

Labor News & Views

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**Human Resources Service Center, Northwest
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LEAVE ADMINISTRATION

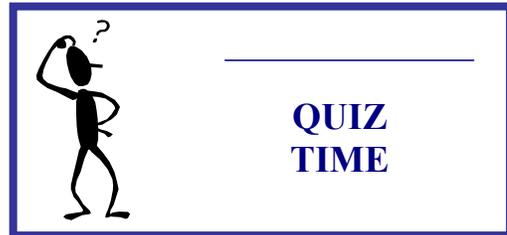
Annual Leave, Sick Leave, Leave Without Pay (LWOP) are the three major categories of leave available to civilian employees in the Department of the Navy. Over the years, a number of informal titles for types of leave have emerged, (i.e. traumatic leave, maternity/paternity leave, and family & medical leave). In reality all of these are one of, or a combination of, the above three categories.

As a supervisor of civilian employees you are responsible for administering leave in accordance with appropriate regulations. Your responsibilities, and the degree of discretion you have to approve or disapprove an employee's request varies. It depends greatly upon the category of leave being requested, and the reason behind such leave request.

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In each of the following cases, decide whether or not you must approve the employee's request for leave:

1. On Monday, the employee does not report for work and does not notify you, as required. On Tuesday, the employee reports to work, requesting sick leave for Monday and presents you with a statement from a physician indicating she was undergoing a routine medical examination on Monday.

2. In January 2000 your employee requests two (2) weeks annual leave for September 2000 to "Ski Sun Valley." You authorize the leave. The last week in August, you find out about a lengthy new report required by headquarters which is due on 30 September and will not get completed if the employee is gone as previously authorized. When you notify the employee of the situation, he says, "you can't disapprove my leave! I have spent \$1,000 on plane tickets and lodging reservations which is non-refundable."

3. On Tuesday, your employee does not report for work and does not notify you that day, as required. On Wednesday the employee reports to work, requesting sick leave for Tuesday and presents you with a statement from a physician indicating that he was incapacitated for work on Tuesday.

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4. On Monday morning, your employee calls and informs you that his doctor has ordered him to stay off work the entire week because of a back sprain. The following Monday, the employee returns to work and requests leave without pay (since he has no accrued sick leave) and presents a statement from a physician, indicating that he was incapacitated for work the entire week.

5. On Friday morning, you are handed a note indicating your employee called to report he had a personal emergency and would not be at work that day. Monday morning, he requests annual leave, indicating his personal emergency on Friday morning was due to his being in jail.

(You'll find the answers within our articles)

LEAVE ADMINISTRATION

(Cont from Page 1)

The passage of the 2000 Sick Leave for Family Care Purposes, the 1993 Family and Medical Leave Act, the Leave Sharing Amendment Act, and the Federal Employee Family Friendly Leave Act (FEFFLA) have significantly increased the complexities of leave administration and in certain situations decreased your discretion to disapprove employees' requests for leave. Understanding the basics of the three categories should help you in your day-to-day administration of your employee's leave.

To read about each category, go to the corresponding article. The reading will be a little dry but we'll try to do a little "application" through the use of the "Quiz Time" article. You'll find the answers in the corresponding article.

ANNUAL LEAVE

A. Employees are entitled to accrue annual leave at the rate of 4, 6 or 8 hours per pay period, dependent upon their length of creditable service.

B. Generally, employees are only allowed to carry over into the new leave year a maximum of 240 hours of annual leave. Leave earned in a leave year which would cause the employee's accumulated annual leave to exceed 240 hours is

referred to as "Use or Lose" or "Must" leave, and is so titled because if not used by the end of the leave year, it is forfeited.

C. Employees are entitled to use annual leave during the year in an amount such as to avoid forfeiture, but you have the discretion to determine when such leave will be used. The only exception to *when* is if annual leave is being taken under the Family & Medical Leave (FMLA). Thus in situations 2 and 5 of the QUIZ, approval of the annual leave requested is entirely at your discretion (*Word of Caution: You may win the battle but you'll probably have some unhappy campers on your hands unless you figure out another alternative in situation 2*).

