



UNITED STATES MARINE CORPS
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
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SAN DIEGO, CALIFORNIA 92140-5001

DepO 12630.5B
1B

JAN 09 2004

DEPOT ORDER 12630.5B

From: Commanding General
To: Distribution List

Subj: ABSENCE AND LEAVE

Ref: (a) 5 CFR 630
(b) 5 CFR 353

Encl: (1) General Provisions
(2) Annual Leave
(3) Sick Leave
(4) Absence for Maternity/Paternity Reasons
(5) Family Friendly Leave Act (FFLA)
(6) Family and Medical Leave Act (FMLA)
(7) Leave Without Pay (LWOP)
(8) Excused Absence
(9) Court Leave
(10) Military Leave
(11) Holidays

1. Situation. To provide information on the administration of leave and absence of civil service personnel employed on Marine Corps Recruit Depot, San Diego. References (a) and (b) contains policies established by law or regulation for the administration of all types of absence and leave of civil service personnel.

2. Cancellation. DepO 12630.5A.

3. Mission. This Order contains a substantial number of changes, and should be reviewed in its entirety. Of specific note are the: (1) changes in military leave, (2) requirement that employees invoke their FMLA entitlement to be eligible for advanced sick leave or leave transfer programs and, (3) authorization of the Emergency Leave Transfer Program.

4. Execution. All Marine Corps Recruit Depot, San Diego tenant commands and those serviced by the Human Resources Office employing Appropriated Fund civil service personnel shall comply with the instructions contained in enclosures (1) through (11). Organizational commanders, heads of command staff sections and department heads will ensure that all subordinate managers and supervisors (military and civilian) are thoroughly familiar with the contents of this Order and that the Order is made available to employees upon request.

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4. Administration and Logistics. Directives issued by this Headquarters are published and distributed via the Directives Control Point at the Depot Adjutant's office.

5. Command and Signal

a. Signal. This order is effective the date signed.

b. Command. By previous agreement, this Order is applicable to all commands, organizations, units, and activities located at Marine Corps Recruit Depot, San Diego that receive services from the Human Resources Office, Marine Corps Recruit Depot, San Diego.



T. W. SPENCER
Chief of Staff

DISTRIBUTION: F

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GENERAL PROVISIONS1. Accruing Leave

a. General. For rates of accrual, see enclosure (2) for annual leave and enclosure (3) for sick leave.

b. Full Biweekly Pay Period. A full-time employee earns annual and sick leave during each full biweekly pay period while in a pay status or in a combination pay and non-pay status. For crediting leave, an employee must be employed for a full biweekly pay period during all days within the basic administrative workweek, exclusive of holidays and all non-workdays. Specifically, this means that an employee who enters or leaves the Federal service during a biweekly pay period will receive no leave for the time worked during an incomplete pay period. The Comptroller General has ruled however that an employee who enters on duty on the second day of the pay period when the first day is a holiday is entitled to earn leave for that pay period.

c. Reduction of Leave Credit Because of Non-pay Status. Each time a full-time employee's absence in a non-pay status within a leave year totals 80 hours, the accrual for that period is lost for both sick and annual leave. When reduction in leave credits is required during the last pay period in the calendar year for an employee in the 6-hour leave accrual category (entitled to accrue 10 hours leave in such period), leave credits for that period shall be reduced by 10 hours. An employee who is in a non-pay status for an entire leave year does not earn leave. All absence in a non-pay status, which does not total 80 hours at the end of the leave year, shall be dropped at that time. When the total 80 hours of absence in a non-pay status is reached during an employee's last pay period of employment, an adjustment in leave accrual is not required if the date of separation is before the end of the pay period.

d. Employee in Receipt of Injury Compensation. An employee on leave without pay (LWOP) while receiving injury compensation from the Office of Workers' Compensation Programs (OWCP) does not earn leave; however, the leave credits are not reduced.

e. Part-time Employees. Part-time employees (those who work less than 40 hours per administrative work week) who work on a scheduled tour of duty for each of the two administrative workweeks in a pay period earn leave on a pro-rated basis. In computing the leave earnings of part-time employees, hours in a pay status include straight time and overtime up to a total of 80 hours for the pay period.

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2. Charging Leave

a. General. Both annual and sick leave are charged to an employee's account only for absence on regular workdays, that is, days which the employee would otherwise work and receive pay. Leave is not charged for absence on holidays and non-workdays established by Federal statute, Executive Orders, or administrative action.

b. Minimum Charge. The minimum charge for annual leave, sick leave and LWOP for Depot employees is .10 (6 minutes). Additional leave shall be charged in multiples thereof. Leave absences may not be combined on parts of two calendar days to provide for a minimum grant of annual or sick leave.

c. Effect of Minimum Charge as Related to Basic Workweek. Leave may be charged only for absence during the basic workweek. This means that an employee working an 8-hour day, should be charged 8 hours leave for approved absence on such day. When the basic workweek consists of four 9-hour days and one 8-hour day or other similar combination, the leave charge is 9 hours for the 9-hour day and 8 hours for the 8-hour day.

3. Requesting Leave

a. General. Any request for leave must be made by the employee in writing. The employee is required to submit an OPM Form 71 "Request for Leave or Approved Absence" to their immediate supervisor to request the appropriate leave, at all times, for any absence. An employee must receive approval prior to leaving the assigned work site. In an emergency condition employees will submit OPM Form 71 to any supervisory official and provide documentation of emergency upon return to duty.

b. Forms. OPM Form 71 "Request for Leave or Approved Absence" forms are available on the World Wide Web at:
WW.OPM.GOV/FORMS/PDF_FILL/OPM71.PDF.

4. Approvals or Disapproval of Leave Requests. Supervisory personnel who are authorized to approve or disapprove leave requests will review each request and promptly notify the employee of the decision.

5. Unplanned Absences Due to Unforeseen Circumstances. Employees who are absent from duty and who have not obtained prior authorization shall give notice of reason for absence and the estimated duration within two hours after the scheduled time to report to work on the first day of absence. Employees in twenty-four (24) hour functions are expected to call at least two (2) hours prior to the beginning of their work shift.

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Requests for leave shall be to the designated supervisor by telephone. If the designated supervisor is not available, the employee should ask for the second line supervisor. If the second line supervisor is unavailable, the message shall be given to whoever answers the phone for delivery to the supervisor. The employee will record the name of the person who answered the telephone.

a. The request for leave should include a brief explanation of the reason for the absence, an estimate of the length of the absence, and a phone number, when possible, where the employee may be contacted during their absence. If the absence extends beyond the time estimated, the employee should again request leave from the supervisor.

b. Requests for leave may be by e-mail, or letter if conditions make it absolutely impracticable to use the telephone. This request for leave by the employee does not mean automatic approval.

