

ARTICLE 33: LEAVE

GENERAL RULES

- 33.1 Individuals will earn annual and sick leave in accordance with applicable laws and regulations.
- 33.2 Denial of leave requests will not be used in lieu of disciplinary or adverse actions.
- 33.3 Leave will be charged in fifteen (15) minute increments.
- 33.4 Requests and approval or disapproval of leave will be documented on the agency's standard leave form, "Request for Leave or Approved Absences". It is the individual's responsibility to ensure requests are submitted to, and received by, the approving official and, when practicable, approved prior to taking leave. Approving officials will consider requests for leave in a timely manner and ensure a response is promptly received by the individual. Each work unit shall establish its own procedures concerning delivery and receipt of the agency's standard leave form.
- 33.5 If the needs of the Employer do not permit the approval of leave requested in advance, the supervisor will write the reason for the disapproval on the agency's standard leave form submitted by the individual and return the form to him/her. On these rare occasions, the individual and the supervisor will work together to schedule leave at an agreed upon time.
- 33.6 When unscheduled leave is necessary, the individual shall contact the first-level supervisor, and, if not available, the second level supervisor, to request leave. If neither is available, the individual shall leave a telephone or email message for his/her supervisor, recognizing that supervisory approval is required. In emergency situations, the supervisor shall accept notification from a third party acting as the individual's agent for purposes of this article. The individual has the responsibility for contacting the supervisor as soon as is reasonably possible to provide any required information or documentation in accordance with this article.
- 33.7 It is the intention of the parties to respect the privacy of individuals in dealing with purely personal matters. However, where appropriate, a supervisor may request sufficient information concerning the circumstances and the duration of the absence, if known, to permit the supervisor to evaluate the appropriateness of approving or disapproving leave. When it appears that an absence will extend beyond the original date of anticipated return to duty, the individual shall promptly notify the supervisor and request approval for the new anticipated date of return.
- 33.8 When leave scheduling conflicts arise and the individuals are unable to reach

agreement among themselves, the supervisor will make the final determination by giving consideration to circumstances such as, but not limited to, the nature of the leave requested, the date of request, and seniority based on service computation date for leave.

- 33.9 Substitution of leave without pay (LWOP), compensatory time, credit hours, or sick leave for annual leave must be made within the first pay period in which the employee returns to duty, or, if medical documentation is required, by the close of the following pay period after the illness occurs. Employees may change previously authorized annual leave to compensatory time or credit hours. Employees may change previously authorized annual leave to LWOP or sick leave, if appropriate, subject to approval by the supervisor. An approved absence which would otherwise be charged to sick leave may be charged to annual leave, compensatory time, credit hours, or LWOP when requested by the employee. Further, substitution of annual leave, credit hours, or LWOP for earned sick leave previously granted and charged may be permitted under rules for amending leave records, but annual leave cannot be substituted for sick leave already granted in order to avoid forfeiture of annual leave at the end of the leave year.
- 33.10 Individuals may request sick or annual leave, or LWOP, to attend and participate in a substance abuse treatment program. The supervisor shall grant sick or annual leave, or LWOP, to the requesting individual, in accordance with procedures in this article. The utmost confidentiality should be exercised in these instances.
- 33.11 Employees in a “use-or-lose” annual leave situation (i.e., there is a possibility that some annual leave hours will be lost at the end of the leave year if adequate plans are not made to schedule and use that leave) must request use of their excess annual leave no later than the end of pay period 23. If, after receiving approval to use the excess annual leave, an exigency of public business occurs that prevents use of such leave prior to the end of the leave year, the employee may request to have his/her forfeited annual leave restored during the next leave year. Any restored annual leave must be used during the new leave year or the leave year following the new leave year.

MEDICAL CERTIFICATION

- 33.12 Medical certification means a written statement signed by a registered physician or other medical practitioner certifying incapacitation and addressing the necessary period of absence from work. For sick leave requested because of exposure to a contagious disease, the medical certification should additionally indicate the name of the disease and state that the disease is contagious and the period of confinement and/or quarantine, if quarantine is required by ordinance or statute. However, if a medical practitioner certifies incapacity for other than a contagious disease, the medical certification need not disclose the details of the individual’s medical

condition. Medical certification must be submitted to the supervisor by the close of the following pay period after the individual returns to duty.

