



COMDTNOTE 12271
JUN 25 2003

COMMANDANT NOTICE 12271

CANCELLED: JUN 25 2004

SUBJ: CH-2 TO COAST GUARD NONAPPROPRIATED FUND PERSONNEL MANUAL,
COMDTINST M12271.1A

1. PURPOSE: The purpose of this Notice is to provide changes to the subject Manual. The contents are intended for all units with Nonappropriated Fund employees.
2. ACTION: Area and district commanders, commanders of maintenance and logistics commands, commanding officers of headquarters units, assistant commandants for directorates, Chiefs Counsel, and special staff officers at Headquarters shall ensure the changes are implemented. Internet release authorized.
3. SUMMARY OF CHANGES: Significant changes are marked by a vertical line in the outer margin. Editorial changes are not marked. Various chapters were affected by the changes to clarify and expand definition of context. Significant changes, summarized below, were made to Chapters 4, 6, 7, and 10.
 - a. Chapter 4: Paragraph Q. on page 4-15 added to reflect new severance pay policy for all regular full-time and regular part-time NAF employees. Paragraph R.4.a. and b. on page 4-18 was revised.
 - b. Chapter 6: Paragraph J.1. on page 6-5 was revised.
 - c. Chapter 7: Paragraph C.12. on page 7-6 was revised. Old paragraph C.13. titled "Lump Sum Payment for Excess Annual Leave Due to Reduction in Grade or Pay Band." on

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page 7-6 is deleted. Paragraph F.2.c.d. and e. on pages 7-13 and 7-14 was revised reflecting change in the maximum LWOP from 12 months to 6 months.

d. Chapter 10: Paragraph F.1. on page 10-4 was revised.

e. Chapter 17: Paragraph F.1. on page 17-3 was revised.

4. PROCEDURES: Remove and insert the following pages:

Remove

Page i through iv
Page 4-1 through 4-17
Page 6-1 through 6-5
Page 7-1 through 7-29
Page 10-1 through 10-10
Page 17-1 through 17-4

Insert

Page i through iv
Page 4-1 through 4-18
Page 6-1 through 6-5
Page 7-1 through 7-29
Page 10-1 through 10-11
Page 17-1 through 17-4

5. FORMS. None.

Thomas F. Fisher /s/
Acting Director of
Personnel Management

Encl: (1) CH-2 to Coast Guard Nonappropriated Fund Personnel Manual,
COMDTINST 12271.1A

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CHAPTER 4. SALARY AND WAGES

- A. Scope. This Chapter applies to all Nonappropriated Fund (NAF) employees, including off-duty military personnel. A specific paragraph applicable only to prevailing rate employees (Crafts and Trades, NA, NL, and NS) or pay band employees (NF) is so designated.
- B. Policy. The NAF employees to whom this Chapter applies receive equal pay for substantially equal work within their geographic area of employment.
1. The pay band system emphasizes pay for job performance, increased proficiency, extraordinary qualifications, and assumption of greater responsibilities.
 2. In all cases the pay rate is at least the current highest applicable Federal, state, or municipal minimum wage.
 3. Nonappropriated Fund positions' annual pay rate may not exceed the maximum amount authorized for General Schedule (GS) employees.
 4. Paragraph L.1. of this Chapter specifies officers and warrant officers may be paid only on a fee basis for employment.
 5. The Office of Personnel Management (OPM) administers overtime pay, minimum wages, equal pay, and child labor under the Fair Labor Standards Act (FLSA). An employee alleging FLSA violations has the right to file a complaint directly with the Department of Labor, Wage and Hour Division. Obtain regional office addresses from Commandant (G-WPC).
 6. In the locality where employed, off-duty enlisted personnel receive the same pay rate effective for other NAF employees performing comparable work.
 7. An employee's wages and accumulated leave may be withheld to satisfy obligations to the NAF activity.
- C. Responsibilities.
1. Commandant (G-WPC) will:
 - a. Develop and establish the policies, regulations, and procedures for Coast Guard NAF activities' position and pay management program;
 - b. Resolve problems about developing and applying wage and salary schedules;

- c. Review and evaluate the program to ensure compliance with prescribed regulations, standards, instructions, pay rates, and program goals.
2. Commanding officers for MWR and CGES region managers will:
- a. Implement position classification, position management, and pay entitlement regulations, standards, procedures, and instructions.
 - b. When designated to participate in wage surveys will:
 - (1) Fully support the wage survey and assure servicing personnel offices execute Department of Defense (DoD) Wage Fixing Authority instructions;
 - (2) Provide administrative, technical, and logistical support to conduct wage surveys, including assisting designated hosts;
 - (3) Authorize NAF employee representatives to participate without loss of pay or charge to leave in hearings the Local Wage Survey Committee conducts. However, charge absences of employees appearing for personal reasons to annual leave or leave without pay (LWOP), as appropriate;
 - (4) Assure employees participating as data collectors receive their basic pay rate for all time spent performing that duty and reimbursement for necessary travel costs.
 - c. Assign duties and responsibilities to employees under their direction to ensure efficient, timely mission accomplishment.
 - d. Review duty assignments to determine whether officially approved job descriptions and standard position guides are current; if not, initiate required changes.
 - e. Assure part-time employees are scheduled to work at least the minimum hours specified on the Notification of Personnel Action, Standard Form 50 (SF-50).

D. Basic Requirements for Pay.

- 1. Chapter 2 of this Manual requires an employee to meet all requirements for appointment to a particular position before he or she receives any compensation.
- 2. Before any employee can receive any pay he or she must submit officially certified time and attendance reports and supporting documents, e.g., required leave statements or evidence of court or military service with time and

attendance reports when this regulation or local policy require. Commandant (G-WPX) may grant exceptions.

E. Prevailing Rate System (Crafts and Trades). The prevailing rate system includes all trades, crafts, and labor positions, which are paid on a locality rate basis. These position's pay is fixed and occasionally adjusted in line with the rates local private employers pay full-time employees in wholesale, retail service, and recreational establishments. Commandant (G-WPC-6) directly transmits new wage schedules to units.

1. Identification.

a. This coding system and grade structure identify prevailing rate employees:

CODE	TYPE OF POSITION IN TRADE, CRAFT, AND LABOR OCCUPATIONS	GRADES
NA	Non-supervisory	1-15
NL	Leader	1-15
NS	Supervisory	1-19

b. Prevailing rate positions are identified with series codes, titles, and grades.

2. Position Evaluation. Servicing personnel offices evaluate positions in accordance with DoD Job Grading Standards, Coast Guard Job Grading Standards, and OPM Job Classification Standards, whichever apply.

3. Within-Grade Increases.

a. All prevailing rate employees, regardless of category, are entitled to within-grade increases.

b. An eligible employee, including off-duty military, who has not reached the top step of his or her grade will advance successively to the next higher rate of his or her grade at the beginning of the next pay period provided the employee:

(1) Has successfully completed the prescribed waiting period.

(2) Has not received an equivalent increase for any reason during the waiting period.

(3) Performs his or her duties satisfactorily or better.

- c. To determine an equivalent increase for prevailing rate employees, see U. S. Office of Personnel Management Operating Manual: Federal Wage System Nonappropriated Fund, paragraph S8-5.

4. Creditable Service for Within-Grade Increases.

- a. Creditable service for a prevailing rate employee is continuous full-time, part-time, temporary, regular, and intermittent service in any Federal Government branch (executive, legislative, or judicial), in the Government of the District of Columbia, or a DoD or Department of Homeland Security (DHS) NAF activity.
- b. All service in a pay status is creditable, including periods of sick, annual, or other paid leave, advanced sick leave, and advanced annual leave. A limited amount of leave without pay is creditable, as indicated in 5.a.(2), column (1) below.

5. Waiting Periods.

- a. Duration. The employee must serve the days or calendar periods specified in Column (2) or (3) at the step of the grade immediately below that to which the employee will advance after the waiting period. An intermittent employee must work at least as many required days as a full or part-time employee in the same category and rate.
 - (1) Column (2) applies to full-time and other regularly scheduled employees and specifies the waiting periods in calendar weeks, counting any week in which service is performed as a full week.
 - (2) Column (3) applies to intermittent employees and specifies the waiting periods in calendar days in a pay status, counting only the days, and those as full days, on which the employee works.

TIME IN GRADE TO QUALIFY FOR STEP INCREASES				
		Waiting Period Duration		
Employee Category	Step Rate	(1) Maximum Weeks in Non-pay Status	(2) In Weeks for Full-Time and Other Regularly Scheduled Employees	(3) In Days for Intermittent Employees
NA, NL, NS	2	1	26	130
	3	3	78	390
	4, 5	4	104	520

- b. Start of Waiting Period. A new waiting period begins:
 - (1) On initial appointment or promotion to a position subject to this regulation's provisions.
 - (2) After either a break in service or a non-pay status lasting longer than 52 calendar weeks.
 - (3) On the date the employee receives an equivalent increase.

- c. Effective Date.
 - (1) The effective date of a within-grade increase for an eligible employee is the beginning of the first pay period after he or she completes the required waiting period.
 - (2) If the effective dates of a within-grade increase and a personnel action are the same, the servicing personnel office will process the actions in that order to give the employee the greater benefit.

6. Acceptable Level of Competence (Prevailing Rate Employees).

- a. At least 60 days before the date on which an employee completes the waiting period, the immediate supervisor will inform the employee of any unacceptable factor.
- b. If the second-line supervisor agrees the employee's work is unacceptable, the supervisor must inform the employee in writing by the end of the waiting period, of:
 - (1) The negative determination and its basis;
 - (2) The employee's right to secure reconsideration of the negative determination;
 - (3) The requirement the employee must present the request for reconsideration within 15 calendar days, either personally or in writing;
 - (4) The name and address of the person to whom to send the request.
- c. The employee has the right to contest the negative determination personally or in writing and may have a representative of his or her own choosing in presenting the request.
- d. The personnel office establishes a reconsideration file containing all pertinent documents and only those made available to the employee or his or

her representative.

- e. If the reconsidering official changes a negative determination, the increase's effective date is the date the increase otherwise would have become effective.
- f. If the reconsidering official upholds a negative determination, his or her notice of the decision will inform the employee of the basis for the decision and the decision is final and will not be reconsidered further. The first-line and second-line supervisors will review the employee's level of competence by the end of 52 calendar weeks. If the employee merits an increase, it will be effective the beginning of the first pay period after their review.

F. Determining Prevailing Rate Positions' Pay Rates.

- 1. New appointments will be made at the minimum rate for the appropriate grade, except as follows: if a person is employed because his or her position converted from appropriated to nonappropriated funds, the employee's salary may not exceed his or her highest previous rate when the move is to an equivalent position.
- 2. On re-employment in a prevailing rate position, the servicing personnel office may fix the entrance salary rate at any rate for the appropriate grade that does not exceed the rate paid in the previous position. However, if the highest previous rate falls between two grade rates, the employee may receive the higher rate.
- 3. On promotion, a prevailing rate employee is entitled to earn the new grade's scheduled rate that exceeds the previous pay rate by at least the percentage difference between the fourth and fifth step-rates of the grade from which promoted.
- 4. In exceptional cases, commanding officers for MWR and region managers for CGES may request the establishment of special rates or rate ranges for specialized prevailing rate occupations critical to the mission of a NAF activity. The request will be forwarded through the chain of command to Commandant (G-WPC). Requests may be made only when the following conditions are present:
 - a. Private sector employers offer significantly higher pay rates for an occupation or occupational specialization and grade than does the Federal Government in that competitive labor market;
 - b. The area or location involved is exceedingly remote, or
 - c. Any other circumstances OPM considers appropriate.

