



CHIEF OF THE NATIONAL GUARD BUREAU INSTRUCTION

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NATIONAL GUARD TECHNICIAN AND CIVILIAN PERSONNEL ABSENCE AND LEAVE PROGRAM

References: See Enclosure O.

1. Purpose.

a. Instruction. This instruction is composed of several volumes, each containing its own purpose. The purpose of the overall instruction is to establish policy and assign responsibilities regarding the National Guard (NG) Technician and Civilian Personnel Policy Division in accordance with (IAW) reference a through d.

b. Volume. This volume provides policy and assigns responsibilities for the National Guard Technician and Civilian Personnel Absence and Leave Program IAW references e through i.

2. Cancellation. This instruction rescinds and replaces Chief of the National Guard Bureau Instruction 1400.25 Volume 630, 06 August 2018, "National Guard Technician Absence and Leave Program."

3. Applicability. This instruction:

a. Applies to the NG of the 54 States, Territories, and District of Columbia, hereafter referred to collectively as "States," and to all NG employees. The term "NG employees" throughout this volume is defined IAW references a, b, and c as Title 32 military technician (dual status) excepted service employees and Title 5 NG excepted or competitive service employees within the States.

b. Does not apply to the civilian employees of the Office of the Chief of the National Guard Bureau, National Guard Bureau Joint Staff, Air National Guard Directorate, Army National Guard Directorate, and Directorate of Space Operations.

4. Policy. It is NGB policy that supervisors administer leave for employees consistently and fairly in compliance with this volume.

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5. Definitions. See Glossary.
6. Responsibilities. See Enclosure A.
7. Summary of Changes. This instruction is substantially revised.
8. Releasability. This instruction is approved for public release; distribution is unlimited. It is available at <[https:// www.ngbpmc.ng.mil](https://www.ngbpmc.ng.mil)>.
9. Effective Date. This instruction is effective upon publication and must be revised, reissued, canceled, or certified as current every five years.



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Enclosures:

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ENCLOSURE A

RESPONSIBILITIES

1. The Adjutants General (TAGs) and the Commanding General of the District of Columbia. TAGs and the Commanding General will:

a. Establish an Absence and Leave Program for their State, Territory, or the District of Columbia.

b. Ensure adequate planning to provide scheduled vacation periods and otherwise grant or direct the use of annual leave.

c. Establish the minimum charge for leave and the conditions under which leave will be advanced, restored, or forfeited.

d. Establish when leave requests will be submitted, when documentation is required, and what documentation is acceptable.

e. Establish and administer local procedures to permit the voluntary transfer of annual leave, which will allow an employee to participate in the Voluntary Leave Transfer Program (VLTP).

f. Establish, if necessary, and administer local procedures to permit the participation in the Voluntary Leave Bank Program.

g. Follow all applicable Federal laws, regulations, and guidance regarding the approval and management of administrative leave and excused absence.

ENCLOSURE B

STAFF FUNCTIONS

1. Human Resources Officers (HROs). HROs should:
 - a. Issue regulatory guidance and administer and publicize the Absence and Leave Program IAW all applicable Federal laws, regulations, and guidance.
 - b. Ensure their State Absence and Leave Program provides training and support to supervisors and managers on absence and leave requirements.
 - c. Use the Uniformed Services Employment and Reemployment Rights Act checklist to process employees Absent -- Uniformed Service (AUS) (formerly called Leave Without Pay [LWOP] -- Uniformed Service).
2. Human Resources Specialist. The Human Resources Specialist should:
 - a. Serve as program manager for the State Absence and Leave Program.
 - b. Provide advice, assistance, and training to commanders, managers, and supervisors on effective use of and participation in the program.
 - c. Provide training and orientation to all employees and military members regarding their State Absence and Leave Program.
3. Customer Service Representatives. Customer Service Representatives should establish a separate account for restored leave.
4. Employees. Employees are responsible for submitting their requests for leave (annual, sick, compensatory time--regular, compensatory time--travel, or time-off award) on Office of Personnel Management (OPM) Form 71, "Request for Leave or Approved Absence."

ENCLOSURE C

ANNUAL LEAVE

1. Annual Leave. Annual leave is absence with pay for personal and emergency purposes; it may be used by employees annually for vacations, rest and relaxation, and personal business or emergencies. Employees will receive a lump-sum payment for accumulated and accrued annual leave when they separate from Federal service or enter on active duty in the Armed Forces and elect to receive a lump-sum payment.

2. Annual Leave Earned. See Table 1 for annual leave accrual rates.

a. Full-Time. Full-time employees with less than three years of creditable Federal service earn four hours of annual leave per biweekly pay period. Full-time employees with three years but less than 15 years of creditable Federal service earn six hours of annual leave per biweekly pay period, with four additional hours in the last pay period. Full-time employees with 15 or more years of creditable Federal service earn eight hours per biweekly pay period. Employees must be employed for the full biweekly pay period to be entitled to accrue annual leave for that period.

b. Part-Time. Part-time employees with regularly scheduled tours of duty earn leave for the time they are in a pay status. Part-time employees with less than three years of creditable Federal service earn one hour for each 20 hours in a pay status. Part-time employees with three years but less than 15 years of creditable Federal service earn one hour of annual leave for each 13 hours in a pay status. Part-time employees with 15 or more years of creditable Federal service earn one hour of annual leave for each 10 hours in a pay status.

c. Pay Status. Hours in a pay status in excess of an activity's basic working hours (normally 80) in a pay period are disregarded in computing the leave earnings of a part-time employee.

d. Appointments. All full-time, part-time, permanent, indefinite, and temporary employees appointed to positions in excess of 90 days are entitled to annual leave. Temporary employees with an appointment of less than 90 days are entitled to annual leave only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90-day period of continuous employment, the employee is entitled to be credited with the leave that would have accrued during that period.

Employee Type	Less than Three Years of Service	Between Three and Fifteen Years of Service	Fifteen or More Years of Service
Full-time employees	½ day (4 hours) for each pay period	¾ day (6 hours) for each pay period, except 1¼ days (10 hours) in last pay period	1 day (8 hours) for each pay period
Part-time employees	1 hour for each 20 hours in a pay status	1 hour for each 13 hours in a pay status	1 hour for each 10 hours in a pay status
Uncommon tours of duty	(4 hours) times (average # of hours per biweekly pay period) divided by 80 = biweekly accrual rate	(6 hours) times (average # of hours per biweekly pay period) divided by 80 = biweekly accrual rate	(8 hours) times (average # of hours per biweekly pay period) divided by 80 = biweekly accrual rate

Table 1. Annual Leave Accrual Rates for Lengths of Service

3. Minimum Charge of Leave. Unless TAG establishes a minimum charge of less than one hour, or establishes a different minimum charge through negotiations, the minimum charge for leave is one hour, and additional charges are in multiples of one hour. Minimum charges of less than six minutes will not be established, IAW reference h.

4. Scheduling Annual Leave. Supervisors are responsible for approving all leave. The final date to schedule annual leave applies only to situations involving the possible forfeiture and restoration of annual leave. Annual leave should be scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year. Employees should be sure to schedule and use annual leave throughout the leave year and not wait until the end of the leave year to schedule it. If the employee forfeits annual leave because the supervisor did not approve the leave or request a determination that a public exigency exists, preventing the employee from using the leave, the supervisor's negligence constitutes administrative error and the employee's leave must be restored.

5. Supervisors' Request for Additional Information to Grant Annual Leave. Employees are not required to provide supervisors with an explanation for taking leave. However, the absence of such information may result in denial of leave based on project-related deadlines or workload of the agency.

6. Advanced Annual Leave. TAG has discretion to advance annual leave to an employee in an amount not to exceed the amount the employee would accrue within the leave year. An employee should not be advanced annual leave when

it is known (or reasonably expected) that the employee will not return to duty, for example, when the employee has applied for disability retirement. Employees who separate from Federal service are required to refund the amount of advance leave for which they are indebted, as appropriate. An employee separating from Federal service must repay any advance annual leave unless the separation is caused by death, disability retirement, or a disability that prevents the employee from returning to duty or continuing in the Service, and which is the basis of the separation, as determined by the HRO and based on medical evidence. The advanced leave of employees pending separation (such as employees on temporary appointments or whose retirement is planned) may not exceed the amount that can be repaid by accrual before their separation.

7. Forfeiture of “Use or Lose” Annual Leave. “Use or lose” is the amount of annual leave that is in excess of the maximum of 240 hours (30 days) accrued per year IAW section 6304 reference e. Excessive annual leave is forfeited if not used by the last day of the leave year.