- 33.13 The employee may be required to provide his/her supervisor with medical certification:
- a. for an unscheduled absence in excess of three (3) consecutive workdays;
 - b. for any use of sick leave if the individual is officially on leave restriction;
 - c. for a chronic condition which does not necessarily require medical treatment although absence from work may be necessary. If the individual has previously furnished a medical certificate of the chronic condition, s/he may not be required to furnish a medical certificate on a continuing basis. The supervisor may require reasonable updates to the medical certificate;
 - d. to consider an individual's request for leave for medical reasons, including treatment and convalescence related to childbirth, and care for a spouse, son, daughter, parent, or legal ward with a serious health condition;
 - e. to consider an individual's request for special consideration such as reassignment or other reasonable accommodation and there is a question as to the medical need for such accommodation;
 - f. to consider requests for advanced sick leave under Section 33.19 below;
 - g. to support requests for Sick Leave for Family Care (see sections 33.59-63 below for required certifications); or
 - h. from the appropriate physician stating that the individual can return to work, and noting any applicable limitations.
- 33.14 Medical documentation is required to support requests for "family leave" under Section 33.38, Family and Medical Leave or an application to become a leave recipient in the voluntary leave transfer programs.

ADVANCED ANNUAL LEAVE

- 33.15 A permanent employee who expects to remain in service through the end of the leave year may request advancement of annual leave in an amount not to exceed that which s/he will accrue for the remainder of the leave year.

33.16 An individual who wishes to request advancement of annual leave shall complete the agency's standard leave form and provide a written explanation of the reason for the request.

SICK LEAVE

33.17 Sick leave may be granted for absences required by illness, injury, medical or psychological appointments and/or treatment, adoption of a child, or certain circumstances involving contagious diseases in accordance with applicable laws and/or regulations. Sick leave also may be applied and granted for purposes set forth and followed in Section 33.38, Family and Medical Leave Act and Section 33.59, Sick Leave for Family Care.

33.18 When an individual knows in advance that sick leave will be required for a reason set forth in the above Section, s/he will request sick leave at the time the necessity for the leave is determined. In evaluating requests for sick leave, in those circumstances in which the individual has substantial control over the need, the supervisor and the individual will work together to schedule leave at an agreed upon time.

ADVANCED SICK LEAVE

33.19 The Employer may approve requests for advanced sick leave after considering the following factors:

- a. leave is properly applied for in accordance with this article;
- b. repayment can reasonably be expected through leave accruals taking into account the individual's leave record, his/her length of service, and the nature of the incapacitation;
- c. accommodations can be made within the work unit to cover the work unit's critical functions. This factor may only be considered in situations in which the individual has substantial control over the circumstances and can reschedule the requested leave, such as elective surgery;
- d. the individual has a serious illness or injury;
- e. medical documentation required by 3 FAM 3424; and,
- f. any other relevant factors.

33.20 As a maximum, a permanent employee may be advanced up to 240 hours of sick leave. Advanced sick leave may not exceed 240 hours at any one time.

33.21 There is no limit on the number of times an individual may request advanced sick leave. The Employer will consider each request for advanced sick leave on its individual merits and in accordance with the criteria described above.

ABUSE OF SICK LEAVE

33.22 When a supervisor has reasonable grounds to suspect an individual of sick leave abuse, the supervisor shall notify him/her of the suspected sick leave abuse, and counsel him/her. The Employer may notify the individual in writing that, for a stated period not to exceed six (6) months for the first offense, the individual will be on sick leave restriction, and requests for sick leave will not be approved unless supported by medical certification.

33.23 Individuals on leave restriction will be required to furnish medical certification upon return to duty, not later than three (3) business days from his/her return to duty.

HEALTH UNIT VISITS

33.24 Individuals may leave the work site to visit an on-site health unit. Except in cases of emergency, the individual shall obtain approval of the supervisor prior to leaving the work site.

33.25 The individual may remain in the health unit as long as permitted by the health unit. If the individual is unable to return to work after two (2) hours, s/he will request appropriate leave (annual leave, sick leave, LWOP and, if available, credit hours or compensatory time) for the remainder of his/her tour of duty. This Section applies only to individuals who are ill while in duty status.

33.26 Individuals who are injured on the job will not be charged sick leave but shall be granted administrative leave to visit the health unit at the time or on the day of the on-the-job injury, in accordance with applicable worker's compensation procedures.