5. The servicing personnel office may place a NAF employee (NA, NL, NS) who voluntarily changes to a lower grade anywhere within the grade that does not exceed his or her previous pay rate in the higher grade. A NAF activity is not obliged to match previous pay rates on a voluntary change to a lower grade.

G. Pay Banding System.

1. The pay band system contains six pay levels of pay designated NF-1 through NF-6. Each level contains position groups of comparable skill and responsibility. For comparison purposes, the NF levels equate to General Schedule grades as follows:

NF Level	Equivalent GS Grades	Equivalent Wage Grade
1	GS-1 through GS-3	AS/PS 1-4
2	GS-4	AS/PS 5-6
3	GS-5 through GS-8	AS/PS 7
4	GS-9 through GS-12	--
5	GS-13 through GS-15	--
6	Senior Executive Service (SES)	--

2. Entry-level employees' pay rates should be consistent with outside private industry practices and normally fall at the bottom to low end of the appropriate pay band level.
3. Factors to consider in determining in-hire pay rates may include previous pay rates, scarcity of applicants, and qualifications, among others.
4. Determine rehired or reinstated employees' initial rate by considering their highest previous rate, NAF experience, and performance.

H. Pay Band Employees' Salary Adjustments.

1. Performance Percentage Increase. A manager, via the commanding officer for MWR or CGES region manager, may give pay band employee performing at a satisfactory, proficient, or higher level a performance percentage increase at any time. Document a percentage increase on an SF-50 and submit it to the commanding officer for MWR or CGES region managers for approval.
2. Proficiency Increase. A manager via the chain of command can grant a proficiency increase to an employee who completes on-the-job training, demonstrates an increase in skills, or merits increased responsibilities in the

existing position. Justify a proficiency increase greater than 10 percent by written justification on the SF-50 and submit it to the commanding officer for MWR or CGES region manager for approval.

3. Promotion. Moving from one pay band level to a higher one is a promotion, normally accompanied by a pay adjustment. See Employment and Staffing, Chapter 3 of this Manual, for administrative procedures on promotions.
4. Cost of Living Adjustment (COLA). Commandant (G-WPX) may announce an annual COLA, which becomes effective the first full pay period of the NAF fiscal year. For O'CONUS personnel, the COLA is an adjustment to base pay only. Commandant (G-WPX) decides the COLA based on the current nationwide pay rate, excluding any locality percentage. Every NF employee performing at a satisfactory or proficient level receives the COLA. The COLA is deferred for any employee with a current below satisfactory or proficient evaluation until he or she earns a satisfactory or proficient performance evaluation, the first pay period after which the COLA will become effective. The employee will not receive retroactive pay for the time he or she performed at a below satisfactory evaluation.
5. Cost of Living Allowance Outside the Continental United States (O'CONUS). Nonappropriated Fund activities pay cost of living allowances to exempt employees working only in Alaska, Hawaii and Puerto Rico. However, managers must take this additional allowance into consideration with base pay when negotiating pay under the pay band system.
6. Temporary Pay Decrease. Management may authorize temporary pay decreases for Coast Guard Exchange System or MWR program employees as a tool to avoid permanent Reductions in Force (RIF's) or furloughs. Commandant (G-WPX) must approve these actions in advance, considering anticipated temporary loss of income, temporary base closings, etc. The maximum amount of time for a pay decrease is 6 months. If afterward the unit still needs to reduce personnel costs, management must consider a RIF.

I. Basic Rate.

1. For prevailing rate employees, the basic rate is the scheduled pay rate plus any night shift or other differential.
2. For pay band (NF) employees, the basic rate is the scheduled pay rate before any deductions, excluding additional pay of any kind. However, in computing overtime under the Fair Labor Standards Act (FLSA), the servicing personnel office may include some types of additional pay when determining the employee's regular rate; see Paragraph J.1 of this Chapter.

J. Premium Pay.

1. Overtime Pay.

- a. Fair Labor Standards Act Determinations. Fair Labor Standards Act rules and where applicable, Title 5, United States Code, Section 5544 (5 USC §5544), govern paying overtime.
- (1) Exempt employees. No employee identified as “exempt” may receive overtime or compensatory time off for working more than 40 hours in an administrative work week unless approved in advance and in writing by their supervisor. The doctrine of compensating more than 40 hours work permitted or suffered to be worked in an administrative work week does not apply to exempt employees.
 - (2) Nonexempt employees. Employees identified as nonexempt must receive compensation for working more than 40 hours per week they are permitted or suffered to perform. If an employee works overtime, even if not authorized in advance, the NAF activity must pay compensation at one and one-half times the employee’s basic rate.
 - (3) Fair Labor Standards Act instructions. This Chapter contains instructions to compute overtime and exempt employees from overtime compensation. Commandant (G-WPX) determines “exempt” and “nonexempt” status during the classification process according to the FLSA rules.
- b. Prevailing Rate Employees.
- (1) In addition to the FLSA requirement for overtime pay for working more than 40 hours a week, 5 USC 5544 covers prevailing rate employees, who are entitled to overtime for working longer than 8 hours a day, whichever is greater.
 - (2) All prevailing rate employees without exception enjoy this overtime entitlement.
- c. Calculations.
- (1) Compensatory Time Off. These overtime provisions enable an employee to request compensatory time instead of pay for overtime work, regardless of whether the employee’s overtime pay entitlement derives from 5 USC. An employee can accrue a maximum of 80 hours of compensatory time at any one time. The servicing personnel office must convert any compensatory time in excess of 80 hours to overtime pay at one and one-half times base pay. An employee must use earned compensatory time within 90 days. The supervisor must approve all

compensatory time and document it on time and attendance records (See Chapter 7.L. of this Manual).

- (2) Overtime Pay Entitlement. Calculate overtime at 1 1/2 times an employee's basic pay rate for actual hours worked, including any premium pay entitlements. Compensation for non-work days, e.g., holiday pay, annual leave, sick leave, administrative leave, is not considered pay for overtime purposes. For example: An employee's regular tour of duty is Monday through Friday. The employee is off duty and on holiday pay for Thursday, Thanksgiving Day. The employee is required to work on Saturday of that week for inventory. Total compensation for that week is based on 48 hours but total hours worked are only 40. Therefore no overtime compensation is due for the hours worked on Saturday if the employee works only 8 hours. If the employee works 12 hours, he or she is due 4 hours of overtime pay.
 - (3) Travel Time. Treat time spent traveling as hours of work in these circumstances:
 - (a) An employee is required to travel during regular working hours;
 - (b) A nonexempt employee is required to drive a vehicle or perform other work while traveling outside of regular working hours;
 - (c) A nonexempt employee is required to travel as a passenger on an overnight assignment away from the official duty station during non-workday hours corresponding to the employee's regular working hours. For example an employee who works a 8:30 a.m. to 5:00 p.m. schedule will not receive premium pay for hours traveled outside 8:30 a.m. to 5:00 p.m. An employee can request compensatory time at the basic pay rate in lieu of overtime pay;
 - (d) Overtime is payable to nonexempt employees for time spent on outside training, conferences, or trade shows outside their duty station and/or normal working hours.
 - (4) Accounting Procedures. Compensatory time accrues as incurred. Calculate it as straight time at an employee's basic pay rate for actual hours worked, including premium pay. Record it under accrued liabilities. As the employee uses compensatory time, the accrued liability decreases. At termination, convert compensatory time to overtime and pay at time and one-half as a lump sum payment.
2. Sunday Pay (Optional for Pay Band Employees). Under 5 USC 5544 a prevailing rate employee is entitled to Sunday Pay as follows:

- a. Sunday premium pay is 25 percent of basic pay.
 - b. An employee is entitled to the basic pay rate plus Sunday premium pay for all regularly scheduled, non-overtime work hours if he or she performs any part of the scheduled tour on Sunday. If two tours occur on the same Sunday, the employee is entitled to Sunday pay for both tours up to 16 hours.
 - c. Only permanent or temporary full-time employees who work 40 hours per week are entitled to Sunday premium pay.
 - d. Part-time and intermittent employees are not entitled to Sunday premium pay.
3. Night Differential (Optional for Pay Band Employees). The Office of Personnel Management Operating Manual Federal Wage System Nonappropriated Fund, stipulates a NAF prevailing rate employee is entitled to Night Differential as follows:
- a. Pay Band (NF) employees can earn a night differential of 10 percent of basic pay in addition to their basic pay for actual hours of regularly scheduled work they perform between the hours of 6:00 p.m. and 6:00 a.m.
 - b. A NAF Activity must pay a Prevailing Rate employee a night shift differential for the entire shift for all regularly scheduled, non-overtime work, according to this schedule.

Percentage <i>in addition to</i> basic pay rate	Pay if a majority of the employee's regularly scheduled work hours occurs between these hours:
7.5	3:00 p.m. and 12:00 midnight
10	11:00 p.m. and 8:00 a.m.

- c. An employee is entitled to night pay differential for a period when excused from night work on a holiday or other non-workday and for night hours while in an official travel status. Continue paying night differential during periods of leave with pay depending on the shift to which the employee is assigned when going on leave and assignment duration. An employee is entitled to night pay differential for night work performed when assigned temporarily to a tour of duty other than his or her own.
- d. In determining entitlement to night differential, work scheduled at least a week in advance is regularly scheduled work no matter how much prior notice the employee receives. In determining a majority, count the number of whole hours greater than one-half of the scheduled shift. Include night shift differentials in the basic pay rates used to compute overtime and

Sunday pay, retirement, and group life insurance. An employee regularly paid night shift differential continues to receive it during a period of paid leave, when excused from night work on a holiday, and while in an official travel status during regular shift hours. If an employee regularly assigned a night shift is temporarily assigned to a day shift or the night shift with the lower differential, he or she continues to receive his or her usual night shift differential.

4. Holiday Pay. All regularly scheduled full-time, part-time, and regularly scheduled intermittent employees are entitled to holiday pay under these conditions:
 - a. An employee eligible for holiday pay receives the basic pay rate for regularly scheduled, non-overtime hours as if he or she had worked.
 - b. An employee required to work on a holiday falling within his or her regular schedule receives his or her basic rate for regularly scheduled, non-overtime hours plus premium pay of their hourly rate. Thus, an employee normally working Mondays and earning \$6 per hour who works on Labor Day earns \$12 per hour (straight pay plus holiday premium).
 - c. An employee required to work a holiday falling outside his or her regular work schedule receives his or her basic pay rate.
 - d. An employee working fewer than 5 days in a week who is required to work a holiday falling outside his or her regular work schedule receives his or her basic pay rate.
 - e. Premium pay for holiday work is in addition to overtime pay, night shift differential, or premium pay for Sunday work and is not included in the rate of pay used to compute overtime pay, night shift differential or Sunday premium pay.
 - f. To qualify for holiday pay, an employee must be in a pay status immediately before or after the holiday.
 - g. For additional information on holiday pay, see Work Hours, Chapter 6 of this Manual.

