

PART 2066 - LEAVE

Subpart A - Rural Development Leave Program

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PART 2066-A

Subpart A - Rural Development Leave Program

2066.1 General provisions.

(a) Purpose. This Instruction:

- (1) Sets forth responsibilities for administering the leave program in Rural Development.
- (2) Contains guidelines for determining eligibility for leave benefits.
- (3) Explains why involuntary leave may be imposed on an employee.
- (4) Contains guidelines for determining eligibility and for implementing temporary leave transfer program for which Rural Development employees may voluntarily donate annual leave to other employees to cover periods of absence caused by medical emergencies. (Added 02-23-90, SPECIAL PN.)

(b) Authority.

- (1) The basic laws are contained in 5 USC Chapter 63. This Instruction is based on leave laws, Office of Personnel Management (OPM) regulations, U. S. Department of Agriculture (USDA) regulations, and Comptroller General Decisions.
- (2) The Administrator, Associate Administrator, Deputy Administrators, Assistant Administrators, Staff Directors, Division Directors, State Directors and their designees, are authorized to approve leave under the conditions specified in this Instruction. For temporary leave program see §2066.25 (b) of this Instruction on implementation responsibilities for leave recipient and donor approval. (Revised 02-23-90, SPECIAL PN.)

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Personnel  
Leave

(3) In the event of any conflict between this Instruction and a negotiated agreement, the negotiated agreement is the governing document for member employees.

(4) The basic laws for the 5-year voluntary leave transfer program are contained in Public Law 100-566, and will terminate October 31, 1993. (Added 02-23-90, SPECIAL PN.)

(c) Responsibilities.

(1) Employee. Each employee shall:

(i) Know and observe the rules pertaining to requesting and using leave.

(ii) Apply in writing for non-emergency annual and sick leave as far in advance as practicable. This will permit supervisors to adjust the staff work schedules to cover periods of approved absences.

(iii) Notify supervisors as soon as possible at the beginning of business on the first day of any emergency absence, giving the reason for absence and requesting the proper kind of leave. Failure to obtain approval from the supervisor as soon as practicable may result in an employee being placed on absence without leave (AWOL) for the period of absence.

(iv) Certify Form AD-321-3, "Time and Attendance Report (T&A)," for leave used.

(v) Be responsible for finding leave donors. (Added 02-23-90, SPECIAL PN.)

(2) Supervisors. Each supervisor shall:

(i) Administer the Rural Development leave program for employees they supervise.

(ii) Acquaint new employees with the types and purposes of leave benefits and the rules for requesting, using, and signing for leave.

(iii) Counsel employees, as needed, on the use of leave to protect their leave rights and to guard against misuse of leave.

(iv) Schedule vacation leave or leave for other extended absences as to maintain the necessary workforce, minimize absences during peak workload periods, and prevent loss of leave.

(v) Approve or disapprove absences except for:

(A) Leave Without Pay (LWOP) in excess of 30 days.

(B) Military furlough or other furlough.

(C) Involuntary leave.

(D) Advance sick leave in excess of 40 hours. (Added 8-17-88, PN 93)

(vi) Review and sign T & A or questions on leave through normal channels to the State Office Administrative Staff, the Finance Office Personnel Staff, or National Office Personnel Division (PE). (Revised 02-23-90, SPECIAL PN.)

(3) National Office Personnel Division (PE). The PE shall provide guidance in administering the Rural Development leave program covering:

(i) Leave policy.

(ii) Leave instructions.

(iii) Temporary leave transfer policy and instructions. (Added 02-23-90, SPECIAL PN.)

(iv) Assistance and answering of questions pertaining to leave matters. (Renumbered 02-23-90, SPECIAL PN.)

(v) Evaluation of Rural Development leave activities. (Renumbered 02-23-90, SPECIAL PN.)

(4) Final review authority. Because certain absences are subject to Federal personnel laws and regulations, the PE has final review authority for approving/disapproving:

- (i) LWOP in excess of 30 days;
- (ii) Military furlough and other furlough;
- (iii) Involuntary leave.

(5) National Office approval. Absences for LWOP in excess of 30 days, advance sick leave in excess of 40 hours, military furlough or other furlough, and involuntary leave will be approved/disapproved by second line supervisors within their respective organizational unit for National Office employees. (Revised 08-17-88, PN 93.)

Example: Branch Chief recommends approval/disapproval of leave absence, Division Director will be the final approving official.

(6) Field Office approval. LWOP in excess of 30 days, advance sick leave in excess of 40 hours, military furlough, or other furlough, and involuntary leave will be approved/disapproved by a second line supervisor (State Director, Assistant Administrator, Finance Office (FO)). However, the State Director is first and second line supervisor for Program Chiefs and District Directors. (Revised 8-17-88, PN 93)

(7) Approval of leave for State Directors. Requests for leave for State Directors will be made as follows:

- (i) Planned or unplanned leave of 1 to 3 days must be approved in advance, or as soon as possible on the first day of absence by telephone to the Administrator or Associate Administrator well in advance of anticipated absence.
- (ii) For planned leave of more than 3 days, a SF-71, "Application for Leave," must be submitted and approved by the Administrator or Associate Administrator well in advance of anticipated absent.

(8) Approval of leave for the Assistant Administrator, FO. Requests for leave for the Assistant Administrator, FO, will be made as follows:



(i) Planned or unplanned leave of 1 to 3 days must be approved in advance, or as soon as possible on the first day of absence by telephone to the Deputy Administrator of Management.

(ii) For planned leave of more than 3 days, a SF-71, "Application for Leave," must be submitted and approved by the Deputy Administrator for Management well in advance of anticipated absence.

(d) Definitions. The term and phrases used in the leave laws and regulations have specific meanings. A glossary of definitions of leave and leave-related terms is provided:

(1) Absence Without Leave (AWOL) - Unauthorized absence from duty, without pay, for which an employee is not granted any type of leave, including leave without pay.

(2) Absence Without Pay (AWOP) - Absence and nonpay status directed by Rural Development when an employee is suspended from duty.

(3) Accrued (or Earned) Leave - Unused leave credited to an employee during the current leave year.

(4) Accumulated Leave - Unused leave which remains to the credit of an employee at the end of a leave year.

(5) Administrative Workweek - Seven consecutive calendar days of the week, Sunday through Saturday.

(6) Advanced Leave - Leave requested and granted before it is earned to be repaid from future leave earnings or by cash payment.

(7) Basic Workweek - Number of hours, excluding overtime, which an employee is required to work or is required to account for by leave or otherwise.

(8) Break in Service or "Off the Rolls" - A period of interrupted Federal employment beginning with a separation action and continuing for one or more workdays before reemployment in Federal service.

(9) Calendar Year - The period from January 1 through December 31.

(10) Compensatory Time - A method of overtime compensation in lieu of cash payment, under which overtime hours worked are credited to an employee for future use as compensatory leave.

(11) Contagious Disease - A disease ruled subject to quarantine, requiring isolation or restriction of movement by the patient for a specified period, as prescribed by health authorities having jurisdiction.

(12) Continuous Employment or "On the Rolls" - A period of Federal service beginning with an appointment and ending with a separation action.

(13) Cooperative Employees (Agents) - Those employees appointed in connection with cooperative work with non-Federal public agencies such as States and Territories, and with private organizations or individuals.

(14) Executive Order - An order or regulation issued by the President for the purpose of interpreting, implementing, or giving administrative effect to a provision of the constitution or law.

(15) Family Member. Any of the following: spouse and his or her parents; children, including adopted children, and their spouses; parents; brothers and sisters, and their spouses; and individuals related by blood or affinity whose close association with the employee is the equivalent of a family relationship. (Added 02-23-90, SPECIAL PN.)

(16) Fiscal Year - The period from October 1 through September 30. (Renumbered 02-23-90, SPECIAL PN.)

(17) Foreign Area - Any area including Trust Territory of the Pacific Islands, situated outside the United States, and outside the Commonwealth of Puerto Rico, The Canal Zone, and possession of U. S. (all other areas are considered nonforeign areas). (Renumbered 02-23-90, SPECIAL PN.)

(18) Full-Time - A regularly scheduled tour of duty which requires an employee to be on duty 40 hours or more in each workweek. (Renumbered 02-23-90, SPECIAL PN.)

- (19) Full Biweekly Pay Periods - To earn leave, an employee must be employed during a full biweekly pay period. He/she is considered to have been employed for a full period, if he/she is on the rolls on all days falling within the pay period, exclusive of holidays and nonworkdays. (Renumbered 02-23-90, SPECIAL PN.)
- (20) Furlough - Involuntary absence from duty, without pay, resulting from action required and initiated by Agency appointing authority. (Renumbered 02-23-90, SPECIAL PN.)
- (21) Home Leave - A separate amount of leave, granted with pay and in addition to other types of leave authorized by U. S. C. 6305(a), earned by service abroad to use in the United States, Puerto Rico, or territories of the United States. (Renumbered 02-23-90, SPECIAL PN.)
- (22) Indefinite First Eight-Hour Tour of Duty - A tour composed of 5 consecutive 8-hour days, usually Monday through Friday, where the starting and ending hours of work in each day are tied to hours of operation set by industry. (Renumbered 02-23-90, SPECIAL PN.)
- (23) Intermittent - An unscheduled, irregular tour of duty when an employee works as needed and receives pay only when he/she works. (Renumbered 02-23-90, SPECIAL PN.)
- (24) Leave Donor. An employee whose voluntary written request to transfer annual leave to the annual leave account of a leave recipient has been approved by his or her Agency personnel officer or designee. (Added 02-23-90, SPECIAL PN.)
- (25) Leave Recipient. A current employee whose application to receive annual leave from the annual leave accounts of one or more donors has been reviewed by his or her supervisor and approved by the Agency personnel officer or designee. (Added 02-23-90, SPECIAL PN.)
- (26) Leave Without Pay (LWOP) - Temporary non-pay status and absence from duty granted at employee's request. Permissive nature of leave without pay distinguishes it from nonpay status resulting from furlough or disciplinary action required by Agency appointing authority. (Renumbered 02-23-90, SPECIAL PN.)
- (27) Leave Year - The period from the beginning of the first full biweekly pay period which falls completely in the new calendar year through the day before the beginning of the first complete pay period in the following calendar year. (Renumbered 02-23-90, SPECIAL PN.)

(28) Lump-Sum Payment - Payment to employees for leave to their credit upon separation from a leave-earning position. (Renumbered 02-23-90, SPECIAL PN.)

(29) Maternity Leave (absence for purpose of) - Approved absence for reasons related to pregnancy or confinement. Chargeable to sick leave, annual leave, or leave without pay. (Renumbered 02-23-90, SPECIAL PN.)

(30) Medical Certificate for Sick Leave - A statement, signed by a registered physician or other state licensed practitioner including chiropractor, certifying to the length and nature of an employee's incapacitations, examination, or treatment. (Renumbered 02-23-90, SPECIAL PN.)

(31) Medical Emergency. A medical condition of an employee or family member of an employee which is likely to require an employee's absence from duty for a prolonged period of time and to result in substantial loss of income to the employee because of the unavailability of paid leave. (Added 02-23-90, SPECIAL PN.)

(32) Military Furlough - Absence from duty, without pay, granted to an employee on active duty with the Armed Forces. (Renumbered 02-23-90, SPECIAL PN.)

(33) Military Leave - Approved absence without loss of pay or charge to other leave for employees who meet the requirements for approval of military leave. (Renumbered 02-23-90, SPECIAL PN.)

(34) Month of Service - A period which runs from a given duty in one month through the preceding day in the next month; e.g., May 30, 1982 through June 29, 1982. (Renumbered 02-23-90, SPECIAL PN.)

(35) Official Leave - Excused absences without loss of pay or charged to annual or sick leave. (Renumbered 02-23-90, SPECIAL PN.)

(36) Part-Time - A regularly scheduled tour of duty which requires an employee to be on duty less than 40 hours in each workweek. (Renumbered 02-23-90, SPECIAL PN.)

(37) Paternity Leave - Approved absences for male employees to assist in caring for minor children or the mother of his newborn child while she is incapacitated for maternity reasons. Absence chargeable against annual leave or leave without pay. (Renumbered 02-23-90, SPECIAL PN.)

(38) Permanent - An employment status without limitation as to length of service, or with an indefinite limitation. (Renumbered 02-23-90, SPECIAL PN.)

(39) Personal Certificate for Sick Leave - An employee's signed statement (either on Form AD-321-3, Time and Attendance Report, or on SF-71, Application for Leave) that his/her absence was due to illness which incapacitated him/her for duty, or that it was taken for other authorized purposes. (Renumbered 02-23-90, SPECIAL PN.)

(40) Possessions - Of the United States include principally the Virgin Islands of the U. S., Guam, Wake Island, and American Samoa. (Renumbered 02-23-90, SPECIAL PN.)

(41) Service Abroad - Time served as a Federal employee on or after September 6, 1960, at a duty station (1) outside the United States, and (2) outside the employee's residence area, if such area is the Commonwealth of Puerto Rico or one of the U. S. territories. (Renumbered 02-23-90, SPECIAL PN.)

(42) Standard Tour of Duty - A tour of 5 consecutive 8 hour days, Monday through Friday, where the starting and ending hours of work in each day are the same. (Renumbered 02-23-90, SPECIAL PN.)

(43) Temporary - An employment status limited to a definite period of 1 year or less. (Renumbered 02-23-90, SPECIAL PN.)

(44) Temporary Appointment Pending Establishment of a Register (TAPER) - An appointment to a position which is of a continuing nature; i.e., one that will last longer than 1 year. The temporary appointment will end when an appointment can be affected from a register of eligibles. (Renumbered 02-23-90, SPECIAL PN.)

(45) Terminal Leave - Leave granted prior to separation from Federal service when it is known that the employee will not return to duty status from leave before separation. (Renumbered 02-23-90, SPECIAL PN.)

(46) United States - The 50 States of the United States of America and the District of Columbia. (Renumbered 02-23-90, SPECIAL PN.)

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(Added 02-23-90, SPECIAL PN)

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(e) Eligibility for leave benefits. The general conditions under which employees are eligible for various types of leave are set forth in Exhibit A, Guidelines for Determining Eligibility for Leave. Exhibit A contains references to the various sections of this Instruction which explain the basic regulations and types of leave. Consult the specific sections for broader and more detailed coverage on each type of leave.

(f) Procedure for requesting/granting leave. The request and approval of leave will be recorded as follows:

(1) SF-71 is required for:

(i) Any request for leave in excess of 8 hours where the employee's leave approving supervisor is not located at the same duty station.

(ii) Any request for advance leave.

(iii) Mandatory grants of annual leave to disabled veterans, if necessary for medical treatment, after sick leave is exhausted.

(iv) The advance scheduling of leave is excess of 3 days.

(2) After action by the leave-approving officer, send the SF-71 to the officer maintaining the employee's Form AD-321-3.

(3) All leave not required to be requested on SF-71 may be requested orally by the employee, and approved by the leave approving officer.

§2066.2 Annual leave.

(a) Voluntary annual leave. Because annual leave forfeited as a result of illness or exigency of public business must have been requested and approved in writing, it is strongly recommended that annual leave requests, approvals, or denials be made in writing, except in emergency situations.

(1) Taking annual leave is not an absolute right of the employee. A request from the employee will be granted if the work program of the unit will permit the absence. Because annual vacations are important to maintain health

and efficiency, employees are encouraged to take planned annual leave. Supervisors should be liberal in granting annual leave to attend conventions or other organizational events or to observe established religious holidays.

(2) Fixing the time when annual leave may be taken is the right of the supervisor unless related to a disabled veteran seeking a medical examination or treatment (see §2066.3) or an employee on military leave (see §2066.13 (b)). Supervisors should prepare a written schedule of planned absences of annual leave far enough in advance to:

- (i) Maintain the necessary work force.
- (ii) Minimize absences during peak workload conditions.
- (iii) Permit employees to adjust their plans to meet work requirements.
- (iv) Prevent loss of any leave due employees.

(b) Mandatory annual leave. Disabled veterans must be granted earned annual leave, or LWOP if sick leave is not available, for medical treatment if they present an official statement from a properly certified medical practitioner which states:

- (1) That treatment is necessary, and
- (2) The number of days and hours the veteran will be absent.

Annual leave must also be granted to any employee if and when denial would result in forfeiture of annual leave, unless the work situation would be severely affected by the employee's absence.

(c) Accrual of annual leave.

(1) General provisions. An employee accrues annual leave for each full pay period of employment unless he/she:

(i) Is in a nonpay status for the entire pay period.

(ii) Enters a nonleave-earning status while drawing disability payments from the Office of Workers' Compensation Programs.

(2) Completion of full pay period. Both full-time and part-time employees complete a full pay period of employment when they are in a pay status, or any combination of pay and nonpay status, for all the workhours and workdays of the pay period which fall within their basic workweek. Full-time and part-time employees who are not in pay/duty status for all the workhours and workdays of the pay period at the beginning or ending of employment do not accrue annual leave. A full pay period is completed when the employee:

(i) Enters on duty on the first workday after the beginning of a pay period.

(ii) Enters on duty on the second workday after the beginning of a pay period when a Federally observed holiday falls on the first workday.

(iii) Separates at the close of business on the last workday of a pay period, or at the close of business on a holiday falling on the last workday.

(3) Annual leave categories and accrual rate. Annual leave is earned at varying rates based on the amount of service an employee has which is potentially creditable under the Civil Service Retirement Act. (See FPM, 831-1 APP C Subchapter 53, and FPM 296-33 Subchapter 25). (Creditable service also includes paid Federal service for which social security deductions have been made and which would otherwise be creditable towards Civil Service Retirement.)