6. Unauthorized Absence. When leave is not requested as cited above, the employee shall be reported on the time card in a "pending" status. The submission of an unadjusted time card will depend upon the circumstances of the case as reported by the employee and evaluated by the supervisor. Absences shown as "Unauthorized Absence" (UA), either initially or changed from "pending" status may be used as a basis to initiate disciplinary action. Changes from "pending" status to approved leave, sick or annual, or UA, should be explained on the back of the corrected time card. When unauthorized absence of an employee continues for a period of five consecutive workdays, action may be taken to determine whether removal may be warranted by the Human Resources Office, MCRD, San Diego.

7. Refund of Unearned Leave

a. General. When an employee has been granted advance annual or sick leave and is separated before that leave is repaid, the value of the leave is recovered from any pay due. A refund is not required if the separation is due to:

(1) Death or disability retirement.

(2) Resignation or separation because of illness which prevents the employee from returning to duty.

b. Separation for Military Service. Employees who enter active military service with restoration rights are not considered separated for purposes of this section.

c. Procedure to be Followed when Refund for Overdrawn Leave is Required. Refund shall be collected under the provisions specified in DOD FRM Volume 8, Chapter 8, paragraph 0802.

ENCLOSURE (1)

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ANNUAL LEAVE1. Accrual and Credit

a. Annual leave shall accrue and be credited to employees as follows:

Less than three years service:

Full-time employee	Four hours for each full bi-weekly pay period.
Part-time employee	One hour for each 20 hours in a pay status.

Three, but less than 15 years service:

Full-time employee	Six hours for each full bi-weekly pay period for the first 25 pay periods and 10 hours in the last pay period in December.
Part-time employee	One hour for each 13 hours in a pay status.

Fifteen years or more service:

Full-time employee	Eight hours for each full bi-weekly pay period.
Part-time employee	One hour for each 10 hours in a pay status.

b. Effective Date of Change in Rate of Annual Leave Accrual. Any change in the annual leave accrual shall take effect at the beginning of the pay period following the pay period in which the employee completes the prescribed years of service.

c. Fractional Pay Period. An employee shall be given pro-rated credit for annual leave for fractional pay periods occurring within the continuity of employment when the employee's service is interrupted by a non-leave earning period such as immediately prior to or following a period when:

(1) Receiving disability compensation from the Office of Workers' Compensation Programs.

(2) Exercising statutory or regulatory restoration rights after service in the Armed Forces.

(3) The employee is restored after a period of unwarranted suspension or removal from which retroactive compensation is paid.

(4) Transferring to an activity or agency having different pay periods.

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d. Movement Without a Break in Service, Within a Biweekly Pay Period. When an employee moves to another position within a bi-weekly pay period, without a break in service, annual leave accrual for the full pay period should be credited by the acquiring agency.

e. Leave Earning

(1) Employees who are appointed to positions for 90 days or more are entitled to earn and use annual leave upon completion of the first bi-weekly pay period.

(2) If an initial appointment is less than 90 days, the employee is not entitled to earn or use annual leave until after being employed for a continuous period of 90 consecutive days without a break in service.

(a) A break in service of one day or more when the employee is not on the government's employment rolls.

(b) Military service is not considered a break in service where the employee has exercised a statutory or regulatory right to be restored to a civil service position. Otherwise it is to be regarded as a break.

f. Maximum Accumulation. Employees are entitled to accumulate and carry over a maximum of 240 hours annual leave from one leave year to the next. An exception is the 360-hour maximum, which may be accrued by an employee while serving overseas. Employees with an uncommon tour of duty shall accumulate and carry over a maximum of annual leave as prescribed in DOD FRM Volume 8, Chapter 5, paragraph 050204b. In all other cases the leave is lost unless it falls within the provisions of paragraph 2 below.

2. Request for and Use of Annual Leave. All employees will request annual leave using a "Request for Leave or Approved Absence" form submitted to the appropriate supervisor before the period of absence desired. Approval or disapproval shall be promptly furnished to employees by their supervisors. Leave will be administered by supervisors in such a way that employees should not forfeit leave at the end of the leave year because of excess accumulation. Additionally, each employee has an obligation to assist in the development of appropriate leave schedules so that no employee will forfeit leave. Approved leave subsequently disapproved due to exigencies of the public business may be restored, if leave was properly requested prior to the start of the third biweekly pay period prior to the end of the leave year. Since annual leave will be granted to employees when their services can best be spared from their assigned duties, situations may occur when disapproval of leave requests are necessary.

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3. Advance of Annual Leave. Requests for advance of annual leave may be made by written request of the employee to the employee's supervisor for approval through the Chain of Command to the Assistant Chief of Staff or his/her designee. After approval, the employee's request is forwarded to the Civilian Payroll Office with a copy to the Human Resources Office. Advance of annual leave normally will not be granted except for circumstances beyond an employee's control such as sickness or death in the family. Also, the advance of annual leave will not exceed the total annual leave that can be accrued by the employee during the remainder of the current leave year.

4. Requiring Use of Annual Leave. When an employee's services are not needed for short periods, or when otherwise appropriate, management may direct the use of available annual leave credits, except that annual leave cannot be enforced during any period of notice of adverse action without the employee's consent. An example of a situation when an employee may be required to use annual leave is force protection conditions. This situation is subject to subparagraph 4a below.

a. Advance Notice Requirements

(1) In cases of interrupted or suspended operations, employees who cannot be assigned to other work will be required to use annual leave in all cases when 24 hours advance notice can be given. Such involuntary use of leave may not exceed five days in any leave year.

(2) Under force protection conditions management will utilize applicable Navy or Marine Guidance (currently GAM #83).

b. Procedure When Employees Who Would be Required to Use Leave Have No Leave Available. Employees will be granted LWOP upon request.

5. Lump Sum Payment for Annual Leave Upon Separation. On separation, an employee is paid a lump sum for unused annual leave. Accumulated annual leave includes the regular carry over balance from the previous year, if any, plus accrued and unused annual leave during the current leave year, if any.

a. An employee who is separated to enter military service has the right to choose between receiving a lump sum payment or maintaining the balance as a credit until return to the position.

b. Lump sum payment for annual leave shall not be regarded as salary and shall not be subject to retirement deductions. It is, however, subject to all appropriate payroll regulations.

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6. Disposition of Fractional Hours. Fractional hours of leave which are not transferable to another Federal agency are forfeited; however, an employee may be permitted to take annual leave necessary to even off the annual leave balance prior to transfer.

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SICK LEAVE

1. Accrual and Credit. Sick leave shall accrue and be credited to full-time employees on the basis of four hours for each full biweekly pay period. There is no limit on the amount of sick leave that may be accumulated. Part-time employees earn one hour of sick leave for each 20 hours in a pay status.

a. Fractional Pay Periods. An employee shall be given prorated credit for sick leave for a fractional pay period occurring within the continuity of employment when the employee's service is interrupted by a non-leave earning period such as immediately prior to or following a period when:

(1) Receiving disability compensation from the Office of Workers' Compensation Programs.

(2) Exercising statutory or regulatory rights after service in the Armed Forces.

(3) The employee is restored after a period of unwarranted suspension or removal for which retroactive compensation is paid.