D. You have joint responsibility with your employees to schedule their annual leave through the leave year in a manner such as to preclude their forfeiture of "must" leave.

SICK LEAVE

A. Employees are entitled to accrue sick leave at the rate of 4 hours per pay period, regardless of their length of creditable service.

B. There is no limit on the amount of sick leave an employee can carry over into the next leave year.

C. Employees are entitled by law to use sick leave when they are incapacitated for duty by illness or injury, provided that they produce administratively acceptable evidence of such incapacitation. If you accept the evidence provided by an employee as demonstration of their incapacitation, you must approve their sick leave, assuming they have accrued sick leave to use. Thus in situation #3, if you accept the medical certification provided as administratively acceptable evidence of his incapacitation, you must approve sick leave, even though he didn't comply with leave notification procedures. (This may be a good opportunity to counsel the employee regarding his responsibility to comply with leave notification procedures. If this is a continuing problem, you may consider discipline in order to correct the employee's behavior).

D. Employees are also entitled to use sick leave for medical and dental examinations and treatments. If such examination/treatment is routine (i.e., non-emergency) you may require the employee to reschedule, if the employee's absence at the time requested would preclude priority work from being accomplished. Thus, the answer to situation #1 is it's discretionary. You may disapprove the absence in this case since she did not have prior approval for her absence for a routine medical examination.



E. Under the Federal Employees Family Friendly Leave Act (FEFFLA), employees may use sick leave to provide care and attendance to some family members who are either incapacitated, or are undergoing medical/dental examination and treatment is an annual limit of 40 hours which may be used. The employee's obligation to provide administratively acceptable evidence and to reschedule routine exams if necessary is the same described in C and D above.

4. Under the 2000 Sick Leave for Family Care Purposes an employee may use a total of up to 12 administrative workweeks of accrued sick leave each year to care for a family member with a *serious health condition* (this isn't to be used when little Bobby has the flu). An employee is entitled to sick leave for family care, just as he or she is entitled to sick leave for his or her own incapacitation. If the employee complies with notification and medical evidence/certification requirements, sick leave must be granted. This new provision became effective June 20, 2000.

LEAVE WITHOUT PAY

A. Leave Without Pay (LWOP) is an authorized absence during which the employee receives no pay.

B. Except for LWOP requested under FMLA, employees have no entitlement to LWOP. Approval or disapproval is entirely discretionary. If

an employee is absent, and has insufficient accrued leave to cover the absence, you may disapprove the absence, charging the employee with Absent Without Leave (AWOL), regardless of how legitimate the reason is for the absence. Thus, the answer to situation #4 is, it's entirely at your discretion.

C. Many Naval activities restrict individual supervisor's authority to approve LWOP. If you are unsure of your authority in this regard, check your local command policy before acting on an employee's request.

Got Ideas? You can contact us at nwlabor_nw@nw.hroc.navy.mil. We would enjoy hearing your ideas for our newsletter.



WORKPLACE VIOLENCE

Workplace violence is one of those subjects that seem to get overcome by events until it becomes an event itself. Many organizations don't give a thought to workplace violence until unfortunate violent incidents catch them unprepared and devastate them first-hand.

Some agencies are able to identify the many faces of violence and defuse violent situations before they progress to the final stage. OPM has published a helpful and informative planning guide to help agencies deal with potential violence and minimize or avoid the effects of workplace violence. Here is an excerpt from that guide, which may be found in its entirety on the OPM home page (www.opm.gov).

Warning Signs of Violence

The first question many people ask is, "How can we identify potentially violent individuals?" it is understandable that people want to know this – and that "early warning signs" and "profiles" of potentially violent employees is in much of the literature on the subject of workplace violence. It would save time and solve problems if managers and could figure out ahead of time what behaviors

and personality traits are predictive of future violent actions.