(i) Full-time employees accrue leave as shown in Table 2-1, below.



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TABLE 2-1 - ANNUAL LEAVE-EARNING CATEGORIES  
AND ACCRUALS FOR FULL-TIME EMPLOYEES

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CONDITIONS	RESULTS
IF A FULL-TIME EMPLOYEE HAS CREDITABLE SERVICE OF . . .	THEN FOR EACH FULL PAY PERIOD THE ACCRUAL IS . . . <u>1/</u>
Less than 3 years (Category 4)	4 hours
3 years but less than 15 years (Category 6)	6 hours <u>2/</u>
15 years or more (Category 8)	8 hours

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(ii) Part-time employees accrue leave for all hours worked including any overtime hours in a pay period. Hours in pay status in excess of the basic working hours in a pay period (80 hours) are disregarded in computing the leave earnings. Leave earned during the pay period is credited at the end of the pay period. The accrued rates are shown in Table 2-2.

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1/ See §2066.2 (f)(1) for leave accrual reductions if an employee's total hours in nonpay status in the leave year through the current pay period equals 80 hours, or a multiple thereof.

2/ In last complete pay period of each calendar year, category 6 employees receive 10 hours annual leave instead of 6. (Refer to §2066.2 (f)(2) for further guidance). If during this pay period they enter the 8-hour category, they receive 8 hours instead of 10.

TABLE 2-2 - ANNUAL LEAVE-EARNING CATEGORIES  
AND ACCRUALS FOR PART-TIME EMPLOYEES

CONDITIONS	RESULTS
IF A PART-TIME EMPLOYEE HAS CREDITABLE SERVICE OF . . .	THEN 1 HOUR OF LEAVE IS ACCRUED FOR EACH . . .
Less than 3 years (Category 4)	20 hours in pay status <u>3</u> /
3 years but less than 15 years (Category 6)	13 hours in pay status <u>3</u> /
15 years or more (Category 8)	10 hours in pay status <u>3</u> /

(iii) Intermittent employees who have no regularly scheduled tour of duty, do not accrue leave.

3/ Only part-time employees (as opposed to intermittent employees) are entitled to earn annual leave. Pay status hours which do not equal the number necessary for a minimum leave credit or 1 hour are carried over from one pay period to the next to accumulate toward future leave credits; any hours in excess of 40 in any administrative workweek will be disregarded for leave-earning purposes.

(4) Changes in leave-earning categories. An employee moves into a higher leave-earning category at the beginning of the next pay period after he/she completes the required years of service. The National Finance Center (NFC) sends an advance notice on Form AD-334, "Earnings Statement," to employees and their timekeepers to notify them of the effective date of leave-earning category changes.

EXAMPLE: On the first Tuesday of Pay Period 2, John Doe completes 3 years of service. He changes from the 4-hour to the 6-hour annual leave earning category and starts earning 6 hours annual leave each pay period at the beginning of Pay Period 3.

(5) Charging annual leave. Employees can be charged annual leave for absence only on the days that constitute the basic workweek or the regular tour of duty. There can be no annual leave charged on holidays. The minimum charge for annual leave is 1 hour and additional charges must be made in multiples thereof.

(6) Fractional hours. Absences of fractional hours on separate days shall not be combined. If, for example, an employee is absent one-half hour on each of 2 separate days, the minimum charge is 1 hour for each day. If an employee is absent for 2 separate periods of one-half hour each, on the same day, the minimum charge is 1 hour. Annual leave may be charged in fractions of an hour in the following instances:

(i) When regular workday contains a fractional hour. For an employee whose regular workday contains a fraction of an hour, annual leave for a full day's absence shall be charged in whole and fractional hours to cover the exact workday.

Example: A part-time employee has a daily work schedule of 5 1/2 hours. The annual leave charged for absence on the whole workday would be 5 1/2 hours. The annual leave charged for absence of 3 1/2 hours of workday would be 4 hours.

(ii) If a different minimum charge is established through negotiation.

(d) Fractional pay period accruals.

(1) General provisions. An employee earns annual leave on a prorata basis during continuous employment when his/her leave-earning status is interrupted for a fraction of a pay period. For example, this rule applies when, during a full pay period of employment, an employee:

(i) Transfers between positions with different pay periods.

(ii) Changes to or from full-time, part-time, or intermittent status.

(iii) Is carried on LWOP for part of the pay period while drawing disability compensation from the Office of Worker's Compensation Programs.

(iv) Is restored after service in the military or with a public international organization. (Employee must have restoration or reemployment rights).

(2) Pro-rata accrual rates.

(i) Full-time employees. Table 2-3, below, shows the pro-rata accrual rates of annual leave for full-time employees during fractional pay periods.

TABLE 2-3 - PRO-RATA ANNUAL LEAVE ACCRUAL RATES  
FOR FRACTIONAL PAY PERIODS

CONDITIONS	RESULTS		
	4-Hour	6-Hour	8-Hour
IF THE NUMBER OF WORKDAYS IN THE PAY PERIOD IS . . .	THEN THE HOURLY ANNUAL LEAVE ACCRUAL, BY LEAVE-EARNING CATEGORY, IS . . .		
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7

(ii) Part-time employees. Part-time employees accrue annual leave for fractional pay periods the same as for full pay periods. (See Table 2-2). However, if they change to fulltime status, they lose any hours of work left to their credit which do not total enough to earn 1 hour of annual leave.

(iii) Intermittent employees. An employee in a position designated as "intermittent" is entitled to leave on a pro-rata basis if he/she has an established tour-of-duty.

(3) Nonentitlement to pro-rata leave credit. There can be no crediting of annual leave on a pro-rata basis for fractional pay periods in the following situations. An employee who resigns, retires, or is separated at the close of business on the last workday of the pay period or a holiday falling on the last workday of the pay period has completed the full pay period and accrues full leave for the period.

(i) Employee is eligible to earn leave but leave credits are being reduced because total absence in a nonpay status within the leave year equals 80 hours. (See §2066.2(f)).

(ii) New employee reports for duty at other than the beginning of the pay period and has no previous Federal service immediately preceding the date of reporting to Rural Development. (See §2066.2(c)(2)).

(iii) Employee leaves Rural Development other than the close of a pay period and is not going to be reemployed elsewhere in the Government without a break of one workday.

(e) Accrual reductions because of nonpay status.

(1) General provisions. Annual leave accruals for a full-time employee must be reduced whenever, during a leave year, the total hours absence in a nonpay status (e.g., LWOP, AWOL, AWOP) equals 80 hours or any multiple of 80 (160, 240, etc.).

(2) Amount of reduction. An employee's leave accruals are reduced by the number of hours of annual leave that normally are earned in a pay period. If the reduction is made for an employee who is in leave-earning category 6 during the last complete pay period in the calendar year, the leave accrual reduction will still be for 6 hours, even though the employee earns 10 hours annual leave for that one pay period. The 4 hours remaining will be credited to the employee.

(3) Counting hours in nonpay status. The hours in nonpay status are recorded on the T&A Report, and the total used to date is carried forward each pay period through the leave year.

(i) Breaks in service. If an employee has one or more breaks in service during the leave year, all the employee's leave-earning hours in nonpay status during each period of employment are added together.

(ii) Nonpay status when leave is not being earned. Nonpay status during periods when an employee is not earning leave are not counted against the 80 hours or multiples of 80. For example, when an employee is on LWOP as a result of job injury for which disability compensation is being paid, the employee is not in a leave-earning status. The hours the employee is on such LWOP would, therefore, require no reduction of leave credits. Also periods of advanced annual leave are not counted as nonpay status when an employee makes a cash refund for hours of leave advanced.

(iii) Balances at end of leave year. Any hours of nonpay status which do not total 80, or a multiple thereof, are dropped from the T&A report at the end of the leave year.

(f) Effect of length of appointment on accrual.

(1) Appointments for 90 calendar days or more. Annual leave begins to accrue with the first full pay period of employment after entrance on duty.

(2) Appointments limited to less than 90 calendar days. The employee does not accrue annual leave. However, if an employee receives successive appointments, each of which is limited to less than 90 calendar days, but which together total more than 90 calendar days, he/she does accrue annual leave. Annual leave is retroactive from date of the original appointment; the employee starts earning leave on the day the employee complete 90 continuous calendar days.

(3) Extensions or conversions of appointments limited to less than 90 calendar days. If an appointment which was initially limited to less than 90 calendar days is extended or converted to one which covers 90 calendar days or more:

(i) Annual leave accrues beginning with the date of the extension or conversion.

(ii) Retroactive credit is given for the time served under the initial appointment(s) of less than 90 calendar days.

(g) Crediting of annual leave. Full-time employees are credited with annual leave at the beginning of the biweekly pay period in which the leave will accrue. Part-time employees are credited with annual leave at the end of the biweekly pay period in which the leave has accrued.

(h) Accumulation of annual leave. Accumulated annual leave is that leave which remains to an employee's credit at the end of a leave year. Limits are imposed by law, on the total hours of annual leave that an employee may carry over from one leave year to the next year.

(1) Employees headquartered in the United States and alien employees headquartered outside the United States (does not include territories or possessions of U.S.). Accumulation of annual leave for such employees may not exceed 30 days (240 hours) at the beginning of the leave year except that employees having an accumulation in excess of 30 days at the end of the last complete biweekly pay period in the calendar year 1952 (or as of close of business 8-20-59, for employees headquartered in Hawaii, or as of close of business 7-6-58, for employees headquartered in Alaska) may maintain such excess accumulation until used. Whenever an employee having an accumulation in excess of 30 days uses more than the annual leave accrual in any leave year, the maximum allowable accumulation will be reduced accordingly until it no longer exceeds 30 days.

(2) U.S. citizens employed outside the United States. The accumulation of annual leave for the following categories of U.S. citizen employees headquartered outside the United States may not exceed 45 days at the beginning of the leave year.

(i) Persons directly recruited or transferred by the Federal Government.

(A) From the United States including transfers to Puerto Rico. (Exception: Natives of Puerto Rico or of possessions of the United States who are temporarily absent from their homes to attend school in the United States, and who are directly recruited in the United States for service in their home area, are entitled to the same maximum annual leave accumulation as employees stationed in the United States.)

(B) From Puerto Rico or possessions of the United States for employment outside the area of recruitment or the area from which transferred.

(ii) Persons employed locally but who were:

(A) Originally recruited from the United States, or Puerto Rico or possessions of the United States (but outside the employment area) who have been in substantially continuous employment by other Federal agencies, United States firms, interests or organizations, or international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provide for their return transportation to the United States or to Puerto Rico or to possessions of the United States, or

(B) Hired while temporarily absent, for the purpose of travel or formal study, from the United States or from their respective places of residence in Puerto Rico or in possessions of the United States and who, during such temporary absence, have maintained residence in the United States but outside the area of employment.

(iii) Persons who are not normally residents of the area concerned and who are discharged from service in the Armed Forces of the United States to accept employment with an agency of the Federal Government.

(3) Retention of 45-day accumulation. Employees eligible for 45-day accumulation who have an excess of 45 days at the end of the last biweekly pay period in the calendar year 1952 may retain such excess accumulation until used. Whenever such an employee uses more than the annual leave accrual in any leave year, the maximum allowable accumulation is reduced accordingly until it no longer exceeds 45 days. When such employees move to positions in which they are subject to the 30-day accumulation limit, they retain their accumulation above the 30-day maximum until they use more annual leave in a leave year than they earn in that leave year. When this occurs, the balance carried forward becomes their new ceiling.

(4) Exclusion of travel time. When employees eligible for 45-day accumulation return to the United States on annual or home leave, such annual or home leave is exclusive of travel time (i.e., time actually and necessarily occupied in going to and from their post of duty and such time as may be necessary in awaiting sailing or flight). Travel time may be allowed only once in a prescribed tour of duty.

(5) Employees in the Senior Executive Service. Section 410 of the Civil Service Reform Act creates an exception from the limitation on annual leave accumulation for individuals serving under an appointment to the Senior Executive Service (SES).

(i) Employees in SES have no limit on the number of hours of annual leave that may be carried over from one leave year to the next. However, the unlimited leave accrual begins with the effective date of placement in the SES position. For example: An employee enters an SES position effective July 1, 1982, with 312 hours accumulated annual leave. Essentially, the leave year is closed out upon entrance into the SES position. Therefore, the employee will have 72 hours annual leave to use or lose by the end of the leave year. Annual leave earned after July 1 is not subject to forfeiture and can be carried forward into subsequent years without limitation.

(ii) When an SES employee moves to a position outside SES, the limitation is again applicable, and any annual leave accumulated while serving in SES is subject to reduction at the beginning of the next leave year.

(6) Recording leave carry-over ceiling. A record of employees' leave carry-over balances is officially maintained by Rural Development designated time keepers, and National Finance Center. During the month of October,



NFC will notify each agency of those employees who are in the use or lose category. This information is available to employees for leave planning purposes. It is the responsibility of the PED to keep employees informed of any changes in carry-over ceiling, and the amount of leave which must be used during the leave year in order to avoid forfeiture of leave at the end of the leave year.

(i) Leave substitution.

(1) In lieu of sick leave. Annual leave may be granted at an employee's request for absence due to illness or other authorized sick leave purposes. However, annual leave may not be granted retroactively for sick leave already approved except to liquidate advanced sick leave, as specified in subparagraph (2) of this paragraph.

(2) For advance sick leave. Annual leave may be substituted for advanced sick leave already taken with the following limitations:

(i) The substitution must not be made so late in the leave year that the annual leave would otherwise have been forfeited because there would not have been time to use it.

(ii) The substitution may only be made if the supervisor would have granted annual leave at the time of the absence on advanced sick leave.

(3) For compensatory time. If the use of compensatory time will result in the forfeiture of annual leave, annual leave must be taken before compensatory time. The compensatory time, however, must be used or paid for by the end of the leave year in which it was earned.

(4) For LWOP. Annual leave may be substituted for a period of LWOP if all of the following conditions are met:

(i) The amount substituted may not exceed the annual leave balance on the beginning date of the LWOP status.

(ii) The employee was not aware of the annual leave balance, because of an administrative error or misunderstanding.

(j) Advancing annual leave

(1) Use of annual leave in advance of accrual. Employees otherwise eligible to earn leave may be granted (employee does not have a vested right to advance leave), at any time after the beginning of

the current leave year, the annual leave which they will earn during the current leave year. Such unearned annual leave is granted only with the express understanding that if it is not later earned during the remainder of the current leave year by reason of unanticipated nonpay status, the employee may be required to make refund for the unearned portion. (See subparagraph 4 of this paragraph.) However, an employee may not be advanced annual leave when it is known (or reasonably expected) that the employee will not return to duty (e.g., when the employee has applied for disability retirement, after an employee has received a notice of separation, or furlough, or has submitted a resignation).

(2) Carryover of advanced annual leave to next leave year. Any advanced annual leave not liquidated at the end of a leave year may be carried over as an advance on the following year's leave earnings if:

(i) The leave still owed by the employee resulted from nonleave earning status due to illness or other personal emergency which prevented the employee from earning leave during the year with which to repay the advance.

(ii) The amount of advanced leave owed does not exceed one-half of the annual leave to be earned in the next leave year.

(iii) The charge against a following year's leave is not made for 2 successive years.

(3) Refunds for advanced leave not carried over. Any advanced leave which cannot be carried forward to the next leave year must be covered by a refund in the amount paid to the employee for the leave. Refunds must be made either:

(i) By a single salary deduction from the first paycheck in the new leave year.

(ii) By a series of deductions from the first and subsequent paychecks, if the supervisor determines that:

(A) There is no risk to the Government.

(B) The employee's financial needs merit spreading the amount of the refund over several payments. The payments, however, cannot extend beyond the end of the new leave year.

(4) Refunds for advanced leave upon separation. When an employee separates from the Federal service before leave advanced to him/her has been earned, the value of the leave is recovered from any pay due him/her. A refund is not required, however, if the employee separates because of:

- (i) Death.
- (ii) Disability retirement.
- (iii) Entrance into military service with restoration rights.
- (iv) Disability which prevents the employee from continuing service, if validated by medical evidence.
- (v) Transfer to other Federal employment without a break in service.

(5) Collection of refund.

- (i) Refunds for advanced leave must be computed in accordance with the leave regulations in effect when the leave was granted, and at the salary rate or rates at which the employee was paid for the leave.
- (ii) Collections from employees, where required, for advanced leave will be made as soon as possible following the end of the leave year by refund or deductions from salary payments due to the employee.
- (iii) Any period covered by a refund for the value of unearned advanced leave will not be considered as a nonpay status for the purpose of leave reduction.

(6) Advancing annual leave during change of administration. State Directors who are initially given temporary appointments may be advanced annual leave only in the amount which will be earned under the temporary appointment.

(7) Advancing annual leave to temporary employees. An employee holding a limited appointment may be advanced annual leave only in the amount which will be earned during the remaining period of employment. The employee must understand that if the unearned annual leave is not later earned the employee will be required to make a refund for this unearned leave.

(k) Granting annual leave credited in error. When an employee is granted annual leave credited to him/her through administrative error, the employee must repay the leave unless repayment is waived by Rural Development. (For waiver procedure please provide an explanation of error by memorandum and send memorandum to Employee Relations Branch, PED, Washington, DC). When the error is discovered, the employee, the supervisor, or administrative officer, will then arrange a repayment agreement. The employee may choose to make refund in one or more of the following ways:

(1) Lump-sum or installment payment in dollars, equivalent to the dollar value of the leave at the time it was used.

(2) Charge against future leave earnings for the amount of excess leave used.

(3) Deduction from current leave account of excess leave used.

