 minutes of AWOL, or an employee arriving at work 40 minutes late may only be charged 30 minutes of AWOL.

- (c) An employee who does not report for scheduled overtime may not be charged as AWOL. However, supervisors should document the employee's failure to report for scheduled overtime and take appropriate action. See section B subsection 2(d) of this handbook.
- (d) An employee who is required to report for duty on a holiday or other day designated as a non-workday for other employees should be charged as AWOL if he/she fails to report for non-overtime hours.
- (e) Supervisors must properly and accurately document any periods of AWOL on the time and attendance report for employees under their supervision.
- (f) A charge of AWOL is not a disciplinary action. However the AWOL charge, the failure to follow leave procedures, or the failure to follow instructions that result in AWOL may serve as a basis for corrective or disciplinary action, as warranted.
- (g) Supervisors should maintain records of and document all periods of AWOL charged to their employees. At a minimum, the records should reflect the dates, times, and reasons for the AWOL charge and indicate whether corrective or disciplinary action occurred.
- (h) Recording an absence as AWOL does not mean the employee has an insufficient reason for requesting leave or an insufficient leave balance, but that

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the request was denied because the employee's services are required and mandatory approval of the leave is not required. Management must approve requests for leave for employees in specific circumstances, such as to fulfill a military obligation or for approved FMLA conditions.

- (i) If an employee provides administratively acceptable documentation to substantiate an absence previously documented as AWOL, the charge to AWOL on the time and attendance report may be changed to the appropriate leave category. To be considered, the employee must submit the documentation before the end of the pay period immediately following the pay period in which the AWOL charge occurred.
- (j) Once an AWOL charge is rescinded and changed to an approved leave status, *it cannot serve as the basis for a corrective disciplinary action*. This does not preclude management from taking appropriate corrective or disciplinary action against an employee for failing to follow TSA leave procedures. Supervisors should contact their Employee Relations Specialist (ERS) for more information.

**Example:** An employee is charged AWOL for failing to follow proper procedures for requesting unscheduled leave. The employee was ill and provided medical documentation to support his/her absence. Management rescinds the AWOL charge and approves sick leave for the employee. Management may still take appropriate corrective or disciplinary action against the employee for failure to follow the procedures for requesting leave if appropriate under the circumstances.

**NOTE:** Be careful not to confuse AWOL with LWOP. LWOP is an approved and authorized unpaid absence. AWOL is an unauthorized and unpaid absence from duty and can serve as the basis for a disciplinary action. It is important that an employee's absence be correctly coded in the time and attendance system.

2. Effect on Benefits and Holidays

- (a) An employee charged AWOL on the workday before and the workday after a holiday will not receive holiday (leave) pay for the holiday.
- (b) An employee charged AWOL on the workday before or the workday after a holiday will receive holiday (leave) pay for the holiday, if excused from duty on the holiday and the pay status requirements on the workday before or after a holiday are met.
- (c) An employee charged AWOL on the day of the holiday or the employee's in lieu of holiday will not receive pay for the holiday.
- (d) Pay is forfeited for all absences recorded as AWOL.

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- (e) See chart titled *Effects of Nonpay Status* in Appendix A for information on how unpaid absences impact employee benefits.

**M. MATERNITY AND PATERNITY ABSENCES**

1. General Information

- (a) The Federal Government, including TSA, does not offer a separate leave benefit for maternity or paternity purposes (i.e. maternity leave, paternity leave).
- (b) State regulations and policies do not supersede the policies, rules and regulations of the Federal Government.
- (c) TSA employees are eligible to use a combination of available sick leave, annual leave, compensatory time off, if available, leave without pay (LWOP) and donated leave as appropriate for maternity and paternity related absences.
- (d) Pregnancy, and absences related to pregnancy, will be treated like other medically certified temporary impairments. An eligible employee may request sick leave, annual leave, compensatory time off, if available, LWOP or donated leave for doctor ordered periods of rest, medical appointments, incapacitation and recuperation.
- (e) Although not a requirement, it would be beneficial for the employee to notify her supervisor once a pregnancy is confirmed. This notification allows management to begin formulating staffing alternatives that may be used during the employee's pregnancy and absence and minimizes potential injuries to the employee if related duties include physical activities.
- (f) An employee occupying a position with physical requirements as a condition of employment may be required to submit medical documentation from her health care provider certifying that she is not incapacitated from performing any or all of the duties of her position.
- (g) If the health care provider certifies that the employee is incapacitated from performing any or all of the duties of her position or her health may be at risk, the employee may be placed in a light duty assignment.
- (h) If a light duty assignment is not available, the employee may request and be placed in an approved leave status.
- (i) Placement in an alternative position, must not result in undue hardship on the employee, change the general commuting distance or affect pay and benefits.
- (j) An employee who determines that she does not intend to return to duty after delivery should submit her resignation within a reasonable timeframe, for example, two weeks prior to when the employee had planned to return to duty.

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2. Leave Requests for Maternity and Paternity Purposes

- (a) Employees must submit an OPM Form 71 and supporting documentation from the employee's health care provider to the appropriate leave approving official for maternity related absences. The request must include the amount of each type of leave being requested and the days or period of time requested.
- (b) The documentation from the employee's health care provider must at a minimum certify that the employee is pregnant and the employee's expected delivery date. Following the birth, the employee will need to submit medical documentation that provides the actual birth date and length of the employee's incapacitation for duty.

**NOTE:** The standard period of incapacitation following a normal birthing process is six to eight weeks. However, this period may vary by employee and will be determined by the employee's health care provider.

- (c) Medical documentation of an employee or an employee's family member shall be safe guarded at all times. See section B subsection 7 of this Handbook.
- (d) An employee may use any accrued and accumulated annual and sick leave, advanced annual and sick leave, compensatory time off, if available, LWOP, or donated leave (if an approved leave recipient) for her period of incapacitation.
- (e) An employee may not use sick leave or donated leave to extend her absence from work beyond her period of physical incapacitation.
- (f) TSA will work with employees to develop leave options to balance their work and family lives following the birth of child, while meeting the needs of the organization.
- (g) An employee may not use sick leave or donated leave to care for or bond with a healthy newborn.

3. VLTP for Maternity and Paternity Purposes

- (a) Pregnancy is treated as a short-term illness for the purpose of the Voluntary Leave Transfer Program (VLTP).
- (b) Employees may apply to become a leave recipient under the TSA VLTP for maternity related periods of doctor ordered bed rest, periods of incapacitation following the birth of a child, other medical complications that arise as a result of the pregnancy or childbirth, and care of a child born with a medical condition.
- (c) Male employees may apply to become leave recipients under the TSA VLTP for purposes related to paternity. This includes absences to care for the mother



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while on doctor ordered bed rest, absences to care for the mother during her period of incapacitation, and absences necessary to care for a newborn with a qualifying medical condition.

- (d) Employees will not be approved to become leave recipients under the TSA VLTP to care for or bond with a healthy newborn child or to care for healthy children in the home during the mother's period of hospitalization and incapacitation.

4. FMLA for Maternity and Paternity Purposes

- (a) An employee may invoke her entitlement to leave under the Family and Medical Leave Act (FMLA) for purposes related to maternity. An employee may use applicable paid leave or leave without pay under FMLA for her period of incapacitation, as certified by her health care provider; care of a newborn during the process of identifying appropriate childcare; and bonding with a newborn.
- (b) Generally, employees will not begin use of leave under FMLA until the birth of a child. However, an employee may begin the 12-month period for birth of a child before the actual date of birth. If an employee does invoke leave under the FMLA prior to the date of birth, the employee's 12-month period begins on the date the employee first takes leave under FMLA and may end before the child's first birthday.
- (c) An expectant father may invoke his entitlement to FMLA to care for and bond with a newborn child, to care for the mother (his spouse) during her period of incapacitation, and to provide care if the mother (his spouse) or child have a serious health condition following the birth or during the pregnancy.
- (d) If a father and mother are both employed by TSA, **each** employee is entitled to use up to 12 administrative workweeks of LWOP under FMLA, as applicable.
- (e) An employee may substitute applicable paid leave for LWOP taken under FMLA.
- (f) If an employee wishes to invoke FMLA to bond with a newborn baby, the employee must invoke the entitlement before the child's first birthday. An employee may not use leave under FMLA on an intermittent or reduced leave schedule for bonding purposes related to birth of a child unless the employee and the employee's organization agree to do so.
- (g) When leave under FMLA is used on an intermittent basis for care and bonding with a newborn, it is recommended that the employee and management establish a schedule. Employees may not call in at will for care and bonding purposes.

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- (h) All procedures must be adhered to for employees invoking their entitlement to FMLA. For additional information on FMLA, see section O of this handbook.

5. Leave for Paternity Purposes

- (a) Expectant fathers may request and be approved to use sick leave to accompany the expectant mother to doctors' appointments, to care for her during doctor ordered periods of bed rest, during her hospitalization and to care for her during her period of recovery. An employee who does not have a sufficient amount of sick leave to provide care for the mother may request other available and applicable paid leave, LWOP or donated leave, as appropriate.
- (b) An expectant father may invoke his entitlement to FMLA to care for and bond with a newborn child, to care for the mother (his spouse) during her period of incapacitation, and to provide care if the mother (his spouse) or child have a serious health condition.
- (c) Annual leave, compensatory time off, if available, and LWOP may be used for bonding with a newborn child, to care for other children in the home and to prepare for the birth of a child (e.g. attend birthing classes).
- (d) Sick leave and donated leave may not be used to care for or bond with a healthy newborn child or to care for healthy children in the home during the mother's period of hospitalization and incapacitation.
- (e) Employees must adhere to the established TSA policies and leave requesting procedures of their organizations when requesting and using paid leave and LWOP for paternity purposes.

**NOTE:** Although every TSA office has to follow the provisions outlined in this section regarding the approval of leave for maternity/paternity situations, offices may have implemented specific guidelines relating to work activities due to physical/medical requirements or operational needs. For example, the Office of Law Enforcement/Federal Air Marshals (Federal Air Marshal and K-9 handlers) and the Office of Security Operations (K-9 handlers).

