

U.S. Department of Energy
Washington, D.C.

ORDER

DOE 3630.1B

12-31-86

SUBJECT: LEAVE ADMINISTRATION

-
1. PURPOSE. To set forth the policy, responsibilities, and procedures for the administration of leave within the Department of Energy (DOE).
 2. CANCELLATION. DOE 3630.1A, LEAVE ADMINISTRATION, of 6-29-83.
 3. EXCLUSIONS. The provisions of this Order do not apply to the following:
 - a. Part-time employees who do not have, prescribed in advance, a regular tour of duty on 1 or more workdays during each administrative workweek.
 - b. Presidential appointees.
 - c. Senior Executive Service (SES) employees, but only with respect to the limit on the amount of annual leave that can be carried over from leave year to leave year while they are in the SES. All other provisions of this Order pertain to SES employees.
 - d. Temporary employees whose total consecutive period of employment is less than 90 days do not earn annual leave.
 4. REFERENCES.
 - a. Title 5, United States Code (U.S.C.), chapter 63; Federal Personnel Manual (FPM) chapters 610 and 630; FPM Supplement 990-2, books 610 and 630, which contain laws and regulations pertaining to leave administration.
 - b. Comptroller General decisions which relate to leave policies. Specific decisions are referenced throughout the Order.
 - c. DOE 3750.1, WORK FORCE DISCIPLINE, of 3-23-83, which provides guidance and procedures for maintaining work force discipline in DOE.
 5. POLICY.
 - a. Annual and sick leave shall be earned, charged, and granted in accordance with title 5, United States Code, chapter 63; Office of Personnel Management (OPM) regulations; decisions of the Comptroller General (Comp. Gen.); and this Order.

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Personnel

- b. Excused absence and administrative dismissals without charge to leave or loss of pay may be authorized only in accordance with this Order.
- c. Leave without pay shall be authorized in accordance with this Order and the Federal Personnel Manual (FPM).

6. DEFINITIONS.

- a. Absence Without Leave (AWOL). A nonpay status resulting from a determination by an official that he or she will not grant any type of leave for a period of absence for which the employee did not obtain authorization or for which an employee's request for leave has been denied.
- b. Accrued Leave. Leave earned during the current year that is unused at any given time in the leave year.
- c. Accumulated Leave. Unused leave remaining to the credit of an employee at the beginning of a leave year. This includes the carry-over balance from the previous year, plus accrued leave, plus unused restored annual leave maintained in a separate account.
- d. Administrative Leave. See Excused Absence.
- e. Contagious Disease. A disease requiring quarantine, isolation, or restriction of the patient's movement to avoid communicating the disease, as prescribed by health authorities in the local governmental jurisdiction.
- f. Court Leave. The authorized absence (without loss of or reduction in: pay, leave to which otherwise entitled, or credit for time or service) of an employee from work status for jury duty, or for attending judicial proceedings in a nonofficial capacity as a witness when a party is the United States, the District of Columbia, or a State or local government.
- g. Excused Absence or Administrative Leave. Absence from duty administratively granted without loss of pay and without charge to leave. Instances where excused absences may be granted are contained on page 18, paragraph 8n.
- h. Funeral Leave. Leave granted to allow an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as the result of a wound, disease, or injury incurred while serving as a member of the armed forces in a combat zone.
- i. Intermittent Employee. For purposes of this Order, a part-time employee for whom there has not been established, in advance, a regular tour of duty on 1 or more workdays during each administrative workweek.

- j. Leave Without Pay. A temporary nonpay status and absence from a regularly scheduled tour of duty (excluding overtime) for which pay would otherwise be due, granted upon an employee's request or because the employee lacked earned leave to cover an otherwise authorized absence from duty.
- k. Leave Year. The leave year begins with the first day of the first complete pay period in a calendar year and ends with the day immediately before the first day of the first complete pay period in the following calendar year.
- l. Medical Certificate. A written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, treatment, or the period of disability during which the employee was a patient receiving professional treatment.
- m. Military Leave. Leave of absence with pay, under the provisions of 5 U.S.C. 6323, for active military duty (or training) or for the purpose of providing military aid to enforce the law.

n. Part-Time Employee.

- (1) An employee who works less than 40 hours per week. Part-time employees earn leave only if they have a predetermined, regularly scheduled tour of duty on 1 or more workdays during each administrative workweek in the biweekly pay period (31 Comp. Gen. 581). They earn 1 hour of sick leave for each 20 hours in a pay status, and annual leave in accordance with the following table:

<u>Length of Service</u>	<u>Earning Rate</u>
Less than 3 years. . .	1 hour for every 20 hours in a pay status
Between 3 and 15 years.	1 hour for every 13 hours in a pay status
15 years and over. . .	1 hour for every 10 hours in a pay status

- (2) Part-time career employees with predetermined, regularly scheduled tours of duty between 16 and 32 hours a week are credited with military leave on a pro rata basis. See 5 U.S.C. 6323 and FPM letter 630-30.