(1) Terminal annual leave

(1) General provisions. Terminal annual leave means leave granted and used after it becomes known that an employee is leaving the service without returning to duty status. Terminal annual leave may be granted only under the conditions in subparagraphs (i), (ii) and (iii) of this paragraph. When an employee is granted and uses terminal annual leave under one of these conditions, leave is earned while the employee is on leave. Terminal annual leave may not be granted for the purpose of keeping an employee on the rolls to complete a pay period and thereby earn leave.

(i) Terminal annual leave may be granted when the separation occurs near the end of the fiscal year and the lump-sum payment cannot be made from the current appropriation (terminal annual leave can be granted in such cases only through the end of the current fiscal year), or

(ii) Terminal annual leave may be granted to retain an employee on the rolls until final date of separation where such date is set by statutory, regulatory, or notice requirements. This includes removals, disability retirements, and reductions in force. The PED will advise the employee, through the appropriate official or field office, of the correct effective date in such cases.

(iii) Terminal annual leave may be granted for that amount of unused current accrued annual leave which would otherwise be lost.

(2) Completion of T&A in cases where employee takes annual leave on the last day or days of the final pay period on rolls. The "Remarks" block of the T&A Report must carry the notation "no leave accrual" unless the employee has been granted terminal annual leave under one of the conditions given in subparagraphs (1) (i), (ii), or (iii) of this paragraph. If the employee has been granted terminal annual leave under one of those conditions, the "Remarks" block of the T&A Report will state "terminal leave, employee accrues leave." (Refer to T&A Mode Manual, Chapter V, 2 (e) for additional guidance).

(m) Necessary absences (including tardiness) of less than 1 hour. Brief absences from duty of less than one (1) hour and tardiness of less than 1 hour may be excused by the supervisor for justifiable cause. When not justifiable to the supervisor, the absence must be charged to annual leave, sick leave, LWOP, or AWOL. However, supervisors should be aware that, by placing an employee in any leave status other than AWOL, approval is, in effect, being given for the absence.

(n) Nonworkdays and holidays.

(1) Nonworkdays established by Executive Order or Administrative Order.

(i) Employees in an annual leave status cannot be charged leave on days on which all employees are excused from the performance of their duties because a nonworkday has been established by Executive Order.

(ii) Except for experts and consultants compensated at per diem or per hour rates and alien or native employees outside the continental United States who are paid at per diem or per hour rates, employees in annual leave status cannot be charged leave on days on which all employees are excused from the performance of their duties because a nonworkday has been established by administrative order.

(2) Days on which all employees are excused. Employees on annual leave must be charged leave on days on which all employees at work are excused from the performance of their duties for reasons other than those stated in subparagraphs (1), (4), and (6) of this paragraph. Experts and consultants compensated at per diem or per hour rates with regular tours of duty who are not in leave status will be charged annual leave, sick leave (if applicable), or LWOP when excused from the performance of their duties under these

circumstances. Alien or native employees outside the continental limits of the United States who are compensated at a per diem or per hour rate will be charged annual leave, sick leave (if applicable), or LWOP.

(3) Days on which employees engage in activities for which official leave is granted. Employees in an annual leave status cannot be charged leave for a period in which they are actually engaged in one of the activities for which official leave is granted. (See §2066.12.)

(4) Local, State, and territorial holidays, and national holidays of foreign countries. Field employees in the United States, in insular possessions, and in foreign countries may be excused from duty without charge to annual leave on local, State, and territorial holidays and on national holidays of foreign countries when a responsible officer-in-charge of the program determines that local conditions prevent them from working. (See §2066.12 (p) for additional information.) Exceptions are:

(i) Experts and consultants with regular tours of duty who are compensated at per diem or per hour rates, and

(ii) Aliens or native employees outside the continental United States who are paid at per diem or per hour rates.

(5) Emergency conditions due to strikes or floods. See §2066.12 (1) of this Instruction regarding leave for participation in emergency rescue or protective work.

(6) Hazardous weather dismissals. For leave charged in cases of emergency due to hazardous weather conditions, see §2066.12 (r) of this Instruction. (Revised 8-17-88, PN 93)

(o) Lump-sum payments.

(1) General provisions. Under 5 U.S.C. 5551, accumulated annual leave for lump-sum purposes consists of:

(i) Regular carry-over balance (ceiling) from the previous leave year, if any, plus

(ii) Accrued and unused annual leave during the then current leave year, if any, plus

(iii) Any unused restored annual leave maintained in a separate account.

NOTE: The beneficiary of a deceased employee shall received a lump-sum payment for all accumulated annual leave.

(2) Conditions prescribing payment. Payment is prescribed under the following conditions:

(i) Required payment. An employee must be given a lump-sum payment of all annual leave to his/her credit, including unused restored leave, even though the amount exceeds the allowed carry-over, upon:

(A) Death of an employee who was in pay status on the workday before his/her death. Regular duty pay shall be paid for the day of death. The day of death shall not be included in the lump-sum payment.

(B) Separation from Federal service for 1 or more workdays, except as follows: If an employee is separated to accept a leave earning position in another agency, the Rural Development may make payment to the employee for only the workdays preceding his reemployment. The remainder of annual leave shall be transferred to the gaining agency as described in §2066.2 (i).

(C) Employment in a position not covered by any leave system.

(D) Intermittent employment (i.e., without a regularly scheduled tour of duty) where there is an actual change to a different position with different duties. When the tour of duty of a part-time or full-time employee is changed to intermittent and the employee continues to occupy the same position with no change of duties (e.g., a student trainee), lump-sum payment is not made because annual leave must remain to the employee's credit until there is a change back to a part-time tour of duty.

(ii) Optional payment. When an employee enters the Armed Forces or an international organization, the employee may elect:

(A) To receive a lump-sum payment for annual leave.

(B) To have the annual leave remain to his/her credit until his/her return from active duty.

(C) To have annual leave remain to his/her credit and to be paid for it upon request at any time before reemployment.

(iii) Prohibited payment. An employee shall not receive a lump-sum payment if either:

(A) Transferred to a position to which his/her annual leave may also be transferred.

(B) Intermittently employed between full or part-time tours of duty; i.e., the employee's tour of duty fluctuates between full or part-time and intermittent, with no change in position or duties, such as for a student-trainee.

(3) Computation.

(i) Compute the lump-sum payment on the basis of an employee's entitlement at the time he/she is separated. The payment will:

(A) Cover the workdays an employee would have been on annual leave had he/she actually used it.

(B) Reflect the pay an employee would have received had he/she remained on the rolls.

(C) Not include payment for holidays.

(ii) A lump-sum payment can be used when necessary as a setoff toward an employment indebtedness to the Government.

(iii) The period covered by the lump-sum payment is not creditable as Federal civilian service.

(4) Refund upon reemployment. Whenever a former Federal employee who received a lump-sum payment is reemployed prior to the expiration of the period covered by such a payment, a refund to the reemploying agency must be made as indicated below.

(i) The refund must be made for the unexpired period UNLESS the reemployment is without a regularly scheduled tour of duty. The leave represented by the refund is recredited to the employee in an amount equal to the amount of the refund. The leave cannot be recredited to the employee until the full refund has been made.

(ii) If the unexpired period of leave covers a larger amount of leave than can be transferred to a different leave system, the employee is only required to make a refund covering the amount of recreditable annual leave when reemployed under a different leave system.



(p) Transfer, restoration, and recredit of annual leave.

(1) Transfer of annual leave. In cases of transfer (or separation and reemployment without a break in service) to a position under the same or a different leave system, the employee's annual leave is certified by SF-1150, "Record of Leave Data," to the receiving agency for credit or charge as follows:

(i) When the transfer is between positions both of which are covered by the same leave system, leave is transferred. However, if an employee will serve without a regularly scheduled tour of duty (intermittent, etc.) in the position to which he/she is transferred, a lump-sum payment will be made.

(ii) Leave will be credited by the receiving agency on an adjusted basis and in an amount not exceeding the aggregate which employees in the receiving agency are permitted to accumulate. The untransferable leave will be held by the losing agency for recredit to the employee in the event of return (without a break in service of more than 52 continuous calendar weeks) to the leave system under which it was earned.

(iii) Follow the Mode Procedures Time and Attendance Report Handbook for guidance in transferring SF-1150 to NFC.

(2) Prohibited transfer of annual leave. Annual leave cannot be transferred when an employee:

(i) Moves to a nonleave-earning position where he/she must be given a lump-sum payment for annual leave.

(ii) Is serving in a temporary position while on involuntary furlough from a permanent position, in which case he/she is treated as two separate employees for leave purposes.

(iii) Transfers to a position where all or part of his/her annual leave must be held in abeyance until the employee becomes entitled to a lump-sum payment upon separation from Federal employment, or returns to a position where leave can be recredited. Such leave is held in abeyance by the agency from which transferred.

(iv) Transfers to a cooperative position in which annual leave is earned under a special system.

(3) Restoration of forfeited annual leave.

(i) Annual leave in excess of an employee's allowable accumulation must be forfeited at the end of the leave year. However, an employee may have forfeited annual leave restored under any one of the following conditions:

(A) Administrative error which causes the loss of annual leave accruing after June 30, 1960.

(B) Exigency of the public business when the annual leave was formally requested in writing by the employee at least three pay periods prior to the end of the leave year.

(1) Only a bona fide operational emergency of such magnitude or significance that the public business cannot be effectively conducted or accomplished will support the cancellation of an employee's annual leave for the period requested.

(2) The exigency must be of such importance that employees cannot be excused from duty for its duration. This decision is to be made in advance of canceling the leave, except in emergencies, and should be approved by the official listed in subparagraph (v) of this section before taking such action. Specific beginning and ending dates of the exigency must be fixed in advance whenever possible. If the decision cannot be made in advance, approval should be obtained as soon as practical after the onset of exigency. (Revised 4-9-86, PN 6.)

(3) There must be no reasonable alternative to the canceling of the annual leave or the assignment of those individual employees who will forfeit annual leave because of the work requirement generated by the exigency.

(4) The exigency must be documented in writing by the supervisor and submitted to the next higher management level. (For National Office, next higher management level will be Division Director or above; for the State Office, the State Director will be next higher management level official; for the Finance Office, the Director will be the next higher management level official.) The approving official will document the decision in writing and notify the recommending supervisor of the decision made. The approving official will retain the file documenting the exigency.

(5) For an exigency occurring any time during the year, managers and supervisors have a responsibility to schedule their employee's leave throughout the year so as to avoid the possibility of forfeiture. If an employee's leave has to be cancelled due to workload, managers and supervisors must make every effort to reschedule the employee's annual leave in writing for some other time period before the end of the leave year.

(C) Sickness of the employee when the annual leave was approved in writing at least three pay periods prior to the end of the leave year by an appropriate official. The illness must have occurred at such time late in the year or been of such duration that annual leave could not be rescheduled for use before the end of the year to avoid forfeiture. A grant of sick leave is not in itself a basis for permitting annual leave to be forfeited and subsequently restored. Supervisors have the responsibility to reschedule annual leave, if possible, and this rescheduling must also be in writing. A statement by the attending physician is also required to support the period of sickness.

(D) Unjustified or unwarranted personnel action which causes the loss of annual leave.

(ii) Restored annual leave (except as provided in subparagraph (iii) of this paragraph) because of exigencies, sickness, or administrative error, will be credited to a separate leave account and must be used no later than the end of the leave year ending within 2 years from: (Revised 4-15-87, PN 48.)

(A) The date the annual leave was restored in correcting an administrative error.

(B) The date fixed by Rural Development as the termination of the exigency that resulted in forfeiture of annual leave.

(C) The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of illness.

EXAMPLE: Agency management determined that an exigency, which resulted in forfeiture of 40 hours of annual leave at the end of the 1980 leave year, terminated March 5, 1981. The 40 hours was restored as of March 5, 1981, and the employee will have until the end of the leave year 1983 to use the restored leave.

(iii) Annual leave restored because of an extended exigency as defined below, must be scheduled and used within a time period that equals twice the number of full calendar years, or parts thereof, that the exigency existed. This time period begins at the beginning of the leave year following the leave year in which the exigency is declared to be ended. An "extended exigency" means an exigency of such significance as to:  
(Revised 4-15-87, PN 48)

- (A) threaten the national security, safety, or welfare;
- (B) last more than 3 calendar years;
- (C) affect a segment of an agency or occupational class;  
and
- (D) preclude subsequent use of both restored and accrued annual leave within the time limit specified in subparagraph (ii) of this paragraph.

(iv) Restored annual leave because of unwarranted or unjustified personnel action is controlled by different time limits than leave restored for exigency, sickness or administrative error. Time limits are as follows: (Renumbered 4-15-87, PN 48.)

- (A) A full-time employee shall schedule and use excess annual leave of 416 hours or less by the end of the leave year, 2 years after the date on which the annual leave is credited to the separate account. The Agency shall extend this period by one leave year for each additional 208 hours of excess annual leave or any portion thereof.

(B) A part-time employee shall schedule and use excess annual leave in an amount equal to or less than 20 percent of the employee's present scheduled tour of duty projected over the next 52 weeks. This leave shall be scheduled and used by the end of the leave year in progress 2 years after the date on which the annual leave is credited to the separate account. The agency shall extend this period by one leave year for each additional number of hours of excess annual leave, or any portion thereof, equal to 10 percent of the employee's scheduled tour of duty over a period of 52 calendar weeks.

(v) Officials authorized to restore annual leave. (Renumbered 4-9-86, PN 6.)

(A) The Administrator determines that an exigency of the public business resulted in forfeiture of annual leave and will restore such leave for the personnel in the immediate organizational unit of the Associate and Deputy Administrators, State Directors, and Assistant Administrator, FO. (Revised 8-17-88, PN 93)

(B) The Deputy Administrator for Management determines that an exigency of the public business resulted in forfeiture of annual leave and will restore such leave for the personnel of all other units in the National Office. (Revised 4-15-87, PN 48.)

(C) The Director, Personnel Division approves restoration of annual leave forfeited because of administrative error, an unwarranted or unjustified personnel action, or sickness for employees in the National Office. (Revised 4-15-87, PN 48.)

(D) State Directors determine exigencies of the public business that may result in forfeiture of annual leave for all units within the State except for the immediate organizational unit of the State Director. State Directors will restore leave forfeited because of exigencies, administrative error, an unwarranted or unjustified personnel action, or sickness for all employees in the State. (Revised 8-17-88, PN 93)

(E) The Assistant Administrator, Finance Office determines exigencies of the public business that may result in forfeiture of annual leave for all units within the Finance Office, except the immediate organizational unit of the Assistant Administrator. The Assistant Administrator will restore leave forfeited because of exigencies, administrative error, an unwarranted or unjustified personnel action, or sickness for all employees in the Finance Office. (Revised 8-17-88, PN 93)

(vi) Requests for restoration of forfeited annual leave must be initiated by memorandum from the employee or an appropriate official in the supervisory chain, and routed through channels to the servicing Personnel Office. (Revised 4-15-87, PN 48.)

(A) All requests must include:

(1) Employee's name, title, grade, social security number, and duty station.

(2) Details of the specific circumstances causing forfeiture of leave. EXAMPLES:

(i) Emergency operational situation or exigency which resulted in cancellation of the scheduled leave, including its inclusive date.

(ii) The nature of sickness, including the doctor's certificate, date illness began, and date employee returned to duty.

(iii) The administrative error which resulted in forfeiture of annual leave.

(iv) The unjustified or unwarranted personnel action which resulted in forfeiture of annual leave.

(B) Requests for restoration which are due to exigency or sickness must also be supported by:

(1) A copy of approved forms or documents used to schedule or reschedule forfeited annual leave to include:

(i) The date the supervisor approved the leave.

(ii) The specific dates of scheduled leave and total number of hours.

(iii) The dates the leave was rescheduled to and the amount of leave that was rescheduled for use, if appropriate. If an exigency occurs during the year that results in the cancellation of leave, action must be taken to reschedule the leave for use before the end of the year to avoid forfeiture.



(2) The specific dates the annual leave was cancelled and total number of hours of annual leave forfeited.

(3) A copy of the employee's T&A for the last pay period and the first pay period for the leave years in question.

(4) An explanation of why the annual leave could not have been rescheduled and used during the leave year.

(5) A copy of the paperwork documenting the exigency and its approval by the appropriate management official.

(C) The servicing Personnel Office will: (Revised 4-15-87, PN 48.)

(1) Review requests for restoration of forfeited annual leave and recommend approval or disapproval by the Administrator; Deputy Administrator for Management; Director, Personnel Division; State Director; or Assistant Administrator, Finance Office. (Revised 4-15-87, PN 48.)

(2) Prepare Form AD-582, "Authorization for Restored Annual Leave under Public Law 93-181."

(3) Distribute copies of approved Form AD-582 to:

(i) Original to NFC using Form AD-337, "Transmittal-Personnel and Payroll Forms."

(ii) Copy in employee's Official Personnel Folder (OPF).

(iii) Copy to employee's timekeeper.

(iv) Copy to employee.

(vii) In recording restored annual leave, the timekeeper will: (Renumbered 4-9-86, PN 6.)

(A) Maintain a separate record on the timekeeper's copy of Form AD-582 of restored annual leave used and balances. The amount of the restored leave does not in any way increase or change an employee's normal maximum permissible carry-over of annual leave into a new leave year. (Do not maintain restored annual leave balances on the T&A itself.)

(B) Use Transaction Code "63" on the T&A to enter restored annual leave used by the employee (refer to Chapter III, C 8 of T&A Mode Manual for additional information).

(C) Notify employees of restored leave balances prior to the end of the leave year. (NFC audits restored leave balances but does not notify employees.)