**N. VOLUNTARY LEAVE TRANSFER PROGRAM (VLTP)**

1. General Information

- (a) The TSA Voluntary Leave Transfer Program (VLTP) allows employees to donate leave in one-hour increments to approved leave recipients who are absent or will be absent from duty for at least 24 work hours without pay because of a medical emergency or natural disaster that results in a personal loss. Part-time employees must be absent from duty without pay for at least 30% of the average number of hours in their biweekly tour of duty.
- (b) The approval of leave recipients and donors is subject to the conditions contained in this handbook.
- (c) The authority to approve VLTP applications at the local/office level has been delegated to Federal Security Directors (FSD) and Business Management Office (BMO) Directors. This authority may not be further delegated.
- (d) TSA employees may donate annual leave, sick leave, and compensatory time off in lieu of overtime pay (CT) to approved TSA leave recipients for medical emergencies.
- (e) Medical emergencies may result in physical or mental incapacitation of an employee or a family member of the employee.
- (f) Pregnancy, childbirth, and related medical conditions are treated as short-term illnesses for the purposes of the VLTP. This includes employees placed on bed rest for all or part of their pregnancy because of documented medical complications.
- (g) Employees may only donate annual leave and CT (not sick leave) to approved leave recipients for non-medical emergencies associated with loss of home or personal property by a natural disaster.
- (h) Employees who experience a loss of home or personal property by natural disaster (e.g. widespread flooding, hurricanes, wildfires, tornadoes, lightning and earthquakes) may be approved for no more than a maximum of 80 hours of donated leave under the VLTP for each disaster loss. The maximum amount of donated leave an employee may receive in a leave year for losses by natural disaster is 240 hours.
- (i) An employee does not have to exhaust all appropriate available leave before applying to the VLTP. An employee may apply and be approved for the VLTP prior to exhausting all appropriate available leave if it can be reasonably determined from supporting documentation that the employee's leave balances will not cover the entire period of absence.

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- (j) Employees will not be approved to receive and use donated annual leave for any of the following purposes:
  - (1) Caring for or bonding with a healthy newborn child;
  - (2) Recuperation from elective or cosmetic surgery;
  - (3) Absences related to bereavement; or
  - (4) Other non-medical emergencies not associated with loss of home or personal property by natural disaster.
- (k) Employees may not use donated leave for vacations or any other purposes, including other illnesses, not specifically related to the approved medical emergency or natural disaster identified on the application.
- (l) Supervisors, other management officials, or other employees may not directly or indirectly intimidate, threaten, or coerce another employee into donating, receiving, or using donated leave.
- (m) Employees may not donate leave to an immediate supervisor, any other individual in their supervisory/management chain of command, or any management official within the organizational unit having influence/input on employment related decisions involving the leave donor.
- (n) Employees may not solicit personal donations of leave by directly or indirectly intimidating, threatening, or coercing other employees.
- (o) The TSA VLTP does not allow employees to donate sick leave or CT or to receive sick leave or CT donations from other Federal employees even if the other agencies allow such donations for their employees.
- (p) An employee is not entitled to use donated leave solely because a large number of donations have been received. Based on the agency's need to accomplish work and the fact that there is no foreseeable end to a medical emergency, management may deny the use of donated leave regardless of the number of hours donated to an employee.
- (q) Employees may be required to provide medical updates every 90 days to determine continuing eligibility.
- (r) Employees may not remain in the VLTP for more than 24 consecutive calendar months. During the 24 months, employees may use donated leave on a continuous or intermittent basis. Employees who require intermittent use of donated leave will have their cases reviewed every six months to determine if they are eligible to continue their participation.

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- (s) Any extensions beyond the 24 month period must be approved by the AA/OHC. Requests should be submitted following the same process as for an initial request. The VLTP coordinator will submit the request with a recommendation to the AA/OHC.
- (t) TSA management officials, HR specialists/liaisons, and timekeepers will not disclose the identity of leave donors to leave recipients.

2. Application Procedures to Become a Leave Recipient

- (a) An employee affected by a medical emergency or natural disaster may apply to become a leave recipient in the VLTP by submitting a completed [TSA Form 1128, Voluntary \(VLTP\) Leave Recipient Application](#), and supporting documentation following the procedures outlined in [VLTP Roles and Responsibilities](#).
- (b) A personal representative may complete the application for an employee who is incapacitated as a result of a medical emergency.
- (c) Employees, or their representative, must submit TSA Form 1128, and supporting documentation no later than 60 calendar days following the onset of a medical emergency. This 60-day period may, on rare occasions, be extended on a case-by-case basis if the employee can demonstrate that delay was caused by factors outside his or her control.
- (d) Employees affected by a medical emergency must provide medical documentation to support the period of absence. Medical documentation must include the nature, severity, and anticipated duration of the medical emergency.
- (e) Medical documentation of an employee or an employee's family member shall be safe guarded at all times. See section B subsection 7 of this handbook.
- (f) Employees affected by natural disasters (e.g. widespread flooding, hurricanes, wildfires, tornadoes, lightning and earthquakes) must submit TSA Form 1128 and documentation (e.g. assessment that home is condemned; documentation that the employee has been displaced, or copies of fire or safety reports) confirming the loss and the cause of the loss no later than 30 calendar days following the date of the loss. This 30-day period may be extended on a case-by-case basis if the employee can demonstrate that delay was caused by factors outside his/her control.
- (g) Generally, employees will submit their application to the immediate supervisor. The supervisor will forward the employee's application package within 3 workdays to the HR specialist/liaison for review and signature.

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- (h) The HR specialist/ liaison will review the application package for completeness, verify the information, sign TSA Form 1128, and submit the application package to the local/office VLTP Approving Official (FSD or BMO Director), following the procedures outlined in VLTP Roles and Responsibilities.

3. Approval of Application to Become a Leave Recipient

- (a) Generally, employees will receive a determination on eligibility for the VLTP within 25 calendar days of submitting a completed application to the immediate supervisor or HR specialist/liaison.
- (b) The Approving Official will review the application package and make a determination to approve or disapprove the employee's request within five (5) calendar days of receipt of the application from the employee's supervisor or the HR specialist/liaison. The Approving Official's decision will be recorded in Block 22 of the TSA VLTP Application.
- (c) If the employee's application is approved, the HR specialist/liaison will forward the complete package to the VLTP HR Services provider and notify the employee in writing that the application has been approved. A sample employee notification letter is included in subsection 11 below.
- (d) If the employee consents on his/her application, the TSA VLTP Coordinator (i.e. the Approving Official at headquarters) will post the employee's name and a brief description of the recipient's medical condition on the VLTP page of the TSA Intranet.
- (e) Local offices may not publish any announcements concerning the employee's medical condition. However, local offices may publish announcements notifying employees of approved VLTP leave recipients.
- (f) If an employee's application to become a leave recipient is denied, the HR specialist/liaison will forward the complete package, including the reason for the denial, to TSA Headquarters following the procedures in VLTP Roles and Responsibilities. The HR specialist/liaison will notify the employee the application has been denied locally and forwarded to TSA Headquarters for final determination.
- (g) The Approving Official for VLTP at Headquarters will make the final determination to approve or deny the employee's application. The HR specialist/liaison will be notified of the determination and is responsible for notifying the employee in writing of the determination. If approved, subsections (c) and (d) above will be followed. If the application is denied, a sample letter is included in subsection 11 below.

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4. Leave Donations

- (a) To become a leave donor, an employee must complete and submit a signed leave donor form following the instructions in VLTP Roles and Responsibilities for processing.
- (b) There are two types of leave donation forms.
  - (1) TSA employees who want to donate leave to other TSA employees should use [TSA Form 1128-1, VLTP Leave Donation Request](#).
  - (2) TSA employees who want to donate annual leave to employees of other Federal agencies and employees of other Federal agencies who want to donate annual leave to TSA employees should use OPM Form 630B ([http://www.opm.gov/FORMS/PDF\\_FILL/opm630b.pdf](http://www.opm.gov/FORMS/PDF_FILL/opm630b.pdf)).
- (c) The leave donor must identify the leave recipient, the type of leave, and the number of hours of leave to be donated to the leave recipient.
- (d) Annual Leave
  - (1) The maximum amount of annual leave to be donated is no more than one-half of the annual leave earned in the current leave year.
  - (2) On a case-by-case basis, a leave donor may be approved to donate more than one-half of the annual leave to be earned in the current leave year. The request must be in writing and submitted for review by the VLTP Coordinator. If approved, the VLTP HR Services provider will notify the HR specialist/liaison and facilitate the processing of the additional donation.
  - (3) The amount of restored annual leave that may be donated is limited only by the amount of restored annual leave to the donor's credit. When donating restored leave, the donor should indicate on the donation form that restored leave is being donated.
  - (4) Annual leave may be donated to approved leave recipients of other Federal agencies.
- (e) Compensatory Time Off in Lieu of Overtime Pay (CT)
  - (1) Employees may only donate CT to approved TSA leave recipients.
  - (2) Employees cannot donate CT to employees of other Federal agencies.
  - (3) Employees cannot donate compensatory time off for travel or compensatory time off for religious observances.

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- (4) The amount of CT an employee may donate is only limited by the balance to the employee's credit.
  - (5) When donating CT, the oldest CT in the employee's account will be taken first.
  - (6) Donated CT is permanently deducted from the donor's account.
  - (7) Any unused donated CT will not be returned to the donor. Unused CT is forfeited by the donor and the recipient. This is an exception to TSA policy that CT has to be used within 26 pay periods or unused CT will be forfeited (by exempt employees) or paid out (to non-exempt employees).
- (f) Sick Leave
- (1) Sick leave may only be donated to approved TSA leave recipients.
  - (2) Sick leave cannot be donated to employees of other Federal agencies.
  - (3) Sick leave may only be donated for medical emergencies.
  - (4) Sick leave cannot be donated for loss of a home or personal property by natural disasters.
  - (5) Sick leave may be donated for medical emergencies related to natural disasters.
  - (6) For full-time employees the donation of sick leave cannot result in the employee having a balance of less than 80 hours. Part-time employees are required to maintain a sick leave balance equal to their regularly scheduled biweekly tour of duty. Separating employees are also required to maintain this balance requirement. This is the only limitation on the number of sick leave hours an employee may donate.  
  