ADMINISTRATIVE LEAVE

33.27 Administrative leave is an excused absence from duty administratively authorized without loss of pay and without charge to other types of leave. The Employer will grant administrative leave in accordance with applicable guidelines and this contract.

33.28 For inclement weather or other emergency situations in the Washington, D.C. metropolitan area, the Employer will follow the OPM-issued Washington, D.C. Area Emergency Dismissal or Closure Procedures developed in consultation with the Metropolitan Washington Council of Governments (COG). The annually updated procedures can be viewed on the OPM website at www.opm.gov.

33.29 For inclement weather or other emergency situations outside of the Washington, D.C. metropolitan area, the Employer will follow the lead of local Federal Executive Boards or the post.

33.30 Employees may be granted up to 59 minutes of administrative leave for good cause shown.

BLOOD DONATION

33.31 Upon advance request by the individual to the approving official, an individual donating blood, without compensation, will be granted administrative leave of up to four (4) hours for rest and recuperation at the donation site. In addition, time necessary to travel to the donation site, donate blood, and return to work is allowable. The employee is not permitted to go home after the donation unless they feel sick and request leave (sick, annual, credit, compensatory, or LWOP).

33.32 An individual who is not accepted for donating blood is only entitled to time necessary to travel to and from the donation site and the time needed to make the determination.

33.33 Appropriate documentation from the donation site may be required by the supervisor.

33.34 Administrative leave for blood donation at overseas posts will be in accordance with post policy.

VOTING

33.35 Individuals shall be excused from duty for a reasonable period of time for the purpose of voting. Generally, individuals in the United States may be excused from reporting to work for up to three (3) hours after the polls open or for leaving work up to three (3) hours before the polls close in their voting jurisdiction, whichever requires the lesser amount of time excused from duty. Exceptions to the 3-hour limits shall be considered for those commuting long distances, for heavy voter turnout, or other factors, such as work schedules or day care limitations, that would impair the ability to vote. Individuals at overseas posts are not entitled to administrative time off to vote.

OTHER EXCUSED ABSENCE

33.36 An excused absence may be given under the following circumstances:

- a. Employees will be granted an excused absence for bone marrow and/or organ donations in accordance with applicable law and regulation.
- b. Employees with limited sick leave availability will be granted up to four (4) hours of excused absence each year for preventative health screening such as mammography, blood pressure and cholesterol checks. Limited available sick leave is understood to be 80 hours or less at the time the request is made.
- c. Employees may be excused for up to four (4) hours per calendar year to participate in a USDA-sanctioned health care screening.
- d. Supervisors will permit employees who are breast feeding to express/pump milk for their child and permit a reasonable and flexible time period to conduct this activity. Reasonable time will be permitted to go to and return from an adequate on-site location. No adverse action or recourse will be based on an employee's desire to breast feed.

FAMILY AND MEDICAL LEAVE ACT

LEAVE ENTITLEMENT

- 33.37 Permanent full- and part-time employees, and employees serving on a time-limited temporary appointment of greater than 1 year are eligible for Family and Medical Leave provided they have completed at least 12 months of Federal service (not required to be 12 consecutive months).
- 33.38 An eligible employee is entitled to request up to twelve (12) work weeks or 480 hours of unpaid leave during a 12-month period for the purposes of:
- a. the birth of a son or daughter of the employee and the care of such son or daughter;
 - b. the placement of a son or daughter with the employee for adoption or foster care;
 - c. care of a spouse, son, daughter, parent, or legal ward who has a serious health condition; or,
 - d. a serious health condition of the employee that makes the employee unable to perform the essential functions of the employee's job.
- 33.39 For the purposes of Sections 33.38 a and b above:

- a. The family and medical leave may begin on or before the actual date of birth or placement of the child, and must be for a continuous period of time, unless the employee and supervisor agree otherwise; and,
- b. Entitlement for use of family and medical leave shall expire no later than twelve (12) months from the date the employee invokes the right to use such leave (the date the employee begins the use of such leave).

33.40 For the purposes of Sections 33.38 c and d above:

- a. Family and medical leave may be taken continuously, intermittently, or as part of a reduced work schedule; and,
- b. Entitlement for use of family and medical leave shall expire twelve (12) months from the date the employee invokes the right to use such leave (the date the employee begins the use of such leave).
- c. Leave under Section 33.38 (above) will be made available for a full-time or part-time employee in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek.