K. Grade and Pay Retention. Grade and pay retention apply only to NA, NL, and NS employees. The 5 CFR 532 contains procedures for grade and pay retention.

L. Dual Compensation.

1. The 5 USC 5533 prohibits employees in either or combined appropriated or nonappropriated fund positions, including temporary and intermittent

appointments, from receiving pay from two or more positions for more than 40 total hours of work in 1 calendar week. This law does not apply to enlisted off-duty military personnel performing military duty. However, off-duty military members are limited to holding only intermittent (up to 19 hours per week) positions.

2. Experts and consultants or persons compensated by fees paid on other than a fee basis, are exempt from these restrictions. For example, an umpire paid by the game is exempt; a part-time accountant is not.

M. Withholding Taxes.

1. Payroll administrators must comply with the Internal Revenue Code and withhold Federal income tax from civilian and off-duty military employees' compensation. Payroll check stubs should specify allowances and differentials not subject to Federal income tax or FICA (social security) tax and excluded from the base pay report on employees' Wage & Tax Statement (Form W-2).
2. Payroll administrators must deduct applicable state, county, and/or municipal income tax.
3. Payroll administrators must deduct the FICA tax on employees' wages imposed by Internal Revenue Code §3101 and pay the employer's excise tax imposed by §3113.
4. Deduct the FICA tax from all leave payments since they're actually a continuation of wages.

N. Tips.

1. Internal Revenue Service (IRS) regulations establish procedures and requirements both employee and employer must understand and follow in administering tips.
2. The words "tip" and "gratuity" mean money in the form of cash or a credit card or other charge in an employee's favor a patron voluntarily gives the employee. Management may not retain but must disburse a cash or charge tip to the employee(s) concerned. The tip recipient and other supporting personnel may voluntarily arrange to split or pool tips.
3. Under IRS regulations, tips are subject to Federal income tax and the employee's share of FICA tax; any person receiving more than a minimum amount monthly in tips must report the amount to his or her employer. The employer should verify the established procedures for reporting tips annually. The IRS requires the employee to report tips received at least monthly but more frequently if management desires to coincide with a pay system. The employee

may use Employee's Report on Tips, IRS Form 4070, or any similar local form for reporting purposes.

4. A service charge is a *mandatory* charge added to a patron's bill, not a voluntary tip; the IRS considers a service charge NAF income. Management usually disburses service charges added to patron's bills to employees. However, the disposition of this money is a management prerogative and subject to local labor-management agreements. Any portion of the service charge disbursed to the employee constitutes wages and is subject to both employee and employer FICA taxes and Federal and state income tax withholding. Therefore, employees do not report any service charges they receive in the tip report.

O. Miscellaneous Provisions.

1. Pay for the date entering duty covers the time after selection for employment the employee is under the employer's control. The employee is not entitled to pay for any period exclusively devoted to applying for employment, pre-employment interviews, and other pre-selection processes.
2. Pay for the separation date covers only the time the employee is in a duty status, including time spent complying with clearance requirements.
3. Pay for the entire day of death regardless of hour provided the employee was in a pay, work, or leave status on the workday immediately preceding the date of death. If an employee dies, NAF will pay his or her designated life insurance beneficiary(ies) compensation due or follow applicable state laws if the employee did not name a life insurance beneficiary.
4. Leave Administration, Chapter 7 of this Manual, contains pay computations for leave.
5. A commanding officer for MWR and Commandant (G-WPX) for CGES may waive a salary overpayment if administrative error caused the overpayment and there are no indications of the employee's fraud, misrepresentation, or lack of good faith. Appeal adverse decisions to Commandant (G-WPC).

P. Computing Back Pay.

1. When an appropriate authority corrects or directs correcting an unjustified or unwarranted personnel action, the unit pays the pay, allowances, and differentials the employee would have earned if the personnel action had not occurred are paid as follows:
 - a. In computing the back pay amount due, exclude these periods:

- (1) When the employee is not ready, willing, or able to perform his or her duties due to an incapacitating illness or injury.
 - (2) When the employee is unavailable to perform his or her duties for reasons other than those related to or caused by the unjustified or unwarranted personnel action.
- b. In computing the amount of back pay the commanding officer for MWR and CGES region manager will:
- (1) On request, grant any sick or annual leave available to the employee for a period of incapacitation if the employee can establish the incapacity resulted from injury or illness.
 - (2) Reduce the amount of back pay by the amount of wages earned for outside employment while the employee was separated due to an unjustified or unwarranted personnel action. Exclude pay he or she earned from a part-time, "moonlighting" job he or she held before being erroneously separated.
2. Credit any extra annual leave restored to an employee over the normal maximum leave accumulation to a separate leave carry-over account; see Administering Leave, Chapter 7 of this Manual.

Q. Severance Pay.

1. Regular full-time and regular part-time employees who have completed at least 12 months of continuous creditable service with one or more Nonappropriated Fund Instrumentalities (NAFIs) are eligible for severance pay. Such employees may earn one week of basic pay for each full year of creditable service up to a maximum of four weeks. Prorated credit will be applied for partial year service provided the employee has completed the 12-month continuous creditable service. The continuous service qualifying the employee for severance pay must have occurred within the 12 months preceding the effective date of the business based action.
2. A maximum payment equal to 4 weeks of pay may be granted if and when a regular full-time and regular part-time employee is separated due to a business based action, post deactivation or reorganization. Such pay may also be granted to regular full or part-time employees who are adversely impacted by a business based action other than by separation action, e.g., loss of pay, changed to lower pay band, or to a lower employment category that affords less basic pay and/or benefits. Under such circumstances, an employee may opt for separation and claim earned eligibility for severance pay.
3. The following employees will not receive severance pay if they:

- a. Are employed, without a break in service of more than 3 calendar days after separation in another NAF position, or any appropriated fund (AF) position, without a time limit on the length of the appointment.
- b. Have refused an offer of employment by the command that would not result in a rate of basic pay that is lower than the rate of basic pay received immediately before the business based action, or a loss of employment category (i.e., from Regular Full-Time to Regular Part-Time or from Regular to Intermittent). Offers must be in the same commuting area, unless the employee is covered by an agreement in which mobility is a condition of employment.
- c. Are entitled to an immediate annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF retirement plan, or from a civil service retirement plan in which the employee elected to remain following movement between employment systems under 5 U.S.C., 8347(q) (reference (b)) and 8461(n) (reference (c)).
- d. Are receiving payments from the Department of Labor's Office of Workers Compensation Program for a job-related injury.

R. Commercial Garnishment of a Federal Employee's Pay.

- 1. Garnishment Procedures and Guidance. Executive Order Number 12897, Commercial Garnishment of Federal Employees' Pay, establishes these procedures and guidance in processing commercial garnishment orders, including state and local governments' tax levies. Nonappropriated fund activities will send all commercial garnishments received to Commandant (G-LGL) via Commandant (G-WPC-6) for legal determination. Commandant (G-LGL) will notify the unit in writing whether the garnishment is legal and what actions the unit needs to take.
 - a. "Pay" means basic, premium, or any other pay paid or payable for personal services, whether called pay, wages, salary, lump-sum leave payments, commissions, bonuses, awards, or otherwise. "Pay" does not include awards for making suggestions, reimbursement for expenses an employee incurred in connection with employment, or allowance in lieu of reimbursement or compensation for work injuries.
 - b. Aggregate disposable earnings are the employee's pay less authorized excluded amounts; see Paragraph Q.3. of this Chapter.
 - c. Garnishment, a legal process, means any writ, order, summons, or other similar process repayment, including an attachment, writ of execution, court order wage assignment, or state or local Government tax levy issued by a court of competent jurisdiction in any state, territory, or United States possession, the District of Columbia, and Indian Tribal Courts.

2. Notifying the Employee.

- a. As per the court order, management will notify an employee in writing, including a copy of the legal document, of the valid service of legal process. Give the employee this additional information:

(1) Copies of any other documents submitted to support or in addition to the legal process.

(2) Notice: The United States does not represent the employee's interests in the pending legal proceedings.

(3) Advice: The employee may wish to consult legal counsel about his or her defense to the legal process.

3. Exclusions. In determining the amount of pay subject to garnishment, exclude these amounts:

- a. Amounts the employee owes the United States;

- b. Amounts the law requires deducting from the employee's pay, including at least:

(1) Amounts withheld from benefits payable under the Social Security Act, Title II;

(2) Federal employment taxes; and

(3) Amounts deducted for Medicare.

(4) Amounts properly withheld for Federal, state, or local income taxes if legally authorized or required and if withheld amounts do not exceed the amount the employee claims for all dependents to which he or she is entitled. Withholding additional amounts pursuant to 26 USC 3402(i) is permitted only if the employee presents evidence of a tax obligation that supports the additional withholding.

- c. Amounts deducted as health insurance premiums;

- d. Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Here, all amounts contributed to the NAF Retirement Plan are deemed normal retirement contributions. Amounts voluntarily contributed to additional retirement accounts are considered supplementary; or

- e. Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Basic life coverage is considered normal life insurance premiums; all optional life insurance premiums paid by allotment are considered supplementary.
4. Maximum Garnishment Limitations. Under 15 USC 1673(a)(1), the Consumer Credit Protection Act, as amended, and Department of Labor regulations at 29 CFR 870, these limits apply:
- a. Unless applicable state or local law mandates a lower maximum limit, the maximum of an employee's aggregate disposable earnings for any work week subject to garnishment to enforce any legal debt other than a child support order or alimony is 25 percent. Further, in determining the garnishable amount of the employee's aggregate disposable earnings, a payroll office must apply these dollar limitations, contained in 29 CFR 870: if the employee's aggregate disposable earnings for the work week exceeded 40 times the Fair Labor Standard Act (FLSA) minimum hourly wage, 25 percent of the employee's aggregate disposable earnings may be garnished. For example, effective September 1, 1997, the FLSA minimum wage rate is \$5.15 per hour. Multiply by 40 to equal \$206.00; if the employee's *disposable* earnings exceeded \$206.00 for a work week, 25 percent of his or her *disposable* earnings are subject to garnishment.
 - b. If the employee's aggregate disposable earnings per work week are less than 40 times the FLSA minimum hourly wage, the maximum garnishment amount is that amount by which the employee's aggregate disposable earnings exceed 30 times the current minimum wage rate. Using the hypothetical example above, the amount of aggregate *disposable* earnings exempt from garnishment is \$154.50 ($\5.15×30). Only the amount above \$154.50 is garnishable.
 - c. If the employee's aggregate disposable earnings in a work week equal or are less than 30 times the FLSA minimum hourly wage, all the employee's earnings are exempt from garnishment.
 - d. The percentage of an employee's aggregate disposable earnings garnishable for a state or local tax obligation or bankruptcy purposes is unlimited.

CHAPTER 6. WORK HOURS

A. Authority. This regulation authorizes activity managers employing NAF personnel to establish and change such employees' tours of duty.

B. Establishing Workweeks.

1. Commandant (G-WPX) will establish the administrative workweek of 7 consecutive calendar days.
2. For each regularly scheduled employee a supervisor will establish a basic workweek of at least 35 hours for full-time employees, between 20 and 34.75 hours for part-time employees, and a maximum of 19 hours for intermittent employees working on a regular schedule. Workdays normally last 8 hours and should never exceed 10 hours except for unusual circumstances beyond management's control.
3. A supervisor ordinarily will schedule the basic workweek over a period of 5 consecutive days or, at a maximum, 6. The basic workweek will include the minimum number of hours the employee is expected to work each week.