*Example:* A full-time employee has a sick leave balance of 120 hours. This employee may donate up to 40 hours of sick leave to an approved TSA leave recipient (120 hours – 40 hours = 80 hours).  
  
*Example:* A part-time employee, who has a regularly scheduled biweekly tour of duty of 32 hours, has a sick leave balance of 68 hours. This employee may donate up to 36 hours of sick leave to an approved TSA leave recipient (68 hours – 36 hours = 32 hours).
  - (7) An Employee retiring from TSA must submit sick leave donations 60 calendar days prior to the effective date of the employee's retirement. Donations received less than 60 calendar days prior to the effective date of



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the employee's retirement will not be processed. This will ensure donations are processed before any credit for unused sick leave is used in the calculation of the employee's annuity

5. Use of Donated Leave

- (a) Leave recipients must use all accrued and available paid leave (sick leave, annual leave, compensatory time off, or time-off awards) before using donated leave for a medical emergency.
- (b) Employees requesting donated leave for a natural disaster are required to use all accrued and available annual leave, compensatory time off, and time-off awards before using donated leave.
- (c) Donated CT must be exhausted before the recipient may use donated annual leave or donated sick leave.
- (d) After donated CT is exhausted, donated annual and sick leave should be used in equal measures based on the donated leave that is available for use.
- (e) Leave recipients must follow established leave requesting procedures when requesting use of donated leave.
- (f) Donated leave, including annual leave, sick leave, and CT, may be substituted retroactively for periods of leave without pay (LWOP) or used to liquidate indebtedness for advance annual leave or sick leave incurred as a result of the approved medical emergency. The employee must make a written request to substitute donated leave for periods of LWOP or to use donated leave to liquidate indebtedness for advance leave. The HR specialist/liaison will submit written notification to the VLTP HR Services provider when donated leave is used for past periods of LWOP or to liquidate advance leave indebtedness.
- (g) Once an employee is in a transferred leave status (using donated leave), the employee will continue to accrue sick and annual leave. Full-time employees may accrue up to 40 hours of sick leave and 40 hours of annual leave while in a transferred leave status. Part-time employees may accrue up to one-half the number of hours in their regularly scheduled biweekly tour of duty. This leave will be placed in a set aside account until the employee is removed from the VLTP.

**NOTE:** The payroll system calculates, maintains, and tracks set aside accounts.

- (h) Accrued leave over the limitations identified above for set aside accounts must be used before the employee may use additional donated leave.
- (i) Once a full-time employee has accrued 40 hours of sick leave and 40 hours of annual leave in the set aside account, employees using donated leave on an

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intermittent basis will accrue leave for hours worked in the same manner as part-time employees. Leave will not accrue based on donated leave hours used. The additional hours of leave that are accrued above the 40 hours in the set aside account must be used prior to using any donated leave.

- (j) Employees awaiting a determination on a disability retirement application should consult their HR specialist/liaison before requesting to have donated leave retroactively substituted for periods of LWOP since the last date of pay status determines the commencing date of a disability retirement if the employee is otherwise eligible.

6. Termination of a Medical Emergency

- (a) The medical emergency affecting a leave recipient ends:
  - (1) When the leave recipient's Federal service ends;
  - (2) When the medical documentation indicates the medical emergency will end;
  - (3) At the end of the biweekly pay period in which the leave recipient or a personal representative notifies the supervisor or other appropriate management official in writing that the medical condition has ended;
  - (4) At the end of the biweekly pay period in which the Office of Personnel Management (OPM) approves disability retirement for the leave recipient;  
or
  - (5) At the end of the biweekly pay period in which the agency determines, after notifying the employee in writing and providing an opportunity for the employee to respond (orally or in writing), that the leave recipient is no longer affected by a medical emergency. This determination is based on the employee returning to work or medical documentation.
- (b) An employee may remain in the VLTP up to 60 days after the termination of a medical emergency to obtain donated leave to liquidate negative annual or sick leave balances or to cover periods of LWOP that occurred during the medical emergency. Donations received during this timeframe may only be applied to LWOP and negative annual and sick leave balances incurred as a result of the approved medical emergency.

7. Termination of a Natural Disaster

- (a) The natural disaster affecting an employee is considered terminated:
  - (1) After the employee has received and used 80 hours of donated leave for a single disaster;

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- (2) When the employee leaves Federal Service;
- (3) When the employee no longer needs leave to conduct personal business related to the loss of the home or personal property; or
- (4) One Hundred Eighty (180) calendar days after the date of the loss.

8. Unused Donated Leave

- (a) Donated leave that is not used by the leave recipient may be returned to the appropriate leave accounts (annual leave or sick leave) of all leave donors. The VLTP HR Services provider will determine the amount of leave to be returned to each leave donor.
- (b) With multiple donors, each donor receives leave based on their contribution to the leave recipient. The formula for determining the amount of leave to be returned is: Pro-Rated Amount to be Returned to the Donor = Amount Donated by Leave Donor multiplied by the Balance of Unused Donated Leave divided by the Total Number of Donated Hours.

**Example:** Jose donates 24 hours of annual leave to an approved leave recipient. At the termination of the medical emergency, the leave recipient had received a total of 300 hours of donated leave. The employee did not use 100 of the donated hours. Since Jose donated 24 hours of annual leave to the employee, he is entitled to a prorated return of 8 hours of annual leave. This is calculated by taking 24 hours of donated leave multiplied by 100 hours of remaining leave ( $24 \times 100 = 2400$ ) and then dividing that number by 300 hours ( $2400/300 = 8$ ) to reach the 8 hours to be returned to Jose.

- (c) The leave donor may wish to have prorated annual leave donated in whole or in part to another approved leave recipient; credited to his/her leave account in the current leave year; or credited to his/her leave account in the next leave year if near the end of the leave year (i.e. on or after November 1).
- (d) Prorated sick leave may be donated in whole or in part to another approved leave recipient or credited to his/her leave account in the current leave year.
- (e) Unused donated CT is forfeited by the donor and the leave recipient. This is an exception to TSA policy that CT has to be used within 26 pay periods or unused CT will be forfeited (by exempt employees) or paid out (to non-exempt employees).

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9. Recordkeeping

- (a) The VLTP HR Services provider will maintain a case file for each recipient. Case files must be maintained for one year following the end of the leave year in which the file is closed.
- (b) Each VLTP case file will include the following information as applicable:
  - (1) The number and copies of applications approved for natural disasters; number and copies of applications approved for medical emergencies affecting employees; and number and copies of applications approved for medical emergencies affecting family members of employees.
  - (2) The pay band and salary of each leave recipient, gender of each leave recipient, and the total number of hours of each type of donated leave used by each recipient;
  - (3) The names of the donors, the last four (4) numbers of their social security numbers, the number of hours of each type of leave donated, and the total number of hours of leave donated to the leave recipient;
  - (4) Whether the recipient returned to work after the medical condition terminated; and
  - (5) Whether the recipient retired on disability retirement under the Civil Service Retirement System or the Federal Employees Retirement System within 6 months after the medical condition terminated.

10. Worker's Compensation and VLTP

- (a) Employees may not apply for or receive leave donations while receiving compensation under the Worker's Compensation Program. This includes agency continuation of pay (COP) and compensation payments received from the Department of Labor.
- (b) Employees who are in a leave without pay status (LWOP) while awaiting final determination from the Department of Labor may apply to and be approved for the Voluntary Leave Transfer Program.

**NOTE:** Management is encouraged to review the prognosis included in the employee's OWCP medical documentation to gauge if the employee's claim is likely to be approved by the Department of Labor.

- (c) Employees may not buy back or receive retroactive compensation for leave donations received under the VLTP.

11. Sample Letters

(a) Approved VLTP Application

**DATE:**

**TO:** Employee Name

**FROM:** Name  
HR Specialist or Program Office Liaison (or insert appropriate position title)

**SUBJECT:** APPROVED VLTP APPLICATION

You have been approved as a leave recipient in the TSA Voluntary Leave Transfer Program (VLTP). You are now eligible to receive annual leave, sick leave, and compensatory time off donations from TSA employees and annual leave donations from employees of other Federal agencies. Sick leave donations may only be received for a medical emergency. If you requested on your application to have your name and a brief description of your emergency listed on the TSA Intranet, the TSA VLTP Coordinator will do so within two weeks of the date your application was approved. Of course, this information will not be disclosed if you did not select that option on your application.

You may be required to provide medical updates every 90 days to determine continued eligibility. You or your designee is responsible for informing your supervisor on the status of your medical emergency.

Please remember that this is a voluntary program and you may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, or promise any benefit to any other employee for the purpose of interfering with their right to donate or use leave. TSA employees who want to donate leave to you should use TSA Form 1128-1, *VLTP Leave Donation Request*, and submit the completed form to the local HR specialist/liaison. Employees of other Federal agencies will need to complete OPM Form 630B and submit it through their agency process.

As you receive donations of transferred leave, the donations will be credited to your leave account(s) for your use during your medical emergency or natural disaster loss. You are advised that leave donations may be used to liquidate advance sick leave and annual leave balances or for periods of leave without pay (LWOP) that were incurred as a result of your medical emergency or to liquidate advance annual leave or periods of leave without pay that occurred as a result of your natural disaster loss. You must submit a written request to (insert name of supervisor or HR liaison) apply donated leave to liquidate advance leave or periods of LWOP. Contact (insert name of supervisor or HR liaison) at (insert phone number) to discuss any questions related to the VLTP.

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(b) Denied VLTP Application

**DATE:**

**TO:** Employee Name

**FROM:** Name  
HR Specialist or Program Office Liaison (or insert appropriate  
position title)

**SUBJECT:** DENIAL OF REQUEST TO BECOME VLTP RECIPIENT

Your application to become a leave recipient in the TSA Voluntary Leave Transfer Program (VLTP) has been denied. After reviewing your application and the supporting documentation, the TSA VLTP Coordinator has determined that you did not meet one or all of the criteria necessary for the program.