8. Restoration of Forfeited Annual Leave. Leave forfeited through an administrative error, exigency of the public business, or sickness may be restored. For forfeited leave to be restored, the leave must have been requested, approved, and scheduled in writing before the start of the third biweekly pay period to the end of the leave year. TAGs determine administrative errors.

a. Exigency of the Public Business. A critical requirement such as an urgent need for the employee to be at work during a specific period when excess annual leave cannot be used, and leave was forfeited due to exigency of public business or sickness of the employee. Failure to use annual leave due to extended active duty is not considered an “exigency of the public business” for the purpose of restoring forfeited leave.

b. Sickness. A period of absence due to an employee’s sickness or injury that occurred later in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year.

9. Request for Restoration Application Procedures and Approval Authority. Unless specified by local policy, employees must request restoration of annual leave. Requests should be in writing with full justification that led to the loss of leave, and must be endorsed by the supervisor. Employees must attach all supporting documentation. Restoration of forfeited annual leave is delegated to TAGs, who may delegate this authority to the HRO. However, any official whose leave would be affected by the decision may not make the determination.

10. Separate Account for Restored Annual Leave. Restored annual leave must be credited to a separate leave account identifying the date of restoration, the date of forfeiture, the amount credited for use, the amount of usage, and the unused balance. A request to use restored annual leave is to be charged to the restored leave account. Employees are required to submit OPM Form 71, clearly indicating the amount of leave to be charged to the restored leave account.

11. Time Limit for Use of Restored Annual Leave. Restored annual leave must be scheduled and used not later than the end of the leave year ending two years after the date of restoration of the annual leave because of administrative error; the date fixed by TAG as the date of termination of the exigency of public business; or the date the employee is determined to be recovered from illness or injury and able to return to duty. Restored annual leave that is not used within the established time limits is forfeited with no further right to restoration. Administrative errors may not serve as the basis to extend the time limit. Guidelines may be developed locally for the use of restored leave. In the case of small amounts, supervisors may require that employees use the restored leave before using current leave accruals. In cases of large amounts of restored leave (more than five days), consideration should be given to prorate the use over the entire two-year limit, as warranted. Restored annual leave that is not used within the established time limit is forfeited with no further right to restoration.

12. Disposition of Annual Leave Upon Separation. Employees are entitled to receive a lump-sum payment for all accumulated and accrued annual leave upon separation from employment. If the employee leaves the NG to accept a position in another Federal agency, lump-sum payment of annual leave is not authorized. If the leave is transferable to the new position, it must be transferred. Employees may elect to receive a lump-sum payment for accumulated and accrued annual leave when entering active duty in the Armed Forces.

ENCLOSURE D

SICK LEAVE

1. Sick Leave. Sick leave is a paid absence from duty when an employee requires medical, dental, or optical examination or treatment; is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth; or is providing care for a family member. All employees (permanent or temporary) regardless of work schedule (full or part-time) are entitled to earn and are eligible to use sick leave. There are no limitations on the amount of sick leave that can be accumulated. See Table 2.

Sick Leave Options
Full-time employees earn four hours of sick leave for each biweekly pay period.
Part-time employees earn one hour of sick leave for each 20 hours in a pay status.
An employee is entitled to use up to 12 weeks (480 hours) of sick leave each leave year to provide care for a family member with a serious health condition.
An employee is entitled to use up to 13 days (104 hours) of sick leave for general family care (<u>including bereavement</u>) each leave year. If an employee previously used any portion of the 13 days of sick leave for general family care in a leave year, that amount must be subtracted 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, the employee cannot use an additional 13 days in the same leave year for general family care purposes.
An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for all family care purposes.

Table 2. Sick Leave Options

2. Granting Sick Leave. See Table 3 below.

Appropriate Reasons for Sick Leave
To receive medical, dental, or optical examination or treatment.
Incapacitation for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.
When the presence of the employee would jeopardize the health of others on the job because of exposure to a communicable disease, or as determined by the health authorities having jurisdiction or by a health care provider.
Any activities relating to adoption of a child, including appointments with social workers, adoption agencies, travel, court proceedings, etc.

Table 3. Appropriate Reasons for Sick Leave

3. Requesting Sick Leave. Medical documentation may be requested for absences in excess of three consecutive days. Medical documentation may be required for lesser periods when there is reason or evidence to believe that sick leave is being abused. Employees are required to request advance approval for sick leave to attend to a family member receiving medical, dental, or optical examination or treatment; to care for a sick family member or one with a serious health condition; for bereavement purposes; and for adoption-related proceedings; to the greatest extent possible under the circumstances.

a. TAGs will make the determination as to acceptable evidence, as provided in a locally developed and approved policy or collective bargaining agreement.

b. TAGs may consider an employee's self-certification as a reason for the absence as administratively acceptable evidence. An employee must provide administratively acceptable evidence or medical documentation within 15 days of the supervisor's request or as specified in a policy or collective bargaining agreement. If the employee is unable to provide the required document within the specified period, the sick leave may be denied. A supervisor may not request administratively acceptable evidence after the approval of sick leave, unless evidence was requested prior to approval, but was not readily available until a later date or the sick leave has not commenced.

c. When an employee requests sick leave to care for a family member (for family care or for bereavement purposes related to the death of a family member), the supervisor may require the employee to document his or her relationship with that family member. Published policy should establish consistent rules and follow the same documentation requirements for all relationships, but supervisors have the authority to request additional information in cases of suspected leave abuse.

4. Sick Leave During Other Absence. If, during annual leave, compensatory time, awarded time off, military leave, or Absent - Uniformed Service (AUS) circumstances arise that would entitle an employee to sick leave if the employee were in duty status -- such as personal illness or that of a dependent -- the employee is entitled to change of status to sick leave for the duration of those circumstances.

5. Minimum Charge for Sick Leave. The minimum charge of sick leave is six minutes, IAW reference i.

6. Advancement of Sick Leave. A maximum of 30 days (240 hours) of sick leave may be advanced to a permanent employee with a medical emergency, for purposes related to the adoption of a child, for family care or bereavement, or to care for a family member with a serious health condition. Sick leave may be advanced subject to the following conditions:

a. If the request is supported by a signed medical certificate, doctor statement, or other medical documentation.

b. If there is reasonable assurance the employee will return to duty to earn and repay advance sick leave. An employee separating from Federal service must repay any advance sick leave unless the separation is caused by death, disability retirement, or a disability that prevents the employee from returning to duty or continuing in the Service, and which is the basis of the separation as determined by the HRO and based on medical evidence.

7. Sick Leave Used in the Computation of an Annuity. Unused sick leave will be used in the calculation of an employee's or survivor's annuity based on retirement with an immediate annuity or on a death in service. Credit toward the annuity computation is based on the full sick leave balance at retirement or death.

8. Recredit of Sick Leave. An employee who has a break in service and returns to work for the Federal Government is entitled to the recredit of sick leave, regardless of the length of the break in service. However, sick leave may not be recredited if the employee was reemployed by the Federal Government before 02 December 1994, after a break of more than three years, or if the employee's sick leave was forfeited under the former regulation in effect at that time.

a. For a reemployed annuitant, any sick leave that is used in the computation of the employee's annuity is charged against the employee's sick leave account and cannot be used, transferred, or recredited in the future.

b. For a FERS employee who retired between 28 October 2009 and 31 December 2013, 50 percent of sick leave will be credited toward the employee's FERS annuity computation. If the employee returns to Federal service as a reemployed annuitant, the employee is entitled to the recredit of the remaining 50 percent of the sick leave.

c. For a Civil Service Retirement System employee, or a FERS employee who retires on or after 01 January 2014, 100 percent of the employee's sick leave will be used in the annuity computation; no sick leave will remain for recredit should the retiree later return to Federal service.