C. Establishing Tours of Duty.

1. When possible, supervisors will establish tours of duty for the same days of each week, the same hours each day, on consecutive days of the administrative workweek.
2. If a regular tour of duty will seriously impair performing a function or increase costs substantially, supervisors shall establish rotating or irregular tours and explain the necessity for such tours to employees and applicants for positions involving such tours. If establishing rotating or irregular tours of duty, supervisor will treat employees equitably when assigning them to Saturday, Sunday, and night duty.
3. Supervisors will schedule full and part-time employees' tours of duty covering at least 1 administrative workweek and post these schedules 1 week in advance. Managers and supervisors may make exceptions to this requirement if unusual circumstances make advance scheduling impossible.
4. Supervisors will not change or adjust tours of duty solely to avoid the obligation of granting leave, premium pay for a holiday, or overtime.
5. If it is necessary to schedule an off-duty period between two portions of a daily tour of duty, the employee will be completely free during that off-duty period.

6. Supervisors shall express daily tours of duty in full hours. If fractional hours are necessary, supervisors will express daily tours in full and quarter-hour fractions.
7. If a daily tour of duty begins on one calendar day and extends into the next, the day the tour begins is that day's tour. For example, a tour of duty beginning 10:00 p.m. Friday and ending 4:30 a.m. Saturday is the Friday tour of duty. This also applies when determining holiday pay.
8. Notification of Personnel Action, Standard Form 50 (SF-50) for full-time, part-time and regularly scheduled intermittent employees will indicate the minimum number of hours in the basic workweek in the remarks section; for example, "at least 30 hours per week." Employees must account for these minimum hours in pay and/or leave records and should satisfy this requirement on a pay period basis if lack of work prevents meeting the weekly minimum. If an employee works a seasonal tour of duty, the SF-50 also will indicate the periods in a non-duty status.

D. Special Considerations in Establishing Work Schedules. Observe these requirements when establishing tours of duty:

1. Minor's tours of duty.
 - a. Minor's tours of duty will comply with applicable Federal, state, and local laws; see Employment and Staffing for Employment of Minors, Chapter 3 of this Manual.
 - b. If transportation facilities require unusually long commuting times, such as 1 hour or more, for travelling to and from work, reduce students' daily tour accordingly.
 - c. Meal periods are free time.
2. Designating Emergency Duty. If it becomes necessary to call employees back to duty in emergencies, commanding officers for MWR and CGES managers may designate employees to be on call during off-duty time under these conditions:
 - a. If two or more employees possess the required skills, designate the on-call employee(s) on an equal rotating basis.
 - b. Requiring employees to make themselves available for emergency duty ordinarily requires them to leave names and/or telephone numbers where they can be reached.

- c. Compensation is not a factor. Designating employees to be available for emergency call does not justify paying additional compensation. An employee receives additional compensation if he or she must remain at his or her duty post. However, if a supervisor must call an employee back to duty, the supervisor will authorize a minimum of 2 hours pay to non-exempt employees only.
 - 3. Minimum tour of duty. Supervisors will not schedule employees or call them to duty for a period shorter than 2 hours except for tours of duty scheduled during lunch periods, when the activity is open fewer than 2 hours.
- E. Rest Periods. A supervisor has the authority to permit short rest periods during the daily tour of duty if he or she believes such periods benefit or are necessary to the activity. Each supervisor will establish a written policy and give a copy to all employees.
 - 1. Establish rest periods according to these criteria:
 - a. Relief from hazardous work will protect an employee's health;
 - b. Relief from continuous physical exertion or work performed in confined spaces limiting personal activities will reduce fatigue;
 - c. Increased efficiency or production will result.
 - 2. Grant rest periods subject to these conditions:
 - a. Grant a rest period only if at least one of the criteria above apply;
 - b. A rest period may extend a maximum of 15 minutes during each 4 hours of continuous work;
 - c. A rest period will not extend the lunch period.
- F. Meal Periods.
 - 1. Supervisors will consider meal periods during which the employee is entirely free of job duties as free time and may not compensate the employee for the meal period. Meal periods last between 30 minutes and 1 hour; supervisors will indicate them on the work schedule. Supervisors must schedule a meal period for employees required to work 6 or more hours in any workday.
 - 2. A supervisor may establish a paid on-the-job meal period of up to 20 minutes if an employee's duties require him or her to remain at the duty station. For each employee required to remain at his or her duty station, the supervisor will complete a meal waiver. A meal waiver is a letter from the supervisor stating

the employee was required to remain at his or her duty station and will receive pay for an on-the-job meal period of up to 20 minutes. The supervisor and employee sign the waiver. A supervisor may revoke a waiver at any time if the employee is not required to remain at his or her duty station. File the waiver on the left side of the Official Personnel Folder (OPF).

G. Incidental Duties. The daily schedule of working hours will include time spent performing assigned incidental duties required to perform a given job. These duties include travel inherently part of and vital to the work itself. However, travel from home or lodging to and from a work place is unpaid commuting time. For example, the tour of duty includes the time maintenance workers must spend to secure working implements and if necessary change to protective clothing in the morning, and to return the implements and change back to ordinary clothing at the end of the workday. Similarly, a tour of duty includes the time both before and after the work period an employee needs to validate funds for which he or she is responsible. The supervisor should establish the time permitted for such duties in writing and give a copy to all effected employees.

H. Legal Holidays.

1. First day of January.
2. Third Monday in January.
3. Third Monday in February.
4. Last Monday in May.
5. Fourth day of July.
6. First Monday in September.
7. Second Monday in October.
8. Eleventh day of November.
9. Fourth Thursday in November.
10. Twenty-fifth day of December.
11. Any other day Federal statute or Executive Order designates as a holiday.

I. Authority. Commanding Officers for MWR and CGES managers have the authority to include a holiday in an employee's basic workweek or require the employee to work that day and take another day off within that workweek, which becomes the employee's holiday. If an employee entitled to holiday leave is

required to work on a legal holiday or the day that becomes a holiday, he or she is entitled to premium pay. If a supervisor grants an employee scheduled to work on a holiday requested time off for personal reasons, the supervisor will charge the employee annual or sick leave as appropriate. Similarly, a supervisor will charge an unexcused absence as absent without leave (AWOL) and not pay holiday pay in this situation. An employee must be in a pay status the day before or after a holiday to be eligible for holiday pay.

A. Determining Holidays.

1. For purposes of pay and leave, a supervisor will determine a holiday for a full-time, part-time, or regularly scheduled intermittent employee with a basic 5 or 6-day work week as follows:
 - a. If a legal holiday falls on a workday in the employee's workweek, that workday is a holiday.
 - b. If a legal holiday falls on a day outside an employee's basic workweek, the manager or supervisor will treat as the holiday the day of the basic workweek immediately preceding or following the legal holiday's observance. To allow continuity of operations, if strictly applying the "day preceding or day succeeding" rule would disrupt the NAF activity, managers or supervisors may designate an alternate day as an individual employee's holiday.
2. An employee whose basic work week is less than 5 days is not entitled to holiday leave or premium pay if a holiday falls outside his or her basic workweek.
3. Managers or supervisors will inform employees of the date a holiday will be observed 2 weeks in advance of the date of the alternate holiday.

CHAPTER 7. ADMINISTERING LEAVE

A. General.

1. This Chapter applies to all regularly scheduled full-time and part-time Coast Guard nonappropriated fund (NAF) employees. Intermittent employees are not eligible to earn or accrue leave. Temporary full-time or part-time employees whose appointment exceeds 90 days are eligible to earn or accrue leave.
2. The leave year begins with the first complete pay period in the fiscal year and ends with its last full pay period.

B. Service Computation Date. The leave service computation date is usually the date appointed or converted to regular full-time or part-time employment. Adjust the leave service computation date for these circumstances:

1. Previous NAF employment. Credit an employee with previous DoD and Coast Guard NAF service for all part-time and full-time employment periods.
2. Previous appropriated fund (AF) employment. An employee with previous AF service must meet all portability requirements to receive credit. Nonappropriated Fund (NAF) Portability Program, Chapter 20 of this Manual, describes how to compute leave for employees appointed under portability.
3. Credit for military service.
 - a. Nonappropriated fund employees eligible to accrue leave receive credit towards their annual leave accrual for previous active duty military service.
 - (1) Military retirees. Nonappropriated fund employees who retired from any of the uniformed services will receive credit only for service in verified nonwartime campaign or expeditions. For verification purposes, use Verification of a Military Retiree's Service in Nonwartime Campaigns or Expeditions, Standard Form 813 (SF-813). All active service of a retired member is creditable if the retirement was:
 - (a) Based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict;
 - (b) Based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.
 - (2) Military service (non-retiree). An employee who has previous active duty military service and did not retire from the military will receive full credit for all time on an active duty status provided his or her discharge was honorable or under honorable conditions (general) or the service member transferred to the inactive reserves under honorable conditions. The employee must provide a

Certificate of Release or Discharge from Active Duty form (DD-214), to receive credit for military service.

(3) Effective Date. The provisions of (1) and (2) above became effective 16 February 1983. No recomputation of leave for employment periods prior to the effective date is authorized.

b. Nonappropriated fund employees called to active duty for short periods, such as up to 6 weeks, with Armed Forces Reserve components continue to accrue annual and sick leave during such periods. Non-duty time in Reserve components is not creditable.

4. Credit for Workers' Compensation status. An employee on leave without pay (LWOP) status who receives benefits under the Longshoremen's and Harbor Workers' Compensation Act does not accrue annual or sick leave. However, the time spent in LWOP status is creditable service time for determining leave accrual.

C. Annual Leave.

1. Using annual leave.

a. Purpose. Annual leave is a period of approved absence with pay from official duties to allow an employee a period of time off for personal and emergency purposes, or leave for parental and family responsibilities.

b. Basic Considerations. Managers and supervisors shall encourage employees to plan their annual leave as far in advance as practical to accommodate operating and work requirements. Supervisors shall consider leave requests in light of current and anticipated workloads and with regard for individual employee's welfare and preference. Employees are entitled to take the annual leave they have earned. However, management has the right to adjust the time when an employee may take earned leave.

2. Granting annual leave.

a. Leave requests. Except in an emergency, employees shall plan and request to use leave before the absence. In an emergency, an employee must notify his or her supervisor or designated alternate before or as soon as possible when the employee is scheduled to report for duty, normally within 2 hours, to explain the circumstances and request approval for the absence. When the employee requests the leave, the supervisor will advise the employee whether the request is approved.

b. Charging annual leave. Supervisors will charge annual leave in 15-minute units or multiples thereof. The minimum charge to annual leave for an absence is 15 minutes.