(4) Transferring to an activity or agency having different pay periods.

b. Movement Without Break in Service Within a Biweekly Pay Period. When an employee moves to another position within a bi-weekly pay period, without a break in service, sick leave accrual for the full pay period should be credited by the acquiring Naval activity or other government agency.

2. Request For and Use of Sick Leave. Requests for sick leave will be made on a "Request for Leave or Approved Absence" form. An employee may use sick leave when he or she is (1) incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth; (2) receives medical, dental, or optical examination or treatment; or (3) would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease. Requests for sick leave for appointments for medical, dental, or optical treatment or examination shall be submitted for approval prior to the beginning of the leave.

a. Administratively acceptable documentation is described as: Original documentation from employee's treating physician/practitioner that contains physician/practitioner pre-printed name, phone number, license number and address.

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b. Sickness Occurring During Annual Leave. An employee who becomes ill during a period of annual leave may have the period of illness charged to sick leave and the charge against annual leave reduced accordingly. Application for substitution of sick leave for annual leave shall be made within two days after return to duty and substantiated by a physician's statement if in excess of three days.

c. Sick Leave During LWOP. Sick leave will not be granted to employees who are on extended LWOP.

d. In Case of Death. In the case of an employee who was in a pay status (duty or leave) immediately prior to death, the employee's beneficiary is entitled to receive compensation for the date of death, without charge to leave.

e. Disability Retirement or Separation-Disability. Employees shall be granted all sick leave to their credit prior to separation for disability. The effective date of the separation is normally the expiration of the sick leave. Employees would also be granted any annual leave for which a lump sum payment cannot be made. Advance leave will not be granted under these circumstances.

f. Physical Examination for Military Training, Duty, Promotions in the Reserve, Periodic Examination of Retired Personnel, etc. Examinations for these purposes are chargeable to sick leave.

g. Notification Requirements of Employee. Employees who are absent because of illness will notify their supervisor of their incapacitation to report for duty, if possible, prior to the start of their work shift but no more than two hours after the shift begins, on the first day of such absence. If the illness continues over a period of time, employees shall notify the supervisor with an estimated date of return. If the absence extends beyond the time estimated, the employee should again notify the supervisor requesting additional leave. If employees are on medically certified extended sick leave, they will not be required to reconfirm their incapacitation to their supervisor during the period certified. Failure to give such notice may result in the absence being charged as UA or to annual leave depending upon the determination of facts by the supervisor in each individual case. Employees in 24-hour functions, are expected to call prior to the beginning of their work shift in order that arrangements can be made for coverage. See paragraph 5 of enclosure (1).

h. Sick Leave in Excess of Three Workdays

(1) Periods of absence on sick leave in excess of three workdays must ordinarily be supported by a medical certificate stating

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the nature of the illness, inclusive dates of treatment, and releasing the employee to return to duty. Accepting an employee statement, in lieu of medical certification, will be made at the discretion of management.

(a) Depot policy does not require a medical certificate to support an application for sick leave when the absence is for three days or less. Exceptions to this policy include when the supervisor suspects leave abuse and when the employee already is on a Letter of Requirement concerning attendance.

i. Sick Leave Abuse. The use of sick leave in itself does not constitute abuse. When there is supporting documentation (review of sick leave record) from the supervisor that sick leave has been abused, the employee will be counseled about the suspected abuse and advised that a medical certificate may be required to support future requests for sick leave, regardless of duration. If the employee's sick leave record does not improve, the employee will be given a written notice that a medical certificate must support all future requests for sick leave. Failure to follow the requirement for a medical certificate may be considered a basis for denying sick leave and disciplinary action may be based on UA resulting from the denial of leave. The leave record of an employee required to submit a medical certificate for each absence should be reviewed semiannually with a view toward canceling the requirement if improvement is noted.

3. Advance of Sick Leave. A maximum of 240 hours advanced sick leave for serious illness or disability of a permanent employee may be made by written request of the employee. Advanced sick leave is not appropriate on occasions when the illness is not of a serious or disabling nature or for the purpose of augmenting an employee's usual sick leave.

a. The written request will: (1) provide administratively acceptable medical certification reflecting diagnosis, prognosis and date of probable return to full duty and a copy of the employee's Leave and Earning Statement (LES) and, (2) be submitted to the employee's supervisor for approval through the Chain of Command to the Assistant Chief of Staff or his/her designee. After approval, the employee's request is forwarded to the Civilian Payroll Office with a copy to the Human Resources Office.

b. To be eligible for advanced sick leave: (1) Administratively acceptable medical documentation reflecting the employee's doctor's opinion that the employee will be able to return to full duty and, (2) the employee must have a zero sick leave balance and no more than 40 hours of annual leave accrued. The employee may request to maintain 40 hours of annual leave.

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c. Requests for advanced sick leave will be accompanied by a "Request for Leave or Approved Absence" form requesting absence as provided by the FMLA.

d. Should the employee separate because of disability or illness (retirement or resignation), the activity has no authority to require the repayment of the amount paid to the employee for advanced leave. As such, it is not appropriate to grant advanced sick leave when it is not a reasonable belief that the employee will be capable of returning to full duty and thus repaying the advance.

e. Advanced sick leave for the care of a family member is limited to 40 hours and will be administered in accordance with the provision of the FFLA, enclosure (5).

4. Recredit of Sick Leave Upon Reemployment. Employees who have had a break in service are entitled to a recredit of sick leave (without regard to the date of their separation), if they return to Federal employment on or after December 2, 1994, unless the sick leave was forfeited upon reemployment in the Federal Government before December 2, 1994.

5. Use of Sick Leave Prior to Retirement. Before approving extended sick leave for voluntary retirement, employees must provide administratively acceptable medical evidence stating the extent and duration of the illness. Sick leave in excess of three workdays should be supported by a medical certificate containing a brief statement of the nature of the illness, inclusive dates of treatment, and a statement releasing employees to return to duty. While it is recognized there will be exceptions to the foregoing, it is assumed these will be on rare occasions. Employees may be granted all sick leave to their credit prior to separation for disability retirement if they have provided administratively acceptable medical documentation.

6. Use of Sick Leave for Family Care, Bereavement, or Family Member with a Serious Health Condition (Family Friendly Leave Act (FFLA)). Use of sick leave for this purpose will be administered in accordance with the provisions of the FFLA, enclosure (5).

7. Sick Leave for Adoption. An employee may use sick leave for purposes related to the adoption of a child. Examples of these purposes may include but are not limited to: (1) appointments with adoption agencies, social workers, and attorneys, (2) court proceedings, (3) required travel, (4) any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child, and (5) any other activities necessary to allow the adoption to proceed.

ENCLOSURE (3)

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a. Adoptive parents who voluntarily choose to be absent from work to bond with or care for an adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay as provided by the FMLA, enclosure (6) for this purpose.

b. 240 hours of advanced sick leave may be granted for adoption-related purposes. Requests for advanced sick leave will be accompanied by a "Request for Leave or Approved Absence" form requesting absence as provided by the FMLA.

c. Employees requesting sick leave, or advanced sick leave, for adoption related purposes will provide administratively acceptable evidence to support their absence.