Specifically, you did not [\(insert reasons for disapproval\)](#). If you have obtained additional or more detailed documentation to support your application, you may reapply to the program.

**O. FAMILY AND MEDICAL LEAVE ACT (FMLA)**

1. General Information

- (a) TSA applies Title II Family and Medical Leave Act (FMLA) provisions to TSA employees on appointments without time limitation or time limited appointments exceeding one year. Unless specifically outlined herein, no other statutory provisions should be referred to or used in applying FMLA provisions to the TSA workforce. Except where noted, all provisions outlined below apply to Title II FMLA.
- (b) TSA applies Title I FMLA provisions to those agency employees serving on intermittent or temporary appointments of one year or less.
- (c) The following Department of Labor (DOL) forms for requesting FMLA leave are approved for use:
  - (1) [WH-380E, Certification of Health Care Provider for Employee's Serious Health Condition;](#)
  - (2) [WH-380F, Certification of Health Care Provider for Family Member's Serious Health Condition;](#)
  - (3) [WH-384, Certification of Qualifying Exigency for Military Family Leave;](#)  
and
  - (4) [WH-385, Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave.](#)

**NOTE:** The above forms contain citations to DOL regulations which are not the applicable authority for TSA employees on appointments without time limitation or time limited appointments exceeding one year. The requested information meets the certification requirements for use of FMLA leave for these employees. When using the WH-380E and WH-380F, only the information identified in subsection 9 below is required.

- (d) The following DOL forms for FMLA leave may not be used:
  - (1) WH-381, Notice of Eligibility and Rights & Responsibilities; and
  - (2) WH-382, Designation Notice of the Family and Medical Leave Act.

**NOTE:** The above forms contain citations to DOL regulations which are not the applicable authority for TSA employees on appointments without time limitation or time. The forms request and provide information that do not apply to use of FMLA leave for these employees.

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2. Leave Entitlement

- (a) 12-week entitlement during a 12-month period for basic FMLA leave is available for one or more of the following reasons:
  - (1) The birth of a son or daughter of the employee and the care of that child;
  - (2) The placement of a child with the employee for adoption or foster care;
  - (3) The care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or
  - (4) A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of the employee's position.
- (b) 12-week entitlement for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

**NOTE:** The use of qualifying exigency leave and basic FMLA leave may not exceed a combined total of 12 administrative workweeks in a 12-month period.

- (c) 26-week entitlement during a 12-month period for FMLA leave to care for a covered service member with a serious injury or illness, if the employee is the spouse, son, daughter, parent, or next of kin of a covered service member.

3. Employee Eligibility

- (a) Under the provisions of Title II FMLA, TSA employees on appointments without time limitation or time limited appointments exceeding one year may be eligible for up to 12 or 26 administrative weeks of leave without pay (LWOP) in a 12-month period for certain family and medical needs.
- (b) To be eligible for leave under Title II FMLA, an employee must earn sick and annual leave and must have worked for the TSA or the Federal Government in a civilian capacity for at least 12 months. It is not necessary for the 12 months to be recent or consecutive, nor is there a requirement to work a specific number of hours to attain eligibility.
- (c) TSA employees serving on intermittent or temporary appointments of one year or less should refer to the subsection 19 below "General Guidelines for TSA Employees Covered by Title I" for more information on their eligibility and entitlements under FMLA.



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4. Agency Notification Requirements

- (a) TSA shall inform employees of their entitlement to LWOP under FMLA. At a minimum, organizations should post the FMLA fact sheet (See subsection 22 below) in areas accessible to employees. In addition, when employees contact a supervisor or other management official concerning entitlements to leave under FMLA, a memorandum (see sample memorandum in subsection 24 below) or other written methods should be used to inform employees of their entitlement.
- (b) Offices should also post the Department of Labor (DOL) publication, WHD Publication 1420, "Employee Rights and Responsibilities Under the Family and Medical Leave Act." This publication is available on the DOL website and in subsection 23 below.

*Note:* This publication provides information for employees covered by the provisions of Title I FMLA.

- (c) When an employee is going to be absent for an extended period of time (e.g., maternity or paternity reasons or other qualifying health condition), management has an obligation to inform the employee of his/her eligibility for LWOP under FMLA. Although under the provisions of Title II FMLA management cannot invoke FMLA on behalf of an employee or require an employee to invoke FMLA, management should advise the employee of FMLA benefits and may ask if the employee wants to invoke FMLA for his/her absence.

5. Employee Responsibilities Under FMLA

- (a) Employees must invoke their entitlement to leave under FMLA. An employee may not be placed on LWOP under FMLA without the verbal, written or explicitly implied consent of the employee.
- (b) Employees must give at least 30 calendar days notice if the need for leave is foreseeable. If the employee fails to give 30 calendar days notice with no reasonable excuse or explanation, the supervisor may delay the approval of family and medical leave under FMLA until 30 calendar days after the date notice was provided. If the need for leave is unforeseeable and the employee is unable to provide advance notice due to circumstances out of his/her control, the leave will not be delayed or denied.
- (c) Employees must provide written medical documentation of the serious health condition that is the basis for the FMLA request. See subsection 9 below for basic FMLA or subsection 17 below for FMLA to care for injured members of the Armed Forces.
- (d) Employees may not invoke their entitlement to FMLA retroactively. However, if an employee **and** his/her personal representative are physically or mentally

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incapable of invoking the employee's entitlement to FMLA during the entire period in which the employee is absent from work for an FMLA qualifying purpose, the employee may retroactively invoke his/her entitlement to FMLA within two workdays after returning to work. In such a case, the incapacity of the employee must be documented by a written medical certification from a health care provider. In addition, the employee must provide documentation acceptable to the agency explaining the inability of the personal representative to contact the agency to invoke the employee's FMLA entitlement.

- (e) Employees requesting FMLA leave are responsible for following established leave requesting procedures, including procedures for requesting unscheduled leave.
- (f) Subject to the patient's medical needs as determined by the attending health care provider, employees must make a reasonable effort to schedule foreseeable planned medical treatment so as not to unduly disrupt the operations of the organizational unit.
- (g) While in a LWOP status under FMLA, employees may elect to maintain their Federal Employee Health Benefits (FEHB) coverage by making direct payments to TSA for their portion of the FEHB or incurring a debt that will be liquidated by automatic payroll deductions upon return to duty.
- (h) Employees on LWOP over 30 calendar days should complete the *LWOP NTE Benefits Notification* checklist to ensure benefits are maintained.
- (i) Employees are responsible for notifying management of their intent to substitute applicable paid time off for LWOP under FMLA. Employees may not retroactively substitute paid leave for LWOP used under FMLA. An exception may be made for employees awaiting donations via the VLTP. See section N of this Handbook.

6. Eligible Family Members Basic FMLA Leave

- (a) Eligible family members include:
  - (1) Spouse: An individual who is a husband or wife of the employee pursuant to a marriage that is a legal union between one man and one woman. This includes common law marriage between one man and one woman in states where common law marriages are recognized.
  - (2) Child: A biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis. (The child must qualify as a son or daughter of the employee during the time for which leave under FMLA is requested.) The child must be under 18 years of age, or if 18 years of age or older incapable of self-care because of a mental or physical disability. A physical or mental disability refers to a physical or mental

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impairment that substantially limits one or more major life activities. Examples of major life activities include, but are not limited to, caring for oneself, walking, seeing, hearing, speaking, and working. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living. Examples of activities of daily living include caring appropriately for one's grooming and hygiene. Examples of instrumental activities of daily living include cooking, cleaning, and shopping.

- (3) Parents: A biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. Parents-in-law are not included.

- (b) In loco parentis determinations need to be made on a case-by-case basis.

7. Ineligible Family Member/Relationships

- (a) Eligibility for basic FMLA leave is limited to those situations and those individuals specifically identified above in subsections 2(a) and 6(a), respectively.
- (b) When an employee is seeking leave to care for an individual that is not eligible for FMLA coverage, such as: children 18 years of age or older that do not have a mental or physical disability **and** are capable of self-care, parents "in-law," children's spouses, siblings and their spouses; and any individual related by blood or affinity whose relation to the employee is the equivalent of a family relationship, the employee may be able to use sick leave for family care.
- (c) The definition of family member for purposes of sick leave is broader than for purposes of FMLA. An individual may be a family member for sick leave use and **not** be an eligible family member under FMLA.
- (d) Requests for basic FMLA leave to care for daughters 18 years of age or older experiencing a normal pregnancy; parents-in-law; sons or daughters in-law; and, in most cases, grandchildren for any condition must be denied.
- (e) A biological, step, or adopted brother or sister is not an eligible family member for basic FMLA leave.
- (f) Requests for basic FMLA leave to care for boyfriends, girlfriends, significant others, or anyone with a close affinity relationship must be denied.

8. Serious Health Condition

- (a) A serious health condition means an illness, injury, impairment, or physical or mental condition which requires either:

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- (1) In patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including the period of incapacity or subsequent treatment in connection with the inpatient care; or
- (2) Continuing treatment by a health care provider that includes, but is not limited to, examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists.
- (3) Continuing treatment by a health care provider may include one or more of the following:
  - (i) A period of incapacity of more than three consecutive calendar days including any subsequent treatment or period of incapacity relating to the same condition, that also involves:
    - Treatment two or more times by a health care provider, by a health care provider under direct supervision of the affected individual's health care provider, or by a provider of health care services under the orders of, or on referral by a health care provider; or
    - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition).
  - (ii) Any period of incapacity due to pregnancy, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than three consecutive calendar days.
  - (iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that:
    - Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider;
    - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the

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period of incapacity does not last more than three consecutive days.

