



U.S. Chemical Safety and Hazard Investigation Board

SUBJECT: Absence and Leave

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1. **PURPOSE.** This Order establishes policies and procedures for administration of absence and leave by the U.S. Chemical Safety and Hazard Investigation Board (CSB).
2. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.
3. **SCOPE.** This Order applies to all CSB employees in the General Schedule and Senior Executive Service.
4. **REFERENCES.** This Order implements relevant provisions of 5 U.S.C. Chapters 55 and 63, 5 C.F.R. Parts 550 and 630, and related laws and regulations. In the event of a conflict between these authorities and the provisions of this Order, the applicable statutes and regulations shall control.
5. **POLICY.** It is the policy of the Board that absence and leave shall be administered in full compliance with Federal law and in a manner that maintains a high level of agency performance and ensures employees' opportunities to use these important benefits.
6. **DEFINITIONS.**
 - a. **Chairperson** – the Chairperson of the CSB or, in the absence of a Chairperson, the Board Member Delegated Interim Executive and Administrative Authority pursuant to Order 003.
 - b. **Medical emergency** – for purposes of the voluntary leave transfer program, a medical condition of an employee or an employee's family member that is likely to require the employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.
7. **RESPONSIBILITIES.**
 - a. **The Board** – has ultimate responsibility for ensuring the proper administration of leave under applicable laws and regulations and for providing that an account of each employee's leave is maintained.
 - b. **Chairperson** – consistent with Board Order 028, *Executive and Administrative Functions of the Board*, exercises the Board's authority and functions with respect to administration of absence and leave.
 - c. **Human Resources (HR) Director** – is responsible for overseeing the day-to-day administration of absence and leave in accordance with applicable laws and regulations.

- d. **Supervisors** – are responsible for fairly and equitably administering the provisions of this Order, and for reviewing and taking action upon leave requests, as described in this Order.
- e. **Employees** – are responsible for familiarizing themselves with, and following, the policies and procedures in this Order.

8. **ANNUAL LEAVE.**

- a. **Definition.** Annual leave is a period of approved absence, taken with pay, on a day or days on which an employee would otherwise work and receive pay. It is granted for vacation or other personal reasons. Employees have the right to use annual leave; however, supervisors have the authority to set the time at which the leave will be taken. Supervisors will adequately plan so that all employees have the opportunity to use annual leave, while ensuring that accomplishment of the office mission is not disrupted by employees' absences.
- b. **Earning Leave.** Annual leave is earned based on years of federal service, including credit for certain military service. Full time employees with less than three years of service earn 13 days per year (four hours per pay period). Those with three years, but less than 15 years, earn 20 days per year (six hours each pay period, with the exception of the last full pay period of each calendar year, in which these employees earn 10 hours). Those with 15 or more years of service earn 26 days per year (eight hours per pay period). Eligible part-time employees earn annual leave on a prorated basis.
- c. **Request for Leave.** Employees should plan annual leave as far in advance as possible. All non-emergency requests for annual leave must be submitted to an employee's immediate supervisor at least two weeks prior to the desired start of the leave. In exceptional circumstances, a supervisor may grant a request with less notice at his/her discretion. Except in emergency situations, all annual leave must be requested on form OPM-71, "Request for Leave or Approved Absence," prior to taking the leave. The minimum unit of leave is one-quarter of an hour (15 minutes).
- d. **Action on Request.** An employee's immediate supervisor must approve annual leave before it is taken. Supervisors should generally approve requested leave, if possible. A supervisor may withhold approval if use of the leave would interfere with accomplishment of the office mission or interfere with completion of job assignments. In that case, the supervisor and employee should work together to arrange alternate dates. Employees should not make commitments, contingent upon leave, until the leave has been approved.
- e. **Emergency Annual Leave.** When annual leave must be requested for an emergency, the employee should contact the supervisor by telephone within the first two hours of business during the first business day of absence, if at all

possible. If the employee is unable to contact the supervisor, he/she should have another person contact the supervisor by telephone on his/her behalf within the same time frame and then contact the supervisor personally by telephone as soon as possible. If employees are absent from work during an assigned tour of duty without approved leave or without having contacted a supervisor, the unauthorized time away from duty will be charged as Absence Without Leave (AWOL). Charges as AWOL can be the basis for disciplinary action.