ENCLOSURE (3)

JAN 09 2002

ABSENCE FOR MATERNITY/PATERNITY REASONS

1. General. The granting of leave for maternity/paternity reasons within the Federal Government is a combination of as many as three (3) separate types of leave: Sick Leave, Annual Leave, and Leave Without Pay, and will be administered in accordance with the Family Friendly Leave Act (FFLA) and Family Medical Leave Act (FMLA), enclosures (5) and (6), as appropriate.
2. Policy. The policy for this Command is to provide gainful employment and use the skills of pregnant employees for as long as they are not incapacitated for duty.
3. Employee Responsibilities. An employee is required to report the pregnancy to her supervisor as soon as it is an established fact so that any necessary steps may be taken to protect her health or improve her working conditions. Should an employee consider, at any time during pregnancy, that her working conditions are having an adverse effect upon her physical condition, she shall report any such adverse conditions to her supervisor and consult her physician on the matter.
4. Supervisor Responsibility. Any supervisor advised of an employee's pregnancy shall review the employee's duties and working conditions to determine any possible adverse effects on the employee's physical condition as she progresses through pregnancy. If it is determined that any element of the employee's job could have a harmful effect upon her or the unborn child, the employee shall be requested to consult with her physician on the matter and provide medical certification as to the nature of any limitations which are recommended by the physician. Upon the physician's recommendation, every reasonable effort shall be made to accommodate an employee's request for temporary modification of her working duties or a temporary reassignment. If significant changes in duties are required, the supervisor will consult with the Human Resources Office for guidance. The employee's immediate supervisor is responsible for ensuring that the employee discontinues work while she is medically certified as incapacitated for duty.

ENCLOSURE (4)

JAN 09 2004

FAMILY FRIENDLY LEAVE ACT

1. Sick Leave to Care for a Family Member (General Care)/Bereavement

a. General. Most Federal employees may use a total of up to 104 hours (13 workdays) of sick leave each leave year to:

(1) Provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth.

(2) Provide care for a family member as a result of medical, dental, or optical examination or treatment.

(3) Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

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

c. Medical Certification. Medical certification for general family care is the same as if the employee were incapacitated. For example, if an employee who is incapacitated is not required to provide medical documentation when absent for three days or less, medical documentation would not need be required when the employee is on sick leave for three days or less to care for a family member.

d. Administratively Acceptable Evidence for Bereavement. Upon returning to work an employee may be required to furnish their supervisor with certification of the death; i.e., a copy of the obituary notice or death certificate and where not evident, documentation to support the family member status.

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

a. Entitlement. Most Federal employees may use a total of up to 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted

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from the 12-week entitlement. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to a total of 12 weeks of sick leave each year for all family care purposes.

b. Administration. The same limitations apply to the use of sick leave to care for a family member with a serious health condition as apply to the use of sick leave for general family care or bereavement purposes. A covered full-time employee may use 40 hours (5 workdays) of sick leave each leave year for these purposes. An employee may use additional sick leave for general family care or bereavement purposes or to care for a family member with a serious health condition if he or she maintains a balance of at least 80 hours of sick leave in his or her account.

c. Serious Health Condition. The term "serious health condition" has the same meaning used in administering the Family and Medical Leave Act of 1993 (FMLA). The term "serious health condition" means any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility; any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involved continuing treatment by (or under the supervision of) a health care provider. This definition includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer's disease, pregnancy, and childbirth. The term "serious health condition" is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, the flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc., are not serious health conditions unless complications arise.

d. Medical Certification. The employee must provide administratively acceptable medical certification for sick leave for serious health conditions. Medical certification must provide, diagnosis, prognosis, and, period of care.

3. Family Member. A "family member" is defined as: (1) spouse, and parents thereof, (2) children, including adopted children and spouses thereof, (3) parents, (4) brothers and sisters, and spouses thereof and, (5) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

4. Advanced Sick Leave to Care for a Family Member (FFLA). Only the first 40 hours of sick leave (or a proportional amount for an employee on a part-time schedule or uncommon tour of duty) may be advanced.

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5. Supervisors are responsible for administration and tracking of employee use of FFLA and are reminded that copies of approved leave under this Act should be submitted to the Civilian Payroll Office.

ENCLOSURE (5)

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FAMILY AND MEDICAL LEAVE ACT

1. The Family and Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and serious medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 paid hours over the previous 12 months. (Temporary and intermittent service is excluded as creditable service for determining the 12 month service requirement).

2. Leave Entitlement

a. Up to a total of 12 workweeks of unpaid leave (LWOP) during any 12-month period must be granted to an eligible employee for one or more of the following reasons:

(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, daughter, or parent of the employee who has a serious health condition.

(4) Serious health condition of the employee which would likely result in a period of incapacity of more than 3 calendar days.

b. Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and regulations, for any unpaid leave under the FMLA. (The amount of sick leave that may be taken to care for a family member is limited. See enclosure (5)).

c. FMLA leave is in addition to other paid time off available to an employee.

d. In no case can use of paid leave be credited as FMLA leave AFTER the leave has ended.

e. FMLA does not increase the amount of PAID leave available to the employee unless it is donated under the Voluntary Leave Transfer Program.

ENCLOSURE (6)

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3. Job Benefits and Protection

a. Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment."

b. An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee may pay the employee share of the premiums on a current basis or pay upon return to work.

4. Advance Notice and Medical Certification

a. Medical certification to support FMLA will be provided.

b. The employee must provide notice and administratively acceptable medical certification to their first level supervisor of his or her intent to take family and medical leave not less than 30 days before leave is to begin or as soon as is practicable.

c. If the employee goes or will be going into a LWOP status for more than 30 days, the employee's supervisor must prepare a Request for Personnel Action (RPA), for LWOP purposes, see enclosure (7).

5. A checklist for FMLA leave is provided on the following page of this enclosure.

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FAMILY and MEDICAL LEAVE ACT CHECKLIST

EMPLOYEE _____ DATE _____

- 1. Eligibility - Must meet both requirements.
 - a. 12 months current employment
 - b. 1250 hours worked in proceeding 12 consecutive months
- 2. Circumstance
 - a. Birth/care for newborn - Date of birth of newborn _____
 - b. Adoption or Foster care - Date of adoption/placement of foster child _____
 - c. Serious health condition of employee
 - d. Serious health condition of spouse, son, daughter, or parent
- 3. Serious Health Condition - Not Employee.
 - a. Care for Covered:
 - _____ Spouse
 - _____ Son or Daughter
 - _____ Parent
- 4. Treatment
 - a. Employee
 - b. Employee unable to perform duties/responsibilities
- 5. Serious Health Condition
 - a. In-Patient Care
 - b. Incapacity of more than 3 days
 - (1) 2 or more treatments by a health care provider
 - (2) Regimen of continuing treatment
 - c. Pregnancy
 - d. Chronic/Serious Health Condition