- (iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or terminal stages of a disease). The affected individual must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
- (v) Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).
- (b) Serious health condition includes, but is not limited to: Alzheimer's disease; asthma; chronic back conditions; cancer; chemotherapy; diabetes; dialysis; nervous disorders; severe depression; epilepsy; pregnancy or its complications, including severe morning sickness and prenatal care; treatment for substance abuse by a health care provider; multiple sclerosis; serious surgery and recovery; emphysema; severe arthritis; severe stroke; terminal stages of a disease; pneumonia; and severe injuries on and off the job.
- (c) Serious health condition does not include: routine physical, eye, or dental examinations; a regimen of continuing treatment that includes over the counter medications; bed rest, exercise, or other similar activities that can be initiated without a visit to a health care provider; cosmetic treatment unless inpatient hospital care is required or unless complications develop. This is not an all inclusive list.
- (d) Unless complications arise, the common cold; the flu; earaches; upset stomach; minor ulcers; headaches (other than migraines); routine dental or orthodontia problems, and periodontal disease are not serious health conditions.
- (e) Allergies, restorative dental or plastic surgery after an injury; removal of a cancerous growth; and mental illness from stress may be serious health conditions only if these conditions require inpatient care or continuing treatment by a health care provider.

9. Medical Documentation for Basic FMLA Leave

- (a) Employees must provide written medical documentation of the serious health condition that is the basis for the FMLA request. The health care provider may provide the required medical certification on his/her letterhead or DOL form

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WH-380E or WH-380F. When invoking FMLA, the medical documentation should be current (i.e., not more than 30 days old).

- (b) Medical documentation of an employee or an employee's family member shall be safe guarded at all times. See section B subsection 7 of this handbook.
- (c) When an employee invokes FMLA in subsequent 12-month periods for a chronic or continuing condition, current medical documentation must be submitted.
- (d) When an employee invokes FMLA but does not use leave under FMLA within 12 months of submitting the request, current medical documentation must be submitted for a chronic or continuing condition should the employee have a need for leave under FMLA.

***Example:*** George submits a request for leave under FMLA and supporting medical documentation on September 15, 2010. His request is approved. George does not take any leave under FMLA during the period September 15, 2010 through September 14, 2011. Should the medical condition be chronic or continuing and George anticipates a need for leave under FMLA, George will need to submit current medical documentation for his request for leave under FMLA.

- (e) Occasionally, an employee will invoke FMLA leave on a continuous or intermittent basis for periods of incapacity resulting from work-related injuries or illnesses. To receive benefits under the Department of Labor/Office of Workers' Compensation Program (DOL/OWCP), the employee must provide required medical evidence/documentation for the period of disability/incapacity and for related medical treatments/examinations. Invoking FMLA does not relieve the employee of the requirement to submit medical evidence/documentation under DOL/OWCP. TSA policy and procedures for the Workers' Compensation Program within TSA can be found in [TSA MD 1100.00-6, Workers' Compensation Program](#), and the accompanying [Handbook](#).
- (f) The documentation **must at a minimum include:**
  - (1) The date the serious health condition began;
  - (2) The probable duration of the serious health condition or a statement that the serious health condition is a chronic or continuing condition with an unknown duration;
  - (3) Whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity;
  - (4) The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including:

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- (i) A general statement as to the incapacitation,
  - (ii) Examinations, or
  - (iii) Treatment to be provided by the health care provider.
- (5) A statement from the health care provider certifying that the employee is unable to perform one or more of the essential functions of his/her position as identified by a management official.
- (g) Medical certification for the care of family member must include items (1) through (4) of the above as well as a statement from the health care provider that the employee's family member:
- (1) Requires psychological comfort and/or physical care;
  - (2) Needs assistance for basic medical, hygienic, nutritional, safety or transportation needs; **and**
  - (3) Would benefit from the employee's care or presence.
- (h) Employees **are also required** to provide a statement on the care they will provide for the family member and an estimate of the time period needed to provide this care. Employees should be as specific as possible.
- (i) A TSA authorized health care provider may contact the employee's health care provider, **with the employee's permission**, to clarify medical information pertaining to the serious health condition identified in the submitted documentation, not an individual's medical history. No additional personal or confidential information may be requested. Should any additional information be received not pertaining to the medical condition for which FMLA leave is requested, it will be disregarded, non-disclosed, and/or destroyed if in written format.
- (j) Medical documentation must be submitted within fifteen (15) calendar days of the approving official's request. If this is not practical under the particular circumstances despite the employee's good faith efforts, the employee must provide the medical certification within a reasonable time, but no later than 30 calendar days after the date of the original request for medical documentation.
- (k) When the above requirements for medical documentation are met, management will be in a position to make an informed decision on the employee's request.
- (l) After the leave starts, if the employee fails to submit the required medical documentation, the agency may charge the employee with absence without leave (AWOL) or allow the employee to request that the provisional leave be

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charged as annual leave, sick leave, compensatory time off, if available, or LWOP.

- (m) If TSA doubts the validity of the submitted medical certification, second and third opinions may be sought at TSA's expense. The second opinion is to be obtained from a health care provider approved and designated by the agency. If the second opinion differs from the initial medical certification, a third opinion may be sought. The health care provider for the third opinion will be designated and approved jointly by the employee and the agency. The third opinion will be followed by both parties.
- (n) Employees taking leave under FMLA on an intermittent basis are not required to provide medical documentation for each absence. However, if the employee seeks to extend the original leave period or the circumstances in the medical documentation have changed significantly or the agency has information that calls into question the validity of the medical documentation, the agency may require medical recertification before the period of incapacity expires.
- (o) Medical recertification for the continuing need for leave may be requested, at TSA expense, not more than every 30 calendar days. It is reasonable to require recertification less frequently when a health care provider has certified that treatment will continue for a specific time. Requests for recertification must be written.
- (p) When required, medical recertification is at TSA's expense.

**10. Documentation for Adoption or Foster Care Placement**

- (a) Employees must provide administratively acceptable evidence/documentation for absences related to adoption or foster care. Administratively acceptable evidence/documentation may include, but is not limited to:
  - (1) A copy of the written notification advising the employee of the placement of a child with the employee;
  - (2) Requirement for the employee to attend and complete training, interviews and appointments/visitations with adoption agencies, social workers and attorneys;
  - (3) Dates of court proceedings;
  - (4) Any periods of time for bonding and care that are required by the overseeing adoption agency or court; and
  - (5) Any other activity necessary for the adoption or foster care placement process to continue.



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- (b) Administratively acceptable evidence/documentation will not be available for all steps of the process at the time the request is submitted. Employees should provide related evidence/documentation as soon as available and prior to the need for leave.

11. Health Care Providers for Basic FMLA Leave

The following are considered to be health care providers for the granting of leave under FMLA:

- (a) A licensed doctor of medicine or doctor of osteopathy or a physician who is on active duty and is designated by a uniformed service to conduct examinations;
- (b) Any health care provider who is recognized by the Federal Employees Health Benefits Program (FEHBP) or who is licensed or certified under Federal or State law to provide the service in question;
- (c) A health care provider who is authorized to practice and practices in a country other than the United States;
- (d) A Christian Science practitioner who is listed with the First Church of Christ, Scientist in Boston, Massachusetts; or
- (e) A Native American – including Eskimo, Aleut, or Native Hawaiian – who is recognized as a traditional healing practitioner by native traditional religious leaders and who practices traditional healing methods as believed, expressed, and exercised in Indian religions of American Indians, Eskimos, Aleuts, or Native Hawaiians. This health care provider is not recognized under the provisions of Title I FMLA.

12. Approving a Request for Leave Under FMLA

- (a) When an employee requests leave under FMLA, management must determine whether the employee is eligible. If the request is to care for a family member, the employee and the family member must be eligible.

***Example:*** An employee may meet the 12 month employment requirement for Title II coverage, but he/she is seeking basic FMLA leave to care for his/her brother. Basic FMLA leave to care for a family member with a serious health condition is only available when that family member is a spouse, son, daughter, or parent of the employee. While the employee cannot use basic FMLA leave, other options such as sick leave or annual leave may be available for use in caring for his/her brother.

- (b) Management cannot require an employee to use all available appropriate paid leave before approving a request for LWOP under FMLA.

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- (c) When limited or no medical documentation is provided, management must provisionally approve the request for leave under FMLA and request medical documentation concerning the serious health condition that will allow management to make an informed decision on the request. The provisional approval and request for medical documentation should be written.
- (d) An employee must provide the written medical certification required by subsection 9 above, signed by the health care provider, no later than 15 calendar days after the date the agency requests such medical certification. If it is not practicable under the particular circumstance to provide the requested medical certification no later than 15 calendar days after the date requested despite the employee's diligent and good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such medical certification. If the employee is unable to provide the medical certification, the FMLA request should be disapproved.
- (e) The appropriate management official shall provide employees with written notification of FMLA leave request approvals and denials. Any denial should include the reason for denying the request.

**13. Use of Leave**

- (a) An employee may elect to substitute paid time off for any or all of the unpaid period of leave taken under the FMLA. Paid time off may be from any of the following leave categories or in combination:
  - (1) Accrued and accumulated annual or sick leave, as applicable;
  - (2) Restored annual leave;
  - (3) Compensatory time off in lieu of overtime pay;
  - (4) Compensatory time off for travel;
  - (5) Approved advance annual or sick leave, as applicable; and
  - (6) Donated leave received by an approved leave recipient under the Voluntary Leave Transfer Program (VLTP).

***Example:*** John invoked his entitlement to FMLA on January 28, 2011, and will need to be out for 4 weeks (160 hours) as a result of major surgery. John has elected to substitute the LWOP under FMLA with paid leave. He will substitute the LWOP with 65 hours of accrued sick leave, 45 hours of accrued annual leave and 50 hours of annual leave donated to him under the VLTP.

- (b) In most cases, sick leave may not be granted for qualifying exigency absences.

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- (c) Unscheduled sick leave will rarely be granted for absences related to adoption unless the employee is able to demonstrate that the inability to provide advance notice is beyond his or her control.
- (d) The employee may not be denied the right to substitute applicable paid leave for the LWOP under FMLA. However, the agency need not approve a request to use advance annual leave or advance sick leave.
- (e) In addition, under the provisions of Title II FMLA, an employee cannot be required to substitute available paid leave for any unpaid leave used under FMLA.