ENCLOSURE E

VOLUNTARY LEAVE TRANSFER PROGRAM

1. Voluntary Leave Transfer Program (VLTP). The VLTP allows employees who have medical or family medical emergencies to receive transferred annual leave from other Federal employees to avoid being placed in an LWOP status. All NG employees are eligible for VLTP as a recipient and as a donor. Only annual leave may be donated. A leave donor may donate no more than a total of one-half of the amount of annual leave entitled to accrue during the leave year in which the donation is made. Subpart I of reference f lists additional limitations. Transferred leave may not be transferred to another recipient. Immediate supervisors are prohibited from receiving donated leave from a subordinate employee.
2. Application Procedures. Employees applying to become a leave recipient must, at a minimum, complete OPM Form 630, "Application to Become a Leave Recipient Under the Voluntary Leave Transfer Program," and submit the form to their supervisor for review or approval. The employee must follow local procedures to apply as a leave recipient IAW reference f, including collective bargaining agreement procedures, when making a written request and submitting the necessary medical documentation.
3. Termination of Medical Emergency. The status of medical emergency affecting a leave recipient will terminate upon written notice from the employee that the medical emergency no longer exists; when the employee's Federal service is terminated; or at the end of the biweekly pay period in which the HRO receives approval notification from OPM of the employee's disability application.
4. Restoration of Transferred Leave. Any transferred annual leave remaining to the credit of the leave recipient when the medical emergency terminates will be restored to the leave donor(s) on a prorated basis to the extent administratively feasible IAW reference f.
5. Leave Transfer for Combat-Related Disability. An employee who sustains a combat-related disability while serving as a member of the Armed Forces and has been returned to duty status is permitted to receive donated leave to undergo medical treatment. The employee may receive donated annual leave without having to exhaust his or her available paid leave. A qualified leave recipient is eligible to receive donated annual leave under this provision for up to five years from the start of the employee's treatment, as long as the employee continues to undergo such medical treatment IAW reference f.

6. Donations from Other Agencies. The employing agency of the leave recipient must accept the transfer of annual leave from a donor employed in another agency if the leave donor is a family member of the leave recipient; if the leave recipient's employing agency determines the amount of annual leave donated within the agency may not be sufficient to meet the needs of the leave recipient; or, in the judgment of the leave recipient's employing agency, acceptance of leave transferred from another agency would further the purpose of the VLTP.

ENCLOSURE F

FAMILY MEDICAL LEAVE

1. Eligibility. All employees are eligible to use a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs IAW subpart 1 of reference f except intermittent employees (for example, a part-time employee who does not have an established regular tour of duty) and employees serving under a temporary appointment with a time limitation of one year or less. Eligible employees must have completed 12 months of civilian service with the Federal Government (not required to be 12 recent or consecutive months).

2. Leave Under Reference f. Employees will be entitled to a total of 12 administrative workweeks of LWOP during any 12-month period for one or more of the following reasons:

a. Birth of a son or daughter and care of the newborn.

b. Placement of a son or daughter for adoption or foster care (within one year after placement).

c. Care for a spouse, child, or parent with a serious health condition.

d. A serious health condition that renders the employee unable to perform the essential functions of his or her position. A serious health condition must require continuing treatment by, or under the supervision of, a health care provider.

3. Substitution of Paid Leave. An employee may elect to substitute paid time off for any or all of the period of leave IAW reference f.

a. Any of the following types of paid time off may be substituted: accrued or accumulated annual or sick leave, leave donated to the employee under the VLTP, compensatory time, compensatory time off for travel, and time off award.

b. A supervisor may not deny an employee's right to substitute paid time off for any or all of the periods of reference f.

c. A supervisor may not require an employee to substitute paid time off for any or all of the period IAW reference f.

4. Continued Employment after Family and Medical Leave. The HRO will ensure the continued employment of an employee for whom extended leave had been approved unless termination is otherwise required by expiration of appointment, by reduction-in-force, for cause, or for other reasons unrelated to the absence. The employee must be allowed to return to the same position formerly occupied.

5. Military Family Leave Provisions.

a. Qualifying Exigency Leave. NG employees who are the spouse, son, daughter, or parent of a military member may take up to 12 weeks of leave IAW reference f during any 12-month period to address the most common issues that arise when a military member is deployed to a foreign country, such as attending military-sponsored functions, making appropriate financial and legal arrangements, or arranging for alternative childcare.

b. Military Caregiver Leave. NG employees who are the spouse, son, daughter, parent, or next of kin of a covered Service member may take up to 26 weeks of leave IAW reference d during a single 12-month period to care for the Service member who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness incurred or aggravated in the line of duty while on active duty.

6. Granting and Requesting Family and Medical Leave.

a. Approval is generally delegated to the first-level supervisor. Leave under reference f must be requested by the employee using OPM Form 71.

b. An employee must provide notice of intent to take family and medical leave not less than 30 days before leave begins or, in emergencies, as soon as is practicable.

c. A supervisor may request medical certification for leave taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.

d. An employee must provide written medical certification within 15 calendar days after the date the agency requests such medical certification.

ENCLOSURE G

MILITARY LEAVE

1. Eligibility. A full-time NG employee whose appointment exceeds one year is entitled to military leave. Employees with a temporary appointment of one year or less are not entitled to military leave. Although an employee may serve longer than one year on a successive temporary appointment, there is no eligibility until the employee serves under an appointment of one year or more. Therefore, military leave applies to employees in tenure groups one, two, and three.

a. Employees are granted military leave that is appropriate whenever ordered to active duty, active duty for training, or inactive duty.

b. Military leave is chargeable in increments of one hour. Hourly increments are chargeable only to scheduled work hours. Up to 120 hours of military leave may be used for military duty during scheduled work hours.

2. Types of Military Leave. There are four types of military leave IAW reference j:

a. Military Leave IAW Reference j, Subparagraph (a)(1), 15 days (120 hours).

(1) Leave Accrual. Eligible permanent and indefinite employees may accrue, retain, and use 120 hours (15 days) of military leave as of the first day of hire. Thereafter, another 120 hours accrue on 01 October of each year.

(2) Carry-Over. Eligible employees may carry over up to 15 days (120 hours) of military leave into the next fiscal year (FY).

(3) Maximum Use. No more than 30 days (240 hours) of military leave may be used in any one FY.

(4) Eligibility. Military technicians (dual status) who perform Active Guard and Reserve duty IAW reference k, subparagraph d, for 180 consecutive days for the purpose of organizing, administering, recruiting, instructing, or training the Reserve Components IAW with reference l are ineligible for accrual and use of military leave from reference j. Active Guard and Reserve duty (references m, n, and o) is ineligible and the statutory definition of Active Guard and Reserve duty also includes but is not limited to the following full-time National Guard common duty type names; Air National Guard Statutory Tours (reference q), Army National Guard One Time Occasional Tour (reference p). Military leave eligibility must be re-evaluated with each order published. See Table 4.

(5) Exceptions. Certain types of military duty are excluded from Active Guard and Reserve duty IAW with reference c. Those duties are interdiction and counterdrug duty, U.S. Property and Fiscal Officer duty, duty performed as a general officer. Contingency operations are not Active Guard and Reserve duty. See Table 4.

Step	Decision Factor	If Yes	If No	Legal Definition
1	Is the order for 180 consecutive days or more?	See step 2	Eligible	10 U.S.C. 101(d)(6)
2	Is the order for military duty under section 316, 502, 503, 504, or 505 of Title 32, including any of the subsections?	Ineligible	See step 3	10 U.S.C. 101(d)(5)
3	Is the order for organizing, administering, recruiting, instructing, or training the Reserve Components?	See step 4	Eligible	10 U.S.C. 12310(a)(1)
4	Are you a general officer, U.S. Property and Fiscal Officer, or State Director of the Selective Service System?	Eligible	See step 5	10 U.S.C. 101(d)(6)(b)
5	Is the order for interdiction or counter-drug activities?	Eligible	See step 6	10 U.S.C. 101(d)(6)(b)
6	Are you serving on a Reserve Policy Board under 10 U.S.C. 10301?	Eligible	Ineligible	10 U.S.C. 10301
7	Are you still unclear?	Consult your local Human Resources Officer for guidance		

Table 4. Military Leave IAW Reference j, Subparagraph a

b. Military Leave IAW Reference j, Subparagraph b, 22 Days (176 Hours).

(1) Leave Accrual. Permanent and indefinite employees are entitled to 22 days of leave per year for national emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. For example, employees activated at the request of the Governor to provide security control and protection of our Nation's borders at local airports are entitled to the 22 days of military leave. When the President authorizes the Governors of the States and Territories to use NG forces to provide supplemental security personnel for airport operations, these Guard members are ordered to such

duty under subparagraph b and are assisting civil authorities in the protection of life and property.

(2) Military Leave. IAW reference j, subparagraph b, employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation are also authorized 22 days of military leave. This type of active duty may be performed inside or outside the continental United States.

(3) Charge to Leave. Employees may choose not to take military leave under reference i, subparagraph b, and instead take annual leave, compensatory time off for travel, or a time-off award in order to retain both civilian and military pay.