- o. Restored Annual Leave. Leave forfeited due to administrative error, exigency of the public business, or sickness of the employee, but subsequently restored to the employee (or former employee) under provisions of 5 U.S.C. 6304 and 5 CFR 630.305 - 630.308. (FPM letter 630-22, of 1-1-74.)

7. RESPONSIBILITIES AND AUTHORITIES.

a. Heads of Headquarters Elements.

- (1) Are responsible for the administration of leave in accordance with governing laws, regulations, and this Order.
- (2) Grant administrative leave in accordance with page 18, paragraph 8n.
- (3) Approve leave without pay as necessary for the following specific purposes (this authority may be redelegate one echelon down in the organization):
 - (a) For retention on the rolls of cooperative education students when they return to school between periods of employment with the Department;
 - (b) For employees with no accumulated leave who are required to be on leave without pay pending approval of their disability retirement application;
 - (c) For employees entitled to leave without pay under the Federal Employees Compensation Act; and
 - (d) For disabled veterans who are entitled to leave without pay, if necessary, for medical treatment under Executive Order 5396.
- (4) Approve not more than 6 calendar months' leave without pay during any 52 week period for any one employee for purposes other than those listed in subparagraph (3). Approvals in excess of 6 months must have the concurrence of the Director of Personnel. Authority to approve leave without pay for 30 calendar days or less per employee in a calendar year may be redelegate. Leave without pay in any amount for Schedule C employees must be approved by the Director of Administration.

b. Director of Administration.

- (1) Issues administrative orders that close all or part of Headquarters, including DOE facilities at Germantown, and relieves from duty those employees who are not needed to perform essential services in accordance with page 17, paragraph 8m.
- (2) Approves leave without pay for Schedule C employees.

c. Heads of Field Organizations with Delegated Personnel Authority.

- (1) Are responsible for the administration of leave in accordance with governing laws, regulations, and this Order.

(2) Approve leave without pay:

- (a) For up to 52 calendar weeks for an employee serving as a representative of a recognized labor organization.
 - (b) Without time limitation in the following specific situations (this authority may be redelegate):
 - 1 For retention on the rolls of cooperative education students when they return to school between periods of employment with the Department.
 - 2 For employees with no accumulated leave who are required to be on leave without pay pending approval of their disability retirement application;
 - 3 For employees entitled to leave without pay under the Federal Employees Compensation Act; and
 - 4 For disabled veterans who are entitled to leave without pay, if necessary, for medical treatment.
 - (c) For up to a total of 6 calendar months per employee in any 52 week period for other purposes. Requests for longer amounts must have the concurrence of the Director of Personnel. Authority to approve up to 30 calendar days leave without pay per employee in a calendar year may be redelegate. Leave without pay in any amount for Schedule C employees must be approved by the Director of Administration.
- (3) Determine that an exigency of the public business is of such major significance that scheduled and approved annual leave must be canceled and may be considered for restoration. This authority may not be redelegate. The determination of an exigency must be made prior to any cancellation of scheduled leave, except for bona fide emergencies where prior determination is impossible.
- (4) Are authorized to issue an administrative order closing all or part of the organization under their respective jurisdictions and relieve from duty employees not required for essential services in accordance with page 17, paragraph 8m.
- (5) Approve requests for the restoration of leave lost because of illness or administrative error, or canceled because of an exigency of the public business, as prescribed in FPM issuances in the 630 series and in page 9, paragraph 8c.

(6) Grant administrative leave in accordance with page 18, paragraph 8n.

(7) At least annually, initiate the publication of a Notice reminding supervisors and managers of their responsibilities for the control and administration of leave, especially the timely scheduling of annual leave to avoid forfeiture, and control of sick leave to avoid abuse.

d. Heads of Field Organizations without Delegated Personnel Authority.

(1) Must obtain approval from their Headquarters organization and concurrence of their servicing personnel office before they authorize an administrative dismissal.

(2) May not declare an exigency of the public business for the purpose of restoring forfeited annual leave, but must submit the matter to the Director of Personnel, through the administrative office of their Headquarters organization, for determination under the provisions of paragraph 7e(2) below.

e. Director of personnel.

(1) Provides for advice and consultation regarding the provisions of this Order, civil service laws, OPM regulations, and decisions of the Comptroller General.

(2) Determines for Headquarters organizations that an exigency of the public business is of such major importance that scheduled and approved leave must be canceled because of the exigency and may be restored. Except for bona fide emergencies where prior determination is impossible, lost leave will not be approved for restoration unless the exigency has been approved by the Director of Personnel prior to cancellation of any leave. Approves requests to restore leave lost due to an exigency of the public business for employees in Headquarters organizations.

(3) For Headquarters employees, approves requests for restored leave because of illness or administrative error.

(4) Concurs in requests for leave without pay in excess of 6 months per employee in a calendar year.

(5) At least annually, for Headquarters employees, initiates the publication of a Notice reminding supervisors and managers of their responsibilities for the control and administration of leave, especially the timely scheduling of annual leave to avoid forfeiture, and control of sick leave to avoid abuse.