**14. Timeframes for Use of Basic and Qualifying Exigency FMLA Leave**

- (a) The 12-month period begins on the date the employee first takes leave under the FMLA and continues for 12 months.

***Example:*** If an employee first takes basic FMLA leave on September 7, 2011, the employee has until September 6, 2012 to use the 12 administrative workweeks of leave for that 12-month period.

- (b) Employees are not entitled to an additional 12 workweeks of leave until the previous 12-month period ends **and** there is a new or continuing situation that entitles the employee to use leave under FMLA.
- (c) An employee does not have the option of choosing a calendar year, fiscal year or any timeframe other than the 12-month period that begins on the first day of use.
- (d) An employee cannot “carry over” unused FMLA entitlements to another 12-month period. If all 12 administrative workweeks are not used in the 12-month period, they expire.
- (e) Employees may have more than one qualifying personal or family medical condition during a 12-month period. An employee is entitled to a maximum of 12 administrative workweeks of unpaid basic and qualifying exigency FMLA leave in a 12-month period, regardless of the number of qualifying conditions that exist in the 12-month period.
- (f) The 12 administrative workweeks of leave is calculated on an hourly basis and will equal 12 times the average number of hours in an employee’s regularly scheduled administrative workweek. For full-time employees, 12 administrative workweeks are equal to 480 hours (40 hours X 12 weeks). For part-time employees, the number of hours are pro-rated based on the number of hours in the employee’s regularly scheduled administrative workweek.

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*Example:* A part-time employee working 20 hours a week would be entitled to 240 hours (20 hours X 12 weeks) of leave under FMLA.

- (g) If there are any Federal holidays or non-workdays established by Federal statute during the period in which an employee is on leave under FMLA, those days will not be counted toward the 12-administrative workweek entitlement.
- (h) The 12-month period for birth, adoption, or foster care placement may begin prior to the actual birth or placement of a child. If an employee invokes leave under FMLA prior to the date of birth or placement of a child, the 12-month period begins on the date the employee first takes leave under FMLA.
- (i) If a father and mother are both TSA employees, **each** is entitled to 12 administrative workweeks of unpaid leave for birth, adoption, or foster care placement or for care of a son or daughter with a serious health condition.
- (j) An employee may take only the amount of family and medical leave that is necessary to manage the circumstance that prompted the need for leave under FMLA.

**15. Intermittent Use of FMLA and Reduced Leave Schedule**

- (a) FMLA leave may be taken intermittently or on a reduced leave schedule subject to the patient's medical needs as determined by the attending health care provider, adoption or foster care placement requirements, or qualifying exigencies. Intermittent use of leave means taking the leave in blocks of time rather than a continuous period. A reduced leave schedule means the number of hours an employee is required to work in a given workday or workweek is reduced. The number of hours the schedule is reduced count as hours of leave taken under FMLA. Employees are required to use leave (LWOP or appropriate paid leave) for the number of hours the schedule is reduced.

*Example:* Elisa invoked her entitlement to FMLA and needs to be absent from work for two hours each afternoon. Management adjusted Elisa's work schedule to 6 hours per day with two hours of leave under FMLA each afternoon. Elisa is required to submit an OPM Form 71 for the leave taken each afternoon.

- (b) Employees may be asked to schedule planned medical treatments in accordance with schedules offered by management, subject to the approval of the attending health care provider to minimize disruption to TSA operations.
- (c) Employees may not use leave on an intermittent or reduced leave schedule basis for bonding purposes related to birth, adoption, or foster care placement, unless the employee and the employee's organization agree to do so. When approved, the employee and management should establish a mutually agreeable schedule.

**16. Basic FMLA for Maternity and Paternity Purposes**

- (a) An employee may invoke her entitlement to basic FMLA leave for purposes related to maternity. An employee may use applicable leave under FMLA for her period of incapacitation, as certified by her health care provider; for care of a newborn during the process of identifying appropriate childcare; and for bonding with a newborn.
- (b) Generally, employees will not begin use of leave under FMLA until the birth of a child. However, an employee may begin the 12-month period for birth of a child before the actual date of birth. If an employee does invoke leave under the FMLA prior to the date of birth, the employee's 12-month period begins on the date the employee first uses FMLA and may end before the child's first birthday. However, if the employee has not used 12 weeks for care and bonding with the child, at the end of the initial 12-month period, the employee may again invoke FMLA to complete a 12 week total of bonding.

***Example:*** Louisa first begins to take leave related to her pregnancy on May 1, 2010. She uses 4 weeks of intermittent leave prior to the birth of her child on August 6, 2010. Louisa then uses 8 weeks of leave for care and bonding with her newborn. On October 1, 2010, Louisa has exhausted her entitlement to leave under FMLA for the 12-month period beginning on May 1, 2010 and ending on April 30, 2011. On May 1, 2011, Louisa may invoke FMLA to use the remaining 4 weeks available for bonding with her child. The 4 weeks of leave must be used prior to the child's first birthday on August 6, 2011.

- (c) An expectant father may invoke his entitlement to FMLA to care for and bond with a newborn child, to care for the mother (his spouse) during her period of incapacitation, and to provide care if the mother (his spouse) or child have a serious health condition following the birth or during the pregnancy.
- (d) If a father and mother are both employed by TSA, each is entitled to up to 12 administrative workweeks of LWOP under FMLA for the birth of a child or placement of a child with the employee for adoption or foster care.
- (e) If an employee wishes to invoke FMLA to bond with a newborn baby, the employee must invoke the entitlement before the child's first birthday. The bonding must be completed before the child's first birthday.

**17. FMLA to Care for Injured Members of the Armed Forces**

- (a) General Information
  - (1) Eligible employees are entitled to up to 26 administrative workweeks of FMLA leave during a single 12-month period to care for a covered service member with a serious illness or injury that was incurred in the line of

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duty while on active duty in the Armed Forces. This entitlement is applied on a per covered service member, per serious-injury or illness basis. This leave is referred to as "military family leave."

- (2) A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. Or, a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment.
- (3) Serious injury or illness in the case of a member of the Armed Forces, means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
- (4) The notification requirements are the same as for basic FMLA leave.
- (5) TSA employees must invoke their entitlement to leave under FMLA to provide care for a covered service member with a serious illness or injury that was incurred in the line of duty while on active duty in the Armed Forces.
- (6) During the single 12-month period, the employee is entitled to a combined total of 26 administrative workweeks of basic FMLA leave, qualifying contingency leave, and military family leave.

**Example:** If during the single 12-month period an employee wants to take 10 weeks of basic FMLA leave for a personal illness, as well as military family leave for care of a service member, the 10 weeks of basic FMLA leave would be subtracted from the combined entitlement of 26 weeks, leaving the employee with 16 weeks of military family leave for care of the service member.

- (7) The use of military family leave in a single 12-month period does not limit the use of basic FMLA leave during any other 12-month period.

**Example:** An employee uses 26 weeks of military family leave during a single 12-month period (August 15, 2010 through August 14, 2011), but has not used any basic FMLA leave during that period. Beginning on August 15, 2011, the employee would be entitled to use up to 12 administrative workweeks of basic FMLA leave for a new or continuing qualifying condition.

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- (8) Similar to basic FMLA leave, military family leave is unpaid leave for which an employee may substitute any accrued and accumulated annual or sick leave, as applicable, restored annual leave, compensatory time off, if available, approved advance annual or sick leave, and donated leave received under the VLTP. However, the agency need not approve a request for advance leave.
  - (9) The normal leave year limitations on the use of sick leave to care for a family member (a maximum of 480 hours for full-time employees) do not apply to military family leave. Employees are limited to 26 administrative workweeks in a 12-month period when taking military family leave.
  - (10) Employees may not invoke leave under this provision for their own serious injury or illness. Rather the purpose of military family leave is to allow the employee to serve as the caregiver for a covered service member.
- (b) Eligible family members
- (1) The employee must be the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness to be eligible for military family leave.
- Note:* Next of kin is an exception to the basic FMLA leave family member definition and acceptable only for military family leave. Employees may be required to provide acceptable documentation to support the relationship.
- (c) Authorized Health Care Providers: For purposes of leave taken to care for a covered service member any one of the following health care providers may complete the medical certification:
- (1) A United States Department of Defense (DOD) health care provider;
  - (2) A United States Department of Veterans Affairs (VA) health care provider;
  - (3) A DOD TRICARE network authorized private health care provider; or
  - (4) A DOD non-network TRICARE authorized private health care provider.
- (d) Required Information from the health care provider
- (1) An agency may request that the health care provider provide any or all of the information listed below. (If the authorized health care provider is unable to make certain military-related determinations outlined below, the authorized health care provider may rely on determinations from an

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authorized DOD representative, such as a DOD recovery care coordinator):

- (i) The name, address, and appropriate contact information (telephone number, fax number, and/or e-mail address) of the health care provider, the type of medical practice, the medical specialty, and which of the categories listed in (c) above describes the health care provider;
- (ii) Whether the covered service member has incurred a serious injury or illness;
- (iii) Whether the covered service member's serious injury or illness was incurred in the line of duty on active duty;
- (iv) The approximate date on which the serious injury or illness commenced, and its probable duration;
- (v) A statement or description of appropriate medical facts regarding the covered service member's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave. Such medical facts must include information on whether the serious injury or illness may render the covered service member medically unfit to perform the duties of the covered service member's office, grade, rank, or rating and whether the member is receiving medical treatment, recuperation, or therapy;
- (vi) Information sufficient to establish that the covered service member is in need of care, (i.e., requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs or in making arrangements to meet such needs; and would benefit from the employee's care or presence) and whether the covered service member will need care for a single continuous period of time, including any time for treatment and recovery, and an estimate as to the beginning and ending dates of this period of time;
- (vii) If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment appointments for the covered service member, whether there is a medical necessity for the covered service member to have such periodic care and an estimate of the treatment schedule of such appointments; and
- (viii) If an employee requests leave on an intermittent or reduced schedule basis to care for a covered service member other than for planned medical treatment (e.g., episodic flare-ups of a medical condition), whether there is a medical necessity for the covered service member to have such periodic care, which can include assisting in the covered



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service member's recovery, and an estimate of the frequency and duration of the periodic care.