- f. **Leave Restriction.** Employees on leave restriction (see Section 22) must follow the procedures in the leave restriction memorandum when requesting and obtaining approval of annual leave.
- g. **Advance Annual Leave.** Employees should not normally request approval for leave which exceeds their current earnings. Annual leave may be advanced, but only in fully justified and documented emergencies. Any advance may not exceed the leave the employee can be expected to accrue by the end of the leave year.
- h. **Restoration of Leave.** When, because of illness or exigency of CSB operations, an employee cannot use previously scheduled annual leave in excess of the applicable maximum end of year carryover, the leave may be restored. In these cases, the leave must have been scheduled in writing at least six weeks before the end of the leave year. The employee's immediate supervisor must certify to the second-level supervisor that the demands of CSB business precluded the use of the leave, and provide a copy of the written leave approval and/or request, demonstrating that the leave was scheduled at least six weeks prior to the end of the leave year. Second-level supervisors, acting as the Chairperson's designees, are the approving authority for requests for restored leave. In the event a second-level supervisor's leave is in question, the Chairperson will be the approving authority.
- i. **Use of Restored Leave.** All restored annual leave will be credited to a separate leave account, and must be used not later than the end of the leave year two years following either: the date the employee recovered and was able to return to duty from the illness which precluded use of the leave; or the date, as fixed by the Chairperson or his/her designee, of the end of the exigent situation that precluded use of the leave.

9. **SICK LEAVE.**

- a. **Definition.** Sick leave is a period of approved absence with pay from duty, on a day or days on which an employee would otherwise work and receive pay, which will be granted for any of the following reasons:

- (1) Medical, dental, or optical examination or treatment;

- (2) Incapacitation for work by physical or mental illness, injury, pregnancy, or childbirth;
- (3) Absence for the adoption of a child, including events relating to the adoption;
- (4) Absence to serve as a bone marrow or organ donor;
- (5) Provision of care for a family member (as defined in paragraph b.(1), below) who is incapacitated as a result of physical or mental illness; who is receiving medical, dental, or optical examination or treatment; or who has a serious health condition (as that term is defined in 5 C.F.R. § 630.1202);
- (6) Making necessary arrangements due to the death of a family member (as defined in paragraph b.(1), below) or attendance of a funeral of a family member; and
- (7) Situations in which the employee has been exposed to a communicable disease and his/her attendance at work would, as determined by health care authorities or by a health care provider, jeopardize the health of others.

b. Rules for Sick Leave for Care of Others or Arrangements Resulting from Death (see paragraphs a.(5) and (6), above).

- (1) Family Member Defined. For the purpose of sick leave for care of a family member, death arrangements, or funeral attendance (see paragraphs a.(5) and (6), above), family member is defined as spouse; children, including adopted children, and their spouses; parents and spouse's parents; brothers and sisters and their spouses; or any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- (2) Limit on Use of Leave. The sick leave limits set forth in paragraphs (a) and (b), below, run concurrently. The number of hours used for the purposes in (a) must be subtracted from the total allowed in (b) when determining how many hours are available for the purposes in (b). Similarly, an employee who has used the maximum number of hours permitted in (b) is not entitled to use any more sick leave for the purposes in (a).
 - (a) For caring for a family member incapacitated by physical or mental illness or who is receiving medical, dental, or optical examination or treatment; or for funeral attendance and arrangements. The total amount of sick leave granted to an employee during any leave year for these purposes may not exceed 104 hours for full-time employees or the number of hours of sick leave normally accrued in a leave year for part-time employees, subject to the conditions in paragraph (3), below.
 - (b) For caring for a family member with a serious health condition. The total amount of sick leave granted to an employee during any leave year for this

purpose may not exceed 480 hours for full-time employees or 12 times the number of hours of sick leave normally accrued in a leave year for part-time employees, subject to the conditions in paragraph (3), below.