- f. Officials Authorized to Approve Leave and Absences are responsible for assuring that leave granted meets legal and regulatory standards and is properly documented as annual leave, sick leave, leave without pay, excused absence, absence without leave, court leave, funeral leave, or military leave. They are responsible for scheduling annual leave with due regard for workload demands, the personal needs of employees, and the fact that leave lost at the end of the year can only be restored in cases where all legal and regulatory requirements are met, including timely written approval of the leave schedule or request. Supervisors are required to counsel employees who demonstrate a pattern of frequent sick leave usage of short duration. Normally, it is the first line supervisor who approves leave not otherwise reserved to higher levels of management.
- g. Employees are responsible for requesting and scheduling annual leave in advance except for brief emergencies; for accommodating their vacation schedules to urgent work requirements; and for furnishing documentation (e.g., medical certifications, military orders, documents requiring appearance in court) as requested by the supervisor and in accordance with instructions in the time and attendance reporting system to support requests for other than annual leave. It is the responsibility of employees to request annual leave early enough in the leave year to ensure that it can be taken or rescheduled before the end of the leave year; the requesting and scheduling of "use or lose" leave should not be delayed to the end of the year, since a request for restoration of lost leave may be denied because of the employee's failure to request it in a reasonably timely manner.

a. PROCEDURES AND REQUIREMENTS.

a. Granting Annual or Sick Leave.

- (1) Right to Annual Leave. The taking of annual leave is a right of the employee, subject to the right of management to fix the time at which the leave may be taken (39 Comp. Gen. 611).
- (2) Temporary Employees. Employees appointed for less than 90 days do not earn annual leave unless their appointment is renewed without a break in service so that their total service will be at least 90 days. (See FPM Letter 630-22, of 1-11 -74.)
- (3) Scheduling of Annual Leave. Responsibilities of employees in scheduling their leave are described in paragraph 7g. When an employee requests "use or lose" leave more than 3 full pay periods before the end of the leave year, the supervisor must approve and schedule the leave in writing for use either when requested or at some other time within the leave year. Failure to do so constitutes an administrative error (57 Comp. Gen. 325). If later an unforeseen workload requires cancellation of the scheduled leave, the supervisor must request a determination that a public exigency exists, as prescribed

on page 11, paragraph 8c(4), and must attempt to reschedule use of this leave before the end of the leave year.

- (4) Application for Leave. A Standard Form 71 (SF-71), "Application for leave," shall be submitted for any absence in excess of 8 consecutive hours, unless local payroll instructions for reporting time and attendance require submission for a period of shorter duration.
- (5) Granting Sick Leave. Sick leave is properly granted when an employee receives medical, dental, or optical examination or treatment; is incapacitated by sickness, injury, or pregnancy and confinement or would jeopardize the health of others because of exposure to a contagious disease. Decisions concerning the granting of sick leave and the acceptability of evidence offered to substantiate an employee's incapacity to work are made by supervisors, depending on the circumstances in each Individual case. A medical certificate or other administratively acceptable evidence shall be required for sick leave in excess of 3 consecutive workdays and may be required for shorter periods if the employee has been given adequate advance notice in writing for this requirement so that he or she may obtain the services of a physician or other qualified practitioner. Similarly, an employee may be required to submit an SF-71 for any period of sick leave when the supervisor considers it necessary. Approval of both the first and second level supervisors and a medical certificate is always required prior to the advancement of sick leave (see paragraph 8g below).
- (6) Sick Leave to Care for Relatives. An employee may be granted sick leave to care for a member of his or her immediate family only when the family member has a contagious disease requiring isolation, quarantine, or restriction of movement to avoid communicating the disease. Sick leave may be approved for the period required by local health authority regulations, or in the absence thereof, in accordance with the period specified in a physician's certificate (36 Comp. Gen. 183).
- (7) Retroactive Substitution. While an employee may elect to use annual leave for an absence that would otherwise be properly charged as sick leave, annual leave may not normally be substituted for sick leave on a retroactive basis except for the purpose of liquidating advance sick leave (31 Comp. Gen. 524; 37 *ibid.* 439; 38 *ibid.* 354). Retroactive substitution of annual leave for sick leave avoid forfeiture of annual leave is prohibited. However, see page 10, paragraph 8c(3), regarding restoration of annual leave forfeited because of sickness. When sickness occurs within a period of annual leave, sick leave may be granted for the period of sickness. Sick leave may not be substituted for leave without pay since it would be improper to terminate the nonpay status primarily for the purpose of placing the employee in a sick leave status.