- (2) Required information from the employee and/or covered service member: In addition to the information that may be required under subsection 17(d)(1) above TSA requires that such certification set forth the following information provided by an employee and/or covered service member:
- (i) Name of the employee requesting leave and the name and address of the employee's duty location;
  - (ii) Name of the covered service member for whom the employee is requesting leave to care;
  - (iii) The relationship of the employee to the covered service member for whom the employee is requesting leave to care;
  - (iv) Whether the covered service member is a current member of the Armed Forces or the National Guard or Reserves, and the covered service member's military branch, rank, and current unit assignment;
  - (v) Whether the covered service member is assigned to a military medical facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit), and the name of the medical treatment facility or unit;
  - (vi) Whether the covered service member is on the temporary disability retired list; and
  - (vii) A description of the care to be provided to the covered service member and an estimate of the amount of leave needed by the employee to provide the care.
- (3) No information may be required beyond that specified in this section. In all instances, the information on the certification must relate only to the serious injury or illness for which the current need for leave exists. TSA may seek authentication and/or clarification of the certification. The certification form is [WH-385, Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave](#). However, second and third opinions or recertifications such as those outlined in subsection 9 above are not permitted for leave to care for a covered service member.
- (4) TSA will accept as sufficient certification "invitational travel orders" (ITOs) or "invitational travel authorizations" (ITAs) issued to any family member to join an injured or ill covered service member at his or her

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bedside. An ITO or ITA is sufficient certification for an employee entitled to take FMLA leave to care for a covered service member regardless of whether the employee is named in the order or authorization.

- (5) An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, an employee may take leave to care for the covered service member in a continuous block of time or on an intermittent basis.
- (6) An employee who provides an ITO or ITA to support his or her request for leave may not be required to provide any additional or separate certification that leave taken on an intermittent basis during the period of time specified in the ITO or ITA is medically necessary.
- (7) If an employee will need leave to care for a covered service member beyond the expiration date specified in an ITO or ITA, TSA may request that the employee have one of the authorized health care providers listed under (c) above of this subsection complete the [WH-385, Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave](#) as certification for the remainder of the employee's necessary leave period.
- (8) TSA may seek authentication and clarification of the ITO or ITA.
- (9) An agency may not use a second or third opinion process or the recertification process such as that outlined in subsection 9 above for the period of time in which leave is supported by an ITO or ITA.
- (10) If the certification is not received before leave begins or if the agency questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, provisional approval must be granted pending final medical certification.
- (11) The employee must provide the certification required under this section, signed by the health care provider not later than 15 calendar days after the date management requests such medical documentation. If it is not practicable despite the employees diligent, good-faith efforts to the provide the medical certification not later than 15 calendar days after requested, the employee must provide the medical certification within a reasonable time period under the circumstances involved, but not later than 30 calendar days after requested.
- (12) If after the leave has commenced, the employee fails to provide the requested medical certification, the agency may:
  - (i) Charge the employee absence without leave (AWOL); or

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- (ii) Allow the employee to request the provisional leave be charged as leave without pay (LWOP) or charged to the appropriate personal leave account.

18. Guidelines for use of FMLA leave because of a Qualifying Exigency

- (a) Eligible employees may take leave under FMLA for any qualifying exigency arising out the fact that a spouse, son, daughter, or parent is:
  - (1) A member of a regular component of the Armed Forces deployed to a foreign country;
  - (2) A member of a reserve component of the Armed Forces during deployment to a foreign country under a call or order to active duty in support of a contingency operation; or
  - (3) A member of a reserve component of the Armed Forces notified of an impending call or order to active duty for deployment to a foreign country in support of a contingency operation.
- (b) The use of qualifying exigency leave and basic FMLA leave may not exceed a combined total of 12 administrative workweeks in a 12-month period.
- (c) Qualifying exigencies include:
  - (1) Short-notice deployment. To address any issue that arises from the fact that a covered service member is notified of an impending call order to active duty in support of a contingency operation seven (7) or less calendar days prior to the date of deployment.
  - (2) Military events and related activities. To attend any official ceremony, program, or event sponsored by the military related to the active duty or call to active duty; and to attend family support or assistance programs sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty.
  - (3) Childcare and school activities. To arrange for alternative childcare arrangements; to provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis); to enroll in or transfer to a new school or day care facility; and/or to attend meetings with staff at a school or day care facility for the child of a covered service member when necessary due to the active duty or call to active duty. The definition of a child is the same as the use of leave under basic FMLA for a serious health condition.

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- (4) Financial and legal arrangements. To make or update financial or legal arrangements to address the covered service member's absence while on active duty or call to active duty; and to act as the covered service member's representative before a Federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the covered service member is on active duty or call to active duty for the period of 90 days following the termination of the covered service member's active duty status.
  - (5) Counseling. To attend counseling provided by someone other than a health care provider for the employee, the covered service member, or for the child of the covered service member when the need for counseling arises from the active duty or call to active duty of the service member.
  - (6) Rest and recuperation. To spend up to five (5) days for each period of leave with the covered service member who is on short-term, temporary, rest and recuperation leave during the period of deployment.
  - (7) Post deployment activities. To attend arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of active duty status; and to address issues that arise from the death of a covered service member while on active duty status.
  - (8) Additional activities. To address other events which arise as a result of the active duty or call to activity duty provided both the employee and the agency agree the event qualifies as an exigency and both agree to the timing and duration of the leave.
- (d) A covered service member is the employee's spouse, son, daughter, or parent on active duty or called to active duty status.
  - (e) Active duty or call to active duty is duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as defined in section F of this handbook.
  - (f) Employees will need to provide documentation to support use of FMLA for qualifying exigencies that provides the following information:
    - (1) A statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested. The facts must be sufficient to support the need for leave. Such facts should include information on the type of qualifying exigency for which leave is requested and any available written documentation which supports the request for leave; such documentation, for example, may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or

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school official, or a copy of a bill for services for the handling of legal or financial affairs;

- (2) The approximate date on which the qualifying exigency commenced or will commence;
  - (3) If an employee requests leave because of a qualifying exigency for a single, continuous period of time, the beginning and ending dates for such absence;
  - (4) If an employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency; and
  - (5) If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and e-mail address) and a brief description of the purpose of the meeting.
- (g) The employee may use [WH-384, Certification of Qualifying Exigency for Military Family Leave](#) or a written certification that contains the same information to support use of FMLA for qualifying exigencies.

**19. Guidelines for TSA Employees Under the Provisions of Title I of FMLA**

- (a) TSA applies Title I FMLA provisions to employees serving on intermittent appointments or temporary appointments with a time limitation of one year or less.
- (b) To be eligible for leave under Title I FMLA, the employees must have been employed by the Federal Government in a civilian capacity for at least 12 months (it doesn't have to be 12 recent or consecutive months) and employed with TSA for at least 1,250 hours of service during the 12-month period immediately preceding the need for leave under FMLA.
- (c) Employees eligible for Title I FMLA coverage may be placed on leave under FMLA without their permission by an authorized management official if the need for leave qualifies for FMLA leave.
- (d) Employees eligible for Title I FMLA coverage may also be required to substitute all available paid leave for leave without pay taken under the FMLA.
- (e) Management must provide the employee with written notification when placing an employee on FMLA and/or when requiring an employee to substitute available paid leave for unpaid leave under FMLA.

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- (f) Management may not require an employee to use advance leave.
- (g) The definitions of eligible family members; purposes for use of leave under FMLA, including military family leave, leave requesting procedures; notification requirements; and medical certification and documentation are the same for employees covered by the provisions of Title I and Title II of FMLA.

**20. Returning from a FMLA Qualifying Absence**

- (a) Medical certification return to work requirements.
  - (1) An employee occupying a position with established physical requirements whose medical condition prevented him/her from performing the essential functions of the position may be required to provide written medical certification from the health care provider of the employee that he/she is able to perform the essential functions of his/her position. When documentation is required, documentation must be required from all similarly situated employees (i.e., same occupation, same serious health condition, same physical restrictions).
  - (2) When written medical certification to return to work is required, the employee shall be notified prior to taking leave or as soon as practical in emergency medical situations. TSA is responsible for the expenses for obtaining the written medical certification.
  - (3) The employee's return to work may be delayed until the medical certification is provided.
  - (4) To verify the adequacy of the medical certification to return to work, a TSA authorized health care provider may contact the employee's health care provider, with the employee's permission.
  - (5) A medical recertification to return to work shall not be required when an employee takes leave intermittently or on a reduced leave schedule.
  - (6) Upon returning from leave taken under FMLA, an employee must be returned to his/her position of record held before the leave or a position with equivalent benefits, pay, status, and other terms and conditions of employment.

**NOTE:** A Transportation Security Officer (TSO) must meet the certification requirements before being returned to his/her position of record.

- (b) The employee should be returned to his/her original position of record unless the placement would impose extreme hardship on the organizational unit. In such cases, the employee may be placed in an equivalent position.

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- (c) An equivalent position must be in the same commuting area and at a minimum provide:
  - (1) The same or substantially similar duties and responsibilities;
  - (2) An equivalent pay level including any locality-based comparability payments;
  - (3) The same type of appointment, work schedule, (full-time or part-time) status and tenure;
  - (4) The same employment benefits;
  - (5) The same or equivalent opportunities for pay increases, performance and other incentive awards, or other similarly discretionary payments consistent with applicable laws and regulations;
  - (6) The same or equivalent opportunities for premium pay; and
  - (7) The same or equivalent opportunities for training or education benefits including any training that an employee may be required to complete to qualify for his or her previous position.
- (d) The entitlement to be returned to an equivalent position does not extend to intangible and immeasurable aspects of the position.
- (e) An employee is not entitled to any right, benefit, or position of employment unless the employee would have been entitled to that right, benefit, or position had the employee not taken leave under FMLA.