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e. Permanent/Long Term Condition

6. Request for leave by the Employee

a. When (Date) _____

b. How (i.e., in person, fax, phone, etc.) _____

c. By Whom (Name) _____

d. Type of Leave requested (i.e., annual, LWOP, sick, combination)

7. Medical Documentation Request (by supervisor)

a. Foreseeable FML - At time request is made or within 2 days

b. Unforeseeable FML - ASAP, normally within 2 business days after
the leave begins _____

ENCLOSURE (6)

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LEAVE WITHOUT PAY

1. Administrative Control. LWOP is a temporary non-pay status and absence from duty, which may be granted upon an employee's request. The authorization of LWOP is a matter of administrative discretion. An employee does not have an entitlement to be granted LWOP, except: as provided by: (1) the FMLA, (2) Executive Order 5396, 17 July 1930, which authorizes LWOP for disabled veterans to receive necessary medical treatment, and (3) The Uniformed Services Employment and Reemployment Rights Act of 1994, Public Law 103-353 and reference (b), which provides employees with an entitlement to LWOP when their employment is interrupted by a period of service in the uniformed service, or, while receiving worker's compensation payments from Department of Labor and, those exceptions by contractual agreement.

2. Policy

a. As a basic condition for approval of extended LWOP, there should be a reasonable expectation that the employee will return to duty at the end of the approved period. In addition, it should be apparent that at least one of the following benefits might be expected to result:

(1) Improved performance capability.

(2) Protection or improvement of employee's health.

(3) Retention of a desirable employee.

(4) Furtherance of a program of interest to the Government (e.g., Peace Corps volunteer).

b. Each request for LWOP should be reviewed to determine whether the value to the activity or the serious needs of the employee really offset the expense and inconvenience, such as:

(1) Encumbrance of a position.

(2) Loss of needed services.

(3) Complication of reduction-in-force registers.

(4) Obligation to provide employment at the end of the leave period.

(5) Credit of six months in each year toward retirement.

(6) Eligibility for continued coverage under the Group Life Insurance and Health Benefits Programs.

ENCLOSURE (7)

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3. LWOP for Employed Dependents of Military Personnel or Civil Service Employees who are Required to Relocate. To avoid a break in the continuity of service for career-conditional employees who must relocate because they are dependents of military personnel or civil service personnel who are required to move on rotational assignments or upon the transfer of a function or relocation of an activity, LWOP may be granted for 30 to 120 days depending on organizational needs (regardless of the fact that annual leave may be available) provided:

a. The dependent expresses intent to seek Federal employment at the new location.

b. The dependent's work performance has been satisfactory. Such employed career or career-conditional dependents will be advised of the entitlement period, as stated above in order to effect a transfer.

c. Arrangement of a transfer to the new duty station was not accomplished before departure.

d. The employee submits a resignation to be effective the first day after the LWOP period.

4. Submission of Requests for LWOP. All requests for LWOP will state the reason for the request, indicate the last day the employee will be in a duty status prior to the leave, and will be submitted as follows:

a. Requests for 29 calendar days LWOP or less follow leave procedures as described in enclosure (1), checking appropriate block on a "Request for Leave or Approved Absence" form.

b. Requests for 30 through 90 days LWOP, approved by the department head, are submitted electronically by a Request for Personnel Action (RPA), Standard Form 52, to the Human Resources Office. The first line supervisor will notify the employee regarding approval or disapproval of the request.

c. Requests for LWOP over 90 calendar days: (1) will include a written request from the employee providing detailed information regarding the purpose of the requested LWOP. The written request will be submitted via the section head concerned, the cognizant staff officer or commanding officer. If approved the Human Resources Director will be notified and the request submitted electronically (if available) by an RPA, Standard Form 52. The first line supervisor will notify the employee regarding approval or disapproval of the request.

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d. In emergency situations, where LWOP is expected to exceed 90 calendar days, and it is impracticable for the employee to initiate the written request, the supervisor or responsible official will report such cases, and make a recommendation to approve or disapprove LWOP, to the Commanding Officer or Assistant Chief of Staff via Director, Human Resources Office, Marine Corps Recruit Depot.

e. Upon return to duty from LWOP for 30 days or more, an RPA, Standard Form 52 must be submitted electronically (if available) reflecting the date employee was returned to duty status.

5. Examples of Proper Cases for Extended LWOP (over 120 days). The following are examples of cases in which extended LWOP might properly be approved:

a. For educational purposes, when the course of study or research is related to the work of the activity and its completion would be in the best interest of the activity.

b. For service with non-Federal public or private enterprise, when the job is temporary and there is reasonable expectation that the employee will return and when one or both of the following will result:

(1) The service to be performed will contribute to the public welfare.

(2) The experience to be gained by the employee will serve the Depot's best interest.

c. To protect employee status in the following circumstances:

(1) Pending final action by OPM on a claim for disability retirement, after all sick and annual leave has been exhausted.

(2) Pending final action by the Office of Workers' Compensation Programs (OWCP) on employment-connected injury or disease.

(a) An employee who is injured on-the-job may elect to be placed on sick or annual leave or to file a claim for disability compensation. In the latter event, the employee must be in a nonpay status and must be granted LWOP.

NOTE: In traumatic injury cases, employees may request up to 45-days continuation of pay.

(b) If, in the circumstances described above, the claim for disability compensation is disallowed, the period of LWOP may be retroactively converted to sick or annual leave.

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(3) An employee who is receiving injury compensation from OWCP may be carried on LWOP not to exceed one year. Extensions may be granted based on a review of an individual case. When an employee receiving compensation has not returned to duty after one year, action may be taken to terminate the employee.

6. With the exception of those situations contained in paragraph 5 above, requests for LWOP, to include extensions of original requests, beyond 120 days should be considered inappropriate and disapproved.

7. Distinctions Between LWOP and Other Types of Nonpay Status. Since LWOP is defined as a nonpay status granted at the request of an employee, it follows in general that an employee may not be placed on LWOP (as distinguished from UA, or furlough) without the employee's consent. The following provides example of exceptions:

a. When leave (annual or sick) has been requested and approved but the employee's available leave balance is insufficient to support the entire absence. In this instance, conversion to LWOP is not considered to be without the employee's consent. As in the case with any leave request, the supervisor's approval is necessary if unauthorized absence status is to be avoided.

b. Pending adjudication regarding a claim for disability retirement, when all sick leave and annual leave has been exhausted, and the employee is unable to work.

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EXCUSED ABSENCE1. Definition

a. An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Normally excused absences are authorized on an individual basis. Excused absence is not appropriate for administrative early dismissal of employees before a holiday.

2. Types of Excused Absences

a. Preparation for Appeals of Adverse and Disciplinary Actions. Appellants may use reasonable amounts of time for obtaining information and assistance in these matters as available only during working hours. When such time is granted it should be recorded as administrative time and not charged to leave.