Indicators of potentially violent behavior

No one can predict human behavior and there is no “specific profile” of a potentially dangerous individual. However, indicators of increased risk of violent behavior are available. These indicators have been identified by the Federal Bureau of Investigation’s (FBI) National Center for the Analysis of Violent Crime, profiling and Behavioral Assessment Unit in its analysis of past incidents of workplace violence. These are some of the indicators:

- ❑ Direct or veiled threats of harm;
- ❑ Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behavior;
- ❑ Numerous conflicts with supervisors and other employees;
- ❑ Bringing a weapon to the workplace, brandishing a weapon in the workplace, making inappropriate references to guns, or fascination with weapons;
- ❑ Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
- ❑ Statements indicating desperation (over family, financial, and other personal problems) to the point of contemplating suicide.
- ❑ Drug/alcohol abuse; and
- ❑ Extreme changes in behavior

Each of these behaviors is a clear sign that something is wrong. None should be ignored. By identifying the problem and dealing with it appropriately, managers may be able to prevent violence from happening. Some behaviors require immediate police or security involvement, others constitute actionable misconduct and require disciplinary action, and others indicate an immediate need for an Employee Assistance program referral.

On the other hand, it is seldom (if ever) advisable to rely on what are inappropriately referred to as “profiles” or “early warning signs” to predict violent

behavior. “Profiles” often suggest that people with certain characteristics, such as “loners” and “men in their forties,” are potentially violent. This kind of categorization will not help you to predict violence, and it can lead to unfair and destructive stereotyping of employees.

The same can be said of reliance on “early warning signs” that include descriptions of problem situations such as “in therapy,” “has had a death in the family,” “suffers from mental illness,” or “facing a RIF (reduction in force).” Everyone experiences stress, loss, or illness at some point in life. All but a very few people weather these storms without resorting to violence. Managers should, of course, be trained to deal with the kinds of difficulties mentioned here, such as bereavement or mental illness. However, this training should focus on supporting the employee in the workplace, and not in the context of, or on the potential for, workplace violence.

STAY TUNED

Can you discipline an employee for threatening someone? Look for our September-October issue where we’ll talk about this subject.

TRAINING OPPORTUNITIES		
Date	Class	Location
28 June	EEO Update	HRSC
29 June	MSPB Update	HRSC
10 July	Managing Employee’s Time	HRSC
11 July	Overview of ADR	HRSC
12 July	Handling Medical Problems	HRSC
13-14 July	Handling Problem Employees	HRSC
24-27 July	Introduction to Supervision	HRSC
If interested, contact Code 30 at HRSC at 315-8143		

THIS NEWSLETTER IS INTENDED TO PROVIDE GENERAL INFORMATION ABOUT THE MATTERS DISCUSSED. THEY ARE NOT LEGAL ADVICE OR LEGAL OPINIONS ON ANY SPECIFIC MATTERS. FOR FURTHER INFORMATION REFER TO YOUR HUMAN RESOURCES ADVISOR.

Special Section

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CIVILIAN EMPLOYEE SICK LEAVE REQUIREMENTS

I. Background.

With the passage of the 2000 Sick Leave for Family Care Purposes, the 1993 Family and Medical Leave Act, and the Federal Employee Family Friendly Leave Act (FEFFLA), the administration of sick leave for civilian employees has become somewhat more complex. Under the 2000 Sick Leave for Family Care, an employee may use a total of up to 12 administrative workweeks of accrued sick leave each year to care for a family member with a serious health condition such as birth of a newborn or a serious illness of the employee, spouse or other family member. FMLA provides employees who have completed at least 12 months of federal civilian service up to 12 administrative workweeks of unpaid, job-protected leave for purposes such as birth and care of newborn children, adoption/foster care, and serious illness of the employee or spouse and children. FEFFLA permits most employees to use up to 104 hours of sick leave per year to provide care for ailing family members and to attend the funeral of, and make arrangements necessitated by, the death of family members.