(viii) A request for restoration of annual leave forfeited due to a public exigency will not be accepted or processed after April 1 of the following leave year. There are no time limits on the acceptance or processing of restoration requests for leave forfeited due to administrative errors, employee illness, or unjustified or unwarranted personnel actions. Any restored leave unused at the expiration of the 2-year limit is again forfeited with no further right to restoration. There is no legal authority to provide payment for restored leave if leave is used within the specified time. (Revised 4-15-87, PN 48.)

(ix) Restored leave can be transferred and such leave balances will be shown on Form SF-1150 or AD-336, "Record of Leave Data Transferred". When an employee transfers, the gaining agency will credit the restored leave balance to the employee's record. (Renumbered 4-9-86, PN 6.)

(x) If the restored leave is not used and the employee separates from government service, the employee is entitled to a lump-sum payment for the unused restored leave. (Renumbered 4-9-86, PN 6.)

(q) Recredit of annual leave.

(1) After military service. When an employee enters active military service with restoration rights, his/her leave account is certified for credit or charge and filed in the employee's OPF. If he/she is restored within 52 calendar weeks after separation from military service, the gaining agency reestablishes the certified leave account for credit or charge. If the employee is not restored for reasons other than death and was:

(i) Furloughed to enter military service, he/she is separated as of the day before entry into military service. Annual leave to his/her credit is paid in a lump-sum. If indebted for unearned leave, collection is requested.

§2066.2 (q) (1) (Con.)

(ii) Separated to enter military service, the employee must make claim for the annual leave to his/her credit. If indebted for unearned leave, collection is requested.

(2) Upon refund of lump-sum payment. The hours of leave represented by the refund are recredited to his/her account and are available for use as soon as the employee's refund is received.

(3) Upon reemployment under a leave system where prior leave is being held for recredit. When an employee returns to a position under a leave system where a leave account is being held for him/her, he/she is recredited with prior balance if the employee has not had a break in service of more than 52 calendar weeks.

§§2066.3 - 2066.6 (Reserved)

§2066.7 Sick leave.

(a) Accrual of sick leave.

(1) General.

(i) Employees earn sick leave during each full biweekly pay while in a pay status or in a combination of pay status and nonpay status. Sick leave is not earned for periods in a pay status of less than a full biweekly pay period. Exceptions to the requirement that an employee complete the full pay period to earn sick leave are the same for sick leave as they are for annual leave.

(ii) An employee who is absent on LWOP because of a service-connected injury or illness does not accrue sick leave for the period during which disability compensation is paid by the Office of Federal Employee's Compensation of the U.S. Department of Labor.

Reductions in sick leave credits are required the same as for annual leave when, during the leave year, nonpay status totals the equivalent of the base pay hours in one pay period.

(2) Completion of full pay period. Full-time and part-time employees complete a full pay period of employment when they are in pay status, or any combination of pay and noontime status, for all of the work hours and workdays of the pay period which fall within their basic workweek. An employee must be on the rolls for all the work hours and workdays of the pay period in order to earn sick leave.

(3) Accrual rates.

(i) Full-time employees accrue 4 hours of sick leave each full pay period. Accruals for full-time employees are credited at the beginning of the pay period.

(ii) Part-time employees accrue 1 hour of sick leave for each 20 hours in pay status, whether or not such pay status is part of a regular tour. Credit may not be given for more than 40 hours of pay status in 1 week. Hours in pay status during a pay period which total less than 20 (or a multiple thereof) shall be carried over for credit in the next pay period. Accruals for part-time employees are credited at the end of the pay period.

(iii) Intermittent employees who have no regularly scheduled tour of duty do not earn sick leave.

(4) Fractional pay period accruals.

(i) General Rule. An employee earns sick leave on a pro rata basis if, during continuous employment, his/her leave-earning status is interrupted for a fraction of a pay period. For example, this rule applies during a pay period when an employee:

(A) Transfers between positions having different pay periods.

(B) Changes his/her employment status (full-time to part-time or intermittent, or vice versa).

(C) Is carried on LWOP while drawing disability compensation from the Office of Workers Compensation Programs.

(D) Is restored after service in the military or with a public international organization. (Employee must have restoration or reemployment rights.)

(E) Is restored after a period of unwarranted suspension.

(ii) Pro-rata accrual rates.

(A) Full-time employees. Table 3-1 of this subparagraph shows the pro-rata accrual rates for sick leave for full-time employees during fractional pay periods.

(B) Part-time employees. Part-time employees accrue sick leave for fractional pay periods the same as for full pay periods. (See Table 3-1 of this subparagraph for accrual rates.) If a part-time employee changes to full-time status, he/she shall lose credit for any hours of work below the 20 hours required to earn 1 hour of sick leave.

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TABLE 3-1 - PRO-RATA ACCRUAL RATES  
 FOR FRACTIONAL PAY PERIODS  
 (FULL-TIME AND PART-TIME EMPLOYEES)

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CONDITIONS	RESULTS
IF THE NUMBER OF WORKDAYS IN A PAY PERIOD IS . . .	THEN THE HOURLY ACCRUAL OF SICK LEAVE IS . . .
1	1
2	1
3	1
4	2
5	2
6	2
7	3
8	3
9	3

---

(5) Accrual reductions because of nonpay status.

(i) General rule. The sick leave accrual for a full-time employee must be reduced by 4 hours whenever his/her time in a leave earning, nonpay status, equals 80 hours or any multiple of 80 (160, 240, etc.) during a leave year.

(ii) Counting hours in nonpay status. The hours in nonpay status shall be recorded on the T&A report. The total used to date shall be carried forward each pay period, throughout the leave year.

(A) Break in service. If an employee has one or more breaks in service during the leave year, his/her leave-earning hours in nonpay status during each period of employment shall be added together.

(B) Nonpay status when sick leave is not earned. Nonpay status during periods when an employee is not earning sick leave shall not be counted. Also, periods of advanced sick leave shall not be counted as nonpay status when an

employee makes cash refund for the hours of sick leave advanced, even though the advanced sick leave is converted to LWOP upon refund.

(C) Nonpay hours at end of leave year. All hours of nonpay status hours shall be dropped when preparing the first T&A report for the new leave year.

(6) Accumulation of sick leave. Sick leave which is not used during a leave year in which it accrues is accumulated without limitation.

(7) Sick leave credited toward computation of annuity. Unused sick leave to the credit of an employee as of the date of retirement or death is credited toward the calculation of retirement and survivor annuities. Days of unused sick leave are used only in counting the number of years and months of service for annuity computation purposes. They cannot be used in computing the employee's high-3 average salary or for the purpose of meeting the minimum length of service required for retirement eligibility. Sick leave which is used in the computation of an annuity for an employee may not later be used, transferred, or recredited.

(8) Transfer and recredit of sick leave. Sick leave is transferable under the same conditions as annual leave. In addition, in any case of reemployment effective on or after January 9, 1962, any sick leave unused at the time the employee left may be recredited provided the break in service is not more than three years. (FPM 990-2, Book 630, Subchapter 55)

(9) Special exception. Employees who are reemployed by agencies after service with an international organization are entitled to have their sick leave recredited even though they have been off the rolls for more than three years.

(b) Granting sick leave.

(1) Purposes of sick leave. Sick leave shall be granted to an eligible employee when the employee:

(i) Receives medical, dental, or optical treatment or examination.

(ii) Is unable to work because of sickness, injury, pregnancy, or confinement.

(iii) Must care for an immediate family member who has a contagious disease.

(iv) Is exposed to a contagious disease and his/her presence at work, would jeopardize the health of co-workers.

(2) Such approval is final unless facts later become known, which, if known at the time leave was granted, would have required refusal.

(c) Request for sick leave. Employees should request sick leave in advance when possible (such as for medical and dental appointments, leave for maternity purposes, etc.). When advance notice is not possible, an employee must notify his/her supervisor, as early as possible on the first day of absence. Failure to give prompt notice may result in denial of sick leave for the absence.

(d) Requirements for granting sick leave.

(1) General. The granting of sick leave is an administrative responsibility of the supervisor. Before granting sick leave, the supervisor shall determine that:

(A) Prompt notice of the need for sick leave was given by the employee.

(B) The evidence submitted by the employee supports charging the absence to sick leave.

(2) Supporting evidence. Supervisors shall require employees to file evidence in support of sick leave within the pay period in which the employee returns to duty.

(i) Personal Certificate.

(A) Absences of 3 workdays or less. Generally, employees shall support sick leave of 3 days or less by a personal certificate, either by initialing the T&A Report, or by completing an SF-71. However, when determined necessary, a supervisor may require a medical certificate for the period of absence.

(B) Absences in excess of 3 workdays. In special cases when the employee did not consult a physician and the employee does not have a record of sick leave abuse, the supervisor may accept a personal certificate on the reverse of SF-71, stating the nature of the illness and the reasons the employee did not see a doctor.



(ii) Medical certificate. Employee shall submit a medical certificate, or other administratively acceptable evidence, (e.g., SF-71, personal letter) covering periods of absence:

(A) In excess of 3 workdays unless the approving official determining a medical certificate is required for a lesser period.

(B) When there is reason to suspect abuse of sick leave which would require additional evidence to support the employee's personal statement of reasons for his/her absence. The employee shall first be given advance notice that a medical certificate will be required for each subsequent absence of sick leave of any duration. If the employee's sick leave pattern continues, the employee will be advised in writing that all future requests for sick leave must be supported by an acceptable medical certification. [The supervisor shall have the discretion to accept the medical certification, or have it reviewed by the Departmental Medical Officer if there is any doubt as to its sufficiency. Requests for review of medical certification should be submitted to the Director, Personnel Division. Employees may continue on sick leave pending the review of their medical certificate.]

(C) When an employee is required to care for a member of his/her immediate family who has a contagious disease, or the employee is exposed to a contagious disease and his/her presence at work would jeopardize the health of co-workers. In such cases, sick leave may be granted only for the period of quarantine established by the local health authority or attending physician. The contagious disease certificate must show what the disease was and the dates of the contagious period.

(D) For all requests for advance sick leave. The medical certificate should state the nature of the serious ailment or disability and should state the beginning and ending dates of the employee's incapacitation. The supervisor shall have the discretion to accept the medical certification, or to have it reviewed by the Departmental Medical Officer if there is doubt as to its sufficiency. Request for review of medical certification should be submitted to the Director, Personnel Division. Employees may continue on advance sick leave pending the review of their medical certificate. (Added 8-17-88, PN 93)

(e) Granting sick leave without application. If an employee dies before application for sick leave is made, accrued, or advanced, than sick leave may be granted without application by the supervisor. Such leave may be approved only for a period immediately prior to death resulting from the illness or disability that caused the employee's absence.

(f) Granting sick leave to veterans for medical treatment. Supervisors must grant disabled veterans such sick leave as may be permitted by law in order that the veteran may receive examination or medical treatment in connection with the disability. If the veteran has no sick leave or annual leave, LWOP must be granted. The grant is obligatory if the veteran:

(1) Presents an official statement from a properly licensed medical practitioner or officer of a Government hospital that examination or treatment is necessary, and

(2) Notifies the supervisor far enough in advance to permit the making of arrangements for carrying on work, and

(3) States in the notice to the supervisor the days on which absence is anticipated and the number of hours off that will be required.

(g) Granting sick leave after notice separation by reduction in force. An employee who has received a notice of separation by reduction in force may be granted sick leave through the last day of retention in active duty status. Sick leave cannot be granted after the employee enters on furlough without pay or is separated.

(h) Sick leave without employee's consent. When an employee is unable to work because of mental or physical illness or emotional disturbances, the supervisor may, with prior approval of the Administrator, State Director, Director, Finance Office, or Personnel Director, place the employee on sick leave without the employee's consent. If it is found that the employee is physically or mentally unfit for retention and disability retirement is being recommended, the employee may be retained on involuntary annual or sick leave, or LWOP, pending approval of the disability retirement.

(i) Advanced sick leave. Requests for advanced sick leave should be made as early as practicable. The employee may not be aware of the exhaustion of accumulated and accrued sick leave, or that a decision must be made as to whether the continuing absence should be charged to annual leave, LWOP, or advanced sick leave. When no request on the part of the employee is received by the time accumulated and accrued sick leave is exhausted, a notice will be sent to the employee requesting that a decision be made with respect to the charging of the continuing absence. The employee will be requested to make this decision by no later than the end of the first complete pay period occurring after the date the notice is received by the employee. Failure to comply may result in the charging of the continuing absence to AWOL, until a request and sufficient justification for a continued absence is received.

(1) Criteria for granting.

(i) General. Sick leave not in excess of 30 days may be advanced in cases of serious disability or ailment to any employee (except those employees holding a limited appointment may be advanced sick leave only in the amount which will be earned during the remaining period of employment). Advanced sick leave may be for any number of days or hours within the maximum of 30 days, and may be granted regardless of whether

the employee has annual leave. The 30-day maximum is reached whenever an employee's record shows indebtedness of 240 hours sick leave at the end of any biweekly pay period.

(ii) Guidelines for determining "Serious Disability or Ailment." Sick leave will be advanced to an employee only if it represents all or a portion of a consecutive absence from duty extending for more than 3 workdays. The application for the advance sick leave must be supported by a physician's certificate. Exceptions may be made in individual cases by advancing sick leave for shorter periods of absence under the condition that the approving official have medical certification that the advance sick leave is due to a continuing serious medical disability or ailment which necessitates intermittent absences.

(iii) Approval. Approving officials should consider the seriousness of the employee's condition, the employee's ability to repay the advance leave, and explore other leave-taking options prior to approving an advance sick leave request. With proper medical certification (reference RD Instruction 2066.7(d)(2)(ii)(1)), the immediate supervisor may approve up to 40 hours of advance sick leave in a leave year. Requests for advance sick leave in excess of 40 hours, but not exceeding 240 hours, must be reviewed and approved by one of the following officials. (Added 8-17-88. PN 93;

- (A) National Office. Division or Staff Director.
- (B) Field Office. State Director.
- (C) Finance Office. Assistant Administrator.

(2) Restrictions on the granting of advance sick leave. Advance sick leave should not be granted:

- (i) To an employee who has exhausted all earned sick leave and the employee is not seriously ill,
- (ii) To an employee who is not ill but is required to take care of a family member who is ill with a contagious disease,

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§2066.7 (i) (2) (Con.)

(iii) It is known that an employee does not intend to return to duty (e.g., has submitted a resignation, or has applied for disability retirement),

(iv) After an employee has received a notice of separation or furlough by reduction in force. If the employee has been granted advance sick leave prior to receipt of such a notice, such leave must be immediately stopped and no further grants may be made, or

(v) To an employee for the purpose of adopting children or time off to make necessary family adjustments for adopting a child.

(3) Unliquidated balance of advanced sick leave. Unliquidated balance of advanced sick leave remaining at the end of the leave year is carried forward to the next leave year. A refund for an unliquidated advance sick leave balance is required at the time of an employee's separation from Federal service except in cases of:

(i) Death,

(ii) Retirement for disability,

(iii) Resignation or separation because of disability which prevents employee's return to duty or continuing in service and which is the basis for the resignation or separation as determined by the Personnel Division on medical evidence acceptable to it, or

(iv) Separation or furlough of an employee entering active military service with restoration rights.

(4) Procedure for making refund.

(i) An employee who wishes to make a cash refund for advance sick leave must prepare and submit a memorandum to his/her supervisor stating the following:

(A) Name and social security number,

(B) That a check is being submitted for the total amount of the refund, or that the amount due should be deducted from one or more regular salary checks, and

(C) If salary check deductions are requested, the amount of deduction to be made from each salary check, the number and dates of the first pay period in which deduction should be made, and the fact that the deduction shall continue until the advanced sick leave is liquidated.

(ii) The supervisor shall forward the employee's memorandum through appropriate channels to PED and furnish the following additional information for each pay period involved:

(A) The pay period numbers involved and the total hours and inclusive dates of advanced sick leave,

(B) The employee's hourly salary rate in effect at the time the advanced sick leave was used,

(C) The total amount of pay received for advanced sick leave in each pay period, and

(D) The management code to which the hours of advanced sick leave was originally charged.

(5) Liquidation of advanced sick leave by substitution of annual leave.

(i) Permitted. An employee may substitute annual leave for advanced sick leave:

(A) Provided the substitution of annual leave is not made solely for the purpose of avoiding forfeiture of annual leave, and

(B) His/her supervisor would have approved annual leave at the time the advanced sick leave was granted.

(ii) Procedure for making substitutions. Annual and sick leave balances shall be adjusted on the T&A Report for the pay period in which the substitution is approved.

EXAMPLE: An employee has a minus balance of 40 hours of advanced sick leave and an annual leave balance of 80 hours. The adjustment on the T&A would change the minimum 40 hours of sick leave to 0 and the 80 hours of annual leave to 40 hours. Corrected T&A Reports are not required for the pay periods in which advanced sick leave was used.

(j) Charging sick leave.

(1) General provisions. Employees are charged sick leave for absence only on the days that constitute the basic workweek or the regular tour of duty.

(i) During period of annual leave. When sickness occurs within a period of annual leave, the period of illness may be charged as sick leave subject to supporting evidence when required.

(ii) When period of illness cannot be covered by accumulated, accrued, and/or properly advanced sick leave. Any portion of a period otherwise chargeable to sick leave which cannot be covered by accumulated, accrued, or properly advanced sick leave is charged to annual leave or LWOP at the request of the employee.

(iii) In periods of "stand-by" service. When a period of "stand-by" service has been declared as a result of emergency conditions such as floods or strikes, then sick leave, if otherwise proper, will be charged only for absence on those days of the basic workweek which employees would otherwise work.

(iv) On holidays. There is no charge for sick leave on holidays.