(1) OPM. Employees who have appealed matters on hearings held by OPM, their representatives and witnesses, shall be excused without charge to leave to attend such hearings, whether on or off activity premises. Witnesses requested by OPM to appear shall be similarly excused. The appellant will be responsible for any expenses incurred by the representative and/or witnesses who are not civil service employees.

b. Blood Donation. Employees who donate blood may be granted excused absence to cover travel to and from the donation site, the actual donation of blood, and recovery. This provision does not cover an employee who gives blood for his or her own use or receives compensation for giving blood.

c. Bone Marrow or Organ Donor. In addition to sick and annual leave, an employee may use up to 7 days of excused absence each calendar year to serve as a bone-marrow donor. An employee also may use up to 30 days excused absence each calendar year to serve as an organ donor. Medical certification is required for excused absences for the purpose of bone marrow or organ donation.

d. Conferences and Conventions. Employees authorized to attend conferences and conventions related to programs of the Marine Corps and Navy are considered to be in a duty status during such attendance. Time thus spent is, therefore, neither charged to leave nor considered excused. The work schedules of employees attending conferences and conventions should be changed to a "regular 40 hour schedule" for the pay period affected. Returning an employee to a regular schedule for the pay period the conference/convention occurs will minimize the possibility of an employee being required to perform work on a Regular Day Off (RDO).

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e. Emergency Rescue or Protective Work. Employees called to assist local, state or federal agencies in emergency situations, may be excused for such duty as authorized by the Commanding General, Marine Corps Recruit Depot/Western Recruiting Region. Excusals of this nature require approval prior to the absence.

f. Funeral Services for Members of the Armed Forces Returned from Overseas for Final Interment in the United States. Employees who are veterans of any war, campaign, or expedition (for which a campaign badge has been authorized), or members of honor or ceremonial groups of organizations of such veterans may be excused for duty up to four hours in any one day without loss of pay or deduction from annual leave. This enables employees to participate as active pallbearers or as members of firing squads or guards of honor in funeral ceremonies for members of the Armed Forces of the United States whose remains are returned from abroad for final interment in the United States.

g. Attending Funeral of an Immediate Relative Killed in the Line of Duty in the Armed Forces. Upon written request, an employee will be excused for not more than three workdays, to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as a result of a wound, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. The three days need not be consecutive; however, the employee must justify leave for non-consecutive days. Immediate relative includes not only a spouse and parents, but also children, including adopted children and their spouses; parents; brothers and sisters, and their spouses; and any other individual related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

h. Medical Examination or Treatment. As stated in enclosure (3), absence for medical, optical or dental examinations or treatment is ordinarily charged to sick leave. The following types of absence from duty for these purposes are, however, excused without charge to leave.

(1) Examination under Health Program; (Fitness for Duty or Employment Physicals).

(2) Treatment at a Naval Dispensary of an employee, who becomes ill after reporting to work, provided the employee returns to work following treatment. If the employee is sent home, the time spent at the dispensary is chargeable to sick leave, provided the employee is not sent home as a result of an industrial injury.

(3) Any employee who sustains an injury on-the-job should be sent to the dispensary or other government facility, but may elect treatment by a private doctor. Time spent in obtaining examination and emergency treatment is under the control of management and will be

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considered compensable within the limits of scheduled regular and overtime duty. Such time shall be regarded as duty status and will not be charged or recorded as leave. Any scheduled overtime for the day will be neither reduced nor extended for purposes of the treatment. However, absences exceeding one day are chargeable to 45-day continuation of pay for traumatic injury cases, sick leave, or to LWOP if the employee elects to submit an immediate claim for compensation. Employees who are not returned to duty after examination or treatment will be:

(a) Carried in a pay status for the time spent in securing examination and emergency treatment to the extent of the scheduled regular or overtime tour in which the injury occurred.

(b) Carried in a pay status for the duration of the period required for examination and/or treatment, but not to exceed two hours, when the injury occurs during an unscheduled overtime tour of duty.

(4) Time required to obtain dispensary clearance on return from sick leave (see enclosure (3)). If the employee is not released for duty, any absence, including time spent at the dispensary, remains charged to leave.

(5) Special examinations, whether requested by the employee or by management, including those for a determination of physical qualifications for placement, continued employment, etc.

(6) To obtain corrective protective eyewear required in the Sight Conservation Program from the Base ophthalmologist.

i. Meetings of and with Employee Organizations. Reasonable time will be allowed employee organization representatives for discussion of applicable work situations. However, prior permission will be obtained from the appropriate supervisory officials for any such absence desired.

j. Tardiness and Unavoidable Absence. Under ordinary circumstances, occasional tardiness (absence at the beginning of the working day) may be excused. Brief absences from duty after reporting for work may also be excused when the reasons are justifiable to the supervisor. The time allowable for excused absences in these circumstances is that which is less than the established minimum charge for leave purposes (i.e., up to 59 minutes for employees who are charged leave in one hour increments and 29 minutes for employees charged leave in half-hour increments). In excessive cases, either may be charged to annual leave (if within the basic workweek), in which case, the employee may not be required to work during the period of annual leave. Tardiness or unavoidable absence, which has been excused or charged as leave, may not be a basis for disciplinary action. The proper action when tardiness is repetitive, or unexcused, is to initiate appropriate disciplinary action.

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k. Tests and Interviews

(1) Employees of the Marine Corps Recruit Depot and 12th Marine Corps District who compete in written or oral tests or who are interviewed, shall be excused without charge to leave or loss of pay when:

(a) Such tests or interviews are required under the Merit Promotion Program.

(b) The tests or interviews are conducted during regular working hours.

(c) The competition is for a position at Marine Corps Recruit Depot or 12th Marine Corps District.

(d) Employment interviews for employees under notice of separation or change to lower grade for any reason except personal cause may be granted excused absence for searches and interviews. Employees competing for positions within the Department of Defense may also be granted excused absence for merit placement interviews. This provision does not cover travel time to job searches and interviews outside the commuting area. See DepO 12630.4 for additional information.

(2) Civil Service Examination. Excused time for taking competitive civil service examinations will be granted only when the employee has been directed in writing by a representative of the Human Resources Office to submit to the examination. A copy of the letter will be attached to the employee's time card to substantiate the absence without charge to leave or loss of pay.

(3) Examinations for Converting Temporary Appointment Pending Establishment of Register (TAPER) Appointments of Career-Conditional. Employees will be excused, without charge to leave or loss of pay, to take examinations required to convert their TAPER appointments to career-conditional appointment.

