

U. S. DEPARTMENT OF EDUCATION
PERSONNEL MANUAL INSTRUCTION

PMI: 630-8

DATE: MAY 11, 1981

APPROVED:

MARSHA SCIALDO
FOR DIRECTOR OF PERSONNEL

*Includes: Installment 1, Aug. 2, 1985, p. 9
and Amendment dated 11/24/2004

SUBJECT: NON-PAY: Absence without Leave (AWOL) and Leave Without Pay (LWOP)

I. AUTHORITY

- A. Chapter 63, title 5, United States Code (U.S.C), provides the basic statute governing the Federal leave system.
- B. Federal Personnel Manual (FPM) chapter 630, S12 and FPM supplement 990-2, book 630, S12 provide the Office of Personnel Management (OPM) guidelines governing the administration of leave without pay (LWOP).

II. POLICY

- A. It is the policy of the Education Department (ED) that all ED employees upon request may be granted leave without pay regardless of length of service, type of appointment or amount of annual and sick leave to their credit.
- B. Leave without pay shall be authorized only in accordance with this Instruction and the FPM.
- C. Absence without leave(AWOL), while not in itself a disciplinary action, may be cited as a basis for disciplinary action because of its effect on the efficiency of the unit, or because the employee did not follow ED regulations which require, insofar as possible, that leave is required to be approved in advance.
- D. In all instances, an SF-71 "Application for Leave" must be completed and signed by the employee prior to the leave period or immediately upon the employee's return from unscheduled and/or emergency leave.

III. APPLICABILITY

- A. This Instruction establishes the Education Department’s policy and procedures on non-pay status, provides general information to all employees, and promotes consistent application of non-pay status determinations throughout the Department.
- B. The Instruction applies to all ED employees at headquarters and in regional and field locations.

IV. DEFINITIONS

- A. Leave Without Pay (LWOP) – A temporary non-pay status and absence from duty granted by the appropriate approving official upon the employee’s request.
- B. Absence Without Leave (AWOL) – Any absence from duty that is not granted and approved in accordance with the provisions of applicable regulation and Department policy is considered to be an unauthorized absence. Such absence includes, but is not limited to, tardiness and failure to report promptly after a period of approved leave. The employee receives no pay for the period of absence.
- C. LWOP Versus AWOL – LWOP should not be confused or used interchangeably with the term AWOL (absence without leave). LWOP is an approved, legitimate use of leave. AWOL is a non –pay status resulting from an employee’s unauthorized use of leave and is used when the approving official determines that no type of leave will be granted (including LWOP) for a period of absence for which: 1) the employee did not obtain advance authorization, or, 2) the employee’s request for leave on the basis for alleged sickness has been denied.

V. RESPONSIBILITIES

- A. Specific responsibilities for all concerned parties are defined in ED PMI 630-1, paragraph V.
- B. All leave approving officials are responsible for assuring that any non-pay status granted meets legal and regulatory standards and is properly documented as leave without pay or absence with leave. Officials are also responsible for consulting with the ED Personnel Office before taking action in any unusual circumstances.

- C. Employees are responsible for complying with Departmental policies which require that insofar as possible, leave without pay is required to be approved in advance. Failure to comply with this policy may result in a charge of AWOL.

VI. REQUIREMENTS AND PROCEDURES

A. Granting Leave Without Pay

1. All ED employees may be granted leave without pay.
2. Authorized leave without pay is a matter of supervisory administrative discretion and may not be demanded as a right by an employee. The only exceptions to the supervisory administrative discretion for granting LWOP are: 1) to disabled veterans who are entitled under certain conditions to leave with pay if necessary for medical treatment, and 2) to reservists and National Guardsmen, if necessary, to perform training duties. Some examples for which approval would be proper, all other factors being favorable, are:
 - a. To carry out plans for gradual retirement developed in accordance with the ED "Gradual Retirement Program";
 - b. For educational purposes, when the course of study or research is in line with a type of work that is being performed by the Department and completion of the study contribute to the best interest of the Department;
 - c. For service with a non-Federal public or private organization when:
 - There is reasonable expectation that the employee will return;
 - The employee's knowledge and skills are such as to make it unlikely that there are other persons available for whom as good a selection could be made; and
 - The service to be performed will further a program which the Federal Government is encouraging, or otherwise contribute to the public good OR provide the employee with experience that will be valuable in future service with the Department.
 - d. Grants of leave without pay for service with a non-federal public or private organization must be made in consultation with the Personnel Office and approved by the Office Head and must not violate statutory restrictions on outside employment or conflict of interest.

- e. For absence compelled by circumstances which an employee cannot control such as illness or misfortune in the family which absolutely requires his/her presence;
 - f. To recover from illness or disability (physical or mental) not of a permanent or disqualifying nature, when continued employment or immediate return to employment would threaten impairment of the employee's health, or the health of other employees;
 - g. To protect an employee's status pending final action by OPM on a claim for physical disability, retirement or pending final action by the Office of Worker's Compensation Program resulting from employment connected injury or disease. The ED Personnel Office should be consulted in this instance for the purpose of determining whether it is to the employee's advantage to use all sick or annual leave before leave without pay.
- 3. LWOP may not be imposed by a supervisor as a penalty since it is normally initiated at the request of an employee.
 - 4. ED encourages leniency in the approval of LWOP in cases of employee illness. The granting of LWOP for this reason is especially appropriate for employees who have served the Government satisfactorily over a substantial period of time.

B. LWOP - 30 Days Or Less

Leave without pay of 30 days or less may be granted for such purposes determined appropriate by the supervisors delegated the responsibility to approve such leave. The approving official must ensure that the total LWOP approved at no time exceeds 30 days.