- (8) Leave and Overtime. Except to meet specific management requirements and bona fide employee emergencies, annual leave should not be approved for an employee when such approval will require that employee to work overtime shortly before or after the requested absence, e.g., on the same day or following day.
 - (9) Enforced Leave. For guidance on placing employees on enforced leave, the local personnel office should be contacted. Additional guidance on disciplinary and adverse actions is contained in DOE 3750.1. Note that placing employees on leave without their consent in personal, disciplinary type situations constitutes a suspension and must be handled as an adverse action (38 Comp. Gen. 203).
 - (10) Absence Without Leave. If an employee is absent without leave having been approved, it is appropriate that the time be recorded as absent without leave (AWOL), which later can be changed to an approved leave category if the supervisor determines that extenuating circumstances were such that the absence is improperly charged as AWOL. When an employee is charged AWOL, he or she should be so advised, but it is not necessary to obtain the employee's initials on the time and attendance form. Recording an absence as AWOL is not, in itself, an adverse action. If appropriate, a separate adverse action may be initiated (see DOE 3750.1).
- b. Limitation of Authority to Approve Leave. Employees to whom this Order applies may not approve their own request for leave or excused absence.
 - c. Restoration of Forfeited Annual Leave. For most employees, any annual leave in excess of 240 hours is lost at the end of the leave year. Annual leave accrued by an individual while serving in a position in the Senior Executive Service is not subject to this limit, although any annual leave to the employee's credit at the time of conversion to the Senior Executive Service is subject to the same limits as apply to other employees. The other exceptions relate to service outside the United States or prior to 1952. Under certain conditions lost leave may be restored. However, the provisions for restoration are intended to rectify serious inequities and not simply to protect employees from their own negligence in requesting leave early enough in the year to prevent its loss. Documentation that this responsibility has been met is required by law before leave lost through illness or exigencies of the service may be restored. The requirements for restoration are as follows:
 - (1) Administrative Error. When an administrative error causes the loss of annual leave, the annual leave may be restored. If official records are not available to substantiate the amount of annual leave to be restored, an estimate of the employee's leave account

is acceptable when accompanied by official statements clearly reflecting the factors which form the basis for the estimate. When an employee makes a timely request for leave but the supervisor fails to schedule it during the leave year or to request a determination that a public exigency exists, the Comptroller General has determined that such supervisory negligence constitutes administrative error and the employee's leave may be restored (57 Comp. Gen. 325). Such negligence can form the basis for a disciplinary action against the supervisor by higher level management.

(2) Exigencies of the Public Business. There are two requirements in the law which must be met:

- (a) The exigency must be of such importance as to preclude the use of scheduled leave. This determination must be made by the Head of the Field Organization or, for Headquarters employees, by the Director of Personnel. (See page 11, paragraph 8c(4).)
- (b) The leave must have been scheduled and approved in writing before the start of the third biweekly pay period before the end of the leave year. An approved and dated leave request will substantiate timely scheduling. A disapproved leave request only shows that the leave was requested, not that it was scheduled, and is insufficient to satisfy the legal requirement. Other documentation, such as a leave schedule, is acceptable if it clearly shows the supervisor's approval before the statutory time limit mentioned above.

(3) Sickness.

- (a) Annual leave that was forfeited because of illness that interfered with the taking of the scheduled annual leave may be restored for later use provided that:
 - 1 The annual leave was scheduled in advance in writing before the start of the third biweekly pay period before the end of the leave year, as prescribed in the preceding paragraph; and
 - 2 The period of absence because of sickness occurred so late in the leave year or was of such duration that the annual leave could not be rescheduled for use before the end of the year to avoid forfeiture.
- (b) When annual leave has not been properly scheduled in advance and will therefore be forfeited without possibility of restoration, employees on sick leave near the end of the leave year should consider charging the absence against their use or "lose" annual leave, rather than their sick leave. However,

retroactive substitution of annual leave for sick leave is not permitted except to liquidate advanced sick leave (38 Comp. Gen. 354; 37 *ibid.* 439; FPM supplement 990-2, book 630, S 2 - 5 (b)) .

- (c) Exceptions to the scheduling requirement may be allowed for very prolonged illness before the end of the leave year. As a guideline in such cases, see Comp. Gen. B-182608 of 2-19-76, in which such an exception was allowed for an employee who was on continuous sick leave for the last 10 months of the leave year.
- (4) Requesting a Determination that an Exigency Exists. An exigency of the public business exists when an unforeseen work requirement arises late in the year and is of such urgency that properly scheduled leave will have to be canceled even though it is subject to forfeiture. With careful planning of work and scheduling of leave such situations should be rare. Even when they occur other alternatives should be considered. These include shifting work assignments among subordinates and canceling all leave which is not subject to forfeiture before any "use or lose" leave is canceled. (Because of the extra cost involved, overtime would not normally be justified or cost effective simply to avoid forfeiting leave.) However, when it appears that, despite careful planning, an exigency will require properly scheduled leave to be canceled and there is insufficient time remaining in the leave year to reschedule it, the exigency should be fully described in a memorandum addressed to the appropriate determining official (see page 10, paragraph 8c(2)). Beginning and ending dates of the exigency, or estimated dates, must be shown. Except for bona fide emergencies that make prior approval impossible, the determination must be made in advance of the cancellation of scheduled leave. If the request for declaration of an exigency is disapproved, employees must be permitted to use properly scheduled and approved annual leave.
- (5) Requesting Restoration of Leave for Individual Employees. The decision to restore leave to individual employees is separate from the determination that an exigency exists. In most cases, the determination that an exigency exists will already have been made (see paragraph 8c(4)). Requests to restore the leave of individual employees should include evidence of that determination, as well as the following, for each affected employee:
 - (a) Evidence that the leave was approved before the cutoff date. (See page 10, paragraph 8c(2)(b));
 - (b) The period and amount of leave which was approved and subsequently canceled; and