(v) Hazardous weather dismissals. See §2066.12 (q).

(2) Minimum charge. The minimum charge for sick leave is 1 hour. Additional charges must be in multiple thereof, EXCEPT that sick leave charges may be made in fractions of an hour in the following instances:

(i) An employee having a regularly scheduled daily tour of duty involving a fraction of an hour is absent on sick leave for all of the regular workday. EXAMPLE: Daily tour of duty-- 5 1/2 hours. Sick leave charge for absence of 1 workday-- 5 1/2 hours.

(ii) If a different minimum charge is established through negotiations.

§2066.8 Absence without pay.

(a) Leave without pay (LWOP).

(1) General. LWOP is a temporary nonpay status and approved absence from duty which may be granted to employees as specified in this section. Leave without pay can be given when an employee has annual or sick leave credit.

(2) Request for LWOP. Employees must apply for LWOP in advance and must be made in writing (either by memo or letter). LWOP will not be taken until the request has been approved, except in cases of emergency.

(3) Granting LWOP.

(i) For 30 calendar days or less. Officials who have been delegated such authority (§2066.1 (c)) may grant LWOP not in excess of 30 calendar days for any purpose.

(ii) More than 30 calendar days (extended LWOP). LWOP for more than 30 calendar days is "extended" LWOP. Initial grants of extended LWOP and extensions are limited to 1 year at a time. Processing of Form AD-350A, "Change Action Notice," is required to effect any grant of extended LWOP.

(iii) Guidelines for extended LWOP.

(A) The employee must be committed to return to duty after the period of extended LWOP, except for disabled veterans requiring medical treatment and employees who have applied for disability retirement or disability compensation.



(B) The extended LWOP must benefit Rural Development and the employee.

(C) The request for extended LWOP must be submitted on SF-52, "Request for Personnel Action," covering an initial period or extension of not more than 1 year at a time. The following documentation is required:

(1) The employee's written request for the extended LWOP with the supervisor's written approval, and

(2) If applicable, a statement that a doctor's certificate has been obtained if illness or injury is the reason.

(iv) Approval policy. Except for disabled veterans needing medical treatment and reservists and National Guardsmen wishing leave for military training, employees cannot demand extended LWOP as a matter of right. The request may be denied if the employee's services are required, or if the employee has not followed prescribed leave procedures. The approval policy will be liberal on requests for extended LWOP in the following cases:

(A) For employees who have applied for disability retirement or disability compensation.

(B) For employees being paid disability compensation, unless it is known that they are permanently disabled for performance of their duties.

The SF-52 recommending extended LWOP must state under "Remarks" that the extended LWOP is being granted because of a service-connected injury or illness, and that the employee is in receipt of, or expects to be in receipt of, injury compensation benefits.

(C) For employees having an illness or disability attested to by medical or other evidence, unless such evidence indicates that the employee will not return to duty. (This includes absences for maternity purposes.)

(D) For employees to attend school if the course of study will result in increased ability to perform work in Rural Development. If the employee is a veteran attending school under the GI Bill of Rights, a liberal policy will be applied even though the course of study is not directly related to Rural Development activities.

(E) For employees to teach at colleges or universities, and therefore acquire experience and skills of value to Rural Development.

(F) For assignments of employees who have highly specialized qualifications for short terms (90 days or less) to public educational organizations to engage in organizing programs or consultation work.

(G) For employees to work in a non-Federal, private, or public enterprise (other than a public international organization) where the work is temporary and where the requirements given below have been met:

(1) The activity in which the employee is to be engaged is one of special interest and will result in increased job performance in Rural Development.

(2) The performance of such work does not involve using information secured as the result of employment in the Agency or Department to the detriment of the public service.

(3) The acceptance of such employment does not bring criticism on, or cause embarrassment to, the Department or Rural Development.

(4) The employee is not accepting office in an organization or permitting the use of his/her name in the advertising matter of the organization which would commercialize the results of work conducted by the Agency or Department, regardless of the merits of such an enterprise.

(H) For career or career-conditional employees serving in competitive conditions in Rural Development to permit them to serve as Peace Corps volunteers or volunteer leaders for periods up to 30 months.

(I) For career-conditional employees requesting up to 90 days LWOP when the employee must move to a new location to accompany:

(1) A spouse in the military.

(2) A Federal employee on a rotational assignment.

(3) A Federal employee involved in a transfer of function or relocation of activity.

NOTE: This period of extended LWOP is intended to make it possible for the career-conditional employee to work out s transfer and avoid having to begin a new career-conditional period.

(J) For employees to serve, on a temporary basis, as an officer or representative of a union for Federal employees.

(K) For other reasons when it would not disrupt Rural Development programs, it would be in Rural Development's interest to keep the employee, and denial of leave causes undue hardship for the employee.

(v) Substitution of annual leave for LWOP. Annual leave, in the amount standing to an employee's credit when LWOP begins, may be substituted for a period of LWOP when an administrative error or misunderstanding resulted in an employee being charged LWOP when he/she could have used annual leave instead.

(vi) LWOP during periods of emergency standby service. When emergency conditions at the worksite such as floods and strikes cause a shutdown of operations, an employee who does not have annual leave may be placed in a nonpay status only after authorization has been obtained by the Director, PED from the USDA Director of Personnel.

(4) Recording LWOP.

(i) LWOP for 30 calendar days or less is recorded on Form AD-321-3.

(ii) Extended LWOP (more than 30 calendar days) is not recorded on Form AD-321-3. Extended LWOP is recorded by processing an AD-350, "Notification of Personnel Action" (PED processes AD-350 by using SF-52 mentioned in subparagraph (j)(iii)(C) of this paragraph.)

(b) Absence without leave (AWOL). Absence without leave is a nonpay absence from duty which is not authorized or for which a request for leave has been denied. A charge of AWOL is not in itself a disciplinary action, but may become the basis for such action. If the absence is later excused because of circumstances justifying approval of leave, AWOL may be changed to annual or sick leave, or other appropriate type

of leave. (See Delegated Disciplinary Authority Instruction 2045-GG).  
(Revised 4-9-86, PN 6.)

(c) Charging nonpay status.

(1) General. Any employee having a regularly scheduled tour of duty (whether full-time or less than full-time) must be placed in nonpay status to cover absences on the days that constitute the basic workweek or the regular tour of duty whenever:

(i) An employee does not have annual or sick leave to cover such absences.

(ii) Such absences are not properly chargeable to annual, sick, or official leave.

(2) Minimum charge. One hour is the minimum charge for nonpay status, and additional time will be charged in multiples of 1 hour. EXCEPTION: Charges may be made in fractions of an hour in the following instances:

(i) Where an employee having a regularly scheduled daily tour of duty involving a fraction of an hour is absent in a nonpay status for the full workday.

EXAMPLE: Daily tour of duty--5 1/2 hours. Nonpay status charged for absence of 1 workday--5 1/2 hours.

(ii) Where an employee assigned to a split shift is absent for an entire part of the shift, such part involving a fraction of an hour.

EXAMPLE: Daily tour of duty--first part of split shift, 3 1/2 hours; second part of split shift, 4 1/2 hours. Nonpay status charged for absence during entire first part of split shift--3 1/2 hours; for entire second part of split shift--4 1/2 hours.

(iii) Where a minimum charge of less than 1 hour has been established through negotiations.

(3) Other charges.

(i) On holidays. A charge for nonpay status is made for a holiday occurring within a period of nonpay status. A charge

for nonpay status is not made for a holiday that immediately precedes the nonpay status period. If an employee returns to duty at the beginning of business the day following a holiday after having been in nonpay status, no nonpay status charge is made for the holiday.

(ii) For part of day. Where the effective time of nonpay status commences after the beginning of a workday, the total period of nonpay status would be the difference between the time in the workday, exclusive of the lunch period, less the time in a duty status.

(iii) When refund is made for unearned annual or sick leave. Annual or sick leave originally charged must be changed to LWOP for the same dates if refund is made.

(iv) During emergency standby. When a period of standby is declared as a result of emergencies due to floods, strikes, etc., employees are considered in active duty status and any absence will be charged to nonpay leave when an employee does not have leave to his/her credit.

(d) Effect of nonpay status on annual and sick leave accruals. See §2066.2 (f) of this Instruction for the effect of nonpay status on annual leave accrual and §2066.7 (a)(5) of this Instruction for the effect on sick leave accrual.

(e) Furnishing SF-8, "Notice to Federal Employee About Unemployment Insurance." When an employee has been, or is expected to be, in nonpay status for 7 consecutive days or more, the supervisor must furnish the employee a completed SF-8. In lieu of the SF-8 the last copy of the T&A may be used for this purpose.

§§2066.9 - 2066.11 [Reserved]

§2066.12 Official leave.

(a) General. Official leave is time off without loss of pay or charge to annual or sick leave allowed by statute, Executive Order, or administrative action. Official leave shall be granted eligible Rural Development employees for the activities and within the limitations specified in this section.

(b) Court leave. "Judicial Proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(1) Leave with pay for service as a juror or a witness.

(i) An employee (other than one without a regularly scheduled tour of duty) is entitled to court leave when summoned in connection with any judicial proceeding by a court or by an authority responsible for conducting such proceedings, to serve as a juror or as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party, except as provided in paragraph (3) of this section.

(ii) An employee granted court leave will have no reduction in pay or accrued leave during the period of court service. Further, the court service will not adversely impact on credit for Federal service or performance standards or rating.

(iii) If an employee is a plaintiff in a proceeding to which the United States, the District of Columbia, or a State or local government is a party,

(A) Time spent giving a deposition (with or without a summons) or in testifying as a witness is considered as court leave.

(B) Time spent as a plaintiff testifying in his or her own behalf is not considered court leave. Annual leave or LWOP is appropriate for such periods.

(2) Official duty status of employee in certain cases. An employee is PERFORMING OFFICIAL DUTY during any period when:

(i) Testifying or producing official records on behalf of the United States or the District of Columbia.

(ii) Testifying in an official capacity or producing official records on behalf of a party other than the United States or the District of Columbia.

(iii) The kinds of judicial proceedings and the proper designation of leave or duty status applicable to an employee's absence for witness or jury service are shown in Exhibit D.

(3) Time covered by jury or witness service. The "term" or "period" of jury or witness service begins with the date stated in the summons as the date on which the employee is required to report and ends on

the date employee is discharged as shown on the certificate of the court or other authority, both dates inclusive. Except for an employee regularly assigned to nightwork, such term or period does not include time during which employee is excused from jury or witness duty for one working day or even a substantial portion thereof. In such cases, an employee is expected to return to duty in Rural Development unless such return would be a hardship because of the distance of the court from the employee's residence or place of duty. If no hardship would result and the employee does not return to duty when excused from jury or witness service, annual leave will be charged for the working day or substantial portion thereof. Employees are expected to contact their supervisors in such situations to determine whether or not they should report for duty. Employees regularly assigned to nightwork will be placed on jury or witness leave for the entire "term" or "period."

(4) Employee's acceptance of duty. An employee summoned for jury service in any court should appear in accordance with terms of the summons. If the jury service will interfere with the official activities of the work program, the Departmental General Counsel will request the court to excuse the employee. The employee's absence must represent a substantial hardship to the Agency for there to be a request for the employee's removal from jury duty. Advice and assistance of the Departmental General Counsel or State Regional Attorney may be sought for this purpose through the appropriate personnel office.

(5) Employee's furlough or separation date not to be extended for jury or witness service. The pay status of any employee whose date of furlough or separation has been fixed by notice will not be extended beyond such date for the purpose of granting leave of absence with pay for jury or witness service. Employees on annual leave under advance notice of separation due to a reduction in force may substitute court leave but not beyond the date fixed by the notice.

(6) Employees without a regular tour of duty (Intermittent) employees. Employees who do not have a regularly scheduled tour of duty are not entitled to court leave for jury or witness service.

(7) Preliminary screening interview. Court leave may be granted to an employee who is summoned, under penalty of a fine for failure to appear, for a preliminary screening interview to ascertain potential eligibility for later service as a juror.

(8) Fees and travel expenses for jury or witness service.

(i) Retaining fees. When an employee is on court leave, there is no entitlement to any fee for jury or witness service except as shown in Exhibit D and as follows:

(A) If an employee is on annual leave or leave without pay because of testifying in a nonofficial capacity on behalf of a private party, the entire witness fee may be retained.

(B) If the jury or witness fee is more than the employee's pay from Rural Development for the period of jury or witness service, the excess may be retained.

(C) If an employee renders jury or witness service on a holiday or other non workday, the jury or witness fee may be retained.

(D) If an employee performs jury or witness service outside their normal duty hours, they may retain a prorata portion of the fee for such service.

(1) Divide total daily jury fee by 8. Multiply the remainder by the number of hours of jury or witness service performed beyond the end or prior to the beginning of the employee's normal workday. Thirty minutes or more to be treated as a whole hour; periods of less than 1/2 hour to be disregarded.

(2) Pro-rating is not required when beginning of jury or witness service coincides with end of normal workday, or when jury or witness service coincides with beginning of normal workday. Necessary travel time to be treated as court leave.

(ii) Retaining travel expenses.

(A) An employee authorized to make a court appearance while on official duty will be granted travel expenses consistent with Agency travel regulations.

(B) An employee not eligible to receive Agency reimbursement for travel expenses may retain travel expenses provided by either the court or the summoning party.

(1) If only a portion of such amount is for travel expenses, as indicated on the jury certificate given the employee by the court, that portion may be retained by the employee, and the remainder must be disposed of as indicated in RD Instruction 2051-C.



(2) When the entire amount is for remittance to Rural Development (i.e., when the jury certificate does not specify that a portion of the amount is for travel expenses, OR where the entire amount has not been determined by the State or local jurisdiction to be for travel expenses). The check or bank draft received from the court must be endorsed by the employee to Rural Development.

(iii) Disposition of jury or witness fees. See RD Instruction 221.1, paragraph III, item 11, part 5.

(c) Leave for voting and registration. Employees in pay status may be granted official leave to register or to vote in an election or referendum on a civic matter. Voting leave must be requested in advance either orally or in writing.

(1) Leave to register. Voting leave may be granted to register only if registration cannot be accomplished on a nonworkday or by mail. If the distance traveled to register on a nonworkday exceeds 1 day round-trip travel time, the employee may be excused for a maximum of 1 additional day.

(2) Leave to vote.

(i) Amount of time allowable. Employees may be excused to permit them to report for work 3 hours after the polls open, or to leave work 3 hours before the polls close, whichever results in the lesser amount of time absent from duty. The amount of voting leave to be granted will vary, depending on the employee's voting location as well as the official duty hours where the individual is employed. For employees on flexitour schedules, voting leave should be determined by the flexitour record schedule.

(A) In unusual circumstances, an employee who needs more time may be excused for a longer period, not to exceed 1 full day.

(B) If an employee must travel to reach a distant voting place because absentee voting is not permitted, the supervisor may grant up to 1 day of official leave, and should be liberal in granting additional time off, as required, chargeable to annual leave or leave without pay.

(ii) Washington, DC, metropolitan area employees. The hours during which polls are open in political subdivisions in the Washington, D.C., metropolitan area are:

District of Columbia	7 a.m. to 8 p.m.
Maryland	7 a.m. to 8 p.m.
Virginia	6 a.m. to 7 p.m.

(iii) Employees outside the Washington, D.C. metropolitan area. Each Rural Development State Office and the Finance Office will assemble the necessary information about hours during which polls are open in all political subdivisions in which their employees reside. On the basis of such data, State Directors and the Director, FO will determine the amount of voting leave to be allowed (according to the provisions of this section) and notify their employees of the decision and the local procedures to be followed. Employees must request voting leave in advance. Where voting hours have not been previously ascertained by the field office employees will obtain this information and include it in their request for voting leave.

(d) Funeral leave.

(1) Active participation in funeral or ceremony for deceased member of the armed forces. An employee shall be granted official leave, not to exceed 4 hours in any 1 day, to participate as an active pallbearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces returned to the United States for interment, provided the employee either:

- (i) Is a veteran of any war.
- (ii) Participated in a campaign or expedition for which a campaign badge has been authorized.
- (iii) Is a member of an honor guard or ceremonial group of a veteran's organization.

(2) Funeral or memorial services for certain members of the Armed Services. An employee is entitled to not more than 3 days absence without charge to leave or loss of pay to make arrangements for, or to attend, funeral or memorial services for certain members of the Armed Forces provided the following conditions are present:

(i) The employee must be an immediate relative of the deceased member of the Armed Forces. For this purpose, an immediate relative includes decedent's:

- (A) Spouse and spouse's parents.

(B) Children, including adopted children, and their spouses.

(C) Parents.

(D) Brothers and sisters and their spouses.

(E) Any blood relative whose close association with the decedent was such as to have been the equivalent of a family relationship.

(ii) The decedent must have died as a result of a wound, disease, or injury received while serving the Armed Services in a combat zone.

(e) Leave for blood donation. Supervisors are authorized to approve a maximum of 4 hours rest and recuperation leave for employees who make free blood donations. The excused period shall be exclusive of the time required for actual blood donation. If the circumstance warrants, supervisors may require medical evidence of blood donations. Employees who receive pay for donating blood and who wish to take time off from duty shall be charged annual leave or LWOP.

(f) Leave for examinations.

(1) Job qualification examination. Employees shall be given official leave to take job qualification examinations or to obtain professional licenses if the examination:

(i) Is required for the position the employee currently occupies.

(ii) Is for a position to which the Agency or Department has recommended the employee be transferred, promoted, or reassigned.

(iii) Is required for a professional license or certification (CPA certification, engineer's license, etc.) which is considered advantageous to Rural Development.