The purpose of this document is to provide the supervisor of civilian employees with a quick reference tool to use in determining the appropriate requirements for approval of sick leave. A good reference tool is the Office of Personnel Management (OPM) web site at www.opm.gov/oca/leave/index.htm. More complete guidelines are available from your Human Resources Office..

II. Instructions For Using the Table in Section IV.

Section III describes seven categories (A through G) of situations in which civilian employees may appropriately use accrued sick leave. For each of these categories, conditions/requirements for approval of sick leave may differ. To use the table, find the appropriate column (A through G) which relates to the situation for which the employee is requesting leave. Reading down the column, determine which conditions/requirements pertain to that situation. Additional assistance in administering sick leave for civilian employees may be obtained by contacting your servicing Human Resources Office (HRO).

NOTES:

1. Family member means the following relatives of the employee: (a) spouse and parents thereof; (b) children, including adopted children, and spouses thereof; (c) parents; (d) brothers and sisters, and spouses thereof; and (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
2. Health care provider means: (a) a licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated to conduct examinations under 5 CFR 630, Subpart L; (b) a person providing health services who is not a medical doctor, but who is certified by a State to provide the service in question; or (c) a Christian Science practitioner listed with the First Church of Christ Scientists, in Boston, Massachusetts.
3. Basic limit for full-time employees is 40 hours per leave year. An additional 64 hours may be used (total 104 hours per leave year) if the use of that leave does not cause the employee's accrued sick leave balance to drop below 80 hours. For information concerning part-time employees' limit, contact your servicing HRO.
4. Advance leave to an employee's account may not exceed 240 hours.
5. Advance leave may not be granted in excess of that which the employee is entitled to use in a leave year (see note 3). For example, if an employee has already used 30 hours of leave for this leave year, the amount of leave which could be advanced could not exceed 10 hours.

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6. Once approved as a leave recipient, the employee must exhausted all available sick and annual leave before using donated leave.
7. Medical certification for FMLA leave is very specific. If you are requesting medical certification, you should consult with your HRO.
8. Employees are limited to 12 weeks of accrued sick leave each year to care for a family member with a serious health condition under Sick Leave for Family Care Purposes. FMLA provides employees up to 12 weeks of unpaid leave. Specific certification may be requested so you may want to consult with your HRO when faced with this situation.
9. In extreme cases where extensive treatment is necessary, advance leave may be appropriate. You should consult with your HRO.

III. Situations In Which Sick Leave May Be Authorized.

- A. -- Receives medical, dental, or optical examination or treatment.
- B. -- Is incapacitated for performance of duties by physical or mental illness, injury, pregnancy, or childbirth.
- C. -- Provides care for family member (see note 1) who is either A or B (above).
- D. -- Provides care for family member (see note 1) who is suffering from a serious health condition.
- E. -- Makes arrangement necessitated by death of a family member (see note 1) or attends funeral of a family member.
- F. -- Would, as determined by Health Authority having jurisdiction, or health care provider (see note 2), jeopardize health of others due to exposure to communicable disease.
- G. -- Must be absent for reasons relating to adoption (not foster care) of a child, i.e., meeting with adoption agencies, social workers, and attorneys, court proceedings, etc.

IV. Table.

Condition/ Requirement	Situation						
	A	B	C	D	E	F	G
1. Annual limit on amount which can be used	No	No	Yes (note 3)	Yes (note 8)	Yes (note 3)	No	No
2. Advanced leave authorized?	No (note 9, 4)	Yes (note 4)	Yes (note 5)	Yes (note 4)	Yes (note 5)	No	Yes (note 4)
3. Supporting evidence may be required?	Yes	Yes (note 7)	Yes (note 7)	Yes (note 7)	Yes	Yes	Yes (note 7)
4. May donated leave be used?	Yes	Yes (note 6)	Yes (note 6)	Yes (note 6)	Yes (note 6)	No	No