- c. Advance annual leave. Commanding officers for MWR or CGES region managers may authorize employees to use leave they will earn within a leave year at any time during that leave year. Commanding officers for MWR and CGES region managers will advance annual leave individually but not if the employee has demonstrated problems in accruing leave or an irresponsible attitude toward scheduling leave. Commanding officers for MWR and CGES region managers shall advance an employee only as much leave as he or she will earn:
 - (1) During the current leave year.
 - (2) During the term of his or her temporary appointment.
 - (3) Before his or her anticipated separation or retirement date, if the supervisor knows an employee will retire or separate from NAF service within the leave year.
 - d. Requests for advance annual leave. An employee shall use a written Request for Leave or Approved Absence, Standard Form 71 (SF-71), to request advance annual leave.
3. Enforced Annual Leave. Under the two conditions below, supervisors may require employees to use their annual leave or LWOP, if they have no accrued annual leave, with or without their consent:
- a. In cases of interrupted, suspended, or reduced operations when supervisors can give 24 hours advance notice.
 - b. If an employee is not "ready, willing, and able" to work, and alternate assignments would not be equitable or feasible, for example, failure to wear proper safety equipment or refusing to perform properly assigned duties within the scope of his or her official position.
4. Accruing Annual Leave. An employee earns annual leave based on hours of creditable NAF service as follows:
- a. On a pro rata basis according to the total hours worked each pay period and his/her years of service.

Years of Employment	Percentage of Total Hours in a Pay Status	Maximum Hours per Pay Period	Maximum Annual Hours
Fewer than 3	5	4	104
3 to 15	7.69	6	160
More than 15	10	8	208

- b. Do not include overtime hours when computing accrued leave.
 - c. Temporary employees serving under a current appointment of at least 90 days or who have completed 90 days under successive appointments without a break in service earn leave the same as permanent employees. If an employee initially is appointed for fewer than 90 days but the appointment is extended before the expiration date, personnel will credit that employee for annual leave from the initial appointment date.
5. Indebtedness for Advance Leave. Employees who separate from their NAF activity are indebted for any advance annual leave they used before separation. They either refund the advance leave's cash value or payroll collects the amount due for advance leave. A refund is not required if the employee dies, is disabled, supported by an acceptable medical certificate, or enters active military duty with restoration rights. An employee may use compensatory time off worked in lieu of overtime to offset an advance annual leave balance.
6. Maximum Accumulation of Annual Leave. An employee may accumulate and carry forward into a succeeding leave year a maximum amount of annual leave, up to 240 hours, other than restored annual leave, in the last pay period of the leave year.
7. Forfeiting Annual Leave. An employee who has accumulated more than 240 hours of leave must use it or forfeit the excess leave at the beginning of the first complete pay period in the new leave year.
8. Restoring Forfeited Leave. Leave approving officials may restore annual leave forfeited because of business exigencies, sickness, or administrative error only under these limited conditions:
- a. Business Exigencies. The exigency must be so important it prevents using annual leave scheduled in advance and must occur at a time or last so long it is impossible to reschedule the annual leave before the end of the leave year. An exigency of business exists when the necessity for requiring forfeiture of excess annual leave arises from reasonably unforeseeable circumstances beyond the affected employee's control that make it impractical or not in the public interest to grant the affected employee the excess leave. An obvious exigency may arise due to a natural disaster, other public emergency, or unexpected staffing shortages in the organization. For an individual employee, an exigency may arise due to some unforeseen public business that prevents him or her from using the planned annual leave, e.g., a sudden call to jury duty or a call to military duty to preserve public order. The supervisor normally decides whether the exigency is so important it precludes using the scheduled annual leave before canceling it. To qualify under this provision, the annual leave must be approved in writing and scheduled for use before the start of the third biweekly pay period before the leave year's end, although the employee may have scheduled to go on leave during the last 3 pay

periods of the leave year.

- b. Sickness. A medical condition must interfere with using annual leave scheduled in advance and occur or continue so late in the leave year the employee could not reschedule the annual leave to avoid forfeiture. Excessive work load caused by absence due to illness is not sufficient grounds to restore leave unless a genuine exigency of the public business, as specified in Paragraph C.11.a. of this Chapter, occurs. Both the employee and management have a responsibility to schedule or reschedule annual leave to avoid forfeiture, particularly true if the employee knows a medical or physical condition will require his or her absence before the end of the leave year.
 - c. Administrative Error. Annual leave forfeited because of administrative error may be restored. The activity will pay former employees who forfeited annual leave because of administrative error a lump sum if the error is not discovered until after separation from the NAF activity.
9. Time Limit for Using Restored Excess Annual Leave. An employee must schedule and use restored annual leave by these deadlines or he or she again forfeits the leave without the possibility of restoration.
- a. After an exigency by the end of the leave year ending 2 years after the date the exigency ended.
 - b. After an illness by the end of the leave year ending 2 years after the date the employee is judged recovered and able to return to duty.
 - c. After correcting an administrative error by the end of the leave year ending 2 years after the date restored.
10. Separate Leave Carry-Over Account. Annual leave restored under any provision in Paragraph C.11 of this Chapter, must be credited to a separate leave account and used within the specified time limit. The amount of restored leave does not in any way affect an employee's normal maximum permissible carry-over of annual leave into a new leave year. The employee again forfeits any restored leave unused when the 2-year restoration period expires with no further right to restoration. If the employee does not use the restored leave and separates from active service before the specified time limit expires, he or she is entitled to a lump sum payment for the unused leave; see Paragraph C.12. of this Chapter.
11. Procedure to Restore Excess Annual Leave.
- a. If an operational exigency occurs that will prevent an employee from using scheduled annual leave, his or her supervisor or another appropriate manager will prepare a request to determine whether the affected employee is entitled to carry

over excess annual leave into the next leave year. The request must:

- (1) Describe the exigency or operational need involved.
 - (2) Explain why canceling scheduled annual leave was the only alternative.
 - (3) Document the dates and amount of previously scheduled approved annual leave affected, such as with a copy of an approved leave schedule or SF-71.
- b. If illness, injury, or any other medical condition occurs at the end of the leave year and causes an employee to forfeit previously scheduled and approved annual leave, the employee's supervisor or another appropriate manager should prepare a request to determine whether the employee is entitled to carry over excess annual leave into the next leave year and send the request to the CGES Manager or MWR Officer no later than 30 days after the leave year ends. The request must:
- (1) Contain the date the illness, injury, or other medical condition causing absence on sick leave began and expected duration of the employee's current absence.
 - (2) Explain why the employee will forfeit annual leave and why rescheduling is impossible.
 - (3) Document the dates and amount of previously scheduled and approved annual leave with a copy of an approved leave schedule or SF-71.
- c. If administrative error resulting in forfeiture of annual leave is discovered, the discovering office or person shall prepare a request to approve restoring annual leave and send the request to the CGES Manager or MWR Officer by 30 days after the administrative error was discovered. The request will:
- (1) Describe the administrative error that resulted in forfeiting annual leave; and
 - (2) State the amount of leave forfeited or
 - (3) State the lump sum amount due a former employee who forfeited annual leave due to administrative error.

12. Lump Sum Payment for Annual Leave. Any employee who separates from NAF service or elects to receive a lump sum payment for leave on entering Armed Forces active duty, and only for these two reasons, will receive compensation in a lump sum for accrued annual leave to his or her credit. An individual will not receive annual leave payment while identified as a "current employee." A deceased employee's beneficiary can receive a lump sum payment.

13. Refunding Lump Sum Leave Payment. If a Coast Guard NAF reemploys a person before the period covered by the lump sum payment ends, he or she must refund to the

employing activity an amount equal to the leave payment covering the period between the reemployment date and the end of the period covered by the lump sum payment. The activity then re-credits to the employee a corresponding amount of annual leave up to the maximum amount the employee was permitted to carry over into the leave year of separation. However, the employee need not refund any payment for restored annual leave included in the lump sum payment because restored annual leave may not be re-credited to an employee.

14. Transferring Leave Balance. If a Coast Guard NAF employee transfers to another Coast Guard NAF, his or her annual leave transfers without limit. The employee receives the full amount of leave, even if he or she earns higher pay from the gaining employment system. The employee may not cash in any portion of the accumulated leave balance.
15. Transferring Funds. Under portability, when an employee moves from a Coast Guard appropriated fund position to a nonappropriated fund position and vice versa, funds are not transferred between systems. However, when an employee moves from one Coast Guard NAF to another Coast Guard NAF, the previous NAF activity will send a check in the amount of the employee's annual leave balance to the gaining NAF activity.
16. Abusing Annual Leave. If an employee appears to be using annual leave improperly, e.g., chronically using emergency annual leave, his or her supervisor may require the employee to comply with special leave procedures more stringent than those applied to other employees; Disciplinary and Adverse Actions, Chapter 9 of this Manual.

D. Voluntary Leave Transfer.

1. A NAF employee may voluntarily transfer annual leave to another NAF employee who has exhausted all earned sick and annual leave due to either the employee's or an immediate family member's serious medical condition. This leave converts to sick leave calculated at a dollar value at the receiving NAF activity if the employee suffers illness or annual leave if the employee cares for a family member. Thus, if an employee earns \$5.15 an hour and transfers 10 leave hours, the receiving NAF gets \$51.50. If the receiving employee earns \$10 an hour he or she receives 5 hours of appropriate leave. An employee requesting leave donations shall apply to receive donated leave under this program to the proposed leave recipient's employing activity. The application shall include:
 - a. The proposed leave recipient's name, position title, and grade or pay band;
 - b. The reason(s) why the recipient needs transferred leave. Briefly describe the nature, severity, anticipated duration, and, if recurring, approximate frequency of the medical emergency involved;
 - c. One or more physicians' or other appropriate experts' certification of the information in Paragraph D.1.b. of this Chapter.

- d. Any other information the employing activity may reasonably require.
- 2. Transferred annual leave may accumulate with no limit. The recipient may substitute it retroactively for any LWOP period or use it to liquidate indebtedness for any period of advanced leave that began on or after the date the medical emergency began.
- 3. An employee may request his or her employing activity in writing to transfer (donate) a specific number of hours from his or her annual leave account to the recipient's annual leave account.
 - a. A leave donor may donate up to one-half the amount of annual leave he or she would accrue during the leave year.
 - b. A leave donor projected to have annual leave otherwise subject to forfeiture at the end of the leave year may donate a maximum of the number of hours remaining in the leave year as of the donation date for which the leave donor is scheduled to work and receive pay.
- 4. If the leave recipient has any transferred leave remaining to his or her credit when the medical emergency concludes, the recipient's activity shall transfer the leave to its donors on a pro-rated basis. A leave donor can choose either of these options:
 - a. Credit such leave to his or her annual leave account; or
 - b. At the donor's request, donate all or part of such leave to another leave recipient.

E. Sick Leave. A supervisor or manager may grant sick leave for these absences:

- 1. Using Sick Leave. The employee cannot perform his or her duties due to incapacitating sickness, injury, confinement due to pregnancy, emotional stress, or mental illness.
 - a. Personal medical, dental, or optical examination or treatment.
 - b. In certain circumstances involving a contagious disease.
- 2. Using Sick Leave Improperly. An employee shall not use sick leave in these circumstances:
 - a. Illness or other circumstances that do not render the employee personally unfit for duty. Family illness does not make an employee unfit for duty, except as Paragraph 7.E.3. of this Chapter stipulates.
 - b. In place of annual leave.