- (3) **Employee Leave Balance.** To be granted more than 40 hours sick leave for the purposes in paragraphs 2.(a) and (b), above, a full-time employee must retain a sick leave balance of at least 80 hours. For part-time employees to be granted sick leave totaling more than the average number of hours the employee is scheduled to work each week, the employee must retain a balance equal to twice the average number of hours of work in his/her regularly scheduled administrative workweek. Sick leave may not be advanced to enable the employee to meet the balance requirements or to avoid falling below the requirements.
- c. **Earning Leave.** All full-time employees earn four hours of sick leave per full bi-weekly pay period, regardless of years of federal service. Part-time employees earn one hour of sick leave for each 20 hours in a pay status.
- d. **Request for Scheduled Sick Leave.** All non-emergency sick leave must be requested in writing on form OPM-71. Employees requesting sick leave for scheduled medical, optical or dental¹ appointments must do so as far in advance as possible. Sick leave for caring for family members, funerals, and adoptions must be requested in advance whenever possible. If the request is for more than three days of sick leave, regardless of purpose, or if the supervisor doubts the validity of the request, the employee must provide a doctor's statement or other evidence acceptable to the supervisor as documentation for the absence. Any doctor's statement must be on the doctor's official stationery and must include the doctor's phone number and address, a diagnosis, and an estimate of when the employee will be able to return to full time duty. The "remarks" block on form OPM-71 may be used for this purpose if all of the information is included.
- e. **Action on Request.** If at all possible, the supervisor must act on the leave request before the leave begins. Properly requested and documented sick leave should be approved.
- f. **Emergency Sick Leave.** Employees who are unable to report for duty because of sickness or medical emergency shall notify their immediate supervisor by telephone as early as possible within the first two hours of business during the first day of absence. If the employee is unable to contact the supervisor, he/she should have another person contact the supervisor by telephone on his/her behalf within the same time frame and then contact the supervisor personally by telephone as soon as possible. If such notification is not made, the supervisor may charge the absence to AWOL. If the employee presents a satisfactory reason for failure to give the required notice, the AWOL may later be changed to sick leave. Employees who are ill for more than one day must contact their immediate

¹ See 5 CFR 630.402

supervisor by telephone on each subsequent day for which they require sick leave, following the procedures in this paragraph. Employees who are ill for more than three days need not continue to call their supervisor after the third day, provided (1) they give the supervisor an estimate of when they will return to work and (2) upon return they present a doctor's certificate or other evidence acceptable to the supervisor justifying the full length of absence, pursuant to the requirements in paragraph g., below.

- g. **Certification of Emergency Sick Leave.** Employees must certify to their supervisor that they were ill or had some other medical emergency. This requirement will normally be satisfied by completion of the OPM-71. Employees who are absent three consecutive workdays or less on sick leave will not generally be required to submit medical certificates. Employees requesting more than three consecutive days of emergency sick leave must present a doctor's statement or other evidence acceptable to the supervisor justifying the full duration of the leave within fifteen calendar days of returning to duty.²
- h. **Leave Restriction.** If an employee is on leave restriction (see Section 22), procedures outlined in the memorandum of restriction must be followed in requesting and obtaining approval for use of sick leave.
- i. **Advance Sick Leave.** A maximum of 30 days of sick leave per year may be advanced for an employee's own serious ailments or disabilities, or for purposes related to the adoption of a child. In the case of sick leave for family care or bereavement, any or all of the first 5 days used for these purposes each leave year may be advanced. All sick leave in an employee's account must be exhausted before leave is advanced. Consideration must be given to first using annual leave, especially in cases where it might otherwise be forfeited. Requests for advance sick leave must be supported by a doctor's statement, prepared as described in paragraph d. of this section. Any sick leave advance must be approved by an employee's second level supervisor. Requests will be granted only if there is reasonable assurance that the employee will return to work.

10. FAMILY AND MEDICAL LEAVE.

- a. **Definition.** Qualifying employees who have completed 12 months of Federal government service are eligible for 12 administrative workweeks of unpaid leave, in any 12-month period. Use of this leave is limited to the following purposes: the birth of, and care for, a child of the employee; the placement of a child with the employee for adoption or foster care; the care of a spouse, son, daughter, or parent of the employee if that family member has a serious health condition; and a serious health condition of the employee making him/her unable to perform one or more of his/her essential job functions. Employees may take only the amount of Family and Medical Leave necessary to manage the circumstances necessitating the leave.

² See 5 CFR 630.403(b)