- (c) For requests involving illness or administrative error, the reasons why the annual leave could not be rescheduled must be included unless they are otherwise self-evident.
- (6) Approval. The Head of the Field Organization or, in Headquarters, the Director of Personnel will review the facts and circumstances in each claim submitted for the restoration of annual leave and, if warranted and supported by adequate documentation, may approve the restoration.
- (7) Use of Restored Leave. Restored annual leave must be scheduled and used no later than the end of the leave year following the second anniversary of:
 - (a) The date of restoration of the annual leave forfeited because of administrative error; or
 - (b) The date fixed as the termination date of the exigency of the public business which resulted in forfeiture of annual leave; or
 - (c) The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.
- (8) Notice to Employees. Operating personnel offices should issue an annual reminder to all employees, preferably at the beginning of the vacation season, to remind them and their supervisors of the absolute requirement to schedule leave as specified on page 10, paragraph 8c(2)(b).
- d. Recrediting Annual Leave in Back Pay Cases. Upon reinstatement of an employee after an unjustified or unwarranted personnel action has been corrected, excess annual leave lost as a result of the action may be restored under provisions of the Back Pay Act. (FPM supplement 990-2, book 550, subchapter 8.)
- e. Minimum Leave Charge. The minimum charge for leave in DOE is 1 hour, and additional charges are in multiples of whole hours, unless a lesser minimum charge has been established by the Head of a Field Organization with delegated personnel authority or the Director of Personnel for Headquarters. Concurrence by the-local payroll office is required.
- f. Use of Annual Leave Before it is Earned.
 - (1) For both full-time employees and part-time employees with a regularly scheduled tour of duty, annual leave which will accrue during the current leave year is available for use from the beginning of the leave year. However, supervisors should not grant annual leave in

excess of an employee's actual accrued leave if it is known or reasonably expected at the time that the employee will not return to duty. Annual leave may not, in any circumstances, be advanced from a future leave year.

- (2) Annual leave may be granted to persons whose employment under an initial appointment of less than 90 days is continued without a break in service by extension or reappointment so that total service will be at least 90 days. Leave is earned from the date of extension or reappointment. After 90 days continuous service, leave is also retroactively credited for the period between the first day of the original appointment and the date of extension. However, such retroactively credited leave may not be substituted for any leave without pay taken during this qualifying period.
- g. Advancing Sick Leave.** Up to 30 days sick leave may be advanced for serious disability or ailment when the employee's earned sick leave balance is exhausted and when continued employment is expected upon recovery. The outstanding balance of advanced sick leave may not in any case exceed 30 days (5 U.S.C. 6307 (c)) or, for an employee serving under a time-limited appointment, the amount of sick leave he or she will earn during the term of the appointment (5 CFR 630.404). Approval of both the first and second level supervisors, together with a medical certificate giving evidence of serious disability or ailment and, if possible, the approximate date when the employee is expected to be able to return to work, is required to support advanced sick leave. (Heads of Departmental Elements may approve an advance of sick leave without further supervisory review.) Sick leave shall not be advanced to an employee who has applied for disability retirement. Supervisors and employees are reminded that an employee does not have a vested right to advanced sick leave, regardless of the circumstances.
- h. Leave Without Pay.**
- (1) Leave without pay is a temporary nonpay status and absence from duty which is normally requested by the employee and which requires prior approval by the appropriate official. The authorization of leave without pay is solely a matter of administrative discretion, and employees cannot demand it as a matter of right, except in cases of disabled veterans in need of medical treatment or reservists and National Guardsmen ordered to active duty for training or law enforcement when other appropriate leave has been expended. Leave without pay should also be approved for employees who are injured and elect to use leave without pay under the Federal Employees Compensation Act; for employees with no accumulated leave who are required to be on leave without pay pending approval of their disability retirement application; and for employees with insufficient sick and annual leave to cover a medically indicated period of maternity absence. Other requests for leave without pay should

be examined closely to assure that the value to DOE or the serious needs of the employee are sufficient to offset the costs and administrative inconvenience which result. These include: loss of employee's service; the necessity to reapportion the employee's work among others; the necessity to pay others overtime to accomplish the work of the missing employee; the adverse impact of prolonged overtime on the rest of the staff; up to 6 months credit per year toward retirement without cost to the employee; and continuation of life insurance for up to 1 year without cost to the employee. At least one of the following benefits should result: increased job ability; protection or improvement of the employee's health; retention of an employee with a critical skill or in a shortage category occupation; or furtherance of a program of interest to the Government (e.g., participation in the President's Executive Exchange Program, Intergovernmental Personnel Act Assignments, and the Peace Corps Volunteer Program). Additional guidance is contained in FPM supplement 990-2, book 630, S12.

