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4. Unauthorized Absence/Tardiness

a. Absent Without Leave (AWOL). An employee absent from duty during the regularly scheduled basic tour of duty (not overtime), when leave was not authorized or approved, may be charged as AWOL. Pay is withheld if it is determined that there was an improper absence from duty, and disciplinary action may be taken. If it is later determined that the AWOL charge was not proper, the time should be changed to duty time or to annual or sick leave, or LWOP, as appropriate. The AWOL charges will be charged in actual time lost, e.g., 32 minutes, etc.

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5. Leave Without Pay (LWOP)

a. LWOP is a temporary nonpay status and absence from duty that may be granted upon the employee's request. LWOP covers only those hours that an employee would otherwise work and be paid. LWOP may be granted to employees who have sick or annual leave balances to their credit; however, compensatory time credited to an employee must be used prior to granting LWOP. Generally speaking, the authorization of LWOP is a matter of administrative discretion. There are, however, certain situations in which LWOP must be granted, if so requested by an employee, including:

(1) not less than 12 administrative workweeks of LWOP during any 12-month period for one or more of the reasons listed in paragraph 2.k.(1)(a)-(d). (Note: For more information concerning an employee's entitlement to LWOP under the FMLA, see reference (a)).

(2) up to 90 days for employed dependents of transferring military personnel and to employees who are dependents of federal employees required to move on rotational assignments or in a transfer of function or relocation of an activity. The dependent must express intent to seek federal employment at the new location, and the dependent's work performance must be satisfactory:

(3) for limited periods, employees receiving injury compensation under Chapter 81 of 5 U.S.C.;

(4) a disabled veteran who presents a medical certificate stating the medical treatment is required; and

(5) a reservist or National Guardsmen desiring LWOP for military training.

b. Restrictions and Limitations

(1) A basic condition for approval of an extended period of LWOP is that there must be a reasonable expectation that the employee will return to duty at the end of the LWOP. If considered desirable, written assurance of the return to duty may be required. In addition, it should be apparent that at least one of the following benefits will result:

- (a) increased job performance;
- (b) protection or improvement of the employee's health;
- (c) retention of a desirable employee;
- (d) furtherance of a program of interest to the government; or
- (e) fulfillment of parental or family responsibilities.

(2) Each request should be evaluated to ensure that the value to the government or the serious needs of the employee are sufficient to offset the administrative costs, inconvenience and lost productivity to the organization.

(3) Employees should be advised that excessive LWOP may impact matters such as Within-Grade Increases (WGI), health and life insurance, tenure and retirement credit, leave accrual, etc., and should be referred to their HR Advisor for further information.

(4) LWOP should not be confused with AWOL. Unlike AWOL, LWOP is an approved non-pay status. It is not a disciplinary offense and cannot be used to form the basis for disciplinary action.

(5) Employees can take up to 24 hours of unpaid leave during any 12-month period to participate in school activities directly related to the educational advancement of a child, including early childhood education activities; accompany children to routine medical and dental examinations; and tend to the needs of older relatives.

c. Request and Approval of LWOP

(1) Employees must request LWOP in the same manner as requests for annual and sick leave.

(2) A Standard Form 52 (SF-52), dated (7/91) Request for Personnel Action, must be submitted for all LWOP approvals exceeding 30 calendar days, except for those involving injury compensation. To ensure appropriate documentation is processed, supervisors should advise their servicing personnel specialists of all cases of LWOP exceeding 30 calendar days.

(3) In cases involving on-the-job injuries, SF-52 must be submitted to the HRO for LWOP of 80 consecutive hours or more.

(4) Should the length of the LWOP involved require the processing of a SF-52, approval of the LWOP is within the authority of the official who authorizes requests for personnel actions in the organization involved.

(5) In instances in which the employee is unable to submit a formal request due to illness or other circumstances, the supervisor may initiate the required form on the employee's behalf, noting the facts supporting the absence in the remarks section.

(6) The following summarizes the manner in which LWOP requests are to be made:

(a) when LWOP has been requested by an employee because of an on-the-job illness or injury, the supervisor responsible for approving the requester's leave has approval authority for up to 80 consecutive hours and the Level 2 Department Head (at either headquarters or a Business Unit (BUs)) has approval authority for more than 80 consecutive hours; and

(b) when LWOP has been requested by an employee in other circumstances, up to 30 consecutive calendar days may be approved by the supervisor responsible for approving the requester's leave and the Level 2 department head (at either headquarters or a Business Unit (BU)) has approval for more than 30 consecutive calendar days.

(7) If the length of the employee's LWOP requires submission of a SF-52, the employing BU unit must also submit a request to return the employee to a duty and pay status.

d. Required Notice of Unemployment Insurance. If the employee will be in a non-pay status in excess of 7 consecutive days, the employee shall be given a copy of a completed Standard Form 8 (SF-8), dated (5/99) Notice to Federal Employees About Unemployment Insurance.