- b. **Request for Family and Medical Leave.** Employees wishing to invoke their entitlement under the Family and Medical Leave Act (FMLA) should submit an OPM-71 to their immediate supervisor, with a copy to the HR Director. The FMLA box on the OPM-71 must be checked to invoke the entitlement. When the need for Family and Medical Leave is foreseeable (e.g., the expected birth or placement of a child or the planned treatment of a serious health condition) employees must, whenever practicable, submit their FMLA notification at least 30 days before the leave is to begin. If an employee fails to give this notice without a reasonable excuse, the Family and Medical Leave may not be denied (if the request is otherwise valid), but the start of the leave may be delayed until at least 30 days after the actual date of notification.
- c. **Action on Request.** Valid requests for Family and Medical Leave must be approved. Immediate supervisors are authorized to act on such requests, but must consult with the HR Director before taking action. The HR Director is responsible for ensuring, in consultation with the Office of the General Counsel, that Family and Medical Leave requests are handled in full compliance with the FMLA.
- d. **Medical Certification.** Employees seeking Family and Medical Leave to care for a spouse, son, daughter, or parent with a serious health condition, or in cases where the employee has a serious health condition, must submit a certification by the health care provider of the employee or the employee's spouse, son, daughter, or parent. The certification must include, at a minimum, the date the serious health condition began, the probable duration of the condition, and the appropriate medical facts known to the health care provider about the condition. When the leave is for the care of one of the family members listed above, the certification must also include a statement that the employee is needed to care for the family member and an estimate of the amount of time for which the employee's care will be necessary. When the leave is due to the employee's own serious health condition, the certification must also include a statement that the employee is unable to perform the functions of his/her position. Refer to 5 C.F.R. § 630.1207(b) for further explanation of the required contents of a medical certificate.
- e. **Leave Schedule.** Family and Medical Leave related to the birth and care of a son or daughter, or the placement of a son or daughter for adoption or foster care, must be taken in one continuous period, unless the employee and his/her immediate supervisor mutually agree to a schedule of intermittent leave or a reduced work schedule. Family and Medical Leave due to an employee's serious health condition or the serious health condition of an employee's spouse, son, daughter, or parent may be taken intermittently or on a reduced work schedule when medically necessary.

- f. **Time Limit.** Employees intending to claim their entitlement to Family and Medical Leave for the birth or placement of a child must do so before the end of the 12-month period beginning on the date of birth or placement. The leave must also be used wholly within that 12-month period. When leave begins prior to the actual date of birth or placement, the 12-month period runs from the date leave began.
- g. **Substitution of Paid Leave.** Leave taken under the Family and Medical Leave Act is generally leave without pay (LWOP). An employee may elect to substitute accrued or accumulated annual or sick leave, or annual or sick leave advanced according to the procedures in this Order, for any or all of the period of LWOP to which he/she is entitled. Employees must submit to their immediate supervisor an OPM-71 indicating their intent to substitute paid leave for LWOP prior to the beginning of the period of paid leave. In most cases, paid leave cannot be retroactively substituted for LWOP. Qualifying employees remain eligible for 12 weeks of unpaid leave, whether or not they have sufficient paid leave to substitute for any or all of that period. The option to substitute paid leave for LWOP does not entitle employees to receive more paid leave than they would otherwise earn or be advanced.
- h. **Status Reports.** Employees taking a continuous period of Family and Medical Leave must apprise their immediate supervisor of their status and intention to return to work at the halfway point of their leave period (e.g., an employee taking 12 weeks of leave must give a status report to their supervisor during the sixth week of leave). Employees taking intermittent leave or working on a reduced schedule must develop, with their supervisor, a mutually agreeable schedule for periodically reporting their status.
- i. **Return to Work.** Upon return from leave taken under the Family and Medical Leave Act, an employee will be returned to either the same position he/she held when the leave commenced, or an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

11. **VOLUNTARY LEAVE TRANSFER PROGRAM.** The CSB Voluntary Leave Transfer Program (“leave transfer program” or “program”) helps employees who are experiencing a personal or family medical emergency and who have previously exhausted all of their available paid leave. Under the program, such employees can receive donations of annual leave from fellow CSB employees and, in some cases, other Federal government employees. The CSB leave transfer program will be administered in accordance with the procedures described in this section.

- a. **Becoming a leave recipient.**

- (1) To become a leave recipient, an employee or his/her personal representative must make a written request (e-mail is acceptable) to the HR Director. The request must include the following information:
- The name, position title, and grade level of the potential leave recipient;
 - The reason(s) why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency. If the medical emergency is a recurring one, the applicant must provide the approximate frequency of the emergency; and
 - Self-certification that the medical emergency is expected to result in an unpaid absence of at least 24 hours. For a part-time employee, the expected duration of the unpaid absence must be at least 30 percent of the average work hours in his/her biweekly scheduled tour of duty.

If the description of the medical emergency or the self-certification are insufficient for the HR Director to make a decision, he/she may request additional information, including certifications from a physician or other appropriate expert.