C. Extended LWOP – More that 30 Days

- 1. All requests for extended leave without pay must be considered on a case by case basis and closely reviewed to assure that the value to the Government, or the serious needs of the employee are sufficient to offset the administrative inconvenience and the cost of granting the leave without pay. Examples of these costs and inconveniences are:
 - a. Encumbrance of a position;
 - b. Loss of services which may be needed;
 - c. Obligation to provide active employment at the end of the leave period;

- d. Credit of six months of each year toward retirement; and
 - e. Eligibility of continued health benefits and life insurance coverage (without cost to the employee of up to one year of non-pay status).
2. A basic contingency in approving extended LWOP must be that the employee is expected to return to work at the end of the approved period. Additionally, it should be apparent that one or more of the following benefits will be realized:
- a. Increased job ability;
 - b. Protection or improvement of employee health;
 - c. Retention of a desirable employee; or
 - d. Furtherance of a program of interest to the government.
3. Leave without pay will not be granted for any period of time for purposes such as to engage in private or commercial work where experience in such work is judged to be of no value to the Department' or to hold civilian position with any other Federal department or agency.
- D. Procedures For Requesting Leave Without Pay
- 1. All requests for leave without pay may be submitted in advance to the leave approving official on a form SF-71 (Application for Leave) and should not be considered approved until notification is given.
 - 2. Request for leave without pay for more than 30 calendar days must be accompanied by a written statement from the employee justifying the request or, if because of illness, by a medical certificate or statement from the attending physician.
 - 3. In cases of extended leave without pay for more than 30 days the individual responsible for approving LWOP for 30 days or less acts as the recommending official. In such cases, the recommending official prepares and forwards an SF-52 (Request for Personnel Action) to the designated final approving officer. Under the "Remarks" section of the SF-52, the purpose, total amount of leave without pay granted during the leave year (beginning and ending dates), and plans for taking care of the employee's duties during the employee's absence must be stated by the recommending official. The employee's written statement of reasons for the request should accompany the SF-52 when it is forwarded through channels to the such requests for leave without pay.

The final approving officer will forward disapproved requests to the recommending officer and approved requests to the Personnel Office for processing.

E. Return To Duty

1. All employees on leave without pay are expected to return to duty at the conclusion of the leave as administratively approved. When an employee returns from leave without pay of 30 calendar days or less, the work status shown on the Time and Attendance Report by the timekeeper is sufficient notice of the return for payroll purposes. When an employee returns from leave without pay of more than 30 calendar days, in addition to showing the work status on the Time and Attendance Report, an SF-52 to return the employee to duty must be prepared and forwarded to the Personnel Office.
2. An employee may be permitted to return to duty before the expiration of the approved period of leave without pay, if administratively feasible. Also, the employee may be recalled to duty before the expiration of the leave if the need for service is urgent. Recalls, however, should be rare and subject to the same approvals as approval of the period of leave without pay.

VII. CHARGING ABSENCE WITHOUT LEAVE

- A. Absence without leave is charged for any period of absence not authorized or for which a request for leave was denied.
- B. If the absence is later excused because the circumstances surrounding the absence are such that the absence would have been approved, the charge to absence without leave may be changed to the appropriate approved leave account. Once the supervisor accepts the explanation for the unauthorized absence and grants the use of appropriate leave, that particular absence can never be the basis for disciplinary action because the absence in fact has been approved.
- C. While absence without leave is not in itself a disciplinary action, such a charge to AWOL may be cited as a basis for disciplinary action because of its effect on the efficiency of the unit, or because the employee did not follow the ED regulations which require that leave be approved in advance.

VIII. EFFECT OF LWOP AND AWOL ON EMPLOYEE BENEFITS

- A. Retirement – Only six months of AWOL and/or LWOP in any calendar year is creditable for retirement purposes.

- B. Probation – Only 22 workdays of AWOL and/or LWOP is creditable to the probationary period. An excess of 22 workdays extends the probationary period by the amount of the AWOL or LWOP.
- C. Within-Grade Increases – For all employees eligible for within-grade increases, non-pay in excess of the following amounts is not creditable toward service required for within-grade increases:
 - 1. Two work weeks for advancement to rates 2, 3, and 4.
 - 2. Four work weeks for advancement to rates 5, 6, and 7.
 - 3. Six work weeks for advancement to rates 8, 9, and 10.
- D. Conversion to Career Status – Non-pay status in excess of 30 calendar days extends the effective date of a conversion from career-conditional to career by the amount of LWOP/AWOL.
- E. Health Benefits – Employees and their agencies are required to pay their respective Federal Employees Health Benefits (FEHB) shares for each pay period in which coverage continues during non-pay status. Regulations do not require that the employee actually make payments while in non-pay status. Employees may at their discretion make direct payments to the agency during cases, when the employee returns to duty after a period of non-pay status.
- F. Life Insurance – Coverage continues while in non-pay status for up to 12 months at no cost to the employee. If the period exceeds 12 months, the employee may convert to private insurance within 31 days following the expiration of 12 months.
- G. Reduction of Leave Credits – For every 80 hours (accumulated) in a non-pay status (such as LWOP, AWOL or suspension), an employee's sick or annual leave is reduced by the amount of leave the employee normally earns during one pay period.

When an employee has one or more breaks in service during the leave year, all hours in a non-pay status for each period of service shall be added together to determine if the employee's leave credits should be reduced.

IX. GENERAL REQUIREMENTS

All leave administration actions covered by this Instruction must be carried out in accordance with applicable statutory, regulatory, policy, procedural, and program requirements, including any applicable collective bargaining agreements.

VI. C. 3. Delete the reference "or engaged in political activities" from item 3. This deletion is necessary to ensure this item is consistent with the 1992 amendments to the Hatch Act and Title 5, Code of Federal Regulations, Section 734.101.