3. Abusing Sick Leave. If an employee appears to be using sick leave improperly, e.g., by chronically using brief periods of sick leave, his or her supervisor may require the employee to comply with special leave procedures more stringent than those applied to other employees. See Exhibit 9-6 in Chapter 9, Letter of Requirement.
4. Granting Sick Leave.
 - a. Requests for Leave.
 - (1) Absence for Illness. Employees who wish to request sick leave while ill must:
 - (a) Make every effort to notify their supervisor about the illness before their scheduled workday starts, but in all cases by 2 hours after they were scheduled to report for duty.
 - (b) Notify their supervisor(s) before leaving work due to illness during normal duty hours.
 - (c) Request and obtain approval of sick leave for the absence.
 - (2) Absence for prearranged examination or treatment. An employee must obtain his or her supervisor's advance approval for any absence to undergo any medical, dental, or optical examination or any pre-arranged treatment so the supervisor can charge the absence to sick leave.
 - b. Supporting Evidence.
 - (1) Absences Longer Than 3 Days. A medical certificate normally is required for absences longer than 3 workdays.
 - (2) Furnishing Additional Evidence. If a supervisor reasonably doubts the validity of a sick leave request, he or she may require a medical certificate for an absence of 3 or fewer days. Except in unusual situations in which Service needs require otherwise, the supervisor shall give the employee advance written notice if a medical certificate is required for absences of 3 or fewer days. This requirement remains effective until the supervisor revokes it in writing. If an employee fails to comply, the supervisor normally will regard and charge the absence as absence without leave (AWOL), which may provide grounds for disciplinary action.
 - c. Charging Sick Leave. Supervisors shall charge sick leave in 15-minute units or multiples thereof at a minimum of 15 minutes.
 - d. Advance Sick Leave. If an employee is seriously ill, the commanding officer for MWR or CGES region manager may grant an individual employee advance sick leave even if he or she has no credited annual leave. However, do not grant

advance sick leave to an employee who has filed for short-term disability, because payment for such leave is not recoverable if the employee separates. Commanding officers for MWR and CGES region manager are the authorizing officials for advance sick leave.

(1) Limits on Advance Leave. Advance sick leave is subject to these limitations:

- (a) The absence is expected to last at least 24 or more hours, although the advance may be for less than the total absence.
- (b) The maximum amount advanced to a permanent full-time employee who has completed a probationary period in Coast Guard NAF service is 30 days at any time. Sick leave may be advanced on a pro rata basis to part-time employees working a regular tour of duty.
- (c) Commanding officers for MWR and CGES region managers may not advance a probationary employee more sick leave than he or she will earn in the remainder of his or her current service year unless it is determined that the employee's service will continue beyond the end of the service year.
- (d) The total amount of sick leave advanced to an employee serving under a limited appointment or one expiring on a certain date may not exceed the amount he or she will earn during the remaining period of the appointment.

(2) Requests for Advance Sick Leave. An employee must support an application for advance sick leave with a medical certificate containing a diagnosis, prognosis, and physician's estimate of when the employee will be able to resume regular duty. The employee's request must be in writing; an appropriate leave approving official must sign it. When approving advance sick leave, leave approving officials should examine each request individually. A SF-71 may be used for this purpose.

5. Employee Sick Leave for Family Care.

- a. Employees may use sick leave to care for an ill parent, child, spouse, or other family member. Family member means any individual related by blood or whose relationship to the employee is the equivalent of a family relationship. To care for a family member employees may use up to 40 hours per year or 104 hours per year, if they maintain a balance of at least 80 hours of sick leave, to care for a family member.
- b. Employees may use sick leave to take care of family members who are physically or mentally ill; to help family members who are injured, pregnant, or recovering from childbirth; for any activity involved in adopting a child; to attend a family member's funeral; or for bereavement purposes.

- c. Employees are entitled to 7 days of paid leave each calendar year in addition to annual and sick leave to serve as a bone marrow or organ donor. Employees may use this leave or leave to which otherwise entitled without loss of or reduction in pay, credit for time or service, or performance or efficiency rating.
- 6. Enforced Sick Leave. A supervisor may not place an employee on sick leave without his or her consent. If an employee at a worksite appears physically or mentally unable to work safely and efficiently but will not request sick leave, the supervisor may place the employee on enforced annual leave or LWOP.
- 7. Accrual and Accumulation. Sick leave accrues and accumulates to employees as follows:
 - a. Employees accrue sick leave at the rate of 5 percent of total hours in a pay status up to 4 hours per bi-weekly pay period.
 - b. Sick leave not used during the year in which earned accumulates with no limit on the amount and is available for use in succeeding years.
- 8. Indebtedness for Advance Sick Leave. Employees separating from NAF service owe any advance sick leave they have not repaid. The employee should refund the advance leave's cash value, or the activity will collect the amount due for advance leave under appropriate accounting procedures. A refund for advance leave is not required if the employee died or separates due to disability supported by an acceptable medical certificate or enters active military duty with restoration rights.
- 9. Substituting Leave.
 - a. If an employee is ill during a period of scheduled annual leave, the supervisor may charge the period of illness to sick leave.
 - b. On separation, an employee may substitute annual leave to liquidate indebtedness for advance sick leave unless he or she substituted annual leave for sick leave to avoid forfeiting annual leave.
- 10. Re-credit and Transfer of Sick Leave. If an employee transfers between units, the former supervisor shall certify the employee's sick leave account for credit or debit in his or her new position. The new supervisor re-credits unused sick leave when the employee is reemployed if his or her break in service is 1 year or less, with these exceptions:
 - a. If a Coast Guard AF employee becomes a Coast Guard NAF employee with a break in service of 3 or fewer days, all sick leave transfers without limit. The former activity will credit the employee with the full amount of sick leave even if he or she earns higher pay from the gaining system. The gaining system administers leave

under its rules. Funds do not transfer.

- b. If a DoD AF or NAF employee transfers to a Coast Guard NAF, his or her sick leave does not transfer.
- c. Any employee reduced from full or part-time to regularly scheduled intermittent status may retain accumulated sick leave and use it under established procedures, provided:
 - (1) The NAF activity has employed that person for at least 1 year.
 - (2) The employee works an intermittent schedule established in advance, and the sick leave request is for a scheduled workday.
 - (3) The employee did not move to intermittent status for personal cause or at his or her own request.
 - (4) Once the employee uses the accumulated sick leave, the personnel office will enter a zero balance in the employee's sick leave account, notify him or her, and document records for audit purposes.

11. Transferring Funds. During the first 12 months after an employee's transfer or rehire the former Coast Guard activity (NAF) will reimburse the gaining activity for any accumulated, approved sick leave the employee has used if the leave:

- a. Exceeds his or her entitlement during the employee's first year with the gaining activity.
- b. Does not exceed the amount of accumulated sick leave the employee had to his or her credit.

12. Reimbursement. The gaining activity must include a verified statement of the sick leave balance transferred and leave granted with a request for reimbursement. Reimbursement is not authorized for absences covered by advanced sick leave.

F. Absence Without Pay.

1. Granting Leave Without Pay (LWOP).

- a. Administrative Discretion. Leave approving officials authorize LWOP at their discretion. Leave without pay is not a matter of right except for these employees:
 - (1) Disabled veterans requiring periodic medical treatment for a Service-connected disability.

- (2) Reservists and National Guardsmen ordered to perform military training duties if military leave does not cover the absence and it is shorter than 3 consecutive months.
 - b. Charging LWOP. As with annual and sick leave, LWOP is charged in 15-minute units or multiples at a minimum absence of 15 minutes.
 - c. Leave Without Pay Status and Holiday Pay. An employee on LWOP for any portion of the scheduled workday immediately before or after a holiday does not receive holiday pay.
2. Extended LWOP.
- a. Basic Considerations. Examine closely each request for extended LWOP, such as for 30 or more days, to ensure its value to NAF or the employee's serious needs are sufficient to offset the costs and administrative inconveniences involved, including:
 - (1) The employee's ability to pay his or her share of benefit payments.
 - (2) Loss of needed services.
 - (3) The obligation to re-employ the employee after the leave period.
 - (4) Retirement and health and life insurance benefit costs.
 - b. Conditions of Approval. LWOP is approved on a case-by-case basis. Management must consider several factors before approving an employees' request for LWOP. For example:
 - (1) Length of employee's request and the probability of his or her return to work.
 - (2) Immediate need to back fill the position.
 - (3) Additional cost to employer associated with absence i.e. medical, life etc.

As a basic condition for approving extended LWOP, the employee should reasonably expect he or she will return after the approved period. In addition, it should be apparent at least one of these benefits would result:

 - (4) Increased job ability.
 - (5) Protecting or improving the employee's health.
 - (6) Retaining a desirable employee.
 - (7) Furthering a NAF activity program.

c. Examples of Proper Cases. Leave without pay (LWOP) is appropriate to meet the needs of infant care, the adoption process, foster care, child care, and other parental and family responsibilities. Any LWOP approved for the above reasons including disability will automatically run concurrent for leave under the Family Medical Leave Act (see paragraph G. on page 7-15). These types of situations ordinarily warrant granting extended LWOP but as stated in paragraph b. above, granting LWOP is done on a case-by-case basis and does not automatically guarantee or qualify the individual to receive the 6 months maximum permissible amount.

- (1) To recover from serious but temporary illness or disability if continued or immediate return to employment might impair the employee's or other employee's health. The maximum permissible amount of LWOP for such illness or disability is *6 months*.
- (2) The employee does not have the required 60 days of sick leave for short-term disability benefits.
- (3) To protect an employee's status pending determination of a compensation claim resulting from an employment-connected injury or disease. The maximum permissible amount of LWOP for such injury or disease is *6 months*.
- (4) For up to 90 days to seek other Coast Guard NAF employment.

d. Duration of LWOP For Disability Reasons. An employee who has been granted leave without pay due to a disability (including serious illness or an on-the-job-injury, etc.) will at the end of 6 months, be separated without prejudice if it is determined by medical authority that he or she is unable to perform the duties of the position and if all reasonable efforts to reassign to another position have failed.

e. Duration. The maximum initial LWOP period is 3 months except as noted in examples (1) through (3) above. Leave approving officials should scrutinize a renewal request very carefully and normally deny it unless extenuating circumstances exist. If an employee fails to return to duty within 7 calendar days after the end of the particular approved period of leave without pay, he or she may be separated for abandonment of position.

3. Approving LWOP Requests.

- a. Requests for 30 or Fewer Calendar Days. Employees should request LWOP on a SF-71; the supervisor or manager has approval authority. Time and attendance reports will reflect the exact LWOP dates.
- b. Requests Longer Than 30 Calendar Days. An employee must request LWOP exceeding 30 calendar days in total on a SF-71 and include a written statement justifying the request. Leave approving officials should evaluate extended LWOP requests individually. If an employee requests LWOP for health reasons, he or she must include a statement from the physician or other practitioner indicating the

need for the absence; a prognosis; the anticipated duration of the absence; and the expectation the employee will be able to return to work after the LWOP. If the leave approving official approves the employee's request, he or she must submit it with a completed Request for Personnel Action, Standard Form 52 (SF-52), 1 full pay period before the LWOP's effective date to the MWR Officer or CGES region manager for concurrence. The personnel office will issue a Notification of Personnel Action, Standard Form 50 (SF-50), documenting the LWOP. When the employee returns to duty, his or her office must submit a second SF-52 to the personnel office for preparation of an SF-50 showing return to duty.