(4) Crediting Amounts of Pay Received. Military pay and allowances received (other than travel, transportation, or per diem allowance) will be credited against the employee's civilian pay and, if they are less than the civilian pay, the employee will be paid the difference. If military pay exceeds civilian pay, no civilian pay will be made.

c. Military Leave IAW Reference j, Subparagraph c. Military leave IAW reference j is a special provision for government employees of the District of Columbia who are members of the District of Columbia NG. If ordered to serve during a parade or encampment they are entitled to unlimited military leave for all days on which such duty is authorized IAW reference i.

d. Military Leave IAW Reference j, Subparagraph d, 44 days (352 hours). Title 5 employees, IAW reference j, are Not Eligible for 44 days of Military Leave. Military technicians are entitled to 44 additional workdays of military leave in a calendar year when on active duty without pay for participation in operations outside the United States, its Territories, and its possessions. The active duty order must cite references r and s to be eligible for this entitlement. Employees must be in either Federal active duty status or nonpay military status on each scheduled workday; however, the Service member will receive one military retirement point for each duty day served. While in this status, the employee continues to receive civilian pay and benefits. The 44 workdays are converted into hours and are charged on the same basis as annual leave.

3. 5-Day Excused Absence for Returning Activated Military Employees (Presidential Leave). Employees activated for military service in connection with a continuing Overseas Contingency Operation as well as any other current or future military operation deemed to be part of the Overseas Contingency Operation, or any other military operations subsequently established IAW reference t, are entitled to five workdays of excused absence without charge to leave.

- a. The employee must be deployed at least 42 consecutive days in support of the Overseas Contingency Operation.
- b. The employee is entitled to five days only, once in a 12-month period. Upon receiving notification from the employee of his or her intent to return to civilian duty, the supervisor must grant the employee five days of excused absence immediately prior to the employee's actual resumption of duties IAW references u, v, and w.
- c. Presidential leave provides employees five workdays, or the equivalent of one workweek of administrative leave, after a deployment of more than 42 days IAW references t, u, and v.
- d. To ensure consistency between the standard work schedule and the compressed work schedules (5/4/9s and 4/10s), all employees will receive no more or no less than 40 hours of excused absence IAW reference e. See Table 5.

Examples of Compressed Work Schedules -- Presidential Leave
<p>Example 1: An employee on the compressed work schedule of 5/4/9s. Week one is four nine-hour days, or 36 hours. Because the employee is obligated to report for work at the end of the fifth day, or complete 40 hours, on the following Monday the employee is required to use the remaining 4 hours immediately prior to returning to duty. At the end of the 40-hour Presidential leave, the employee may either report to duty or request to take personal accrued leave for the remainder of the nine-hour duty day.</p> <p>Example 2: An employee on the compressed work schedule of 5/4/9s. Week two is four nine-hour days and one eight-hour day, or 44 hours. The employee is entitled to 40 hours of Presidential leave. On the fifth day, the employee is required to use the remaining 4 hours immediately prior to returning to duty. At the end of the 40-hour Presidential leave, the employee may either report to duty or request to take personal accrued leave for the remainder of the eight-hour duty day.</p> <p>Example 3: An employee on the compressed work schedule of 4/10s, or 40 hours, will complete 40 hours of Presidential leave in four days.</p>

Table 5. Examples of Compressed Work Schedules -- Presidential Leave

ENCLOSURE H

LEAVE WITHOUT PAY/ABSENT - UNIFORMED SERVICE

1. Eligibility. LWOP is authorized by employers at their discretion. LWOP must be requested by the employee and approved by the supervisor. Employees are entitled to LWOP in the situations listed in Table 6.

ENTITLEMENT TO LWOP
To cover a disabled veteran's absence for medical treatment.
To cover a period of Absent-Uniformed Service (AUS).
To cover an absence under the provisions in Subpart L of reference f.
While receiving workers' compensation payments.

Table 6. Entitlement to LWOP

2. Approval Conditions of LWOP. As a basic condition to the approval of LWOP, there should be reasonable expectation the employee will return at the end of the approved period. See Table 7 for possible benefits to this condition.

BENEFITS
Increased job ability.
Retention of a desirable employee.
Protection or improvement of the employee's health.
Furtherance of a program of interest to the government.

Table 7. Benefits of Approving LWOP

3. Approval Considerations. LWOP granted to an employee may not, at a later time, be converted to annual or sick leave, except in disability retirement and employee workers' compensation cases in which claims are subsequently disallowed.

4. AUS. Process AUS for the performance of uniformed service IAW reference x. Employees in AUS status, whether in a pay or non-pay status, have reemployment rights IAW references y and z. See Table 8.

APPROVED TYPES OF LEAVE WHILE IN AUS STATUS
Accrued annual leave
Military leave
Compensatory time off (regular), which may be used prior to the effective date of the SF 50 for the AUS personnel action
Compensatory time off for travel
Sick leave (if appropriate)
Time-off awards

Table 8. Approved Types of Leave While in AUS Status

5. Use of Sick Leave While AUS. The request and approval of sick leave must be consistent with the statutory and regulatory criteria for using sick leave. The leave must be as a result of a situation that would establish usage approval IAW Enclosure D.

6. Military Leave While AUS. Eligible employees serving on active military duty that extends into a second or succeeding FY may accrue and use the 15 days of military leave that accrue at the beginning of the second FY and each succeeding FY.

ENCLOSURE I

OVERTIME WORK AND COMPENSATORY TIME

1. Overtime Work.

a. Overtime work is the performance of civilian duties in excess of a scheduled workday or a 40-hour workweek. Employees who perform this work receive overtime pay, compensatory time off, or compensatory time off for travel. Premium pay is the dollar value assigned to the overtime work for employees exempt from the provisions in reference aa.

b. Overtime must be strictly controlled and monitored by supervisors, managers, HROs, the Air National Guard Comptroller, and United States Property and Fiscal Officers so that total overtime worked remains within the budget set by the Army National Guard and Air National Guard.

c. The objective is to reduce the amount of paid overtime, ensure overtime is used only when necessary, and ensure employees are properly compensated for their efforts.

d. Title 5 employees who are Fair Labor Standards Act exempt are eligible for overtime pay for overtime work or compensatory time IAW references aa. Title 5 employees who are Fair Labor Standards Act non-exempt are entitled to overtime pay for overtime work, unless they elect compensatory time IAW reference bb. Military technicians (dual status) are authorized to earn and use compensatory time only IAW reference b.

2. Earning Compensatory Time Off. Compensatory time off from regularly scheduled work is accrued for ordered work or requested by the employee only in support of the activity, base, or unit missions. Requests should be in advance and must be approved by the supervisor. There is no limit on the maximum number of hours of compensatory time off an employee may accumulate.

a. Employees whose personal religious beliefs require abstention from work during certain periods may elect to engage in overtime work or work schedule adjustment for time lost to meet religious requirements.

b. Employees whose regular schedules include work on Sundays will receive premium pay IAW reference aa.

c. Military technicians are not entitled to receive a lump-sum payment for accumulated compensatory time off upon separation from Federal employment. Title 5 employees who earn compensatory time may receive a lump-sum payment of compensatory time at the overtime pay rate in which it was earned.

3. Restoration of Compensatory Time Off. The supervisor must ensure that an employee has an opportunity to use, rather than forfeit, compensatory time. A Title 5 employee who forfeits compensatory time, other than compensatory time for travel, due to an exigency of the Service beyond the employee's control (including failure by the supervisor to afford opportunity to use the time) shall be paid for the forfeited time IAW OPM standards. A Title 32 employee who forfeits compensatory time, other than compensatory time for travel, is not entitled to payment for or restoration of the forfeited time.

4. Compensatory Time Off for Travel. Compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable IAW reference aa or bb.

a. Creditable travel must be for work purposes and must be approved by an authorized State official. For the purpose of compensatory time off for travel, time in a travel status includes:

(1) Time spent traveling between the official duty station and a temporary duty station.

(2) Time spent traveling between two temporary duty stations.

(3) The "usual waiting time" that precedes or interrupts such travel (for example, waiting at an airport or train station prior to departure). The State has the sole and exclusive discretion to determine what is creditable as "usual waiting time." An "extended" waiting period -- for example, an unusually long wait during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes -- is not considered time in a travel status.

5. Commuting Time. For the purpose of crediting commuting time:

a. Travel outside of regular working hours between an employee's home and a temporary duty station or transportation terminal outside the limits of the employee's official duty station is considered creditable travel time. However, the State must deduct the employee's normal home-to-work and work-to-home commuting time from the creditable travel time.

b. Travel outside of regular working hours between a worksite and a transportation terminal is creditable travel time, and no commuting time offset applies.

c. Travel outside of regular working hours to or from a transportation terminal within the limits of the employee's official duty station is considered equivalent to commuting time and is not creditable travel time.