1. Voting. Excused absence may be granted to permit an employee to report to work 3 hours after the polls open or leave work 3 hours before the polls close, whichever involves less time away from work. For example, if polls are open 6:30 a.m. to 6:30 p.m., an employee with duty hours of 9:00 a.m. to 5:30 p.m. may report to work at 9:30 a.m. The 30 minutes of excused absence would permit the employee to report to work 3 hours after the polls open.

m. In Connection with a Proposed Adverse Action. An employee may be excused from duty without charge to leave or loss of pay during the 30-day notice period of removal or indefinite suspension, when the

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circumstances are such that retention in an active duty status during the notice period may be injurious to the employee, fellow workers or the general public; may result in damage to government property, impede the efficiency of operations, or because the nature of the offense reflects unfavorable on DON. Excused absence should be used only after all other options, e.g., voluntary use of leave, reassignment, detail, etc., have been explored and found not feasible. Excused absence under these circumstances should be coordinated with the Human Resources Office prior to approval.

n. Administrative Excusals. The Commanding General reserves the authority to close all or part of the Base or to suspend any and all operations of the Base because of events that are beyond the control of management. A request for administrative excusal of civilian personnel of any department, other than emergencies, will have prior approval of the Commanding General. Such request will be made via the Chief of Staff. Administrative excusals which affect more than one employee would be made only after due consideration for the needs of the Command, and in the interest of the employees, and it must be administered as uniformly and consistently as possible. DOD regulation prohibits group dismissal that has the effect of creating a holiday.

NOTE: The above restriction applies to administrative excusals. Supervisors, at their own discretion, may employ a liberal leave policy during holidays, inclement weather, etc., keeping in mind due consideration for working requirements and that, in the interest of good morale, all employees should be treated as equitably as possible.

o. Permanent change of duty station (PCS). Employees authorized PCS within the Department of Defense may be granted excused absence before departing the old duty station and following arrival at the new duty station to accomplish personal tasks resulting from the move (i.e., to close or open personal bank accounts; obtain State driver's license or car tags). In similar situations, employees coming to the Department of Defense from other Federal Agencies may also be granted excused absence after the employee is placed on DoD's employment roll. This provision does not cover time involved in complying with PCS requirements such as obtaining passport and vaccinations, adhering to government housing authority requirements, or being present for packing and receiving of household goods. Accomplishing tasks that are conditional to the PCS is considered to be an official duty.

3. Physical Fitness or Exercise Programs. Excused absences for physical fitness or exercise programs are not appropriate.

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COURT LEAVE1. General Provisions

a. An employee's absence from duty for jury service or to serve as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party is entitled to "court leave". The court may be a state, Federal, or District of Columbia court. Municipal courts are considered state courts and military court martials are considered Federal courts for court leave purposes.

b. An employee who is summoned by a court for qualifying for jury service is entitled to court leave. Court leave will be granted only for those days or portion of days when an employee is qualifying or actually selected for jury duty. If an employee requests to be excused by the court for personal reasons, the employee must take appropriate leave; i.e., annual or sick leave. Normally an employee excused prior to 1100 will be expected to report to work for the balance of the business day. Employees excused after 1100 but prior to the end of their regular schedule day should contact their supervisor for instructions. An employee will report for work if required to telephone for instructions in lieu of appearing each day; telephone calls required shall be considered "official business" and will be made without charge to the employee. Federal civil service employees should make their status as employees of the Federal government known to the Court Clerk when first reporting for jury service or as witnesses on behalf of a state or local government. Federal civil service employees will utilize the time clock when reporting for jury service or as a witness on behalf of a state or local government. Unless an employees' work schedule is changed to a regular work week (40 hours per week), any employee who is required to report to jury service on their scheduled regular day off, will be considered to be in a non-duty status and overtime will not be paid.

c. The Marine Corps and Navy consider jury service a civil responsibility; therefore, release from jury service may be requested for an employee only in exceptional situations where the public interest would be better served by having the employee remain on the job; i.e., where the services are absolutely necessary to meet critical deadlines. In such cases, correspondence may be submitted via official channels to the Commanding Officer, Assistant Chief of Staff via the Human Resources Director, requesting that the Command direct a letter to the court explaining the facts in the case and requesting that the employee be released from jury service.

d. An employee who is summoned, or assigned by the employing agency to testify in an official capacity or to produce official records, is performing official duty and is not entitled to court leave but is entitled to their "regular" pay for the time involved.

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e. Court suits between private individuals or companies (employee-party, plaintiff or defendant) are not entitled to court leave. The proper charge in these cases is made to annual leave or LWOP.

f. When an employee has been called to give a deposition or summoned to testify in a case for the United States, District of Columbia, or a state or local government, the employee is a "witness" and is entitled to court leave for the time involved in giving a deposition or witnessing (not to include time testifying in the employee's own behalf). The time spent testifying on the employee's own behalf does not meet the requirement of having been summoned and a grant of court leave for that time is not appropriate.

2. Substantiation of Request for Court Leave. To be granted court leave, an employee must submit to the supervisor, upon receipt and notification, a true copy of the summons to report for qualifying jury or witness service. An eligible employee will be granted court leave for the entire period, from the date stated in the summons requiring the employee to report, to the time discharged by the court, regardless of the number of hours or days actually served on the jury.

a. The term of a jury service does not include the period the employee is excused or discharged by the court, either for an indefinite period subject to call by the court or for a definite period in excess of one day.

b. An employee on court leave will obtain from the Court Clerk a certification of their daily attendance as a juror or witness. The certification will be attached to the employee's leave slip and turned into their supervisor at the end of jury service or each pay period if the employee is on a jury. The employee's supervisor will forward the certification(s) and leave request(s) to the appropriate civilian payroll office for filing in the employee's payroll jacket.

3. Provisions Relating to Compensation and Fees - Jury Service. An employee on court leave for jury service in a Federal court may not receive a jury fee. An employee on court leave for jury service or as witnesses should collect all fees and turn them into the payroll office, per DOD FRM Volume 8, Chapter 5, paragraph 051710. If no fee is involved, an employee must obtain a written statement to that effect from the court. An employee may retain any sum paid to reimburse them for the cost of meals, mileage, transportation, etc.

4. Provisions Relating to Compensation and Fees - Witness Service

a. An employee who is summoned or assigned by the employing agency to testify in an official capacity or to produce official records is considered as being in an official duty status, and any necessary travel and per diem expenses are paid by the activity concerned.

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b. When an employee's appearance in court as a witness is on behalf of a private party and no government agency is involved, the absence from duty must be charged as either annual leave or LWOP, as appropriate. The employee is entitled in these circumstances to retain the usual fees and expenses provided by the court.

5. Following is a synopsis of the current instructions on absences of employees in connection with court or court-related services. Additionally, information concerning any right to (and retention of) fees for services rendered and right to payment for travel expenses also is indicated.

EMPLOYEE ABSENCES FOR COURT OR COURT RELATED SERVICES

<u>NATURE OF SERVICE:</u>	COURT LEAVE	OFFICIAL DUTY	ANNUAL LEAVE OR LWOP	TRAVEL PAY	RETAIN FEES
(a) Jury duty in a U.S. or D.C. Court	yes	no	no	no	no
(b) Jury duty in a State or Local Court	yes	no	no	no	no
(c) Witness on behalf of U.S. or D.C. government Agency	no	yes	no	yes	no
(d) Witness on behalf of State or Local Government:	XXXXX XXXXX	XXXXXXXX XXXXXXXX	XXXXXX XXXXXX	XXXX XXXX	XXXXXX XXXXXX
(1) In official capacity	no	yes	no	yes	no
(2) Not in official capacity	yes	no	no	no	no
(e) Witness on behalf of a private party:	XXXX XXXX	XXXXXXXX XXXXXXXX	XXXXX XXXXX	XXXX XXXX	XXXXXX XXXXXX

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(1) In official capacity	no	yes	no	yes	no
(2) Not in official capacity	no	no	yes	no	yes
(f) When a party is U.S., D.C., State, or Local Government	yes	no	no	no	no
(g) When a party is not U.S., D.C., State, or Local Government	no	no	yes	no	yes

MILITARY LEAVE

1. Policy. The DON extends full cooperation to all reserve components of the Armed Forces by granting leave of absence for training or active duty to civilian employees who are reservists.