4. Absence Without Leave (AWOL).

- a. If an employee is absent from duty without approval, leave approving officials shall charge the absence as AWOL. The employee can avoid the AWOL if he or she explains the cause to the immediate supervisor and, when appropriate, the reason for failing to ask permission to be absent. The employee must request leave or LWOP, as appropriate, to cover the absence. If the immediate supervisor does not consider the employee's explanation acceptable, he or she will charge the absence as AWOL. The immediate supervisor should automatically review any such unauthorized absence to determine if disciplinary action is warranted. The charge to AWOL and subsequent loss of pay are not themselves a disciplinary action but rather record an unauthorized absence and attendant loss of pay resulting from it. Supervisors must consult the personnel office or equivalent for guidance before initiating any disciplinary action.
- b. An employee AWOL for the entire scheduled workday immediately before or after a holiday forfeits holiday pay.

G. Family and Medical Leave Act of 1993.

1. General. The Family and Medical Leave Act (FMLA) requires employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. The FMLA is intended to allow employees to balance their work and family life by taking reasonable amounts of leave for medical reasons; for a child's birth, adoption, or foster care; and to care for a child, spouse, or parent who has a serious health condition.
2. Coverage. All NAF employees are eligible provided they meet both aspects of these two criteria:
 - a. The Coast Guard Nonappropriated Fund Activity must have employed the employee for at least 1 year.
 - b. The employee must have been in a pay status for at least 1,250 hours before the leave begins.

3. Purposes for Which Family and Medical Leave May be Used.

- a. To care for a newborn child within the first year.
- b. To care for an adopted or foster child within the first year.
- c. To care for a seriously ill spouse, child, or parent.
- d. To care for his or her own serious health condition that prevents him or her from performing his or her duties.

(1) Serious health condition means a physical or mental illness, injury, or impairment involving a:

- (a) Period of incapacity, treatment, or care in a hospital, hospice, or residential medical care facility.
- (b) Condition resulting in an incapacity requiring an absence of 4 or more calendar days and involving continuing treatment by a health care provider.
- (c) Health care provider's continuing treatment or supervision for a chronic or long-term condition that, if not treated, would likely result in an incapacity lasting longer than 3 calendar days.

(2) Continuing treatment by a health care provider means:

- (a) A health care provider treated the employee twice or more.
- (b) Under orders or on referral a health care provider treated the employee twice or more or treated at least once, resulting in a regimen of continuing treatment under either a health care provider's or designated professional's supervision.
- (c) Under a health care provider's continuing supervision for a serious long-term or chronic condition or an incurable disability.

4. Employee Responsibilities.

- a. The employee must provide 30 days advance notice if the leave is "foreseeable".
- b. The employee must provide a health care provider's medical certification before beginning FMLA leave.

- c. The employee must notify his or her immediate supervisor of the intent to invoke FMLA leave.
- d. The employee must submit a written request and supporting documentation to the MWR Officer or CGES Manager.
- e. The request must state, "I invoke my entitlement under the Family and Medical Leave Act" and the reason for the request.
- f. An employee may elect to substitute accrued, paid leave for unpaid FMLA leave under current law and regulations. However, the employee may not retroactively substitute paid time off for FMLA leave.
- g. The employee will either pay his or her share of NAF insurance and retirement plan costs during the FMLA leave or establish a payment plan before beginning FMLA leave. The payment plan will become effective when the employee returns to a pay status.
- h. The employee is entitled to 12 weeks of unpaid, job-protected leave in a 12-month period. The 12-month period begins upon commencement of the FMLA leave.

5. Employer Responsibilities.

- a. On receiving a properly completed SF-71, the employer will grant FMLA leave.
- b. The employer cannot require the employee to substitute accrued leave for FMLA leave.
- c. When the employee returns from FMLA leave, the employer will restore the employee to either the employee's original position or one of equivalent pay, benefits, and responsibilities.
- d. If the employee requests, the employer will pay all employee costs for NAF insurance and retirement payments during the FMLA leave. The employee must reimburse the employer upon return from FMLA leave.
- e. Using FMLA leave will not cause the employee to lose an employment benefit that accrued before the FMLA leave started.
- f. The employer must maintain this information in the employee's official personnel folder:
 - (1) The employee's basic pay rate.
 - (2) The occupational series of the employee's position.

- (3) The number of hours of FMLA leave taken.
 - (4) Whether the leave was family or medical leave.
 - (5) The effective FMLA leave dates.
6. Certifying fitness for duty. If an employee has taken FMLA leave due to his or her own serious health condition, the health care provider must certify the employee's fitness for duty before he or she can resume work. The certification must include the employee's range of capabilities, e.g., light duty, full duty, no lifting, etc., and a return to duty date.

H. Absence for Parental and Family Responsibilities.

- 1. General. Because personal life affects job performance, an employee's family responsibilities should be a valid consideration in weighing leave requests. Leave approving officials are encouraged to weigh carefully expectant or newborn parents' needs and responsibilities and balance those needs against their organization's work requirements. The law and regulations do not recognize a separate leave category for parental and family absences. Charge absences for such reasons to the appropriate leave category. Accordingly, this section supplements but does not supersede this Chapter's sections discussing the type of leave applied to such absences.
- 2. Responsibilities.
 - a. Employee Responsibilities.
 - (1) Employees who expect to use leave for family reasons should request it far enough in advance to enable their supervisor to adjust work loads.
 - (2) As with any medical condition, if a question exists about a pregnant employee's ability to perform the job, she should give the supervisor a physician's written statement specifying any job-related restrictions.
 - (3) If an employee plans not to return to work after a maternity absence, she should offer her resignation effective when the period of incapacity or approved sick leave expires, if her sick leave expires before the end of the incapacity.
 - b. Employer Responsibilities.
 - (1) A Coast Guard NAF activity will reasonably consider requests for leave due to parental and family responsibilities.
 - (2) If an employee submits a request supported by a medical statement to temporarily modify duties or a temporary reassignment for health reasons, the

leave approving official shall reasonably attempt to grant the request.

- (3) When an employee returns to work after an approved maternity leave, the activity must return her to her former or a similar position with no loss in grade, pay band level, or pay. This obligation does not apply if termination is otherwise required, as in cases of expired appointment, reduction-in-force, separation for cause, or other reasons unrelated to absence while on maternity leave.
3. Rest Periods. If a medical authority recommends, the immediate supervisor may treat brief, recurring absences for rest for pregnancy reasons during the employee's tour of duty as excused absences if they do not disrupt work operations. The employee typically will spend such rest periods in a health unit or comparable place.
4. Granting Leave. Parental and family leave may consist of a combination of approved sick leave, annual leave, compensatory time off, or LWOP, as appropriate. Childbirth or pregnancy complications are temporary disabilities for the mother; for leave purposes the immediate supervisor must treat them the same as any other physical condition that incapacitates an employee.
 - a. Sick Leave. The immediate supervisor shall grant an employee her accrued sick leave for maternity if she presents a statement from her physician certifying she is incapacitated for duty. The medical certificate should indicate the expected delivery date, the date she should cease working, any performance restrictions, for example, required rest periods, and the probable date she can return to work. Leave approving officials may grant advance maternity sick leave in accordance with the delegations of authority in this Manual, provided they are reasonably sure the employee will return to duty as soon as practical. Sick leave is not appropriate for fathers or the period immediately after the arrival of an adopted child.
 - b. Annual Leave. The immediate supervisor will grant annual leave for parental or family reasons under Paragraph G.1. of this Chapter. A supervisor may grant an employee annual leave while incapacitated or to cover the time to care for the newborn, the mother, or an adopted child. If the employee intends to return to duty as soon as practical, the supervisor may grant advance annual leave for parental or family reasons.
 - c. Other Leave. A supervisor may grant an employee who intends to return to duty LWOP for parental or family responsibilities under Paragraphs G. of this Chapter, or compensatory time off under Paragraph L.1.a. of this Chapter.
5. Temporary Employees. A supervisor may grant a temporary employee serving under a limited appointment for a specific period accrued sick and annual leave for parental and family responsibilities if the leave would not extend beyond when the employee's appointment expires but may not grant more advance annual or sick leave than the employee will earn during the temporary employment.

I. Court Leave.

1. Definition. Court leave is an authorized absence from work without charge to leave or loss of compensation when:
 - a. Serving as a juror in United States, state, District of Columbia, and United States territorial courts, including the Commonwealth of Puerto Rico.
 - b. Summoned to appear as an official witness in a judicial proceeding on behalf of a state or local Government or a private party when the United States, the District of Columbia, a state, or a local Government is a party. NOTE: Paragraph I.3. of this Chapter covers absences for other witness service, which must be either recorded as official duty or charged to annual leave or LWOP.
 - (1) A summons includes a subpoena or official written request or invitation issued by the court or authority responsible for conducting the judicial proceedings. An employee who simply volunteers or is a defendant is not entitled to court leave.
 - (2) A judicial proceeding means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other court proceeding including hearings and conferences before a committing court, magistrate, or commission; grand jury proceedings; a coroner's inquest; and hearings and conferences conducted by a prosecuting attorney to determine whether to file charges in a particular case. Court leave covers all the proceeding's stages: preliminary, hearing, inquest, trial, or deposition-taking. Court leave does not include an administrative proceeding.
2. Employee Eligibility. A supervisor may grant court leave to employees eligible as follows:
 - a. To permanent or temporary employees on part- or full-time schedules.
 - b. To night shift employees performing court service during the day for their regularly scheduled night tours; they are entitled to the night differential they normally would have earned.
 - c. An employee performing duty for a full workday who then sits on a grand jury in the evening on the following day to the extent necessary to relieve hardship.
 - d. Intermittent employees are not eligible for court leave.
3. Granting Leave.
 - a. A supervisor will grant eligible employees ordered to serve as jurors or witnesses leave for the entire period required. Court leave extends from the reporting date the

summons specifies until the employee is discharged, no matter the number of hours per day or days per week. If an employee is discharged or excused for a half-day or more, he or she must return to duty if his or her place of employment is located in the same local commuting area as the court.

- b. A supervisor must charge annual leave or LWOP for these absences if an employee:
 - (1) Is called as a witness in a private capacity on behalf of a private party and no Government is a party to the judicial proceedings.
 - (2) Is on leave without pay when called for jury duty or other qualifying witness service. Court leave is available only to an employee who otherwise would be on duty or leave with pay.
 - c. Record official duty status, rather than leave, for absences of employees whom the Coast Guard summons or assigns to testify:
 - (1) Officially or privately or to produce official records on behalf of the United States or District of Columbia Governments, or
 - (2) Officially or to produce official records on behalf of a state or local Government or private party.
 - d. An employee eligible for court leave may not elect to take annual leave instead, since doing so would reduce accumulated leave, which is prohibited. An employee may not substitute annual leave for court leave to avoid a forfeiture at the end of the leave year.
 - e. An employee summoned to attend court must notify his or her immediate supervisor as soon as possible by submitting a SF-71 and attaching a copy of the order or subpoena requiring attendance in court. On return to duty, the employee must produce a certificate of attendance verifying the time spent as a witness or on jury duty signed by the Clerk of the Court or other appropriate official.
4. Fees Received on Court Leave. Employees ineligible for court leave may retain all fees and allowances they receive for their court service. Employees eligible for court leave must submit any fees received to the NAF accounting office. However, they may retain any portion of the fee exceeding their normal compensation. Mileage or reimbursement of actual expenses incurred on jury service are not considered fees and employees may retain them and any fees received for service on non-workdays in full.
5. Travel Expenses. If such service is part of his or her official duty, an employee appearing as a witness is entitled to travel expenses at the same rates and amounts allowable for other purposes under law (5 USC 5701-5708) and regulations. The employee must refund the difference between Government-paid travel expenses and those paid by the court, authority, or party summoning the employee.