33.41 Consistent with law and regulation, an employee may substitute the following paid leave for any or all of the unpaid leave taken for FMLA purposes:

- a. accrued or advanced annual leave;
- b. accrued or advanced sick leave, if applicable by law;
- c. donated leave made available through the Voluntary Leave Transfer or Leave Bank programs; and/or,
- d. cumulated compensatory time or credit hours.

33.42 Supervisors may not require an employee to use accrued leave in lieu of LWOP. An employee cannot retroactively substitute paid leave for LWOP already taken during a period when family and medical leave was used.

REQUESTS

33.43 When the need for leave is foreseeable, an employee shall request family and medical leave in writing, on the agency's standard leave form, "Request for Leave or Approved Absences," under the provisions of this Section, at least thirty (30) days in advance to allow the supervisor time to prepare for any staffing adjustments necessary

to compensate for the employee's anticipated absence. However, the Parties recognize that circumstances beyond the employee's control may arise and, adjustments in the requested leave may be necessary.

MEDICAL CERTIFICATION

33.44 By Law, administratively acceptable child placement or medical documentation must be provided when an employee invokes his/her right to family and medical leave for purposes under Section 33.38 above.

33.45 The supervisor may require, at the Agency's expense and by a health care provider designated or approved by the Agency, a second medical opinion. If the second opinion differs from the original certification, the supervisor may require, at the Agency's expense, certification from a third health care provider selected jointly by the Agency and employee.

APPROVALS

33.46 All eligible individuals will be treated fairly and equitably in determining whether or not to approve requested family and medical leave.

33.47 Requests for use of family and medical leave will be approved when acceptable medical or placement documentation is provided, unless highly unusual workplace circumstances prevail.

33.48 The approving official for requests to use leave under the FMLA will be the immediate supervisor.

33.49 Denial of family and medical leave will not be used in lieu of disciplinary or adverse actions.

33.50 Denials of family and medical leave may be appealed immediately to more senior agency officials, following the chain of command.

RECORD KEEPING

33.51 The Employer shall make, keep, and preserve records pertaining to an individual's use of family and medical leave.

- 33.52 Individuals using family and medical leave shall cooperate with management by providing information in a timely manner needed to maintain the necessary records.
- 33.53 The SPO will maintain copies of all general and specific notices provided to individuals regarding FMLA.
- 33.54 All medical certifications and placement documentation submitted by individuals in support of FMLA leave taken for medical reasons will be retained in the individual's time and attendance folder.

PROTECTION OF EMPLOYMENT AND BENEFITS UPON RETURN TO DUTY

- 33.55 An employee who invokes his/her rights and is approved for family and medical leave shall be entitled to return to the same or equivalent position, with equivalent benefits, pay, status, and other terms and conditions of employment, unless termination of employment is otherwise required by reduction-in-force, for cause, or for similar reasons unrelated to the use of leave under the FMLA.
- 33.56 The Agency understands that there may be a transitional period upon returning to the workforce and supervisors will work with employees to arrive at an appropriate work schedule during this transitional period.
- 33.57 An employee who invokes his/her right to LWOP under the FMLA may elect to continue health benefits coverage provided the employee pays his/her share of the cost. Employees may pay their share of the cost on a current basis or may pay upon return to work.
- 33.58 A Federal employee cannot be denied or removed from consideration for promotion, training, or other opportunities due to requests for family and medical leave. Entitlements and benefits accruing to individuals using family and medical leave will be determined in accordance with applicable laws and regulations.

SICK LEAVE FOR FAMILY CARE (SLFC)

- 33.59 Sick leave may be granted for family care purposes:
- a. When an employee is required to provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment.
 - b. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member, or both.

c. To provide care for a family member with a serious health condition.

33.60 Approval of sick leave for family care must comply with the requirements and conditions specified in the summary table below:

	SLFC Regulations	Definition of Medical Condition	Hours / Coverage
A	A Full-Time leave-earning employee, with <u>less than</u> 80 hours of earned sick leave	To provide care for an incapacitated family member experiencing: - a physical or mental medical condition including injury, illness, and disability; - pregnancy; - childbirth; - a communicable disease; To accompany a family member to a medical, psychiatric, dental, or optical examination, treatment, or therapy; To make arrangements for the death of a family member or attend the funeral, or both.	Up to 40 hours earned or advanced sick leave per leave year
B	A Full-Time leave-earning employee, with <u>more than</u> 80 hours of sick leave	For the same purposes, as above.	Up to 104 hours of earned sick leave each leave year, as long as the employee's sick leave balance <u>does not fall</u> below 80 hours.