- (2) The HR Director will approve or deny all applications in writing. In making the determination, the HR Director shall consider only the factors described in 5 C.F.R. § 630.905(b) and (c). If the application is approved, the HR Director will immediately notify the applicant or personal representative of the approval. If the application is not approved, the HR Director will send the applicant a written notice of denial, to include the reason(s) for disapproval.

b. **Becoming a leave donor.** To donate leave, an employee must submit a voluntary written request (e-mail is acceptable) to the HR Director. The request must specify the amount of annual leave to be donated and to whom the donation is being made. The HR Director will approve or deny all applications in writing.

c. **Donations from outside the CSB.** The CSB will accept the transfer of annual leave donated by employees of other agencies in the following situations:

- A family member of the leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient;
- The amount of annual leave transferred from donors employed by the CSB is not sufficient; or
- Acceptance of the transfer would further the purpose of the program.

d. **Soliciting leave donations.**

- (1) Only the HR Director (or a management official designated by the HR Director) is authorized to solicit leave donations, and he/she may only do so for approved leave recipients. No other employee or official may solicit leave donations.
- (2) An employee or official may not directly or indirectly intimidate, threaten, or coerce any other employee or official, or attempt to do so, in connection with any aspect of participation or non-participation in the voluntary leave transfer program.

e. Leave donation limitations.

- (1) A leave donor cannot donate to anyone at a higher level in his/her supervisory chain of command. A donor can donate to a subordinate employee in his/her chain of command.
- (2) A leave donor can donate no more than a total of half the annual leave that he/she could accrue during the leave year in which the donation is made.
- (3) The leave to be donated must be in the donor's account before the transfer occurs (employees cannot donate projected or advanced leave).
- (4) A donor with projected "use or lose" leave can donate the lesser of:
 - Half the annual leave the donor is entitled to accrue during the leave year in which the donation is made; or
 - The number of hours the donor is scheduled to work and receive pay between the date of the transfer and the end of the leave year.
- (5) The minimum leave donation is two hours.
- (6) Waivers to the restrictions listed in (2) and (5), above, will be granted when:
 - The donation is by a family member of the leave recipient; or
 - It is apparent that there will be insufficient donations to meet the recipient's needs.

Any request for a waiver must be in writing and must be approved by the HR Director. If the request is not approved, the employee will be notified in writing. This written notice will also include the reason(s) for disapproval.

f. Using transferred leave.

- (1) During each pay period of the approved medical emergency, a leave recipient will first use his/her accrued annual and sick leave, as appropriate, before using transferred annual leave.
- (2) Donated leave may only be used for the purpose of the medical emergency for which the leave recipient was approved.
- (3) Transferred annual leave may be substituted retroactively to repay advanced leave or leave without pay granted for the approved medical emergency.

g. Accrual of annual and sick leave.

- (1) While using donated leave, the maximum amount of annual leave that can be accrued by a leave recipient is 40 hours. The maximum amount of sick leave that can be accrued is also 40 hours. Part-time employees can accrue annual and sick leave up to the average number of work hours in their weekly scheduled tour of duty. Any leave accrued while using donated leave will be maintained in separate “set-aside” leave accounts.
- (2) The annual and sick leave in the “set-aside” accounts cannot be used or credited to the leave recipient’s regular leave accounts until:
 - The beginning of the first pay period after the medical emergency ends, or
 - The employee has exhausted all leave available through donations.

h. Ending a medical emergency.

- (1) A medical emergency ends when one of the following occurs:
 - When the leave recipient’s Federal service ends;
 - At the end of the pay period in which the HR Director receives written notice from the leave recipient or personal representative that the medical emergency is over;
 - At the end of the pay period in which the HR Director decides, after written notice and an opportunity for the leave recipient or personal representative to respond, that the leave recipient’s medical emergency has ended based on the medical information provided; or
 - At the end of the pay period in which the HR Director is notified by the Office of Personnel Management that the leave recipient has been approved for disability retirement.
- (2) After the medical emergency ends, any unused donated leave will be returned to each of the leave recipient’s donors. The amount returned will be proportionate to each leave donor’s donation.

12. **TIME OFF FOR RELIGIOUS OBSERVANCES.** An employee whose religious beliefs require abstention from work during certain periods of time may elect to make up this time through overtime work. This substitution of overtime work must not interfere with CSB mission accomplishment and must be approved in advance. The overtime may be worked before or after the time is taken off. Overtime worked to repay time after it is taken must be completed within a reasonable period of time, agreed to in advance by the employee and supervisor.