(2) Physical examination. Employees shall be given official leave to have physical examinations as follows:

(i) Official leave may be granted if:

(A) Rural Development requires an employee to undergo a physical examination on or after the effective date of the employee's appointment.

(B) The employee's appointment is subject to a satisfactory physical examination.

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(iii) An employee shall be granted official leave for initial tuberculosis contact X-rays. Subsequent absences for this purpose, however, require the charging of sick or other leave.

(iv) An employee shall be granted official leave for special examinations such as X-rays, when requested or approved by the State Director or PED for an employee who:

(A) Works with harmful, toxic, or otherwise dangerous materials or in a hazardous work environment.

(B) Is subjected to contagious diseases through his/her employment.

(v) An employee shall be granted official leave for examinations to determine fitness for duty including physical, psychiatric, or other type of examinations when required by Rural Development.

(vi) An employee shall be granted official leave for specific health services offered on a mass or community basis. A maximum of 1 hour of official leave may be granted for tests for tuberculosis and glaucoma, preventive inoculations, etc., provided that:

(A) The request for official leave is approved by the supervisor in advance (orally or in writing).

(B) The employee's absence will not interfere with work continuity.

(vii) Examination for military duty.

(A) An employee who is required to take a physical examination in connection with induction or enlistment or disability retirement from the Armed Forces shall be given official leave for the time required for the examination.

(B) Members of the Reserves recalled to active duty are placed in pay status with the military service concerned for the time required for the physical examination and shall not be granted official leave for that purpose.

When a member of the Reserves must report for a physical examination in connection with a Reserve promotion, he/she must take annual leave for the day or days required for the examination unless the military service has placed him/her on active duty for the time involved.

(g) Leave for job-related traumatic injury. Official leave shall be granted for initial examination or treatment of and recuperation from job-related traumatic injuries, as follows:

(1) An employee shall be given time off with pay as needed for initial or immediate examination, treatment, and recuperation required for a job-related traumatic injury on the day the injury occurs.

(2) An employee who sustains a traumatic injury is entitled to continuation of pay (COP) for a period not to exceed 45 calendar days.

(h) Leave of time spent in health units.

(1) An employee who is injured or becomes ill while on duty and who is treated in a Government health unit or first aid room may remain there for up to 1 hour with no charge to leave.

(2) If an employee is required by doctor's orders to rest a certain amount of time each day, the time spent resting shall be charged to sick leave.

(3) Where required, all employees shall be instructed to "sign in" upon entering the health unit or first aid room and "sign out" upon leaving. Duplicate copies of time slips will be sent only when visits involve a period of rest or injury incurred in the line of duty. Appropriate officials may verify visits by telephone.

(i) Leave for Selective Service registration. An employee subject to Selective Service registration shall be excused from duty without charge to leave or loss of pay for a reasonable amount of time in order to comply with registration requirements. The actual amount of time needed may vary, depending on factors such as hours of operation and location of the particular post office, and the employee's hours of duty.

(j) Leave for first-aid training. An employee who has been officially designated by his/her supervisor to take first-aid training shall be given official leave to attend such training.

(k) Leave with pay for civil defense activities. In cooperating with State and local civil defense officials in preemergency training programs and test exercises, employees who are assigned to such activities may be granted official time not in excess of 40 working hours in a calendar year for these purposes.

(l) Leave for participation in emergency rescue or protective work. Employees may be excused for tardiness or for absences from work to help in emergency rescue or emergency protective work during official working hours. Emergency situations include, but are not limited to, extreme weather conditions, civil disturbances, and disasters such as fire, flood, or other natural phenomena. Supervisors are responsible for granting such official leave and for determining that the leave is for an emergency and in the interest of the public welfare.

(m) Leave in connection with official travel. An employee may be excused for a maximum of 2 hours official leave before or after a period of travel, if the time of departure from or arrival at his/her duty station is such that it is administratively determined that official leave is necessary.

EXAMPLE: An employee whose office closes at 4:45 p.m. arrives at the airport at 4:00 p.m. Estimated travel time to his office is 30 minutes. Therefore, the employee could not arrive at his/her office in sufficient time to justify the trip. In this situation, his/her supervisor may grant the employee 1 hour of official leave, and the employee would not report for duty until the following workday.

(n) Leave charge during reconstructed travel. Employees who depart early or later for official travel, entitlements shall be determined on a constructive basis as if the travel had been performed at the proper time and by the mode authorized.

EXAMPLE: Employee authorized to travel on Monday but traveled on Sunday instead, the travel should be constructed as if it were performed on Monday, and the employee should not be charged leave for any time that constructively would have been spent in travel status (CG-B-180021, CG B181363)

(o) Leave when making a change of official station. Employees who are making a change of official station in the interest of the Federal Government may be granted sufficient time off without charge to leave or loss of pay, not to exceed 80 hours in a pay status, to enable them to make necessary premoving and postponing arrangements. Maximum of 80 hours off INCLUDES the period of the round trip

(not in excess of 10 calendar days) between the old and new official station to seek permanent quarters. The granting of 80 hours applies only to movement to or within the Department and in the interests of Department needs and programs. It is not affected by whether any such leave is granted by another Government agency from which the employee is transferring. Single employees as well as heads of families are entitled to these benefits. (Revised 5-14-86, PN 10.)

NOTE: On-the-road travel time involved in final one-way move and packing is not chargeable against 80 hours limitation.

Official leave as covered in this paragraph must be indicated on T&A Reports.

(p) Leave for local, State, territorial, and foreign holidays. A field employee may be absent from duty without charge whenever the State or field office is closed and work cannot be properly performed because of a local, State, territorial, or foreign holiday. State Directors and field office supervisors (County Supervisors, District Directors) shall:

(1) Determine when Federal work may not be properly performed on holidays (other than national holidays of foreign countries) or when employees are actually prevented from working because:

(i) Buildings or offices in which employees work are closed, or building services essential to proper performance of work are not available.

(ii) Local transportation services are discontinued or interrupted and employees are prevented from reporting to their work location.

(iii) Duties of the employees involved consist largely or entirely of dealing directly with employees and officials of business or industrial establishments or local government offices which are closed in observance of the holiday, and there are no other duties consistent with their normal duties to which the employees can be assigned.

(2) Strictly apply the above standards to hold to a minimum office closings for local, State, territorial, or foreign holidays.

(3) Notify the State Director whenever a field office must be closed for such a holiday.

(q) Dismissals Resulting from Emergency Situations:

(1) If an emergency situation arises (such as a natural disaster, a fire, or a disruption by an individual or a group), the supervisor

must immediately determine whether or not employee safety is endangered. If a determination is made that the emergency situation is hazardous to employee safety, then employees may be excused from duty.

(i) Official leave with pay must be granted to the employees who are dismissed.

(ii) Employees who have previously scheduled leave, for any amount of time during the period in which official leave with pay is granted, should be charged for that scheduled leave.

(iii) The supervisor must contact the employees to inform them when the hazardous situation has passed and it is safe for them to return to work. The employees must make themselves available to be contacted.

(2) If possible, supervisors should obtain prior approval from the State Director before excusing employees from duty. If the County Supervisor or the District Director is unable to make contact with the State Director and the emergency situation might endanger employee safety, the supervisor should excuse the employees and, as soon as practical, notify the State Director by telephone and submit a written report to the State Director documenting the reasons for the action taken.

(3) The employees being dismissed should understand that they will perform their responsibilities under the office Emergency Action Plan (according to the Emergency Action Plan Manual) prior to their departure. However, if immediate departure is necessary, the action plan should be carried out by the person(s) responsible, once a safe location has been reached.

(r) Leave for hazardous weather or other emergencies which disrupt travel. "Hazardous weather conditions" and "emergencies which disrupt travel" are conditions which are unusually severe and disruptive to normal travel or transportation of employees between their homes and their duty stations (hurricanes, cyclones, floods, blizzards, severe snow or icing on roads, large-scale civil disturbances such as riots or strikes, etc.). (Refer to FPM Supplement 990-2, Book 610, Appendix A)

(1) Dismissal policy. Rural Development will excuse employees from duty during hazardous weather or other emergencies which disrupt travel, unless the employees are engaged in work which cannot be suspended or interrupted, and are designated as essential.



(i) Washington D.C. metropolitan area. When emergency conditions occur, Rural Development will act in accordance with the decision of the USDA Office of Personnel, which is based on a finding by the District of Columbia Government and OPM that conditions are, or will be, of such extreme severity that dismissal of Government employees is necessary to reduce the probability of extremely serious and hazardous traffic congestion and driving conditions. Such decision cannot be made independently either by Rural Development or by the USDA Office of Personnel.

(ii) Field office locations.

(A) State Directors for the State and District Offices, County Supervisors (after checking with the State Director) for the County Offices, and the Assistant Administrator of the Finance Office, for the Finance Office, may determine when Rural Development employees may be excused from duty because of emergency conditions. Supervisory employees designated shall base their decision to excuse employees from duty on one of the following actions, in the order given: (Revised 8-17-88, PN 93)

(1) Declaration by a Federal Executive Board that an emergency exists for which Federal employees should be excused from duty, in those geographic locations where Federal agencies have agreed to be governed by coordinated Federal Executive Board decisions on excusing employees.

(2) Official public announcement by State, local, or Federal authorities that driving and travel should be avoided because of an emergency condition.

(3) Advice received from the PED if the decision cannot be made under subparagraph (1) or (2) of this paragraph.

(B) When a State or local authority publicly declares that weather conditions in an employee's residence area are extremely hazardous and that driving should be limited to that which is absolutely necessary, the employee may be excused on official leave. This policy applies only to employees stationed outside the Washington, D.C. metropolitan area, who are not on scheduled or sick leave, and whose residence area is affected by hazardous weather conditions, although the worksite may not be affected.

(2) Policy on excusing tardiness. When unusually severe weather or traffic conditions exist, supervisors may excuse tardiness not in excess of 2 hours when they consider the tardiness not reasonably avoidable. Longer periods may be excused only in cases which are personally reviewed and authorized by the employee's supervisor or a designated higher level management official. Factors such as efforts made by the employee to get to work, distance between the employee's residence and place of work, mode of transportation used, and success other employees similarly situated had in reporting to work, must be considered before the employee's tardiness is excused.

(3) Notifying employees of early dismissals.

(i) Washington, D.C. metropolitan area. Rural Development will dismiss employees in accordance with the Residential Zone Dismissal Plan for Washington, D.C., Area Federal Employees (Exhibit E) which dismisses employees according to where they live, not where (or for whom) they work. The PED, upon receipt of dismissal notice from the Department, will notify appropriate officials, who in turn will notify those employees who can be spared from their duties. (Revised 8-17-88, PN 93)

(ii) Field office locations. After making the determinations regarding dismissal, field office supervisors shall notify employees within their jurisdiction of the early dismissal. Documentation must be submitted to the State Director

explaining the reasons for early dismissal and the time the decision was made. The State Director must provide documentation when State or District Office employees are excused.

(4) Notifying employees of closings before regular opening hours.

(i) Washington, D.C. metropolitan area. OPM will provide an announcement to the media (reference section 10 of Exhibit E) when an emergency develops before the workday begins. (Revised 8-17-88, PN 93)

(ii) Field Office locations. When a designated field office supervisor decides during nonwork hours to excuse employees from duty, he/she shall arrange for announcement of this fact on local radio stations and/or other communications media available if the action has not already been taken by other Federal authority. If a public announcement is not possible, the field office supervisor may determine retroactively that employees who could not report for duty because of the emergency shall be granted official leave for their absences. Documentation must be provided explaining in detail the conditions and reasons for excusing the employees.

(5) Reporting employee's status during periods of excused absence.  
(Renumbered 8-17-88, PN 93)

(i) Scheduled leave means annual or sick leave planned in advance of the day on which it was taken. Final decision as to whether or not an employee was on scheduled annual or sick leave is the responsibility of the supervisor. Exception: an employee on annual or sick leave on both the workday preceding and the workday following the day on which employees are generally dismissed, will be considered as being on scheduled annual or sick leave on the day employees were generally dismissed.

(ii) Employees who leave work before dismissal are charged annual leave or LWOP from the time of departure to the time of dismissal.

(iii) Employees on annual leave who are scheduled to return to duty before the end of the workday will not be charged annual leave after the time of dismissal.

(iv) When employees are excused from duty during periods of hazardous weather or other emergencies which disrupt travel, their absence shall be reported on the T&A.

(s) Leave due to hot or cold weather conditions.

(1) Policy. Dismissals due to unusual employment or work conditions created by a temporary disruption of air cooling or heating systems should be rare. Employees are expected to work if conditions at the place of work are reasonably adequate, although these conditions may not be normal and may involve minor discomforts. Before administrative leave may be granted, it must be clearly established that the conditions are such as to actually prevent working.

(2) Authority. The Director, PED, has the delegated authority to excuse employees for up to 1 workday when work operations are interrupted by severe hot or cold work conditions and correction of the situation is not anticipated within 4 hours of the end of the workday. Requests for release under such conditions should be referred through regular administrative channels to the Director, PED. Any closing beyond 1 workday requires the approval of the Director, Office of Personnel, USDA. The Deputy Director, Office of Operations, USDA, must be notified prior to release of any Washington, D.C., metropolitan area employees.

(t) Leave for attendance at meetings or functions of employee groups or employee organizations. (Revised 8-17-88, PN 93)

(1) Supervisors may grant reasonable amounts of official leave for employees to attend meetings of professional associations, as described in Chapter 252 of the FPM and DPM.

(2) Employees are not entitled to official time or administrative leave to participate in meetings or functions of employee groups or employee organizations not meeting the criteria set forth in Chapter 252 of the FPM. Employees attending meetings or functions held during the duty hours must make arrangements for approved annual leave or leave without pay with their supervisors.

(3) Employees attending official conferences or meetings initiated by Rural Development, i.e., National or State Office meetings, EEO Advisory Committees, or any other officially sanctioned advisory committee, will be in official duty status.

(u) Leave for representatives of employee unions. (Revised 8-17-88, PN 93)

(1) Union activity. An employee may not:

(i) Conduct internal union business on Government time. Union business includes but is not limited to:

- (A) Organizing campaigns, soliciting members, or collecting dues.
- (B) Preparing dues withholding or cancellation forms.
- (C) Circulating petitions or union literature.
- (D) Participating in internal meetings or mass rallies.

(ii) Campaign on Government time for an elected union office, either on his/her behalf or on behalf of another person. Supervisors shall maintain a liberal policy toward granting annual leave, or leave without pay if requested, to union representatives for conducting internal union business.

(2) Training sessions.

(i) An employee who is an official or representative of a recognized employee organization may be granted official leave to attend a training session sponsored by the employee organization, if the following requirements are met:

- (A) The training is of mutual concern to the Government and to the employee in his/her capacity as a representative of the employee organization.
- (B) The Government's interest will be served by the employee's attendance.
- (C) The training is allowed under the provisions of the negotiated labor-management agreement.

(ii) Official leave for training must be approved in advance by the employee's supervisor, and can be approved only for short periods of time (e.g., 3-5 days) that are reasonable under the circumstances. The employee must submit a written request to his/her supervisor for such leave, giving the purpose for the leave and the content of the program or meeting.

(iii) If an employee desires to attend a union-sponsored training session which does not meet the requirements of this paragraph, the supervisor shall, if possible, grant annual leave or leave without pay to the employee upon request.

§2066.13 Military leave.

(a) General. Military leave means leave with pay granted to employees, except as indicated below, who are members of the National Guard or the various Reserve components of the Armed Forces. Military leave does

not mean the indefinite period of furlough without pay granted to employees for indefinite military active service.

(1) There are two kinds of military leave:

(i) Military leave for training and duty under 5 U.S.C. 6323(a), and

(ii) Military leave for active service in aid of law enforcement under 5 U.S.C. 6326(c) which includes National Guard duty in disasters such as floods, earthquakes, and hurricanes.

(2) Military leave may not be approved for:

(i) Summer training as a member of the Reserve Officers Training Corps.

(ii) Temporary Coast Guard Reserve.

(iii) Participation in parades by State National Guards. (Exception, by specific statute, the National Guard are entitled to military leave for participation in parades),

(iv) Training with a State Guard or other State military unit which is not part of the National Guard.

(v) Civilian Air Patrol activities.

(b) Policy on granting.

(1) Employees. If entitled to military leave and if ordered to report for military training or duty, employees must be released from their civilian positions. When employees receive inquiries regarding their availability for military leave, they should consult with their supervisors in order that steps can be taken to prevent disruptions of work. Application for military leave must be supported by a copy of the order directing the employee to report.

(2) An employee who is a reservist or National Guardman and is not entitled to military leave, shall be granted annual leave or leave without pay, as requested, except when the order is for an initial period of active duty for training of more than 3 consecutive months.

(3) Supervisors. Shall grant annual leave or leave without pay for military training or duty after the maximum amount of military leave with pay has been used.

(4) Supporting evidence. Application for military leave must be supported by a copy of the employee's orders directing him/her to report for active duty or training.

(5) Pay status. Pay status either immediately before or immediately after military duty is required for granting military leave. Otherwise, civilian pay would be lost. The primary test for entitlement to leave is: Would the employee, except for the military duty, have been in a civilian pay status?

(c) Eligibility.

(1) Both full-time and part-time (16-32 hours per week) career employees with permanent, TAPER, term appointments, or temporary appointments not limited to one year or less, are entitled to military leave. The term "permanent" includes probational and indefinite employees in both competitive and excepted service on call and seasonal employees hired under career or career conditional appointments, or their equivalent in the excepted service.