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6. Court Leave

a. Definition. The DoN considers court leave a civic responsibility of all employees. Court leave is an authorized absence, without charge to leave or loss pay, of an employee from work status for jury duty, attending court as a witness in a non-official capacity on behalf of a state or local government, or appearing as a witness in a judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party, that may be approved as an authorized absence from duty. Such court leave does not result in loss or reduction in pay, leave to which the employee is otherwise entitled, credit for time or service, or performance or efficiency rating.

b. Entitlement. Except as discussed in paragraph 6.d., court leave for jury service may be granted to permanent, temporary, and part-time employees. Substitute and When Actually Employed (WAE) or intermittent employees without a continuing, established work schedule are ineligible for court leave. Employees on LWOP cannot receive court leave.

c. Use of Annual Leave. Employees not entitled to court leave may be granted annual leave or request LWOP. If an employee eligible for court leave is on annual leave when the employee's services are needed, court leave shall be substituted for the annual leave.

d. Granting Court Leave. Employees must provide their supervisor with a true copy of the court order, subpoena or summons for jury or witness service before the beginning date of the service. Upon return to duty from jury duty, a certificate of attendance from the clerk of the court must be submitted to the servicing payroll clerk. The certificate shows inclusive dates of jury duty or witness service and amount of fees the court paid to the employee.

e. Duration/Interim Excusal. An employee under summons to serve on a jury should be granted court leave for the entire period. If the court excuses the employee from jury service for a substantial part of the workday, the employee must return to duty unless undue hardship would result (e.g., the employee lives or works a great distance from where the court is located). However, when only one or 2 hours remain in the daily tour, the employee normally will not be expected to return to duty. Otherwise, failure to return to duty when excused or released by the court may result in a charge to annual leave, LWOP or AWOL.

f. Exemption. Employees are free to request a court to exempt them from jury service for personal reasons. The Navy policy is not to request an employee's release from duty unless the public interest will be better served by the employee remaining on the job (e.g., the employee's services are essential to meeting a critical deadline). In such circumstances, the affected supervisor must draft a proposed letter for the site Level 1 Competency Head or PEO to send to the court requesting the employee's services, explaining the emergency nature of the situation, and requesting the employee's exemption. The site Level 1 Competency Head or PEO will determine whether the facts justify seeking an exemption.

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g. Compensation for Jury Service

(1) General. An employee on court leave may not receive compensation for jury service. The employee must turn that compensation into the servicing payroll clerk via a money order or personal check made out to the United States Treasury. The employee may keep payment for travel expenses and other expenses compensated by the court. (Note: Employees are responsible for confirming with the court clerk that payment is for travel and/or other expenses rather than for compensation for jury service).

(2) Non-Workdays. Employees may retain jury fees for service performed on non-workdays when a federal salary is not paid.

(3) Non-Workhours. An employee who performs jury service that does not conflict with the regularly scheduled tour of duty may retain the fees for jury service. For each hour of jury service performed outside the hours the employee would have worked but for the jury duty, the employee is entitled to a proportionate share of the jury fees for that day; the share is determined by dividing the jury fee by the hours the employee is scheduled to work that day (e.g., the employee normally scheduled to work 8 hours spent 10 hours on jury duty, with 8 hours overlapping the regular tour of duty; the employee is entitled to 20 percent of the jury fee).

(4) Holidays. Fees for jury service falling on a holiday may be retained if the employee would have been excused from regular duties on the holiday.

(5) LWOP. An employee in a LWOP status when called for jury duty may retain jury fees.

h. Service as Witness

(1) Official Capacity. When an employee is summoned or assigned by the agency to testify in an official capacity, the employee is in an official duty status and court leave is inapplicable.

(2) Non-Official Capacity. When an employee is summoned as a witness in a judicial proceeding to testify in a non-official capacity on behalf of any party in connection with any judicial proceeding to which the United States, District of Columbia, or a state or local government is a party, the employee is entitled to court leave. When an employee is summoned or assigned by the agency to testify in a non-official capacity on behalf of the United States Government or the District of Columbia, the employee is in an official duty status and entitled to regular compensation without regard to court leave entitlement. If the witness service in a non-official capacity is performed on behalf of a private party, the employee is not entitled to court leave.

i. Witness Fees. An employee called as a witness while in a LWOP status may retain the witness fees. An employee testifying on behalf of a private party is entitled to the witness fees. If the employee testifies in an official capacity on behalf of a party other than the United States or District of Columbia Government, or is summoned as a witness in a non-official capacity on

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behalf of a state or local government, the employee must deposit the witness fees to the employing agency's appropriations account.

j. Court Leave Guide. Paragraph 6g summarizes an employee's rights to travel expenses and fees. Appendix B, Information Pertaining to Jury Service, may be used to record proper time and recording for absences due to jury and witness service.