- (2) No more than a total of 104 weeks of leave without pay to serve as a representative of a recognized labor organization may be granted in any one period of 5 years from the date such leave is first effective.
 - (3) Requests for leave without pay of 30 calendar days or less are made and approved on the SF-71. The time and attendance report will reflect the beginning and ending dates of the leave without pay.
 - (4) Periods of paid leave and leave without pay may not be alternated to obtain the benefit of holiday pay.
 - (5) Upon approval by an appropriately authorized official, an employee's request for leave without pay in excess of 30 calendar days must be submitted on a completed Standard Form 52 (SF-52), "Request for Personnel Action," to the servicing personnel office. A Standard Form 50 (SF-50), "Notification of Personnel Action," will be issued documenting the beginning of leave without pay. Upon return to duty, the office in which the employee works must initiate a second SF-52 and submit it to the servicing personnel office so that an SF-50 showing "Return to Duty" can be prepared. The employee will not begin to receive pay unless this latter SF-50 is issued. If leave without pay exceeds 7 calendar days, the employee should be given a completed Standard Form 8, "Notice to Federal Employee About Unemployment Compensation."
- f. Military Leave; Court Leave. The provisions of FPM supplement 990-2, book 630, S9 and S10, and OPM guidance on the amendments made to section 6323 of title 5, United States Code, shall be applied as DOE policy. The following additional guidelines apply:

(1) Military Leave.

- (a) If an employee is required to be on military duty in excess of the 15 days allowed in a fiscal year, the first 15 days of absence do not have to be recorded as military leave; the employee may choose any 15-day period of active duty as the period of military leave.
- (b) Nonworkdays (e.g., weekends) falling within a period of absence on military duty are chargeable as military leave. This requirement cannot be circumvented by taking annual leave before or after the nonworkdays (unpublished Comp. Gen. decision B-141493, of 1-7-60).
- (c) OPM guidance on administration of the changes made in the military leave law is contained in FPM letter 630-30 of 4-23-82. The guidance pertains to the accrual of military leave on a fiscal year basis, carryover of unused military leave, and entitlement of part-time employees to military leave.

(2) Court Leave.

- (a) Although an employee may request exemption from jury service for compelling personal reasons on his or her own initiative, it is DOE policy that supervisors and managers not ask that their employees be excused from jury duty.
- (b) Court leave may be granted only for service as a juror or appearance as a witness in a nonofficial capacity when one party in the proceeding is either the United States, the District of Columbia, or a State or local government. It is not authorized when the employee appears in any other capacity; for example, as a party in the proceeding. Appearance in an official capacity is official work time rather than court leave.
- (c) Employees are not entitled to court leave for periods when they are excused by the court either indefinitely subject to call or for definite periods of 1 day or more. When employees are excused by the court for a substantial part of the day (i.e., 2 or more work hours remaining after return to the workplace), they are expected to return to duty or to request annual leave. Return to duty is not required if it would involve hardship, such as depriving a night shift employee of sleep or causing extensive travel because the court is far removed from the workplace (26 Comp. Gen. 413).

- j. Funeral Leave. Funeral leave may be granted to allow an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as the result of a wound, disease, or injury incurred while serving as a member of the armed forces in a combat zone. Eligible employees shall be granted such funeral leave as is needed and requested but not to exceed 3 workdays (FPM supplement 990-2, book 630, S8).
- k. Absence for Maternity Reasons.
- (1) 'Maternity Leave' is not a separate leave category; it is a period of authorized absence for childbirth and recuperation which may be charged to sick leave, annual leave, leave without pay (LWOP), or a combination of those kinds of leave. Such absence is referred to as "maternity leave" in the following discussion merely as a matter of convenience.
 - (2) Because maternity leave involves extended absence, employees should make known their intent to request maternity leave as early in their pregnancy as possible so that their organization can plan for their absence.
 - (3) Maternity leave normally begins about 6 weeks before the anticipated delivery date and extends about 8 weeks after delivery, but there may be medical complications which require an earlier departure or a later return. On the other hand, the employee may wish to begin the absence later or end it sooner; under title VII of the Civil Rights Act as amended, an employee may not be required to begin maternity leave at any arbitrary date.
 - (4) Requests for maternity leave should be submitted on SF-71 in advance of departure. A medical certificate stating the expected delivery date is required to support the request; it establishes the normal beginning and ending dates for the absence, i.e., 6 weeks before and 8 weeks after delivery. If an earlier departure is medically indicated, the certificate must state when the employee should cease working. If subsequent complications require a return to work later than normal, a medical certificate stating the nature of the complication and the expected return date must be provided.
 - (5) The entire period of incapacitation for delivery and recuperation may be charged to sick leave if the employee so desires and has a sufficient sick leave balance. Or, if the employee requests it, it may be charged to any combination of sick leave, annual leave, and leave without pay, up to the employee's available balance of sick leave and annual leave. (The normal requirements and conditions for advance leave apply in this case as to any other serious disability; see page 13, paragraph 8g.) Periods of paid leave and

leave without pay may not be alternated in order to obtain the benefit of holiday pay. Employees are cautioned that retroactive substitution of one kind of leave for another may not be possible. They are also cautioned to schedule any "use or lose" annual leave so as to avoid its forfeiture as a result of maternity leave, since that is not a sufficient reason for its restoration.