6. Forfeiture.

a. Military Technicians Forfeit Compensatory Time and Compensatory Time Off for Travel:

- (1) If not used by the end of the 26th pay period after the pay period during which it was earned.
- (2) Upon voluntary transfer to another State.
- (3) Upon movement to a non-covered position.
- (4) Upon separation from the Federal Government.

b. Fair Labor Standards Act Nonexempt and Exempt Title 5 Employees do Not Forfeit Compensatory Time Off, but Receive a Lump-Sum Payment of Compensatory Time at the Overtime Pay Rate in which it was Earned. This occurs:

- (1) If not used by the end of the 26th pay period after the pay period during which it was earned.
- (2) Upon voluntary transfer to another State.
- (3) Upon movement to a non-covered position.
- (4) Upon separation from the Federal Government.

c. Under no circumstances may an employee receive payment for unused compensatory time off for travel.

7. Limitations and Restrictions. There is no limit on the amount of compensatory time off for travel an employee may earn. Travel performed within the regularly scheduled duty hours on a holiday or a day designated as "in lieu of holiday" is not earned compensatory time. Required travel within regularly scheduled duty hours on a holiday will be compensated by premium pay IAW reference cc. Premium pay is limited to the maximum biweekly rate payable for a General Schedule 15 including locality. Employee's may exceed the maximum biweekly rate payable for emergencies IAW section 5547 of reference aa, but may not exceed the maximum annual rate of basic pay payable for a General Schedule 15 including locality.

8. Overtime Work Controls. Requests for overtime and compensatory time must be made in advance unless the situation is such that prior approval cannot be obtained. The Automated Time and Attendance Production System is the authorized system of record for requests. The requesting employee's

supervisor will contact the immediate supervisor for telephonic approval of overtime work if system approval cannot be obtained in advance.

a. All overtime work requests must clearly justify the reason work involved could not be performed during regular working hours.

b. Annual leave or compensatory time taken will not be used during the same workweek as overtime work except during periods of severe workload requirements or other unavoidable circumstances. In such cases, the overtime request must be annotated with the reason for making the exception.

c. Employees must use compensatory time earned prior to annual leave except when the annual leave is designated as “use or lose.”

d. Computation and certification of overtime work must be completed at the conclusion of the overtime in the Automated Time and Attendance Production System. Each workweek requires a new request. Document certified time on the standard labor sheet for the payroll office concerned.

9. Overtime Work on Holidays. Employees are entitled to overtime pay or earn compensatory time, when applicable, if the agency requires overtime work on a holiday.

a. Standard (40-Hour/Five-Day Week) Work Schedules. Overtime work on a holiday is work in excess of eight hours in a day or 40 hours in a week. This also applies to part-time employees.

b. Compressed Work Schedules. Overtime work on a holiday for an employee under a compressed work schedule is hours of work in excess of the employee’s compressed work schedule (for example, 5/4/9, or 10-hour “basic work requirement”) on that day IAW references aa through ee.

c. Flexible Work Schedules. Overtime work on a holiday for employees under flexible work schedules is work in excess of 8 hours in a day or 40 hours in a week that is officially ordered in advance IAW paragraph 6 in Section 6121 of reference dd.

d. Ordered or Approved Overtime. Overtime work must generally be ordered or approved. However, employees who are covered by the overtime pay provisions IAW references aa and bb are also entitled to overtime pay if overtime work is “suffered or permitted” by a supervisor. No “suffered and permitted” hours of work can be credited to employees under flexible work schedules IAW paragraph 6 in Section 6121 of reference dd.

ENCLOSURE J

FUNERAL HONORS DUTY STATUS

1. Use of Military Technicians. Military technicians may be used to administer, plan, train, and prepare details to perform military funeral honors (MFH) IAW reference ff. Employees may volunteer to perform MFH but must be placed in an inactive duty training (IDT) status or State Active Duty (SAD) status. Employees must be in an appropriate leave status while on IDT (annual leave, compensatory time off, Absent-Uniformed Service, or hourly military leave IAW reference j and while on SAD [annual leave, compensatory time off, or LWOP]). Chapter 15 of reference x provides guidance on processing personnel actions, if necessary.

2. Funeral Honors Duty Status While on IDT. To receive a retirement point credit, the employee may use additional Unit Training Assembly training days to perform funeral honors. To receive the retirement point credit, the employee must be in a “funeral honors duty” status for at least two hours. Funeral honors duty may not be performed by employees who are on military active duty IAW reference ff, subparagraph 502(f), or in a regularly scheduled IDT period. Employees may perform MFH duty and collect the Federal \$50 stipend while in an annual leave, compensatory leave, or LWOP status. To receive the \$50 stipend, the employee must be in a funeral honors duty status for at least two hours.

3. Funeral Honors Duty Status While on Excused Absence. Military technicians may perform MFH duty while in an excused absence status.

a. Excused absence for the purpose of MFH may be granted to cover each period of travel to and from the burial site and the performance of funeral honors. The number of instances of excused absence granted for funeral honors duty will be determined by TAGs IAW reference e.

b. Employees on excused absence and in a funeral honors duty status may be reimbursed for travel and transportation incurred, if such duty is performed at a location 50 miles or more from the member’s residence.

4. Funeral Honors Duty Status While on SAD. Employees may be granted annual leave, compensatory time off, or LWOP to perform MFH duty while in a SAD status. Military leave (120 hours), IAW reference j, may not be used while on SAD.

a. TAGs determine leave granted for MFH. Leave for this purpose may be granted only to cover each period of travel to and from the burial site and the performance of the funeral honors.

b. The Federal \$50 stipend, travel and transportation reimbursement, and retirement point credit are not available to employees performing MFH in SAD status.

c. The use of annual training or active duty for training status is specifically prohibited to support MFH for veterans IAW references ff and gg.

ENCLOSURE K

OTHER PAID LEAVE AND ABSENCE WITHOUT LEAVE

1. Administrative Leave. Administrative leave is authorized at the discretion of the agency under section 6323a of reference e. The authority to grant administrative leave to employees is within the administrative discretion of the TAG when a determination to support an activity would benefit the NG. Administrative leave is granted sparingly. This authority may not be used in situations of extensive duration, or for periods of interrupted or suspended operations, such as ordinarily would be covered by the scheduling of leave, furlough, or the assignment of other work.

2. Administrative Leave with TAG Approval.

a. Volunteer Activities. Administrative leave may be granted to employees participating in management-sponsored volunteer projects (for example, education mentorship or tutoring programs). This provision does not apply to time spent on volunteer activities not sponsored by management. Volunteer activity not sponsored by management may be promoted through established leave programs and the flexibility offered through alternative work schedules.

b. Conferences and Conventions. In rare circumstances, employees may be excused to attend a conference or convention when it is determined that attendance directly relates to the mission of the NG. The NG may find it beneficial to participate in conferences hosted by non-Department of Defense organizations at NG expense. This type of participation includes NG employees attending (including speakers, presenters, or panel members), NG-provided exhibits, and logistical support. Individual travel is approved locally, but attendance at these conferences is approved IAW reference hh. Administrative leave will not be granted to attend National Guard Association of the United States conferences unless the employee is an official delegate or an official of the organization.

c. Absences for Permanent Change of Station. An employee may be excused for a reasonable time to make personal arrangements and transfer personal business directly related to a permanent change of station that is in the interest of the Government, provided such business or arrangements cannot be transacted outside the employee's regular working hours.

3. Administrative Leave With Supervisor Approval.

a. Blood Donation. Employees are encouraged to serve as blood donors and will be excused from work without charging leave only for time necessary to donate blood, recuperation following blood donation, and necessary travel time to and from the donation site. The maximum excused time will not exceed four hours on the date of the blood donation.

b. Registration and Voting. Employees may be excused for a reasonable time to vote or register in Federal, State, county, or municipal elections. Generally, employees are excused from duty to permit them to report for work three hours after the polls open or to leave work three hours before the polls close, whichever results in the lesser amount of time off.

c. Physical Examinations. For physical examinations that are required as a condition of employment in the NG, employees may be excused, without charge to leave or loss of pay, for periodic, baseline, or annual physical examinations as required by the military commander, HRO, or safety officer when driven by military necessity.

d. Continuation of Pay- Federal Employees' Compensation Act. When an employee sustains a traumatic job-related injury and has an approved workers' compensation claim, the employing State is required to continue the employee's pay for the period of disability, not to exceed 45 calendar days. Continuation of pay is chargeable as excused absence.

e. Employee Interviews. An employee may be excused for a job interview when competition is for a position within the NG or the individual is under notice of separation or change to lower grade for any reason except for personal cause. All other employment interviews will be charged to annual leave, compensatory time off, or LWOP.

f. Employee Assistance Program. An employee is entitled to an administrative leave for the time required for participating in initial counseling and assessment in the Employee Assistance Program. If the employee is referred for treatment or assistance, the employee must be in an appropriate leave status.

g. Tardiness and Brief Absences. Tardiness and brief absences (less than one hour) may be excused with justification.