13. **MILITARY LEAVE.**

- a. **Definition.** Military leave is time-off at full pay from a civilian government position for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. Military leave is not charged to any other kind of leave and is maintained in a separate account.
- b. **Eligibility.** All full-time employees, except those whose appointments are limited to one year or less or who work only intermittent schedules, are entitled to military leave.
- c. **Types of Military Leave.**
 - (1) Active duty, active or inactive duty training, funeral honors duty – an employee is entitled to 15 workdays of military leave per fiscal year for these purposes. The full 15 days becomes available at the beginning of each fiscal year. Employees may also carry over a maximum of 15 days from one fiscal year into the next.
 - (2) Emergency duty ordered by the President or a state governor – an employee is entitled to 22 workdays of military leave per calendar year for this purpose. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property. This leave is in addition to the 15 days described in paragraph (1), above.
 - (3) Duty with the District of Columbia National Guard – an employee who is a member of the District of Columbia National Guard is entitled to unlimited military leave for participation in a parade or encampment authorized under Title 39 of the District of Columbia code.
 - (4) Duty as a Reserve or National Guard Technician – an employee who is a Reserve or National Guard Technician is entitled to 44 workdays of military leave per calendar year for duties overseas under certain conditions.
- d. **Leave Accrual and Use.** The minimum charge to leave is one hour. An employee who spends a full workday on military duty will be charged (use) eight hours of military leave. For military duty that takes less than a full workday (e.g., inactive duty training), the employee will be charged only the amount of military

leave necessary to cover the time spent in training and for necessary travel. An employee will be charged military leave only for hours that he or she would otherwise have worked and received pay.

- e. **Request for Military Leave.** Requests for military leave should be made as far in advance as possible and must be supported by orders for duty, or other official notification from the appropriate military authority. Supervisors should approve all properly documented requests for military leave. Employees may request to use military leave, along with annual leave and/or comp time, intermittently with leave without pay, so as to extend the period of time for which they will have paid leave available.
- f. **Effect on Civilian Pay.** Employees on military leave for active duty, active or inactive duty training, or funeral honors duty receive their full civilian salary, in addition to military pay. Employees on military leave for emergency duty ordered by the President or a state governor or for parade/encampment in the District of Columbia National Guard are entitled to receive the greater of their civilian or military pay, but not both. Employees should consult with the CSB's payroll processor to determine whether their civilian salary will be automatically offset or, alternatively, if they will be required to refund their military pay to the CSB. An employee may choose not to take military leave and instead take annual leave or comp time to retain both civilian and military pay. Employees are permitted to keep any travel, transportation, or other per diem allowances they receive from the military.

14. **COURT LEAVE.**

- a. **Definition.** Court leave is paid leave taken to serve on a jury or as a witness on behalf of any party to a proceeding in which the United States or a state or local government is a party. Court leave is not charged to any other category of leave.
- b. **Eligibility.** Court leave is granted to all employees except those serving on intermittent appointments.
- c. **Effect on Other Leave.** If an employee is on annual leave or comp time when called for jury service, court leave must be substituted for the annual leave/comp time.
- d. **Request for Court Leave.** Employees should request court leave as far in advance as possible and present a properly executed summons for jury duty or a subpoena as a witness with the request.
- e. **Action on Request.** It is the policy of the CSB to grant court leave whenever possible. Employees, and their supervisors, should request that the employee be excused from jury duty only when it is essential to do so.

- f. **Fees.** Employees who take court leave to serve on a jury or as a witness may not accept or retain fees for such service. Employees who serve on a jury in a United States or District of Columbia court, or who serve as a witness on behalf of the United States or District of Columbia government, should simply decline to accept fees. Employees who serve on a jury in a state or local court, or who serve as a witness on behalf of a state or local government or private party (whether in an official capacity or not), must collect their fees and then turn them over to the CSB Office of Financial Operations. If the employee fails to do so, a payroll deduction will be made in the amount of the fees. Employees may retain monies paid as reimbursement for travel or other expenses.
 - g. **Service as a Witness for the Federal Government.** An employee who is summoned as a witness in an official capacity on behalf of the Federal government is on official duty, not court leave.
15. **ABSENCE TO VOTE OR REGISTER.** Employees may be granted administrative leave in order to vote in an election, in accordance with policy established by the Office of Personnel Management (OPM). Employees will be advised prior to each election of the amount of time off to be granted for voting or registration.
16. **BLOOD DONATION.** At the request of the employee, excused absence not to exceed four hours may be granted for donation of blood. This excused absence is to be taken on the day the blood is donated and is in addition to the time required for travel to and from the donation site and the time spent at the site. If the employee is not accepted for donation, only the time required for travel and for processing at the site is excused.
17. **FUNERAL LEAVE.** An employee whose immediate relative dies as a result of wounds, disease, or injury incurred as a member of the Armed Forces in a combat zone may be granted paid funeral leave for up to three work days. For purposes of funeral leave, immediate relative is defined as spouse and spouse's parents; children, including adopted children, and their spouses; parents; brothers and sisters and their spouses; and any individual related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.
18. **EXCUSED ABSENCE.**
- a. **Definition.** Excused absence (sometimes referred to as administrative leave) is an authorized absence from duty without loss of pay or charge to leave.
 - b. **Authority to grant.** Excused absence may be granted to an employee, or a group of employees (including the entire agency), only by the Chairperson or by a management official authorized by the Chairperson.
 - c. **Guidelines.** The decision to grant excused absence is a matter of discretion for the Chairperson or his/her designee. However, the absence must not be for a

purpose that is specifically prohibited by law. In addition, the following factors should be considered in making the decision – the absence should be for a purpose that is:

- Directly related to the CSB’s mission;
- Officially sponsored by the Board;
- Determined to enhance the professional skills of the employee(s) in his/her current position; or
- Brief and determined to be in the interest of the CSB.

Excused absence for the entire agency (i.e., group dismissal) may also be appropriate in the case of hazardous weather, interruption of transportation or building services, or other emergency situations.

19. **LEAVE WITHOUT PAY (LWOP).**

- a. **Definition.** Leave without pay (LWOP) is a temporary nonpay status and absence from duty. In most cases, granting LWOP is strictly a matter of managerial discretion. However, employees are entitled to LWOP in the following situations:
 - When a proper request is made under the Family and Medical Leave Act (FMLA) by an employee covered by that Act (see Section 10 of this Order for details on the FMLA entitlement);
 - When an employee’s employment with the CSB is interrupted by a period of service in the military (e.g., duty in the National Guard or Reserve);
 - When an employee who is a disabled veteran requires medical treatment; and
 - While an employee is awaiting adjudication of a worker’s compensation claim or receiving worker’s compensation payments from the Department of Labor.
- b. **Request for LWOP.** Employees should request LWOP as far in advance as possible. LWOP should be requested on an OPM-71, with an explanation in the “remarks” box as to why the LWOP is necessary and when the employee expects to return to full-time duty. If the request is for medical reasons, a doctor’s statement must be provided. In emergencies, an employee may request LWOP orally and then follow-up with a written request within three working days.
- c. **Action on Request.** Immediate supervisors are authorized to approve or disapprove, in their discretion (except when LWOP is an entitlement), requests for 30 or fewer days of LWOP. Requests for LWOP of more than 30 days must be approved by an employee’s second-level supervisor.

- d. **Effect of Extended LWOP.** Extended periods of LWOP may affect an employee's entitlement to or eligibility for Federal benefits. Employees who anticipate being on LWOP for two full workweeks or more, either continuously or intermittently, should consult the HR Director for further information on these effects.

20. **LEAVE FOR WORKERS' COMPENSATION.** An employee injured in the performance of duty may use sick leave, annual leave, or LWOP, or be on Continuation of Pay as provided for in applicable regulations of the Department of Labor.

21. **ABSENCE WITHOUT LEAVE (AWOL).** Unauthorized absence from duty will be charged as AWOL. AWOL may be a cause for disciplinary action. AWOL is not to be confused with LWOP. AWOL is leave taken without approval; LWOP is approved leave for which the employee is not paid. LWOP is not, in and of itself, a cause for disciplinary action.

22. **LEAVE ABUSE.**

- a. **Definition.** Employees have an obligation to manage their leave appropriately. Abuse of leave includes, but is not limited to, unjustified use of sick leave and use of annual leave which is not requested in advance.
- b. **Consequences of leave abuse.** Employees who abuse leave may be subject to disciplinary action, up to and including removal. Outlined below is a suggested approach for dealing with leave abuse. These steps are not a prerequisite to further action by the CSB. Management may take, at any time, any corrective or disciplinary action it deems appropriate in response to any given instance of leave abuse.
 - (1) **Review of Records.** When a supervisor observes apparent leave abuse by an employee, the supervisor may review the employee's recent leave record. The supervisor should note patterns of leave taken or of possible abuse, as well as any extenuating circumstances such as serious illness, Family and Medical Leave, etc. The supervisor should also note any AWOL that occurred during the period reviewed. If the review indicates possible abuse, the supervisor should consult with the HR Director and proceed as outlined below.
 - (2) **Counseling.** If the record indicates possible abuse, the supervisor may counsel the employee about leave management and provide the employee with a written summary of the counseling session. The employee should be advised that continued abuse of leave will result in leave restriction. He/she should be provided a copy of the sample memorandum at Appendix A, which outlines the requirements during restriction.