- (6) Requests for LWOP within the guidelines discussed in the preceding paragraphs (i.e., for confinement, delivery, and recuperation) should be approved. Requests for extended absence, including LWOP, beyond the medically indicated period of recuperation are discussed in paragraph 81 below.
 - (7) An employee who is not planning to return to work after childbirth is expected to submit her resignation effective at the end of the period of Incapacitation. Neither sick leave nor annual leave should be advanced to employees who do not plan to return to work. Employees are required to repay any unearned leave for which they are indebted at the time of their resignation, unless the resignation is because of long-term disability.
 - (8) DOE has an obligation to assure continued employment in her position or a position of like seniority, status, and pay to an employee who returns to work after an approved absence following delivery and confinement, unless termination is otherwise required for reasons unrelated to the maternity absence.
1. Extended Absence to Care for Family Members. Requests for frequent or extended absence to care for family members with emergency or unusual continuing needs should be considered in the light of both the employee's need and the needs of the organization. Such situations include but are not limited to: extensions of maternity leave substantially beyond the period necessary for recuperation; leave for male employees to care for their infant or its mother; leave for adoptive or foster parents to make necessary arrangements to receive the child or for a period of habituation; leave to care for aged, handicapped, or chronically ill family members. Annual leave or LWOP is the proper charge unless the employee is coincidentally exposed to a contagious disease requiring the employee's isolation (see page 8, paragraph 8a(6)). Employees should discuss their need for extended leave with their supervisor as early and as fully as possible and should be prepared to make alternative arrangements if the needs of the organization preclude approval exactly as requested. Supervisors should make every reasonable effort to grant the request, bearing in mind the normal considerations for extended leave requests (see page 13, paragraph 8h).
- m. Administrative Dismissals.
 - (1) Offices may be closed for brief periods by proper authority (the Director of Administration for Headquarters offices, or the Head of the Field Organization concerned):

- (a) When normal operations are interrupted by events beyond the control of management or employees, such as civil disturbances or hazardous weather;
 - (b) When there are substantial managerial reasons for closing the office, such as breakdowns of essential services or facilities; or
 - (c) Because of a local holiday when Federal work may not properly be performed.
- (2) The closing of a DOE office in a location where there is a functioning Federal Executive Board (FEB) should be done in accordance with local procedures developed jointly by FEB participating agencies. In other locations, such closings should be coordinated with local authorities and other nearby Federal agencies or Federal executive associations as appropriate.
- n. Administrative Leave. While there is no statutory authority for granting administrative leave (sometimes called excused absence), the Comptroller General has recognized that the head of an agency may in certain situations excuse an employee for brief periods of time without charge to leave or loss of pay. Employees can only be excused for long periods, i.e., several days, when the absence is in connection with furthering a function of the agency (44 Comp. Gen. 643). In the absence of a controlling statute or OPM regulations, agencies have discretion to determine the situations for which they will grant brief amounts of administrative leave. As a general rule, appropriate situations are those which are of benefit to DOE or which the Federal Government wishes to encourage, such as blood drives, civil defense activities, and registration and voting. Other appropriate situations are those where it would be inequitable to charge leave; for example, when an employee needs time to recuperate from overnight travel following a full day's work (55 Comp. Gen. 510). Commonly recognized situations for which administrative leave is appropriate are listed in FPM supplement 990-2, book 630, subchapter S11; 53 Comp. Gen. 582; and in the following examples:
- (1) Registration and Voting. Where the polls are not open at least 3 hours either before or after their regular hours of work, employees may be excused so as to report to work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever requires the lesser amount of time off. In exceptional circumstances, up to a full day may be allowed. If registration in person is required and it cannot be accomplished on a nonworkday, absence may be excused on substantially the same basis as for voting.
 - (2) Blood Donors. Employees who serve as blood donors may be authorized up to 3 hours excused absence for the time necessary to travel to and from the donor site, donate blood, and recover.