4. Bone Marrow or Organ Donor Excused Absence. An employee is entitled to an excused absence for the time necessary to serve as a bone marrow or organ donor IAW section 6327 of reference e. An excused absence for bone marrow donation may not exceed seven days each calendar year. An excused absence for organ donation may not exceed 30 days each calendar year.

5. Absence Without Leave (AWOL). Pay is denied for the entire period of absence. If the absence is determined excusable, the AWOL may be changed to a proper leave status. The minimum charge of AWOL is six minutes. Smaller increments are not authorized.

a. If an employee is unavoidably absent or tardy for less than one-half hour for a reason that is acceptable to the supervisor, the employee may be excused without charge to leave. On the other hand, the supervisor may decide not to excuse the absence, and may charge the employee AWOL or approve an employee's request for leave to cover the absence.

b. When an employee is charged leave for an unauthorized absence or tardiness, the supervisor may not require the individual to perform work for any part of the leave period charged against the leave account.

c. If circumstances warrant, the supervisor can change the charge from AWOL to annual leave, sick leave, or LWOP.

6. Supervisor Determination. Supervisors, upon consultation with the HRO, must determine whether the circumstances warrant a change to approved leave.

7. Disciplinary Actions. Incidents of unauthorized absence may require disciplinary action IAW references ii or jj; therefore, supervisors must determine whether disciplinary or adverse action is appropriate. Supervisors should consult with the HRO regarding the need for disciplinary actions.

8. Official Time for Representing Labor Organizations. Refer to the local collective bargaining agreements. In accordance with reference kk, the records authorized taxpayer funded union time. The time card codes for documenting union representation activities or union training are:

a. BA -- Term Negotiations. Used to prepare for and negotiate a basic collective bargaining agreement or its successor.

b. BB -- Mid-Term Negotiations. Used to bargain over issues raised during the life of a term agreement.

c. BD -- General Labor-Management Relations. Used for meetings between labor and management officials to discuss general conditions of employment, labor and management committee meetings, labor training for union representatives, and investigative interviews.

d. BK -- Dispute Resolution. Used to process grievances up to and including arbitrations and process appeals of bargaining unit employees.

9. Disabled Veteran Leave. An employee who is a veteran with a qualifying service-connected disability of 30 percent or more is entitled to disabled veteran leave IAW subpart m of reference f, which will be available for use during the 12-month eligibility period beginning on the first day of employment for care related to the service connected disability.

a. The employee must provide documentation from the Veteran's Benefit Administration upon the first date of employment or change in rating during the 12 month eligibility period.

b. Eligible full-time employees receive 104 hours of disabled veteran leave effective the first date of employment. Part-time employees receive a prorated amount IAW subpart m of reference f. Disabled Veteran Leave is offset by the number of sick leave hours available on the first day of employment.

c. For each employee, there is a single first day of employment. The first date of employment is; the earliest date an employee is hired after the effective date of the employee's qualifying service-connected disability, as determined by the Veterans Benefits Administration or the effective date of the employee's qualifying service-connected disability rating change to 30 or more percent, as determined by the Veterans Benefits Administration.

ENCLOSURE L

WEATHER AND SAFETY LEAVE, FEDERAL HOLIDAYS, AND COURT LEAVE

1. Weather and Safety Leave. Weather and Safety Leave is excused absence when weather or other safety-related conditions prevent employees from safely traveling to or safely performing work at an approved location due to an act of God, terrorist attack, or other applicable condition. All employees are eligible for excused absence during closing, except individuals who have been identified as emergency employees and those participating in the telework program. TAGs, air commanders, chiefs of staff, or division, regiment, group commander, or brigade administrative officers will identify essential personnel, based on specific mission requirements. Section 6323a of reference e addresses situations in which commanders may authorize weather and safety leave for closure of all or part of an activity.
2. Facility Closures. It is within the administrative discretion of TAG to authorize excused absence at closed facilities when circumstances warrant such action. The most common use of this authority is in response to severe weather; however, other circumstances may arise which justify closures.
3. Severe Weather. Severe weather may cause closings or adjustments of arrival or dismissal times. In such circumstances, the Federal workforce will follow the State's designated work schedule for severe weather, as communicated by local area media. These situations are considered excused absences under weather and safety leave and there is no charge to leave. This policy excludes emergency employees and those participating in the telework program unless properly excused by competent authority.
 - a. Severe weather does not necessitate administrative closing. Employees with supervisor approval may use any form of appropriate leave when they are prevented from arriving to work on time, need to leave early to avoid hazardous conditions, or could not return home if they report to work.
 - b. At the employee's request, supervisors will work with the employee to allow them to make up for missed time, if reasonable. The supervisor may reschedule the amount of time missed and will grant compensatory time for the time made up. This should be accomplished in the same pay period if possible.
4. Federal Holiday Pay. All employees are entitled to receive basic pay for the regular work hours that fall on a holiday when in a paid status the workday before or after the holiday. Workday means the entire period of regular work hours between the commencement of the principal activities that an employee is engaged to perform on a given day, and the cessation of the principal activities for that day. All employees who are required to work on holidays as part of their regular work hours are entitled to holiday premium pay. Overtime

work on a holiday will not exceed eight hours of overtime pay or compensatory time off. Table 9 lists public holidays for Federal employees IAW reference e. Only the President, by executive order, or Congress, through passage of a law, can create a Federal holiday. State holidays do not apply to Federal employees. Any technician absent from work on a State (not Federal) holiday must be in an approved leave status. Neither excused absence nor administrative leave are appropriate leave statuses for State holidays.

FEDERAL HOLIDAYS
New Year's Day -- First day of January
Martin Luther King Day -- Third Monday in January
Washington's Birthday -- Third Monday in February
Memorial Day -- Last Monday in May
Independence Day -- Fourth day of July
Labor Day -- First Monday of September
Columbus Day -- Second Monday of October
Veterans Day -- Eleventh day of November
Thanksgiving Day -- Fourth Thursday of November
Christmas Day -- Twenty-fifth day of December
Any other day designated a holiday by Federal statute or Executive Order

Table 9. Federal Holidays

5. In Lieu of Holiday. When a holiday falls on the employee's first non-workday (Saturday), the preceding workday is designated the "in lieu of" holiday. When the holiday falls on the second non-workday (Sunday) or third (Monday) non-workday, the next workday is designated the "in lieu of" holiday.

a. Employees receive their basic pay for holidays they are not required to work. When the activity is closed on a Friday or Monday because of a holiday falling on a Saturday or Sunday, such closed days are not considered holidays in determining holiday benefits for part-time employees, but these employees may be excused without charge to leave for such days.

b. If an employee works on a holiday that falls on a regular workday as part of their regular hours of work, or a holiday that falls on a day designated as "in lieu of holiday," the employee is paid at twice the regular rate for not more than the number of hours in the employee's regularly scheduled tour of duty. If the employee is required to work more than the number of hours in the regularly scheduled hours of work, that employee is authorized overtime work for all additional hours worked above the regularly scheduled tour of duty.

c. TAGs may prescribe rules under which a different "in lieu of" holiday is designated than would be required to prevent an adverse State impact. Full-time employees on a compressed work schedule will work with their supervisor to determine an "in lieu of" holiday, or follow terms in their State Collective Bargaining Agreement.

6. Two Holidays in One Pay Period. Occasionally, two holidays will fall within the same pay period. A full-time employee on a flexible work schedule is entitled to eight hours of pay on a holiday when the employee does not work IAW section 6124 of reference v. Therefore, HROs, timekeepers, and supervisors must be diligent to understand the potential impact of holidays on the agencies' and employees' schedule. There is no authority to establish hybrid work schedules that borrow selectively from the authority for flexible work schedules and the authority for compressed work schedules in an effort to provide unauthorized benefits for employees or agencies.