21. Recordkeeping

- (a) Employee use of leave (annual leave, sick leave, compensatory time off, and LWOP) under FMLA must be tracked manually.
- (b) At a minimum, the following information must be maintained for each employee using leave under FMLA:
  - (1) Employee's name, position, series, annual salary and pay band;
  - (2) Number of hours of each leave category, including paid and unpaid leave, used under FMLA;
  - (3) Whether the leave was for the birth of child, adoption or foster care, serious health condition of a qualifying family member, the serious health

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condition of the employee, qualifying exigency or care for injured member of the armed forces; and

- (4) The beginning and ending dates of the employee's 12-month period.
- (c) Safe Guarding Medical Documentation. Medical documentation of an employee or an employee's family member shall be safe guarded at all times. See section B subsection 7 of this handbook.

22. FMLA Fact Sheet

**ELIGIBILITY**

TSA applies Title II Family and Medical Leave Act (FMLA) provisions to TSA employees on appointments without time limitation or time limited appointments exceeding one year. To be eligible for leave under Title II FMLA, an employee must earn sick and annual leave and must have worked for the TSA or the Federal Government in a civilian capacity for at least 12 months. It is not necessary for the 12 months to be recent or consecutive, nor is there a requirement to work a specific number of hours to attain eligibility.

TSA applies Title I FMLA provisions to those agency employees serving on intermittent or temporary appointments of one year or less. To be eligible for leave under Title I FMLA, an employee must have been employed by the Federal Government in a civilian capacity for at least 12 months (it doesn't have to be 12 recent or consecutive months) and employed with TSA for at least 1,250 hours of service during the 12-month period immediately preceding the need for leave under FMLA.

**ENTITLEMENT**

Covered Federal employees are entitled to up to 12 administrative workweeks of unpaid leave during any 12-month period for (1) the birth of a son or daughter of the employee and the care of such son or daughter; (2) the placement of a son or daughter with the employee for adoption or foster care; (3) the care of spouse, son or daughter, or parent of the employee who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

Employees may be eligible to use up to 26 administrative workweeks in a single 12-month period of leave under FMLA to care for injured members of the Armed Forces or up to 12 administrative workweeks in a 12-month period for a qualifying exigency arising out of the fact that a covered family member is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation in a foreign country.

Leave under FMLA may be taken intermittently or on a reduced schedule when medically necessary to care for a family member with a serious health condition or for



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the serious health condition of the employee. If leave under FMLA is for care and bonding for birth or placement of a child for adoption or foster care, use of intermittent leave is subject to agreement by the employee and the agency.

An employee may elect to substitute annual leave, sick leave, or compensatory time off consistent with policy, for any unpaid leave under the FMLA. Employees are required to notify management when substituting paid leave for LWOP. Employees may not retroactively substitute paid leave for LWOP used under FMLA. An exception may be available for employees awaiting leave donations via the Voluntary Leave Transfer Program.

### **JOB BENEFITS AND PROTECTION**

An employee enrolled in a health benefit plan under the Federal Employees Health Benefit Program (FEHBP) who is placed in a LWOP status as a result of invoking his/her entitlement to leave under FMLA may continue FEHB enrollment while in a LWOP status and make arrangements to pay the appropriate employee contributions. An employee may pay the employee's share of the premiums on a current basis or upon return to work.

Upon returning from leave taken under FMLA, an employee must be returned to his/her position of record held before the leave or to a position with equivalent benefits, pay, status, and other terms and conditions of employment.

**Note:** A Transportation Security Officer (TSO), including Lead TSO and Supervisory TSO, must meet certification requirements before being returned to his/her position of record.

An employee is not entitled to any right, benefit, or position of employment unless the employee would have been entitled to that right, benefit, or position had the employee not taken leave under FMLA.

### **ADVANCE NOTICE AND MEDICAL CERTIFICATION**

An employee is required to provide 30 calendar days advance notice of his/her intent to take leave under FMLA when the need for leave is foreseeable or as soon as is practicable. An employee may not invoke his/her entitlement to leave under FMLA retroactively. If an employee **and** his/her personal representative are incapable of invoking the employee's entitlement to FMLA during the entire period of the employee's absence, the employee may retroactively invoke entitlement to FMLA within 2 days of returning to work.

When intermittent leave is needed for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the TSA's operation subject to the approval of the attending health care provider.

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TSA requires medical certification for leave taken under FMLA. An employee must provide medical documentation within 15 calendar days of management's request. If this is not possible, despite the employee's diligent, good faith efforts, medical certification must be provided within a reasonable period, but no later than 30 calendar days after the initial date the agency (management) requests such medical certification.

When caring for a family member, employees are required to provide a statement on the care they will provide for the family member and an estimate of the time period needed to provide this care.

23. WHD Publication 1420

**EMPLOYEE RIGHTS AND RESPONSIBILITIES  
UNDER THE FAMILY AND MEDICAL LEAVE ACT**

**Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

**Military Family Leave Entitlements**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

**Benefits and Protections**

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**Eligibility Requirements**

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

**Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

**Substitution of Paid Leave for Unpaid Leave**

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

**Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

**Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

**Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

**Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)



24. Sample Memorandum

(1) Memorandum of Entitlements

Date:

Subject: Family Medical Leave Act (FMLA)

From: TSA Human Resources Representative

To:

You recently contacted your supervisor regarding your entitlement to leave under the Family and Medical Leave Act (FMLA) for the birth of your child (or other FMLA qualifying event - be general do not name a specific health condition or diagnosis). Under the provisions of Title II FMLA, you are entitled to up to 12 administrative workweeks (480 hours) of leave without pay (LWOP) during a 12-month period for the following events:

- The birth of a son or daughter of the employee and the care of such son or daughter;
- The placement of a son or daughter with the employee for adoption or foster care;
- The care of the spouse, a child under the age of 18 or if over 18 years of age incapable of self-care because of a mental or physical disability, or the parent of the employee who has a serious health condition; or
- Serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

For a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation in a foreign country, you are entitled to up to 12 administrative workweeks of LWOP. The use of qualifying exigency leave and basic FMLA leave may not exceed a combined total of 12 administrative workweeks in a 12-month period.

For care of a covered injured member of the Armed Forces, you are entitled to 26 administrative workweeks of LWOP in a single 12-month period to provide care for this family member. The combined amount of basic FMLA leave, qualifying exigency leave, and leave for care of a covered service member cannot exceed 26 administrative workweeks in a 12-month period.

You may elect to substitute annual leave, sick leave or compensatory time off for any or all of the LWOP used under FMLA.

Leave for the care of a covered family member with a serious health condition or leave for the serious health condition of an employee may be taken intermittently

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or on a reduced leave schedule subject to the patient's medical needs as determined by the attending health care provider. However, employees may not use leave on an intermittent or reduced leave schedule basis for bonding purposes related to birth, adoption, or foster care placement, unless the employee and the employee's organization agree to do so.

If you would like to invoke your entitlement to FMLA, you must do so verbally or in writing and provide at least 30 calendar days notice if the need for leave is foreseeable. You are required to submit specific documentation to support the request for leave under FMLA.

You may elect to maintain your health benefits coverage by making direct payments to TSA for your portion of your benefits or incurring a debt that will be liquidated when you return to duty. If you choose to pay your share of premiums while in an unpaid leave status, you must contact your payroll specialist for amount owed and where to send your payment.

You will be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment" following your return to duty. [\[For TSOs replace first sentence with: In accordance with applicable recertification requirements you will be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment" following your return to duty.\]](#) The entitlement to be returned to an equivalent position does not extend to intangible and immeasurable aspects of the position. An employee is not entitled to any right, benefit, or position of employment unless the employee would have been entitled to that right, benefit, or position had the employee not taken leave under FMLA.

Please be advised that FMLA is one of the many leave programs that are available for your use. Sick leave, annual leave, or compensatory time off may also be appropriate for the FMLA qualifying event.

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**APPENDIX A: EFFECTS OF NONPAY STATUS**

Topic	Number of Days/Hours in Nonpay Status Allowed Without Penalty
Initial Appointment Trial Period	Any service in nonpay status during the trial period that exceeds 44 workdays, for a two-year trial period, or 22 workdays, for a one-year trial period, extends the period by the excess number of days.
Supervisory/Managerial Probationary Period	Absence from work to perform duty with the uniformed services or because of a compensable injury does not extend the trial period; the time is credited toward completion of the trial period just as though the employee had remained in a pay and duty status.  See TSA MD 1100.30-1, Trial Periods.
Leave	If an employee is in a nonpay status for an entire pay period, no annual or sick leave is earned for that pay period. If nonpay time occurs during part of one or more of a full-time employee's pay periods, the employee continues to earn leave until the nonpay time totals 80 hours. Then leave is reduced by the amount the employee earns during a pay period.
Service Credit for Annual Leave Accrual (advancement from 4 to 6 and from 6 to 8 hour earning categories)	A total of 6 months of nonpay time is creditable. Advancement to higher leave accrual category is delayed by the amount of nonpay time in excess of 6 months in one calendar year.
Service Computation Dates	A total of 6 months of nonpay time is creditable. The employee's SCD must be adjusted by the amount of nonpay time in excess of 6 months in one calendar year. (Excess time is added to employee's SCD.)
Federal Employees Group Life Insurance (FEGLI) Coverage	FEGLI Coverage continues without cost to the employee for up to 12 months in nonpay status. Coverage is terminated after employee has been in nonpay status for 12 months. (Previous time in nonpay status counts toward the 12 months if the employee does not return to duty in between periods of nonpay status for at least 4 consecutive months.)
Federal Employee Health Benefits (FEHB) Coverage	Unless the employee cancels or temporarily terminates the enrollment, coverage continues for up to 365 days in nonpay status - employee is liable for his or her full share of the premiums for this period.
Retirement	A total of 6 months of nonpay time is creditable. Service credit is adjusted by the amount of nonpay time in excess of 6 months in one calendar year.

**Note:** If the absence is to perform duty with the uniformed services and the employee exercises reemployment rights, or because of a compensable injury, there is no penalty for the nonpay status. See TSA MD 1100.30-17, *Uniformed Services Employment and Reemployment*, and the accompanying handbook for benefits information related to Absent-US.

This chart provides general information on the effects of nonpay status. It does not supersede related policies or other TSA guidance related to benefits.