(2) Employees on permanent part-time career appointments (as defined in section 3401(2) of the U.S. Code) are eligible for military leave on a pro-rated basis that corresponds to the official weekly tour of duty. The amount of military leave for eligible permanent part-time employees is determined by dividing 40 into the employee's regular weekly tour of duty and multiplying by 15 days.

EXAMPLE: An employee's weekly tour of duty is 32 hours a week, 8 hours a day Monday-Thursday. The amount eligible would be determined as follows:

$$\frac{32}{40} = .8 \times 15 = 12 \text{ days}$$

(3) Permanent part-time employees whose tours of duty are below 16 hours or greater than 32 hours a week, temporary employees appointed for 1 year or less, and employees who are intermittent are not entitled to military leave. Authorizing officials may, for purposes of military training or duty, grant:

(i) Leave without Pay not in excess of 30 calendar days and/or annual leave to temporary employees, and

(ii) Leave without pay not in excess of 30 calendar days to intermittent employees.

(4) The employee must be a reservist or a member of the National Guard. The reserve components of the Armed Forces include the reserves of the Army, Navy, Air Force, Coast Guard, Marine Corps, the Ready Reserves, and the National Guards of the Army and the Air Force.



(5) If the on-call or seasonal employee who is otherwise entitled to military leave, is in a nonpay status and is recalled to Federal civilian employment according to the Agency's established recall procedures during a period when he or she is on active military duty, such employee is entitled to military leave for that portion of the period of active military duty during which he or she would have been in a pay status. Likewise, if the on-call or seasonal employee is in pay status when called to active military duty, entitlement to military leave would cease at such time as the employee would normally be placed in a nonpay status under the Agency's established release plan. Of course, if an on-call or seasonal employee, otherwise eligible for military leave, is called to active duty during a period of nonpay status, he or she is not entitled to such leave.

(d) Types of military leave.

(1) Military leave for training and duty under 5 U.S.C. 6323(a).

(i) Maximum amount of leave. Effective October 1, 1980, military leave is accrued at the rate of 15 days per fiscal year and is allowed to accumulate for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. (NOTE: A full-time eligible employee could take up to 30 days in a fiscal year (15 days regular and 15 days carryover). If period of military training or duty extends:

(A) Beyond 15 calendar days plus any accumulated military leave in a fiscal year, the employee may be placed on leave without pay not to exceed 30 calendar days or on annual leave.

(B) More than 30 calendar days after expiration of the employee's military leave, an SF-52 should be sent to the PED or to the appropriate Administrative Officer to place the employee on military furlough.

(ii) Computation of 15-Day Period. Each calendar day of absence is counted as a day of military leave, including nonworkdays which fall within a period of absence for military training duty. However, nonworkdays and holidays not wholly within the 15-day period are not charged to military leave.

EXAMPLE 1: An employee starts a period of military training duty on Monday and ends the period of duty on Friday. Neither the Saturday and Sunday before nor after his/her military service is counted against the 15 calendar day limit.

EXAMPLE 2: An employee starts a period of military training duty on Friday and ends the period of duty on the following Monday. In this case, Saturday and Sunday are counted as days of military leave because they are preceded and followed by military leave on workdays.

EXAMPLE 3: Absence Monday on military leave, or absence on Friday with return to work Monday, would be charged as only 1 day, even though the employee may also have had military training on the nonworkdays Saturday and Sunday.

(A) Relationship to annual leave. The rule that nonworkdays wholly within a period of absence on military leave are chargeable as military leave may not be circumvented by charging annual leave at the beginning or end of a period of military leave. While an employee may be granted annual leave in lieu of military leave under 5 U.S.C. 6323(a), nonworkdays occurring wholly within the period of absence must still be charged to military leave.

(B) Provision applicable only to the Washington, D.C. National Guard. Members of the Washington, D.C. National Guard are entitled to military leave under 5 U.S.C. 6323(a) for all days of any parade or encampment or other service they may be ordered by proper authority to perform. This military leave is in addition to the 15 calendar days of regular military leave. However, when the Washington, D.C. National Guard is ordered to perform the kinds of services specified in this subparagraph, the military leave should be charged as stated, and there must be an appropriate adjustment of civilian pay.

(2) Military leave under 5 U.S.C. 6323(c). Military leave under this authority is in addition to that granted under paragraph (1) of this Section.

(i) Kinds of service. Employees are entitled to military leave under 5 U.S.C. 6323(c) when, for the purpose of providing military aid to enforce the law, they perform:

(A) Federal service, or

(B) Full-time service for the State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, or a territory of the United States. "Full-time military service" includes the time from reporting until relieved by appropriate orders.

(ii) Amount. Employees are entitled to 22 workdays leave per fiscal year under 5 U.S.C. 6323(c), subject to the conditions and requirements stated in this paragraph.

(iii) Nonapplicability of official leave. Official or administrative leave may not be granted to any employee whose military leave under 5 U.S.C. 6323(c) is exhausted. Such an employee may, if ordered to perform additional periods of active Federal service, be granted annual leave or any unused military leave under 5 U.S.C. 6323(a).

(iv) Nonapplicability of annual leave. Employees ordered to perform duty as specified in subparagraph (b)(1) of this Section may not elect to use, nor may they involuntarily be charged, annual leave or any type of leave for such absence if they have leave under 5 U.S.C. 6323(c) available for their use. The use of available leave under 5 U.S.C. 6323(c) is mandatory. Annual leave may not be substituted for leave under 5 U.S.C. 6323(c) even to avoid forfeiture of annual leave.

(v) Diminution of compensation prohibited. Employees who are on military leave under 5 U.S.C. 6323(c) are entitled to the same compensation, including overtime, they would have received had they worked in their civilian positions on the days they were required to be absent.

(vi) Converting military leave under 5 U.S.C. 6323 (c) into hours. The 22 workdays military leave under 5 U.S.C. 6323(c) is converted into hours (176 per fiscal year) and granted and charged on the same basis as annual and sick leave.

(vii) Adjustment in civilian pay. When employees are on military leave under 5 U.S.C. 6323(c), the gross amount of military pay which they receive for a day on which they would otherwise work in their civilian positions is deducted from their civilian Pay for that day. Such employees are entitled to retain military pay:

(A) For a day on which they do not receive civilian pay,  
and

(B) To the extent that it exceeds their civilian pay for any day or part of a day.

(viii) Military pay. Specific information should be obtained by the supervisor from the military organization involved, if the employee is unable to provide the information. When military pay is to be deducted from his/her civilian pay, the employee shall submit to the servicing personnel office, through his/her Administrative Officer:

(A) A check or money order payable to Rural Development for the gross amount of military pay, or

(B) A request that collection of the gross amount be made by offset against civilian pay. When military pay is deducted, the employee will receive reduced civilian pay; and taxes will be deducted only to the extent of the reduced civilian pay. Health and life insurance deductions will be made to the extent required by OPM regulations.

(e) Mandatory restoration of employee granted military leave. Employee granted military leave must be restored to the position held at time of entrance on military leave.

§§2066.14 - 2066.20 [Reserved]

§2066.21 Home leave.

(a) Eligibility for home leave. Citizen employees who are entitled to 45-day annual leave accumulation are eligible to earn home leave at the rates shown in Table 7-1. Employees in Alaska and Hawaii are not entitled to home leave. Home leave is:

(1) In addition to annual leave.

(2) Earned by service abroad.

(3) For use in the United States, in Puerto Rico, or in possessions of the United States which include, principally Virgin Islands, Guam, Wake Island, and American Samoa.

(b) Computation of creditable service for home leave.

(1) Creditable service begins with:

(i) Date of employee's entry on duty when recruited abroad.

(ii) Date of employee's arrival at post of regular assignment outside U.S.

(iii) Date on which employee begins to perform duty in an area outside the United States and the area of recruitment or from which transferred, when performance of duty en route to post of regular assignment is required.

(2) Creditable service ends as of:

(i) Date on which employee is separated from duty while abroad.

(ii) Date employee departs from his/her post of regular assignment abroad for separation or for assignments in an area in which he/she no longer is eligible to earn home leave. If an employee is required to perform duty enroute to an area in which home leave would be earned, creditable service ends on the date on which he/she ceases to perform such duty.

(iii) Date employee receives a change of duty station to a location where the employee cannot earn home leave. An employee cannot earn home leave while on detail or on leave in the United States or while on detail or leave in an area from which recruited or transferred.

(3) Creditable service includes:

(i) Absence in a nonpay status up to a maximum of 2 workweeks within each 12 months of service abroad.

(ii) Authorized leave with pay, including home leave.

(iii) Time spent in the Armed Forces of the United States which interrupts otherwise creditable service, but only for eligibility, not for leave-earning purposes.

(iv) Any period of detail at or away from post of duty.

(v) Service which was credited for earning home leave under laws in effect before September 6, 1960.

(c) Earning and accumulating home leave.

(1) Earning rate for home leave. For each 12 months of service abroad, home leave will accrue as indicated in the table shown in this paragraph, provided the conditions of eligibility given in subparagraph (i) through (v) of this paragraph are met.

(i) Fifteen days home leave will be earned if the employee accepts an appointment to, or occupies, a position for which the employing program unit has prescribed the requirement that the incumbent accept assignments to one or more foreign areas (as the needs of the unit dictate). This means that the 15-day home leave earning rate is not applicable simply because an employee is stationed abroad and agrees to serve anywhere in the world. There must also be present a need, by the employing program unit, for foreign post rotation and an intent to require rotation of the employee. This need and intent must be documented by an appropriate statement on the SF-52 recommending the foreign assignment in cases of prospective assignees to foreign headquarters. For each employee going on foreign assignment, the employing program unit will make the necessary determination of need and intent and address a memorandum to the employee documenting either a negative or positive determination. A copy of this memorandum will be furnished to the Director, PED and the employee's T&A contact point. In each case where a positive determination is made, the employee must execute a service agreement. A copy is sent to PED and to the T&A contact point. Unused home leave earned under the 15-day earning provision in effect prior to May 1, 1968, will remain to the credit of the employee.

(ii) An employee who is serving with a U.S. Mission to a Public International Organization will earn 15 days home leave.

(iii) An employee who is serving at a post for which payment of a foreign or territorial (but not a tropical) differential of 20 percent or more is authorized by law or regulation will earn 15 days home leave.

(iv) An employee who is not covered by subparagraphs (i), (ii), or (iii) of this paragraph and is serving at a post for which payment of a foreign or territorial (but not a tropical) differential of at least 10 percent is authorized will earn 10 days home leave.

(v) An employee who is not included in subparagraphs (i) through (iv) of this paragraph will earn 5 days home leave.

(vi) An employee included under subparagraphs (i) through (v) whose civilian service abroad is interrupted by a tour of duty in the Armed Forces of the United States, for the duration of such tour will earn 0 (zero) days.

(2) Change in earning rate. An employee who moves between different leave-earning rates during a month of service abroad,

or who has a change in differential during a month which results in a different leave-earning rate, shall be credited for the month at the accrual rate to which he/she would have been entitled prior to the change.

(3) Home Leave Earning Table. Under the rates specified in subparagraphs (1) and (2) above, an employee will earn home leave for each 12 months of creditable service in the amounts shown in Table 7-1.

TABLE 7-1--HOME LEAVE EARNING RATES			
MONTHS OF SERVICE ABROAD	EARNING RATE (DAYS FOR EACH 12 MONTHS)		
	15	10	5
DAYS EARNED			
1	1	0	0
2	2	1	0
3	3	2	1
4	5	3	1
5	6	4	2
6	7	5	2
7	8	5	2
8	10	6	3
9	11	7	3
10	12	8	4
11	13	9	4
12	15	10	5

(4) Accumulation of home leave. Home leave may be accumulated without limitation. An employee cannot receive a lump-sum payment for home leave. It cannot be used as terminal leave.

(d) Granting and charging home leave.

(1) Conditions for granting home leave.

(i) Home leave may not be granted until the employee has completed 24 months of continuous creditable service abroad on and after September 6, 1960. Creditable service is terminated by a break in service of 1 or more workdays or by assignment, other than a detail, to a position where the employee is no longer eligible to earn home leave. A combination of home leave and other kinds of leave may be granted. Home leave should be combined with transfer orders whenever possible.

(ii) Home leave may be granted only:

(A) During a period of service abroad, or

(B) Within 6 months after the employee returns from service abroad, provided it is contemplated that there will be a return to service abroad immediately or upon completion of an assignment in the United States. Home leave not granted at such time may not be granted until the employee has completed a further tour of service abroad. Such further tour cannot be less than that prescribed for the employee's post of assignment, except where the appropriate program official determines, for justifiable reasons recorded in writing, that an earlier grant of home leave is warranted in an individual case. A memorandum justifying the earlier grant of home leave must be furnished to the PED.

(2) Charge for home leave. The minimum charge for home leave is 1 day and additional charges are in multiples thereof.

(e) Refund, transfer, or recredit of home leave.

(1) Indebtedness for home leave. An employee is indebted for home leave used when there is a failure to return to service abroad after a period of leave or after the completion of an assignment in the United States. It is the responsibility of the employing program unit to notify NFC to recover the amount of indebtedness.

(2) Refund of home leave waived. A refund is not required if:

(i) Employee has completed not less than 6 months service of an assignment in the United States following the period of leave, and

(ii) Rural Development determines that:

(A) Employee's failure to return is due to compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental or circumstances over which employee has no control.

(B) It is in the public interest not to return the employee abroad.



Where refund of home leave is waived, the reasons will be recorded in each case, and a copy furnished to PED.

(3) Transfer and recredit of home leave. Accrued home leave will be transferred or recredited when an employee move between agencies or is reemployed in the Federal service without a break in excess of 90 days.

(f) Advance of home leave. Not permitted under any circumstances.

(g) Saving provision. Home leave to the credit of an employee on September 5, 1960, is credited to the employee's home leave account and will be available for use. Service which was credited for the earning of home leave under appropriate statutory provisions in effect prior to September 6, 1960, is considered creditable service abroad.

(h) Travel time.

(1) An employee who is authorized to accumulate up to 45 days of annual leave may be granted leave-free travel time from his/her duty post to a place of residence and return if the employee:

(i) Is serving outside the United States.

(ii) Is serving in the Commonwealth of Puerto Rico or a territory of the United States and his/her place of residence is elsewhere.

(2) Only one return visit on leave is permitted during a prescribed tour of duty abroad. The place of actual residence (or alternate place under certain circumstances) must be designated in the request for leave. Leave-free travel time normally is limited to that time required for travel by common carrier over the most direct route, but may include time necessary to await transportation.

§2066.22 Maternity or paternity leave.

(a) General. Absences associated with pregnancy and confinement are handled as medically certified temporary disabilities. (There is no separate "maternity or maternity leave" category as a type of leave.) Because individuals and their work situations vary widely, the length of absence for maternity purposes must be determined by the employee, her physician, and her supervisor.

§2066.22 (Con.)

(b) Absence for maternity purposes. (Revised 8-17-88, PN 93)

(1) Categories of leave. Leave for maternity purposes may consist of a combination of sick leave, annual leave, or leave without pay, as follows:

(i) Sick Leave. Available sick leave may be used for the time required for physical examinations and the period of incapacitation due to pregnancy and childbirth. The amount of sick leave required must be determined by the same standards as those used for any other physical condition which incapacitates the employee for the performance of duty. Absences in excess of 3 workdays must be verified by a medical certificate.

(ii) Annual leave. After delivery and recuperation, the employee may desire a period of adjustment or need time to make childcare arrangements. Such additional absence may be approved as annual leave. The rules for granting and charging annual leave for maternity purposes are the same as granting annual leave for other purposes.

(iii) Leave without pay. Leave without pay for maternity purposes may be granted without regard to whether the employee has sick or annual leave to her credit.

(2) Employee responsibilities.

(i) Requesting maternity leave. The employee should inform her supervisor as soon as possible of the type of leave, approximate dates, and anticipated duration if she intends to request leave for maternity purposes.

(ii) Requesting change in assignment. If the employee, on advice from her physician, needs modification of her duties or a temporary reassignment, she should request that her supervisor consider appropriate changes.

(iii) Written application requirements. The employee must make written application for sick leave, annual leave, and leave without pay. Application for additional sick leave for hospitalization or extended recurring treatment must also be in writing.

(3) Supervisor responsibilities.

(i) The overall objective should be to provide employment and to make use of the employee's skills for as long as the employee is not incapacitated for duty.

(ii) Supervisors should be alert to any particular working conditions or strenuous requirements which could have an adverse effect on employees with special physical conditions, including pregnancy. If the supervisor questions the safety of a work situation, he/she should request that the employee consult a physician on the matter to determine if the work environment is potentially harmful to the pregnant employee or to the unborn child. The supervisor should be advised of the medical opinion received. If the employee, on the basis of medical advice, requests modification of her work duties or temporary reassignment to other available work for which she is qualified, every effort should be made to make the requested change.

§2066.22 (b)

(4) Continued employment. An employee who wishes to return to work following delivery and confinement shall be assured of continued employment in her position or one of like seniority, status, and pay. However, employment is assured only if termination of employment is not required at an earlier date for other reasons unrelated to the maternity absence, such as expiration of appointment, reduction in force, separation for cause, etc.

(c) Absence for paternity reasons. A male employee may request only annual leave or leave without pay for the purpose of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity recuperation. Each request for leave for paternity reasons will be considered on its own merit. Approval will be consistent with the usual practice in like situations.

(d) Leave for adoptive parents. An employee adopting a child may desire a period of time off from work in order to make necessary family adjustments. Any absence for the purpose of adopting children must be charged to annual leave, or leave without pay if requested by the employee and approved by the supervisor.

§2066.23 Leave during full-time outside training.