2. Military Leave. Any full-time employee whose appointment is not limited to one year is entitled to military leave. Temporary employees are not entitled to military leave.

3. Types of Military Duty

a. 5 U.S.C. 6323(a) provides 15 calendar days per fiscal year for active duty, active duty training, and inactive duty performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training. Military leave under 5 U.S.C. 6323(a) is prorated for part-time training. Inactive Duty Training is authorized training career employees and employees on an uncommon tour of duty. An employee can carry over a maximum of 15 days into the next fiscal year. A maximum amount of military leave that can be carried over is 30 calendar days. Any amount of military leave over 30 calendar days is subject to forfeiture.

b. 5 U.S.C. 6323(b) provides 22 workdays per calendar year for emergency duty as ordered by the President or a State governor. This can be for law enforcement or the protection of life and property.

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

4. Types of Duty Not Covered. Employees may not be granted military leave for the following types of service:

a. Summer training as members of Reserve Officers Training Corps units of colleges or universities (employees must be carried in a LWOP status).

b. Temporary Coast Guard Reserve.

c. Participation in parades by members of State National Guard.

d. Training with a state guard or another state military organization which is not a part of the National Guard, or which was created to take the place of the National Guard during an emergency.

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- e. Weekly drills as a member of the D.C. National Guard.
- f. Civil Air Patrol.
- g. Time taken on a workday to travel to places of training (unless military orders encompass required travel time).

5. Advance Requests for Military Leave. All eligible employees requesting military leave will apply as far in advance as possible, but not later than one week from receipt of military orders or notification of leave period.

a. Substantiation. On return to duty from military leave, employees shall give their supervisor a certified copy of orders indicating completion of training duty for transmittal to the appropriate civilian payroll office.

b. Mandatory Approval of Leave Request. Upon request and submission of military orders, a reservist or member of the National Guard shall be granted annual leave or LWOP if the employee is not entitled to or has exhausted all military leave.

c. Annual Leave or LWOP in Circumstances Where Military Leave Cannot be Granted. Absence not chargeable to military leave may be charged to annual leave. Employees may be granted annual leave or LWOP for participation in military activities for which military leave is not allowable.

6. Restoration Following Military Leave. On conclusion of military leave, an employee shall be restored to the position held when ordered to military duty.

7. Accrual/Use of Military Leave

a. Military leave should be credited to a full-time employee on the basis of an 8-hour workday. The minimum charge to leave is one hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.

b. Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) will now be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves and/or National Guard are not charged military leave for weekends and holidays that occur within the period of military service.

c. A full-time employee working a 40-hour workweek will accrue 120 hours (15 days x 8 hours) of military leave in a fiscal year, or the equivalent of three 40-hour workweeks. As previously cited, military leave under 6323(a) will be prorated for part-time employees and for

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employees on uncommon tours of duty based proportionally on the number of hours in the employee's regularly scheduled biweekly pay period. An example is provided in paragraph 9 of this enclosure.

8. Effects on Civilian Pay

a. An employee's civilian pay remains the same for periods of military leave under 5 U.S.C. 6323(a) and (c), including any premium pay an employee would have received if not on military leave.

b. For military leave under 5 U.S.C. 6323(b), employee's civilian pay is reduced by the amount of military pay for the days of military leave.

c. However, an employee may choose not to take military leave and instead take annual leave in order to retain both civilian and military pay.

9. EXAMPLE:

Hours in the regularly scheduled biweekly pay period	Ratio of hours in the regularly scheduled pay period to an 80-hour pay period (the number of hours in the pay period ÷ 80)	Hours of military leave accrued each fiscal year	Pay Periods of military leave accrued each fiscal year
40	.5 (40 ÷ 80)	.5 x 120 = 60 hours	1.5 80-hour pay periods
106	1.325 (106 ÷ 80)	1.325 x 120 = 159 hours	1.5 106-hour pay periods
120	1.5 (120 ÷ 80)	1.5 x 120 = 180 hours	1.5 120-hour pay periods
144	1.8 (144 ÷ 80)	1.8 x 120 = 216 hours	1.5 144-hour pay periods

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HOLIDAYS1. Federal Legal Holidays

a. The following days have been designated as legal holidays and non-workdays for Federal employees:

HOLIDAY	DATE
New Year's Day	1 January
Martin Luther King Jr's Birthday	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	4 July
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	11 November
Thanksgiving Day	Fourth Thursday in November
Christmas Day	25 December

b. Employees shall not be charged leave for absence on any of the above holidays.

c. Unauthorized absence on a holiday (failure to report to work on a holiday when ordered to do so) shall be treated the same as any other unauthorized absence.

2. "In Lieu of" Holidays and Flexible or Compressed Work Schedules.

Except when a different "in lieu of" holiday is designated by an agency for a full-time employee on a compressed work schedule, full-time employees on flexible or compressed work schedules who are not scheduled to work on a holiday receive an "in lieu of" holiday on the preceding workday (see 5 U.S.C. 6103(b)). If the head of an agency determines that it is necessary to designate a different "in lieu of" holiday for full-time employees on compressed work schedules in order to prevent an "adverse agency impact," the agency may designate a different "in lieu of" holiday (see 5 U.S.C. 6103(d)). The agency designated "in lieu of" holiday must be within the same pay period as the date of the actual holiday under 5 U.S.C. 6103(a) or in the pay period immediately preceding or following that pay period.

3. Flexible Work Schedules. A full-time employee on a flexible work schedule is entitled to 8 hours of pay on a holiday when the employee does not work. A full-time employee on a flexible work schedule who is required to perform non-overtime work on a holiday may not receive more than 8 hours of holiday premium pay.

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4. Compressed Work Schedules. An employee on a compressed work schedule who does not work because of a holiday is paid his or her rate of basic pay for the number of hours of the compressed work schedule on the holiday. A full-time employee on a compressed work schedule who performs non-overtime work on a holiday is entitled to his or her rate of basic pay plus holiday premium pay for that work that is not in excess of the employee's compressed work schedule for that day. Compressed work schedules are fixed work schedules. Therefore, an employee on a compressed work schedule may not elect to move his or her non-workday to another day of the week.

5. State and Local Holidays. Individual employees desiring to observe such holidays must do so on approved annual leave or LWOP.

ENCLOSURE (11)