7. Jury Duty. Court leave for jury duty is granted to both permanent and temporary employees, both full-time and part-time, except those employed intermittently. Court leave is an authorized absence, without charge to leave or loss of pay, of an employee for jury duty or for attending judicial proceedings in a non-official capacity as a witness on behalf of any party in any matter to which the U.S., State, or local government is a party.

a. Employees who are under proper summons from a court should be granted leave of absence with pay for the entire period of court service, regardless of the number of hours per day or days per week served during the period. Supervisors may require an employee entitled to court leave to return to duty or be charged with annual leave, compensatory leave, or LWOP if he or she is excused from court service for one day or even a substantial part of the day. The employee may not, however, be required to return to duty if it would create a hardship.

b. Employees must forward fees collected to their payroll office. The employee is permitted to keep travel and per diem allowance for each day's attendance in court. Failure to forward fees collected will result in a charge to leave for the days covered by the fee payment. The employee may keep any fees earned on non-work days.

8. Evidence of Court Service. A copy of orders, subpoenas, summons, or the official request to appear in court will be presented to the supervisor as far in advance of the court date as possible. Upon return to duty, the employee will submit evidence from the court reflecting dates of attendance in court.

9. Witness in Official Capacity. When an employee is assigned by the State or summoned to testify in an official capacity or to produce official records, the employee is in an official duty status and entitled to regular compensation without regard to any entitlement to court leave. If the U.S., State, or local government is a party in the judicial proceedings, court leave is appropriate regardless of whether the employee testifies on behalf of the government or a private party. When subpoenaed to testify in an official capacity, or about government information, the witness must promptly alert the servicing legal office for guidance. Frequently subpoenas are not compliant with the law and

the official information may be obtained through less intrusive means (for example, a Defense Finance and Accounting Service records request). The servicing legal office must review all requests for legal sufficiency to ensure witnesses testify in accordance with applicable litigation regulations, and that subpoenas are compliant with applicable law, before authorizing the request. When the U.S., State, or local government is not a party in the judicial proceedings, annual leave, earned compensatory time off, earned compensatory time off for travel, or LWOP is appropriate.

ENCLOSURE M

MISCELLANEOUS LEAVE CATEGORIES

1. SAD. Military technicians and Title 5 employees who are required to perform SAD may elect any of the following types of leave to cover their absence: annual leave, compensatory time off, LWOP, or the 22 days' leave IAW reference c. Military leave (120 hours) IAW reference c, subparagraph a, may not be used while on SAD.

a. Leave IAW reference c, subparagraph b, is limited to 22 workdays in a calendar year. This leave may be used only when the employee is actually performing emergency duties, providing other assistance to civil authorities (participating in rescue work, firefighting, or performing duties in support of a contingency operation).

b. Dual compensation rules dictate that any employee who performs SAD be required to take a full day of leave for each day of such service, even if the SAD functions are performed after the normal employee working hours. The only exception to this requirement occurs when the employee first learns of the necessity to perform SAD during a workday. In this circumstance, the employee will be required to take leave only for the hours absent from work for the remainder of that day. Employees will be required to take a full day of leave for each subsequent day of SAD. There is no charge of leave when SAD is performed on non-workdays or holidays.

2. Full-Time NG Duty-Operational Support. Employees may volunteer to or involuntarily be placed on Full Time National Guard Duty-Operational Support, Military Personnel Authorization man-days, and active duty for operational support (ADOS) orders, subject to TAG approval. References j and z list the appropriate types of leave that may be used while performing military duty. Military leave is authorized if the tour of duty is less than 180 days IAW references b and j. Employees performing uniformed service may not be granted administrative leave.

3. Enforced Leave. Excused absence or administrative leave is not an entitlement, and supervisors are not required to grant it. In rare circumstances when the agency has legitimate concerns that an employee's condition makes the continued presence in the workplace dangerous or inappropriate, a supervisor may place the employee in a enforced leave status pending a determination that the employee is ready, willing, and able to work. The agency must have documentation sufficient to prove that its action was justified, and the employee may have the right to grieve or appeal the action taken. Obtaining an employee's agreement to take sick leave, annual leave, or leave without pay is preferable, but in some circumstances, a supervisor may require an employee to use his or her sick or annual leave or place an employee

in a leave without pay status pending an inquiry. Table 10 lists three examples that illustrate this management right.

Management Right to Require an Employee to Leave a Worksite
1. An employee reports to work without required safety equipment. At that point, the employee is not ready, willing, and able to perform assigned duties.
2. An employee appears for work in what the supervisor reasonably determines to be an unsafe state. Attempts to have the employee explain the condition are unsuccessful. The supervisor determines that the employee's continued presence creates an immediate threat to government property, the employee, or coworkers. The supervisor affords the employee an option of being taken home, being taken to a family physician, or having a family member called. If he or she refuses to choose, or is unable to choose, the supervisor selects the best alternative.
3. An employee is in a rage, disrupting the entire shop (throwing objects, insubordinate, and cursing). Attempts to calm the employee are disregarded. The supervisor determines the employee's continued presence would be highly undesirable.

Table 10. Examples of Management Right to Require Enforced Leave

a. In all cases, management has the right to place the employee on enforced leave for one duty day. The next duty day, the employee is responsible for contacting his or her supervisor to indicate whether he or she is ready, willing, and able to perform assigned duties in an orderly and professional manner. If the employee indicates readiness to return to work, he or she will be allowed to return to the worksite.

b. If the employee indicates that he or she is not ready, willing, or able to return to the worksite, the supervisor should advise the employee that he or she is making a voluntary decision to not return to work. The employee may request to be placed on unscheduled personal leave. The supervisor will ask the employee which personal accrued leave (annual leave, or sick leave, if appropriate; leave without pay; time-off award; or compensatory time) status the employee wants to be placed in.

c. If the employee fails to report to work on the next scheduled duty day, he or she will be advised that further administrative action, including adverse action, could result.

ENCLOSURE N

INTERMIXING OF TECHNICIAN DUTY AND MILITARY STATUS

1. Technician Duty and Military Status on the Same Day. This guidance clarifies the pay statuses and procedures in instances where National Guard military technicians (dual status) are performing duty in a technician status and in a full-time military status on the same day IAW references ll through tt.

2. Credit for Work Performed. During a period that a military technician (dual status) is subject to military control, the technician may not simultaneously be regarded as present for work in the technician position, since technician service is incompatible with military duty or FTNGD status IAW references ll and mm. However, the employee may receive credit for civilian technician work performed before the employee becomes subject to military control on the first day of the duty or FTNGD period and after the employee is released from military control on the last day of the duty period without a charge to civilian leave IAW references nn and oo.

3. Leave and Consecutive Days. The employee must be in an appropriate leave status for civilian workdays on which consecutive days of military pay is earned. Military duty performed by technicians under separate orders or duty status on consecutive days in which pay is earned is strongly discouraged. Only the below exceptions apply.

a. If on the first day of the consecutive days of military pay, the member is not required to report for military duty until after the civilian duty day ends, no civilian leave is charged for that first day. If the member is required to report for military duty on the first day before the end of the civilian duty day, civilian leave must be charged to cover the period of overlap with the civilian duty day.

b. If the member is completely released from military control on the last day of the consecutive days of military pay prior to the start of the civilian duty day, no civilian leave is charged for the last day of military duty. If the member is released from military duty on the last day after the start of the civilian duty day, civilian leave must be charged to cover the period of overlap with the civilian duty day.

4. Cost Effective Execution. Commanders and supervisors are strongly urged to minimize the intermixing of military duty and civilian status to avoid the perception that taxpayer funds are being abused. Particularly, commanders, supervisors, or order officials should scrutinize requests for short (one- and two-day) periods of military duty performed in conjunction with technician duty—while allowable, they should be used only for emergencies. National Guard personnel are strongly encouraged to wisely utilize all manpower resources available to them to cost-effectively execute the organizational mission.