(a) General. During full-time outside training at the expense of the Government, biweekly accruals of annual and sick leave shall be credited and charged the same as if the employee were in active duty status, except as set forth in paragraph (b) of this section. Before entering on s training course, the employee will make a written agreement with the employing unit, covering:

§2066.23 (a) (Con.)

- (1) The tour of training. (SF-182 (USDA))
- (2) The maintenance and biweekly submission of the leave record and T&A.
- (3) The use of the employee's services during extended nonclass periods.

(b) Special provisions for charging leave for employees on full-time outside training at government expense.

- (1) If an employee on full-time outside training at Government expense does not attend a scheduled class on a day when class is held, 1 hour of annual or sick leave, as appropriate, will be charge for each hour of class not attended.
- (2) Leave will not be charged:
  - (i) If an employee is unable to attend a class because of the closing of the training institution for other than extended periods. Extended periods are Christmas and Easter holidays, semester breaks, etc.
  - (ii) Unless there is an agreement between the employment unit and the employee which states that the employee's services will be utilized during such periods as Christmas and Easter holidays, spring vacations, semester breaks, etc. If it later develops that the employee will not be able to report to the employing unit because of illness or if the employee justifies to the unit the need to utilize the time in study, no leave will be charged.

§2066.24 Compensatory time.

- (a) General. Compensatory time is time off allowed for overtime hours worked in lieu of overtime premium pay. For detailed information on the pay aspects of compensatory time see RD Instruction 2051-H.
- (b) Relationship to annual leave.
  - (1) Compensatory time off should be taken as soon as possible after overtime is worked.
  - (2) Compensatory time must be taken before annual leave is granted. EXCEPTION. An employee shall be permitted to use any annual leave

which cannot be carried forward into the next leave year before taking compensatory time to his/her credit.

(c) Liquidation of unused compensatory time. Compensatory time must be taken by the end of the leave year in which it was earned. Any compensatory time not taken within this period will be paid at the overtime rate of pay that applied at the time the overtime was worked.

(1) Supervisors are responsible for initiating action to liquidate any compensatory time unused by the last day of the leave year. Use Form AD-581, "Lump Sum or Compensatory Time Payments," to submit claims. Also, submit Form AD-717, "Audit for Leave Year." Send both forms to NFC.

(2) If an employee is transferred outside of USDA or separated, any compensatory time balance will be paid for at the time of separation or transfer at the overtime rate of pay that applied at the time the overtime was worked.

(d) Adjustment of work schedules for religious observances.

(1) Federal employees may elect to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. Any employee who elects to work compensatory overtime for this purpose shall be granted (in lieu of overtime pay) an equal amount of compensatory time off (hour for hour) from his/her scheduled tour of duty. The employee may work such compensatory overtime before or after the grant of compensatory time off. It should be noted that this compensatory time has no relationship to the premium pay provisions of either Title 5 or the Fair Labor Standards Act.

(2) The time off from work for a religious observance shall be recorded as "60" on the T&A. Time and hours worked to offset these hours will not be recorded under any Transaction Code. The exact amount of compensatory time worked or advanced, as well as how these balances are liquidated, will be recorded in the "Remarks" section of the T&A as follows:

(i) Compensatory time worked prior to religious observance will be recorded as follows:

"(number of hours) compensatory time worked prior to a religious observance on \_\_\_\_\_ per P.L. 95-390."

Date

CT worked \_\_\_\_\_  
CT used \_\_\_\_\_  
Balance \_\_\_\_\_

(ii) Compensatory time advanced for religious observance will be recorded as follows: "(number of hours) compensatory time advanced for a religious observance on \_\_\_\_\_ per P. L. 95-390."  
Date

CT used \_\_\_\_\_ 1/ CT worked \_\_\_\_\_

Balance \_\_\_\_\_

1/ This can also serve a brought-forward column - if the advance compensatory time has not been worked off by the end of the same pay period.

(3) Advanced compensatory time for religious observance shall be repaid by the end of the leave year. Supervisors are advised to review T&A's carefully where such compensatory time is advanced to assure that the time is repaid in accordance with this requirement.

§2066.25 - Five year voluntary leave transfer program. (Added 02-23-90, SPECIAL PN.)

(a) Eligibility.

(1) To confer eligibility for leave transfer, it must be determined that a full-time employee's absence from duty without available paid leave because of a medical emergency is (or, is expected to be) at least 80 hours. (For part-time employees or employees with an uncommon tour of duty, the absence without paid leave is the average number of hours of work in the employee's biweekly scheduled tour of duty.)

(2) A leave recipient (full-time employee) should not receive more than 1 calendar year (2,087 hours) of donated leave for any given medical emergency. After 1 year of absence, the Agency should consider other alternatives, i.e., disability retirement. The maximum number of hours that part-time employees and employees with uncommon tours of duty may receive is to be calculated based on the average number of hours of work in the employee's biweekly scheduled tour of duty.

(3) If the Agency requires medical certification from more than one source, to verify an emergency, it will reimburse

the recipient or pay the practitioner directly for the additional certification(s).

(b) Implementation responsibilities.

(1) State employee requests to become leave recipients or leave donors may be approved by the State Director.

(2) National Office employee requests to become leave recipients or donors may be approved by the Deputy Administrator for Program Operations (DAPO), or the Deputy Administrator for Management (DAM) for employees within their jurisdiction. Employees in offices reporting directly to the Administrator, may have their requests to become leave recipients or donors approved by the Administrator.

(3) Finance Office employee requests to become leave recipients or donors may be approved by the Assistant Administrator for the Finance Office.

(4) The approved leave recipient's servicing personnel office will be responsible for administering the transfer of leave and record keeping.

(c) Procedures.

(1) Application to be a recipient. A potential leave recipient must submit a written application to his or her personnel officer or designee. Form AD-1046, "Leave Transfer Program - Recipient Application." The application may be submitted no later than 90 days after the beginning of the medical emergency. If an employee is incapacitated and cannot submit an application, a personal representative may do so on his or her behalf.

(2) The applicant's name, position title, organizational title, series, grade or pay level, social security number, office address and phone number, address and phone number where the leave recipient can be reached during the medical emergency, and the leave recipient's timekeeper's name and phone number;



§2066.25 (c) (Con.)

- (3) The anticipated or actual duration of the medical emergency;
  - (4) The periods for which donated leave is requested to be substituted retroactively for advance sick or annual leave or leave without pay, if any;ãU
  - (5) The date the medical emergency began to affect the employee;
  - (6) The approximate amount of leave requested to be donated;
  - (7) The date of the request;
  - (8) A brief description of the nature and severity of the medical emergency;
  - (9) A documentation of the medical emergency, i.e., certificate from one or more physicians or other appropriate experts specifying the medical condition, the prognosis, anticipated duration of the condition, and if it is a recurring one, the approximate frequency of the medical emergency;
  - (10) Certification that the recipient is not receiving unemployment benefits or workers' compensation in connection with the medical emergency for which he or she is requesting transferred annual leave; and
  - (12) The signature of the recipient's supervisor indicating approval. This signature signifies that the employee may participate in the program; however, the use of the leave is subject to the provisions of paragraph (i)(1) of this section.
- (d) Disposition of application to be a recipient.
- (1) The potential leave recipient's Agency personnel officer or designee must review the application to determine:

(i) That the employee or employee's family member has been affected by a medical emergency;

(ii) That the employee's absence from duty without paid leave because of a medical emergency is, or is expected to be, at least 80 hours, or, in the case of part-time employees or employees with an uncommon tour of duty, the average number of hours of work in the employee's biweekly scheduled tour of duty; and

(iii) That the application has been completed, signed, and dated.

(2) The Agency personnel officer or designee must notify the applicant (or the applicant's personal representative) in writing of the approval or disapproval within ten days of receiving the complete application package. If disapproved, the reason for disapproval must be given.

(3) The leave recipient is responsible for finding donors.

(e) Application to be a donor.

(1) Prospective donors must submit to their Agency personnel officer or designee a voluntary written application to donate a specified number of hours of annual leave to the leave account of a particular recipient. Form AD-1043, Leave Transfer Program-Donor Application."

(2) The donor application should include the donor's name, position title, series, grade or pay level, social security number, annual leave balance, annual leave category, organization, work address and phone number, timekeeper's name and phone number; relationship of donor to recipient, e.g., co-worker, supervisor;

(3) Certification that the donation is voluntary;

(4) The approximate number of hours of leave to be transferred; and

2055.25 (e) (Con.)

(5) A written acknowledgment by the donor that except for any leave unused by the recipient, the donor has no right under any circumstances (including a medical emergency for the donor) to have any of the donated leave restored.

(f) Disposition of application to be a donor.

(1) The prospective donor's Agency personnel officer or designee must review the donor's application to determine that:

(i) The application is complete;

(ii) The donor has sufficient leave to make the donation; and

(iii) The limitations of paragraphs (j)(1) and (2) of this section have been observed, unless a waiver has been approved, as provided in paragraph (j)(4) of this section.

(2) The Agency personnel officer or designee should notify the donor of his or her decision on the application promptly. Notices denying the donation must state the reasons for the denial.

(g) Monitoring the use of transferred leave.

(1) Leave recipients are required to submit periodic status reports on the status of their medical emergencies. If a leave recipient is incapacitated and cannot submit the report, he or she may designate a personal representative to do so.

(2) A leave recipient must promptly notify his or her supervisor and the Agency personnel officer or designee when he or she begins to receive unemployment benefits or workers' compensation related to the medical emergency, or when the medical emergency ends.

(h) Restoration of unused leave. If, at the end of a medical emergency, unused transferred leave remains in the recipient's donated leave account, the servicing personnel officer or designee must arrange to have the leave returned to the donors' accounts following the guidelines in paragraph (m) of this section.

(i) Use of transferred leave.

(1) A leave recipient may use annual leave transferred to his or her account in the same way and for the same purposes as if he or she had accrued regular annual leave, subject to supervisory approval. The employee's continued absence from the job and its impact on the efficiency of the service must be considered in granting or denying the leave.

(2) The approval and use of transferred annual leave is subject to the conditions and requirements of regularly accrued annual leave, except that transferred annual leave is not subject to the limit on accumulation of 240 hours per leave year for employees in the United States and 360 hours per leave year for employees serving overseas.

(3) Transferred annual leave may be used on a current basis. Transferred annual leave may also be used to retroactively substitute for periods of leave without pay or to liquidate an indebtedness for advanced annual or sick leave associated with the current medical emergency. An Agency may apply this leave retroactively back to the beginning of the medical emergency if the recipient provides sufficient medical documentation. An employee whose application for disability retirement is pending, should be cautioned concerning the possible impact of transferred leave on the beginning date of his/her annuity. See Retirement Counselor Letter dated April 5, 1989, in Exhibit G of this Instruction.)

(4) Transferred annual leave may not be:

(i) Transferred to a leave recipient other than the person specified to receive the leave;

(ii) Included in a lump-sum payment; or

(iii) Made available for recredit upon reemployment of a donor or leave recipient by a Federal agency.

(5) If the five year voluntary leave transfer program ends before the termination of the medical emergency of a leave recipient, any leave transferred to the recipient before the

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end of the program remains available for use by the recipient until termination of the medical emergency.

(j) Limitations.

(1) Approving officials have the discretion to allow all or part of a leave donor's donation of annual leave.

(2) A donor may donate only unused annual leave that is in his or her account at the time of the donation.

(3) In any one leave year, a donor may not donate more than:

(i) One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made; and

(ii) In the case of a donor who expects to have annual leave that otherwise would be subject to forfeiture at the end of the leave year, no more than the number of hours remaining in the leave year for which the leave donor is scheduled to work and receive pay. Example: A donor wishes to donate 108 hours of leave subject to forfeiture two weeks before the end of the leave year. The donor may donate only 80 hours since there are only 80 hours left in the leave year.

(4) Waivers of the limitations in paragraph (j)(3) of this section may be granted under unusual circumstances as follows:

(i) When the donated leave does not exceed the number of hours required to keep the recipient in a pay status for the remainder of the medical emergency and there is an insufficient amount of leave available from other donors.

(ii) Requests for waivers must be documented in writing including description of unusual circumstances and justification for waiving normal limitations.

(iii) Requests for waivers must be approved/disapproved in writing by the requestor's servicing personnel officer or designee.

(5) In the case of a medical emergency affecting the employee, he/she must exhaust all annual and sick leave before becoming a leave recipient.

(6) In the case of a medical emergency affecting a family member, an employee must exhaust all annual leave before becoming a leave recipient.

(7) The maximum amount of annual and sick leave that may be accrued by an employee while on donated leave in connection with any particular medical emergency may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty). This leave is placed in a special, separate leave account for the employee.

(8) An employee may not participate as a recipient in the leave transfer program if he or she is receiving unemployment benefits or workers' compensation for the medical emergency for which he or she requests transferred annual leave.

(9) No annual leave may be transferred from employees to their immediate supervisors.

(k) Leave transfer from and to another Federal agency.

(1) The transfer of annual leave from a leave donor of another Federal Department must be accepted when:

(i) The amount of annual leave donated by USDA leave donors does not meet a leave recipient's needs as requested and approved;

(ii) A family member from another Department requests to donate annual leave to a leave recipient; or

(iii) In the judgment of the recipient's Agency personnel office or designee, acceptance of leave transferred from another Department would further the purpose of the voluntary leave transfer program.

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(2) Before accepting the transfer of annual leave from a leave donor of another Department, the recipient's Agency personnel officer or designee must, in addition to determining that the requirements in paragraph (c) of this section have been met, verify that the donor's agency has approved the donor's request to transfer annual leave to the specified USDA leave recipient.

(3) Before a transfer of annual leave may be made from a donor in USDA to a leave recipient in another Department, the donor's Agency personnel officer or designee must notify the leave recipient's employing agency in writing of the amount of annual leave to be credited to the recipient's annual leave account, and debit the donor's annual leave account.

(1) Termination of medical emergency.

(1) Leave recipient status ends:

(i) At the end of the pay period in which the leave recipient or his or her personal representative notifies the supervisor and Agency personnel officer or designee that his or her medical emergency is over;

(ii) When the leave recipient's Federal employment is terminated;

(iii) At the end of the biweekly pay period in which the Department is notified by the Office of Personnel Management (OPM) that it has approved the leave recipient's application for disability retirement;

(iv) On the date that the employee begins to receive unemployment benefits or workers' compensation for the medical emergency for which he or she had been approved to become a leave recipient; or

(v) At the end of the pay period in which the leave recipient's Agency personnel officer or designee determines, after written notice and an opportunity for the recipient (or if appropriate, his or her personal representative) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency.

(2) Any annual or sick leave accrued by a leave recipient while using donated leave must be transferred from the special, separate leave account to the employee's regular leave account, effective as of the beginning of the first applicable pay period beginning after the medical emergency ends unless the employee leaves the Federal service.

(m) Restoration of transferred annual leave.

(1) Any transferred annual leave remaining to the credit of a leave recipient when the medical emergency ends must be restored to the annual leave accounts of eligible leave donors as provided in this section.

(2) If the number of donors eligible for restoration exceeds the number of hours of annual leave to be restored, no unused transferred annual leave must be restored.

(3) The amount of unused transferred annual leave to be restored to each donor must be determined as follows:

(i) Divide the number of hours of unused transferred annual leave by the total number of hours of annual leave transferred to the recipient;

(ii) Multiply the result by the number of hours of annual leave transferred by each donor eligible for restoration;

(iii) Round the result to the nearest hour.

(4) If leave donor retires from Federal service, dies, or is otherwise separated from Federal service before the date unused, transferred annual leave can be restored, such leave will not be restored to that donor.

(5) Unused transferred leave will be restored to donors in Departments serviced by the National Finance Center (NFC), and those in Department not serviced by NFC only if the donor's current work address is readily available.

(6) Donors may elect to have unused transferred annual leave restored to them in any of the following ways, or a combination thereof:



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(i) Crediting the restored annual leave to the donor's account in the current year;

(ii) Crediting the restored annual leave to the donor's annual leave account, effective as of the first day of the first leave year after the date of the donor's election;

(iii) Donating the unused transferred annual leave in whole or in part to another leave recipient. Donors wishing to exercise this option must complete a new donor application.

(7) Transferred annual leave restored to the account of leave donor under paragraph (m)(6)(i) and (ii) of this section is subject to the 240-hour limitation per leave year for employees in the United States and 360-hour limit per leave year for employees overseas.

(n) Leave transfer files.

(1) Files maintained for this program constitute a system of records under the Privacy Act.

(2) Files must be maintained in the recipient's Agency personnel office and must be kept separate from other personnel files.

(3) The following documents must be kept in the leave transfer file of each leave recipient:

(i) Recipient application and all supporting documentation;

(ii) Donor application (s);

(iii) Periodic reports, if required by the agency, from the leave recipient on the status of his or her medical emergency as required by paragraph (g)(1) of this section.

(iv) Any other correspondence associated with the case.

(4) Files must be maintained for a period of four years after the medical emergency ends or until October 31, 1993 whichever is later.

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(o) Reports. OPM may require Departments to report information concerning the administration of the voluntary leave share program for the purpose of evaluating the desirability, feasibility, and associated cost, on an annual basis. The Office of Personnel will request information from agencies to prepare such reports.

(p) Confidentiality. Any person involved in the processing of a leave transfer must protect the confidentiality of all related communications with the leave recipient and all other parties to the leave transfer, and the right of the individuals to privacy. Persons with access to information related to the leave transfer must not disclose that information to anyone except in accordance with the appropriate provisions of the Privacy Act. Individuals granted access must be advised of the requirements of this paragraph.

§2066.26 - 2066.50 [Reserved]

Attachments: Exhibits A, B, C, D, E, and F

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Exhibits A, B, C, D, E, and F not automated.