	SLFC Regulations	Definition of Medical Condition	Hours / Coverage
C	A Full-Time leave-earning employee may use earned sick leave	To care for a family member with a serious health condition (illness, injury, surgery, impairment, or physical or mental condition) that involves for example, but is not limited to, heart attacks, heart conditions, cancers, back conditions requiring therapy and/or surgery, kidney dialysis, physical therapy, strokes, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, Alzheimer's disease, and includes incapacitation due to pregnancy, childbirth, miscarriages, complications or illness related to pregnancy.	Up to 480 Hours earned sick leave, as long as the employee's sick leave balance <u>does not fall</u> below 80 hours

33.61 Hours and limitations for authorized use of sick leave for family care for part-time employees are subject to OPM established limitations.

33.62 The following are considered to be family members under SLFC :

- a. The individual's spouse and spouse's parents;
- b. The individual's children, including adopted children, and children's spouses;
- c. The individual's parents;
- d. The individual's brothers, sisters, and their spouses, and,
- e. Any person related by blood or affinity whose close association with the individual is the equivalent of a family relationship.

REQUESTING LEAVE UNDER SLFC

33.63 Employees requesting the use of sick leave under SLFC shall:

- a. Annotate the remarks section of the agency's standard leave form to show that leave is being requested under SLFC;

- b. Request the leave in advance, when possible;
- c. Provide medical documentation or death notification if advanced sick leave is requested; and,
- d. Provide medical documentation when requesting expanded leave under SLFC (33.59c, above).

LEAVE WITHOUT PAY (LWOP)

POLICY

- 33.64 These provisions, also described in FAS Handbook 17-PM, were developed to provide additional consistency and transparency to the FAS LWOP policy and to add discretion for supervisory approval below the level of the Administrator (based on FAS Executive Advisory Group (EAG) recommendation).
- 33.65 Approval of LWOP, when not mandated by law or contract, is contingent upon the Agency's budget situation at the time LWOP or extension of LWOP is requested.
- 33.66 This policy applies equally to FS employees in the United States and assigned abroad. In considering whether to grant LWOP, heads of overseas offices are required to coordinate closely with FAA/W to ensure adequate office coverage and to keep their Deputy Chief of Mission (DCM) fully apprized of the situation.
- 33.67 Article 25.28 governs TIC/TIS extensions which may result from LWOP.

REASONS FOR LWOP

Mandatory

- 33.68 These entitlements are by law or contract: leave of absence for military training for Reservists and National Guardsman for required military training under 38 USC 2024(d); for Family Medical Leave Act (FMLA) eligible employees; for disabled veterans receiving medical treatment under EO 5396 (dated July 17,1960); and for employees receiving worker's compensation, unless permanently disabled.

Recommended

- 33.69 In general it is the policy of the agency to approve LWOP for the following reasons: Peace Corps Service; transfer to international organizations whose mission is similar to the FAS mission (In this case, re-employment rights may be granted in lieu of LWOP); Intergovernmental Personnel Agreements (IPA) or training opportunities in

support of the FAS mission; accompanying a spouse or partner assigned overseas by the US government; accompanying an FAS spouse assigned within the United States; and to an employee awaiting approval of disability retirement.

Discretionary

33.70 LWOP may usually be approved for: accompanying a non-FAS spouse or partner out of the commuting area; receiving education in support of the FAS mission; for a physician- certified medical condition*; and for a hardship related to a serious physician-certified medical condition of the employee's immediate family member*. It is anticipated that after two years the LWOP will be terminated. (* Beyond entitlement under FMLA)

Other Reasons

33.71 LWOP may be granted for other reasons when workload permits. It is anticipated that after one year the LWOP will be terminated.

REQUESTING LWOP

33.72 Requests for LWOP should be initiated by the employee, signed by the supervisor, and explain how the employee's work will be accomplished during the employee's absence.

33.73 In deciding whether or not to backfill behind the employee on LWOP, Deputy Administrators should assess how the work is to be accomplished and whether an undue burden will be placed upon other employees.