- (3) **Placement on Restriction.** After a counseling session, supervisors should closely monitor the employee's leave usage. If the abuse continues or recurs at any time within 12 months after a counseling session, the employee should be placed on leave restriction, using the sample memorandum at Appendix A. Supervisors do not need to wait any set amount of time to institute a leave restriction. The counseling session constitutes a final warning. After the restriction begins, the supervisor should continue to closely monitor the employee's leave usage.
- (4) **Action if Improvement Occurs.** If an employee's leave management improves and remains acceptable for a reasonable period of time after a leave restriction is instituted, the employee may be removed from leave restriction. If an employee is removed from restriction, or if the conditions of the restriction change, the employee should be notified in writing.
- (5) **Action if Improvement Does Not Occur.** If leave abuse continues or recurs at any time while an employee is on leave restriction, or during the 12 months after a restriction is removed, the employee may be disciplined. Supervisors should consult with the HR Director and the Office of General Counsel on appropriate procedures.
23. **FALSIFICATION.** Falsification of information on form OPM-71 or on any other document (e.g., medical certificate) related to absence and leave is a serious offense, separate from leave abuse. For example, requesting sick leave to take a vacation for which annual leave had been denied constitutes falsification, and may also be part of a pattern of leave abuse. Falsification, by itself, may be grounds for immediate disciplinary action, up to and including removal.
24. **RECORDS AND REPORTS.** Records and reports of leave will be prepared and maintained as specified by Office of Personnel Management regulations and guidance, and applicable Privacy Act System of Records notices. Internal access to leave records will be limited to CSB employees and officials who have an official business need for them, in accordance with any applicable Privacy Act restrictions. All requests for disclosure of leave records will be referred to the CSB Privacy Act Officer.
25. **REVIEW & UPDATE.** The Human Resources Director will be responsible for reviewing this policy annually to determine if there are any required changes. The Human Resources Director will provide a brief report (one page maximum) to the Chairperson no later than November 1st of each fiscal year setting forth any proposed revisions.

U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Adopted, May 27, 2000; Amended, December 3, 2003; Amended, October 25, 2007.

Sample Memorandum for Leave Restriction

Memorandum for: *Employee*

From: *Supervisor*

Subject: Leave Restriction

As we have discussed on numerous occasions, your use of sick leave has become excessive. As of Pay Period **XX** you have used **XXX** hours of sick leave. Because you had exhausted all of your sick leave as of Pay Period **XX**, **XX** hours of this sick leave were charged to Leave Without Pay.

Add another paragraph if annual leave is also a problem or use it if the restriction is for annual leave abuse only: In addition to the excessive use of sick leave, you have also failed to manage properly your annual leave. As of Pay Period **XX** (*same baseline as the one in the above paragraph*) you had a balance of **XX** hours of annual leave.

We discussed your situation on several occasions, beginning with our conversation on *fill in date*, during which I provided you with an analysis of your leave usage for the six pay periods immediately preceding that conversation. In our discussion, I advised you that you are needed on the job to contribute to the CSB's mission accomplishment and that continued leave abuse would result in your being placed on leave restriction in accordance with CSB policy on absence and leave. I also provided you with a copy of a sample leave restriction memorandum, so that you could understand the requirements of leave restriction.

Beginning *fill in date*, you are placed on leave restriction. Any sick leave must be documented by a physician's statement certifying your illness or the leave will be charged as Absence Without Leave (AWOL). The certificate from the physician must be on his/her official stationery and must state the date for which you were or will be incapacitated and an anticipated date for your recovery and return to full time duty.

All annual leave must be requested and approved in advance. If you have an emergency, you must telephone the office within two hours of the first business day of your absence, and speak with me personally. Please provide the reason for the absence and explain why you did not request leave in advance. If I am not in, you must speak to *fill in name of next higher level supervisor*. If neither of us is available, please leave a detailed message regarding the emergency and leave a number where I can reach you. Failure to follow these requirements for annual and sick leave will lead to a charge of AWOL. Repeated AWOL can lead to reprimand, suspension, and removal.

As I have before, I urge you to seek assistance through your health care provider or another professional resource if that would be helpful to you. I am always available

for assistance. I am hopeful that your problems with leave management will improve and that you can contribute to accomplishment of the office mission.

This restriction will be removed after six months if your leave usage is acceptable in the interim. If it is removed, this letter will be destroyed. In any case, you will be notified in writing of any further action to be taken in regard to this leave restriction.

Please see me if you have questions. Please sign below, acknowledging your receipt and understanding of this memorandum. Your signature does not certify agreement or disagreement with the contents of this memorandum.

Signature of Supervisor

Date

I have received and understand this Notice of Leave Restriction.

Signature of Employee

Date