- (3) Tardiness and Other Brief Absences. Infrequent tardiness or brief absence from duty of less than 1 hour for adequate reasons may be authorized as excused absence, regardless of the time of workday the absence occurs. When, in the supervisor's judgment, the employee's reasons are Inadequate to support approval of excused absence, the employee may request annual leave or leave without pay to cover the tardiness. If the request is approved, the employee cannot be required to work during the remainder of the hour for which leave is granted. If, however, an employee's frequent tardiness or absence appears to constitute an abuse of privilege or if, for any reason, the absence of whatever duration is improper, the charge should be to absence without leave (AWOL), establishing the potential for disciplinary action. If AWOL is charged, it may not be charged for more than the actual period of absence. An employee who is ready and able to work may be prevented from working the remainder of the hour, since that would be tantamount to a suspension. In any event, all absences, even though excused, should be properly recorded on the employee's time and attendance report.
- (4) Emergency Rescue or Protective Work. An employee who participates in the local community as a volunteer (or as a member of an organization such as the Civil Air Patrol) in rescue or protective work during an emergency such as fire, flood, riot, or search operations, may be authorized excused absence, if his or her services can be spared and they are not required at the installation to protect Federal property. Normally, a single period of excused absence shall not exceed 3 workdays; but, under unusual circumstances, the authorizing official may authorize 2 additional days of excused absence. Excused absence is not authorized for members of volunteer fire companies responding to routine alarms, or for other activities that would require frequent absence from duty. Employees may participate in preemergence civil defense training- and test exercises under the provisions of Executive Order 10529 (FPM supplement 990-2, book 630, S11-3).
- (5) Interviews or Tests.
 - (a) An employee who is in an organization affected by reduction in force, or who has been identified for reassignment outside the commuting area, may be authorized excused absence at the discretion of the supervisor to be interviewed or tested for job placement opportunities outside the Department, provided the employee presents acceptable evidence that a bona fide placement opportunity exists. A supervisor may grant excused absence only when an employee has received a specific notice of reduction in force or notice of transfer of function outside the commuting area. Excused absence for Interviews or testing would also be appropriate when a general notice has been issued stating that an entire organization will be abolished through

reduction in force or transferred outside the commuting area. Supervisors shall limit such absences to a reasonable amount of time, taking into consideration workload, placement opportunities, mutual benefit to the organization and the employee, and other relevant factors. In circumstances other than those described above, annual leave or leave without pay must be charged to employees who are seeking employment outside DOE.

- (b) Employees are in a duty status during absence for interviews or tests for placement opportunities within DOE. The scheduling and amount of such absence is subject to the supervisor's approval .
- (6) Medical Examination. An employee who participates in a voluntary medical examination program established by the DOE or under DOE auspices, including mass screening examinations and immunizations, may be authorized excused absence for the time necessary to accomplish the examination or immunization, including necessary travel time (44 Comp. Gen. 333).
- (7) Medical Attention. An employee is considered in a duty status for the time necessary to visit a medical facility at the employing office for medical attention. If the employee goes home following such a visit because of illness, sick leave (or, if requested, annual leave or, in the absence of sick leave and annual leave, then LWOP), shall be charged from the time of departure for home, unless the provisions relating to job-related traumatic injury become effective. In that case the employee's pay may continue without charge to leave for up to 45 days if he or she elects continuation of regular pay in lieu of annual or sick leave. (See FPM Chapter 810, "Injury Compensation.") Although a short rest period recommended by medical personnel at the medical facility may be charged as excused absence, visits for convalescent rest periods following a period of sick leave may be excused up to no more than 1 hour a day. Time in excess of 1 hour is chargeable to sick leave.
- (8) Absence for a Workday When Office is not Closed. Absence of up to 1 workday may be excused in the following circumstances, even though the office remains open or the employee is required to perform essential services (28 Comp. Gen. 111).
 - (a) Prohibition or restriction of traffic by public authority during working hours which would require a one-way travel time of over 4 hours.

(b) Breakdown of public transportation occurring with so little notice that the employee could not, with diligent effort, report within 4 hours of the beginning of the workday. This provision does not apply if advance notice of a probable disruption of service, such as a strike, permits sufficient time to arrange other means of getting to work.

- (9) Professional Meetings. Attendance at meetings or conferences which are determined to be training, or for which travel or registration is authorized at DOE expense, is considered official duty rather than excused absence. Attendance at other professional meetings, where the benefit is primarily for the employee rather than for DOE, should be charged to annual leave. Where the meeting does not fall clearly into one of the foregoing categories, excused absence may be granted if the supervisor believes, and the servicing personnel officer concurs, that the benefits to DOE are sufficient to justify it.
- (10) Military Funerals. An employee who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be excused from duty for the time necessary, not to exceed 4 hours, to enable him or her to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States.
- (11) Change of Official Duty Station. Transferred employees may be excused from work for brief periods when they are unavoidably detained while awaiting or arranging for the transportation of household goods incident to the permanent change of station. In one case the Comptroller General held that 8 hours was a reasonable amount of time to allow for such purposes (55 Comp. Gen. 779). The amount of time granted should be held to a minimum consistent with the actual time required, and it should not be granted for activities which the employee can accomplish during off-duty hours.
- (12) Holidays for Part-Time Employees. All part-time employees of the Department will be granted administrative leave when they are regularly scheduled to work on days observed as holidays (in lieu of holidays) when the actual holiday falls on a Saturday or Sunday (63 Comp. Gen. 306).

- o. Terminal Leave. Terminal leave is the use of annual leave immediately prior to separation from the service. Supervisors shall not grant terminal leave immediately prior to an employee's separation from the service, when it is known in advance that the employee is to be separated, except when the exigencies of the service require such action (54 Comp. Gen. 655).

BY ORDER OF THE SECRETARY OF ENERGY:



HARRY L. PEEBLES
Director of Administration