APPROVALS FOR LWOP

33.74 Approvals of LWOP are handled at appropriate supervisory levels as follows:

- a. An immediate supervisor may approve up to four (4) weeks of LWOP and, in the case of LWOP authorized under the Family and Medical Leave Act, up to 12 weeks.
- b. The program area Deputy Administrator may approve up to one (1) year of LWOP for any of the purposes provided above and up to two (2) years for purposes listed as mandatory or recommended.
- c. The Administrator, based on EAG recommendation, is the approving body for LWOP which exceeds two (2) years, or which is for purposes deemed discretionary or not listed (Other Reasons) and exceeds one (1) year.

33.75 Denial of a request is appealable to one level above the level of the initial decision, in the following situations:

- a. to the Deputy Administrator if the request is denied by the supervisor,
- b. to the Administrator, based on EAG recommendation, if the request is denied by the Deputy Administrator

EFFECT OF LWOP ON CEILING

33.76 In general,

- a. employees on LWOP for reasons listed above as mandatory, shall be placed on the agency target ceiling after 90 days.
- b. employees on LWOP for reasons listed above as recommended, shall be placed on the agency target ceiling at the time of approval if the LWOP is anticipated to be more than one year.
- c. employees on LWOP for reasons listed above as discretionary, shall be placed on the agency target ceiling after the LWOP exceeds two years.
- d. employees on LWOP for other reasons will be placed on the agency target ceiling only in exceptional cases, where such LWOP is granted for more than one year, with the approval of the Administrator, based on EAG recommendation.

33.77 In situations when the LWOP is not anticipated to exceed 4 weeks, the position should not be backfilled on a permanent basis.

RETURN FROM EXTENDED LWOP

33.78 FAS employees who remain on their program area ceiling during the period of their LWOP shall be placed within their program area upon their return to duty.

33.79 FAS employees who were placed on the agency target ceiling during the period of LWOP shall be placed by the Administrator, based on EAG recommendation, or through the Washington Placement Plan upon their return to duty.

33.80 All placements will be in accordance with applicable Foreign Service regulations. While the return rights of a Foreign Service employee are to a position in the agency, management will to the maximum extent possible return FS employees to positions at grade.

- 33.81 FS employees may not bid on overseas assignments while on LWOP, unless their return to duty date provides sufficient time to prepare for the assignment.
- 33.82 In situations when the employee is not placed on the agency target ceiling, the Deputy Administrator is responsible for ensuring appropriate placement of the employee at any time, should the employee request to terminate LWOP.

FAMILY RELATED LWOP

- 33.83 Approving officials may, upon request by an employee and in accordance with the Presidential memorandum dated April 11, 1997, grant up to 24 hours of LWOP per calendar year for the activities listed below. (These 24 hours are separate from, and should not be confused with, FMLA entitlements.)
- a. School and early childhood educational activities: allows employees (including those who do not have children) to support a child's educational development and advancement by attending parent-teacher conferences, meeting with the child-care providers, interviewing for a new school or child-care facility, or participating in volunteer activities such as tutoring, coaching, etc. "School" is defined as an elementary or secondary school, Head Start Program, or a child-care facility.
 - b. Routine family medical purposes: allows parents to accompany children to routine medical or dental appointments, such as annual check-ups or vaccinations.
 - c. Elderly relatives' health or care needs: allows employees to accompany elderly relatives to routine medical or dental appointments or other professional services related to their care, such as making arrangements for housing, meals, phones, banking services, and other similar activities.

LWOP FOR UNION ORGANIZING

- 33.84 Upon request of the appropriate Union officer or staff, an individual normally shall be granted LWOP to engage in Union activity or to work in Union sponsored programs at the national level. LWOP for this purpose is limited to one year, but may be extended or renewed upon proper application and an assessment of the needs of the Agency.
- 33.85 An individual returning from LWOP for Union purposes will be placed in the same position that he/she previously held, if available. If that position is not available, the individual may be placed in a comparable position.

33.86 Retroactive Substitutions of Paid Leave for LWOP

- a. LWOP may be retroactively changed to paid leave if:
 - 1. Due to an administrative error or misunderstanding the employee was not aware that s/he had a leave balance or that paid leave could have been used, and the change is made within a reasonable period after return to duty; or,
 - 2. The employee is accepted into the Voluntary Leave Transfer Program and/or the Voluntary Leave Bank and donated leave is available.
- b. Paid leave cannot be substituted for LWOP granted under FMLA.