ENCLOSURE O

REFERENCES

PART I. REQUIRED

- a. Chief of the National Guard Bureau (CNGB) Instruction 1400.25A, 11 May 2020, “National Guard Technician and Civilian Personnel”
- b. Title 32 United States Code (U.S.C.), Section 709, Edition 2017, “Technicians: Employment, Use, Status”
- c. 10 U.S.C. § 10508, “National Guard Bureau: General Provisions”
- d. CNGB Memorandum, 16 February 2017, “Designation of the Adjutants General to Appoint, Employ, and Administer National Guard Employees”
- e. 5 U.S.C. Chapter 63, “Leave”
- f. 5 Code of Federal Regulations (CFR), “Administrative Personnel,” Part 630, “Absence and Leave”
- g. Public Law 114-328, 23 December 2016, “The National Defense Authorization Act for Fiscal Year 2017”
- h. 5 CFR, “Administrative Personnel,” Part 610, “Hours of Duty”
- i. DoD Instruction 1400.25, 14 November 2019, “Civilian Personnel Management,” Vol. 630, “Leave -- Personnel”
- j. 5 U.S.C. § 6323, “Military Leave; Reserves and National Guardsmen”
- k. 10 U.S.C. § 101, “Definitions”
- l. 10 U.S.C. § 12310, “Reserves: For Organizing, Administering, etc., Reserve Components”
- m. DoD Instruction 1215.06, 11 March 2014, “Uniform Reserve, Training, and Retirement Categories for the Reserve Components,” Incorporating Change 1, Effective 19 May 2015
- n. Army Regulation 135-18, 11 October 2019, “The Active Guard Reserve Program”
- o. Air National Guard Instruction 36-101, 03 June 2010, “Air National Guard Active Guard Reserve (AGR) Program,” Certified Current 14 August 2014

- p. National Guard Regulation 600-5, 21 September 2015, “The Active Guard Reserve (AGR) Program Title 32, Full Time National Guard Duty (FTNGD) Management”
- q. Air National Guard Instruction 36-6, 09 November 2010, “The Air National Guard Statutory Tour Program Policies and Procedures,” Certified Current 01 May 2013
- r. 10 U.S.C. § 12315, “Reserves: Duty With or Without Pay”
- s. 10 U.S.C. § 12301, “Reserve Components Generally”
- t. Executive Order 13223, 14 September 2001, “Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation”
- u. U.S. Office of Personnel Management Compensation Policy Memorandum 2003-14, “Return of Activated Military Members to Federal Civilian Employment”
- v. U.S. Office of Personnel Management Compensation Policy Memorandum 2008-12, “Update on Excused Absence for Employees Returning from Active Military Duty”
- w. U.S. Office of Personnel Management Compensation Policy Memorandum 2008-21, “Minimum Service Requirement to Receive 5 Days of Excused Absence for Employees Returning from Active Military Duty”
- x. U.S. Office of Personnel Management, “The Guide to Processing Personnel Actions,” 13 October 2013, Chapter 15, “Placement in Nonpay or Nonduty Status”
- y. 38 U.S.C. § 43, “Employment and Reemployment Rights of Members of the Uniformed Services”
- z. 5 CFR Part 353, “Restoration to Duty from Uniformed Service or Compensable Injury”
- aa. 5 U.S.C. Chapter 55, “Pay Administration,” Subchapter V, “Premium Pay”
- bb. 5 CFR Part 551, “Pay Administration Under the Fair Labor Standards Act”
- cc. 5 U.S.C. § 5542, “Overtime Rates; Computation”
- dd. 5 U.S.C. Chapter 61, “Hours of Work”
- ee. 5 CFR Subpart A, “Premium Pay”

- ff. 32 U.S.C. § 115, “Funeral Honors Duty Performed as a Federal Function”
- gg. 37 U.S.C. 115, “Reserves; Members of National Guard: Inactive-Duty Training”
- hh. CNGB Instruction 8100.01, 29 September 2014, “National Guard Conference Policy,” Validity Extended to 27 March 2020
- ii. CNGB Instruction 1400.25 Vol 715, 29 June 2020, “National Guard Technician and Civilian Personnel Voluntary and Non-Disciplinary Actions Program”
- jj. CNGB Instruction 1400.25 Vol 752, 29 June 2020, “National Guard Technician and Civilian Personnel Discipline and Adverse Action Program”
- kk. 5 U.S.C. Section 7131, “Official Time”
- ll. 32 U.S.C. § 502, “Required Drills and Field Exercises”
- mm. 37 U.S.C. § 206, Edition 2017, “Reserves; Members of National Guard: Inactive-duty Training”
- nn. DoD Instruction 1205.18, 12 May 2014, “Full-Time Support (FTS) to the Reserve Components”
- oo. Comptroller General Decision B-13972, 05 February 1973, 52 Comp Gen 471
- pp. Comptroller General Decision B-211249, 20 September 1983
- qq. DoD Instruction 1215.06, 11 March 2014, “Uniform Reserve, Training and Retirement Categories for the Reserve Components,” Incorporating Change 1, 19 May 2015
- rr. U.S. General Accounting Office (GAO) Comptroller General Decision B-211249, 20 September 1983, “Decision Concerning Procedures to Charge Leave Accounts” (Civilian Government employee present for work while simultaneously on Active Duty)
- ss. U.S. GAO Comptroller General Decision B-133972, 14 October 1969, 49 Comp. Gen. 233, “Leaves of Absence -- Civilians on Military Duty”
- tt. U.S. GAO Comptroller General Decision B-133972, 05 February 1973, 52 Comp. Gen. 471, “Civilian Pay Without Charge to Military or Civilian Leave for the Day of Departure”

GLOSSARY

PART I. ACRONYMS

ADOS	Active duty for operational support
AUS	Absent - Uniformed Service
AWOL	Absent without leave
CNGB	Chief of the National Guard Bureau
FERS	Federal Employees Retirement System
FTNGD-OS	Full-Time National Guard Duty-Operational Support
FY	Fiscal year
HRO	Human Resources Officer
IAW	In accordance with
IDT	Inactive duty training
LWOP	Leave without pay
MFH	Military funeral honors
NG	National Guard
NGB	National Guard Bureau
OCO	Overseas Contingency Operation
OPM	Office of Personnel Management
SAD	State Active Duty
TAG	The Adjutant General
VLTP	Voluntary Leave Transfer Program

PART II. DEFINITIONS

Absence Without Leave -- An absence from duty (tardiness or leaving the work area) that has not been authorized or approved by the proper official in accordance with this instruction.

Absent -- Uniformed Services -- Status upon entry into uniformed service when qualifying for reservist differential or the beginning of an unpaid uniformed service period until eligible for restoration under the Uniformed Services Employment and Reemployment Act rights.

Accrued Leave -- Leave earned by an employee during the current leave year that is unused at any given time in that leave year.

Active Guard Reserve -- Full-time National Guard duty in accordance with reference b, Sections 502(f) and 502(f)(2), for 180 days or more; or a Soldier or Airman serving on an active duty tour under reference k, subparagraph (d)(6).

Alternative Work Schedules -- Work schedules instead of traditional fixed work schedules (for example, 8 hours per day, 40 hours per week). There are two categories of alternative work schedules: flexible work schedules and compressed work schedules.

Compressed Work Schedules -- An employee's basic work requirement for each pay period scheduled (by the agency) for less than 10 workdays. Compressed work schedules are always fixed schedules.

Contingency Operation -- A military operation designated by the Secretary of Defense as one in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force or that results in the call or order to, or retention on, active duty of members of the uniformed services, or any other provision of law during a war or during a national emergency declared by the President or Congress in accordance with reference k, subparagraph (a)(13).

Earned Compensatory Time Off -- Time off with pay in lieu of overtime pay for irregular or occasional overtime work or, when permitted under State flexible work schedule programs, time off with pay in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work.

Earned Compensatory Time Off for Travel -- Time spent by an employee in a travel status away from the employee's official duty station when such time is not otherwise compensable.

Employee -- Title 32 dual status excepted service employees and Title 5 National Guard excepted or competitive service employees defined in reference g.

Excused Absence -- An absence from duty authorized without loss of pay and without charge to leave that is not authorized under section 6329a of reference e.

Family Member -- An individual with any of these relationships to the employee: spouse and parents thereof; sons and daughters, and spouses thereof; parents and spouses thereof; brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; domestic partner and parents thereof; or any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Flexible Work Schedule -- Designated hours (core hours) and days when an employee must be present for work. A flexible work schedule also includes designated hours during which an employee may elect to work in order to complete the employee's basic (non-overtime) work requirement.

Leave Without Pay -- A temporary non-pay status and absence from duty.

Leave Year -- The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

Medical Emergency -- A medical condition of an employee or a family member that is likely to require an employee's absence from duty for a prolonged period and would result in a substantial loss of income to the employee because of the unavailability of paid leave.

Military Leave -- Absence from duty in the employee's civilian position without loss of pay to perform military duty and providing an accrual of military leave on a fiscal year basis.

Uniformed Service -- The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority; it includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by reference bb.