OTHER SPECIAL LEAVE CATEGORIES

MILITARY LEAVE

33.87 Effective December 21, 2000, any full-time permanent employee (working 80 hours per pay period) who is a member of the National Guard or other reserve unit of the Armed Forces shall be entitled to use up to 120 hours (or fifteen (15) days times eight (8) hours) of military leave per fiscal year for active duty or inactive or active duty training. Military leave will be prorated for part-time employees based on the number of hours in their regularly scheduled biweekly pay period. Individuals who are entitled to regular military leave but who do not use the entire 120 hours may carry over the unused hours from one fiscal year to the next fiscal year for a maximum cumulative total not to exceed 240 hours.

33.88 Charges for military leave will be in one (1) hour increments and military leave will not be charged for military service on non-duty days (typically weekends and holidays). An employee may be charged military leave only for hours during which the employee would otherwise have worked and received pay. Employees requesting military leave for inactive duty training (generally two (2), four (4), or six (6) hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Hours in the civilian workday not chargeable to military leave must be worked or charged to another leave category, as appropriate.

33.89 Approval of the military leave provided in the foregoing shall be based on the copy of the orders directing the individual to report.

COURT LEAVE

33.90 An individual in the United States is entitled to court leave to the extent necessary to serve on a jury or to participate in judicial proceedings in an unofficial capacity or in

an official capacity as a Federal employee as a witness on behalf of any party in a judicial proceeding to which the U.S., the District of Columbia, a State, a U.S. territory or possession, or a local government is a party to the proceedings. The employee must request use of his/her own accrued leave or LWOP when the summons or subpoena does not name the U.S., the District of Columbia, a State, a U.S. territory or possession, or a local government as a party to the proceedings.

- 33.91 Court leave will be granted from the report date stated in the summons through the date discharged from court; court leave will not be granted on days when the individual is excused from jury and can reasonably be expected to return to his/her duty station, including time allowed for transportation. In such cases, he/she must return to duty or request annual leave, credit hours, compensatory leave or LWOP. If the individual fails to return to duty, absence without leave may be charged.
- 33.92 The individual must notify the supervisor at least two (2) weeks in advance or upon receipt of the summons or jury notification from the court. Court leave must be requested on the agency's standard leave form with a copy of the jury duty notification or court summons submitted with the request. If jury service or witness service lasts for more than 2 workdays, present to the supervisor evidence of court attendance, e.g. a jury duty certificate or written statement signed by an officer of the court. Upon return to duty, the individual must present to the supervisor a jury duty certificate or written statement signed by an officer of the court.
- 33.93 In every instance, individuals may fulfill the citizenship responsibilities of jury duty. The Employer may petition the court to excuse the individual if jury duty will substantially interfere with the program of work.

RELIGIOUS OBSERVANCES

- 33.94 In accordance with law and government-wide rules and regulations, individuals wishing to attend or participate in the observance of a religious holiday will be permitted to be absent on annual leave, credit hours, LWOP, compensatory time, or religious compensatory time, so long as the individual requests such leave at least three (3) days in advance, and his/her absence will not cause an undue workload problem.
- 33.95 For the purpose stated in this Section, individuals may work compensatory time either before or after the grant of compensatory time off. A grant of advanced compensatory time off for these purposes shall be repaid by the appropriate amount of compensatory work within the earlier of six (6) pay periods of its use, or the end of the leave year.
- 33.96 An individual's request for compensatory time off for religious observances must contain the date(s) and time(s) when he/she intends to be absent and a projected work

schedule that accounts for the time necessary to pay back the grant of compensatory time.

33.97 Failure to work the required amount of time to repay advanced compensatory time off will result in annual leave, if the individual so elects, or LWOP being charged.

33.98 The earning and use of compensatory time off for religious purposes at overseas posts will be handled in accordance with post procedures.

HOME LEAVE

33.99 Home leave will be authorized in accordance with the provisions in 3 FAM 3430 and 3700.

33.100 Employees will coordinate home leave through their Area Directors and will obtain the required travel authorization from the International Services Branch.

LEAVE TRANSFER PROGRAM

33.101 The Employer agrees to continue voluntary leave transfer programs in accordance with law and government-wide regulation.