J. Military Leave for Training (MLT).

1. General. Military Leave for Training (MLT) is approved absence from official duty without charge to leave or loss of pay authorized for eligible employees who are National Guard or Armed Forces Reserve members. Eligible employees are entitled to 1 day's MLT for each day on active duty or engaged in field or coastal defense training, up to 15 calendar days in any leave year.
2. Military Leave for Training Eligibility.
 - a. Both full- and part-time permanent employees who are National Guard or Armed Forces Reserve members are entitled to MLT.
 - b. Temporary and intermittent status employees are not entitled to MLT.
 - c. An employee who resigns to enter active military duty is not entitled to MLT.
3. Accruing and Accumulating MLT. At the beginning of the leave year, credit full-time employees Military Leave for Training at the rate of 15 days per fiscal year and part-time employees on a pro-rated basis. An employee can accrue up to 15 unused days of MLT in a fiscal year, carry them forward to the next fiscal year, and add them to the MLT days accrued in that year. A full-time employee thus can carry up to 30 MLT days during a fiscal year. However, if the employee does not use the 15-day carryover for military training before the end of the fiscal year, he or she forfeits the MLT.
4. Types of Military Duty Not Covered by MLT. Employees are ineligible for MLT for these types of military duty:
 - a. Reserve Officers Training Corps summer training; carry these employees in LWOP status.
 - b. Temporary Coast Guard Reserve.
 - c. State National Guard parade participation; however, by specific statute, District of Columbia National Guard members are entitled to MLT for parade participation.
 - d. Training with a state defense or military organization not a part of the National Guard or any other state organization created during an emergency in the absence of a state National Guard.
 - e. Weekly District of Columbia National Guard drills and meetings.
 - f. Civil Air Patrol, a United States Air Force civilian auxiliary.

- g. Time taken on a workday to travel to the training location unless military training orders encompass the required travel time.
 - h. Active duty as a U. S. Public Health Service Reserve Corps commissioned officer.
5. Approving MLT.
- a. Employee responsibility. Employees who can volunteer or arrange for their military training duty must discuss their plans for military duty and request approval in advance.
 - b. Evidence Required for MLT. For initial MLT authorization, an employee must furnish a copy of the military order calling him or her to duty. On returning from military duty, the employee must furnish official evidence he or she performed military duty. Acceptable certification includes a copy of his or her military orders showing all endorsements in lieu of military official's original signatures or other official documents issued by the National Guard or an appropriate Armed Forces reserve component.
 - c. Mandatory approval. If an employee has followed leave procedures and provided acceptable evidence, approving MLT requests is mandatory.
6. Computing MLT. Military Leave for Training is computed on a calendar day basis. The personnel office will not charge non-workdays at the beginning or end of the leave period to MLT. For example, an employee absent on MLT from Monday of 1 week through Friday of the next would use MLT on the intervening Saturday and Sunday, but not on the Saturday and Sunday immediately preceding and after the period of military training duty. An otherwise eligible employee is entitled to MLT for each military training tour up to the limit of his or her accrued, accumulated MLT for that leave year.
7. Converting Other Leave to MLT.
- a. Annual Leave. If an otherwise eligible employee absent on annual leave is ordered to military training duty, on request he or she is entitled to have the annual leave converted to MLT.
 - b. Leave Without Pay (LWOP). An employee on extended LWOP ordered to military training duty may not convert the LWOP to MLT. However, if an eligible employee takes approved LWOP immediately before or after military training duty to attend to personal matters, his or her eligibility for MLT remains the same.
8. Using Other Leave for Military Training. If a National Guard or Armed Forces Reserve member is not entitled to, does not request, or has exhausted his or her MLT, leave approving officials shall grant the employee annual leave or LWOP, as requested, to perform active or inactive duty, except as follows:

- a. If the employee is ordered to an initial period of active duty for training longer than 3 consecutive months, the leave approving official has the option to grant the requested annual leave or LWOP or to separate or furlough the employee.
- b. If an employee will continue military active duty for an extended period, usually more than 1 year, after exhausting any requested MLT to which entitled, he or she must be separated or furloughed, since his or her entitlements on restoration will be the same as if he or she continued in a leave status.
- c. As with military leave, an employee electing annual leave receives full compensation from the civilian position for each workday charged to annual leave in addition to his or her military pay for the same period.

9. Pay Status During MLT.

- a. Employees absent on MLT are entitled to receive their regular civilian pay and the military pay and allowances to which entitled.
- b. An employee absent on an overtime day on which he or she is regularly scheduled to work is entitled to overtime compensation for that day, provided he or she was in a pay status for 40 hours of the basic workweek before entering MLT status. An employee is entitled to night differential and Sunday premium pay during a MLT period when he or she, if in a duty status, would have earned them.

10. Absence for Physical Examination. A supervisor may grant an excused absence to employees to take a physical examination required by Armed Forces reserve components or the National Guard.

K. Funeral Leave. A supervisor grants requested funeral leave to allow an employee to arrange or attend a funeral or memorial service for an immediate family member who died due to a wound, disease, or injury incurred while serving as an Armed Forces member in a combat zone. Funeral leave extends up to 3 workdays without loss of or reduction in pay or leave to which an employee otherwise is entitled. The 3 days need not be consecutive, but if not, the employee must furnish satisfactory reasons to justify granting funeral leave for non-consecutive days. Employees may be eligible for funeral leave under Paragraph E.5.b. of this Chapter, Employee Sick Leave for Family Care.

L. Compensatory Time Off.

1. General.

- a. Compensatory (comp) time off is compensation in lieu of monetary overtime pay. While it is not a true leave category, this Chapter discusses it to inform and guide supervisors on its use.

- b. Federal Wage System, 5 USC 5542 and 5543, govern an employee's eligibility to accrue compensatory time off (see Paragraph 2, Accruing Compensatory Time Off, below).
 - c. All crafts and trades and pay band employees may be granted comp time in lieu of overtime pay for equal amount of irregular or occasional overtime work. An eligible employee may request comp time in lieu of overtime pay. Such request must be approved by the employee's supervisor.
 - d. An eligible employee required to travel on a non-workday receives premium pay corresponding to normal hours worked for hours in excess of the basic 40-hour workweek. For example, an employee who works 8:30 a.m. to 5:00 p.m. receives premium pay *only* for hours traveled during 8:30 a.m. to 5:00 p.m. An employee can request compensatory time at the basic pay rate in lieu of premium pay.
2. Accruing Compensatory Time Off. Compensatory time off accrues at 1 hour for each overtime hour worked up to a maximum of 80 accrued hours at any time, after which all time accrued earns overtime pay.
3. Using Compensatory Time Off.
- a. An employee must use compensatory time off when convenient to both the employee and leave approving official within a reasonable period of time after working the overtime. Comp time off must be used within 90 days of accrual. If not used within above established time period the comp time converts to overtime pay at one and one half times the basic pay rate at which it was earned (see Paragraph c. below).
 - b. An employee must use accrued compensatory time off before annual leave is approved, unless the employee would forfeit annual leave at the end of the leave year.
 - c. A supervisor and employee should set the employee's separation or transfer date from the NAF to allow him or her to use all accrued compensatory time off, if practical. Otherwise, at separation all unused compensatory time off converts to paid overtime at the rate of one and one half times the basic pay rate in the grade or pay band at which the employee earned the compensatory time.
4. Compensatory Time for Religious Observances.
- a. Both non-exempt and exempt employees whose personal religious beliefs require absence from work may request to work overtime and earn compensatory time off to use for those religious observances. The personnel office maintains such compensatory time off in a separate balance exempt from restrictions in Paragraph L.I. through 3 of this Chapter. Modifying work schedules for this purpose should

not interfere with accomplishing the NAF mission efficiently.

- b. An employee may work such overtime either before or after using the compensatory time off, but should repay advance compensatory time by the appropriate overtime work within a reasonable amount of time. If no productive overtime is available when the employee requests it, the immediate supervisor should arrange alternate times for performing the overtime work. It is strongly recommended that the supervisor and employee agree on the date(s) the employee will work the overtime before the supervisor approves the request for compensatory time.

M. Excused Absences.

1. General. An excused absence, also called administrative leave, is an absence from duty with neither loss of pay nor charge to an employee's leave account. Employees may appropriately take excused absences in several situations.
2. Tardiness and Brief Absences. The leave approving official may grant administrative leave for unavoidable tardiness and brief absences from duty of up to 1 hour. If these events become too frequent, the supervisor shall inform the employee and advise him or her in writing; the official will record future absences as AWOL unless the employee requests and the official approves annual leave or LWOP. Instances of AWOL may serve as the basis for appropriate disciplinary action. The supervisor should consider and record each period of absence separately.
3. Attending Conventions, Conferences, or Meetings.
 - a. Absence from duty to attend conventions, conferences, or meetings related to the NAF activity's work, including travel time, is considered duty status and does not require excused absence.
 - b. If the convention, conference, or meeting is not directly related to the NAF activity work but, attendance will improve the employee's work, authorized officials have the administrative discretion to grant excused absence or charge it to annual leave.
 - c. Supervisors shall charge approved absences unrelated to an employee's NAF employment to annual leave or LWOP.
 - d. Supervisors must establish the duty or leave status of an employee attending a meeting, conference, or convention in advance.
4. Absence Due to Preventive Medical Programs. When the Coast Guard offers employees either health education or specific disease screening examinations and immunizations as part of a preventive medical program, supervisors will grant participating employees excused absence for the length of time required.

5. Absence Due to Employee Assistance Program (EAP). Supervisors will grant an employee counseled by a Coast Guard Employee Assistance Counselor excused absence for a reasonable time for such counseling. However, if an employee requests approved absence for scheduled treatment at a counseling or rehabilitation center outside the Coast Guard, the supervisor must record the absence as sick leave, annual leave, LWOP, or compensatory time off, as appropriate.
6. Blood Donations. Supervisors may grant employees up to 4 hours of excused absence for travel, clinical time, and recovery time for each voluntary blood donation. However, employees who sell their blood are not authorized excused absence, and supervisors must charge all time off from work to annual leave, LWOP, or compensatory time off, as appropriate.
7. Absence for Voting and Registration. Employees are encouraged to vote in all elections if absence from duty does not interfere seriously with operations. Supervisors shall excuse employees who want to vote or register in any election or referendum on a civic matter in their community for a reasonable time for that purpose, according to these guidelines:
 - a. Voting.
 - (1) Generally, if the polls are not open for 3 hours before or after working hours, a supervisor may grant an employee an amount of excused absence that will permit him or her to report to work 3 hours after the polls open or leave 3 hours before the polls close, whichever requires the less time off.
 - (2) In exceptional circumstances, if the general rule does not permit enough time, a supervisor may excuse an employee for any additional time up to 1 day needed for him or her to vote depending the particular circumstances.
 - (3) If an employee's voting place is beyond normal commuting distance and the voting jurisdiction does not permit absentee voting, a supervisor may grant an employee sufficient time off to travel to the voting place. Charge time off longer than 1 day to annual leave or LWOP.
 - b. Registration. A supervisor may not excuse an absence if a voting jurisdiction permits registration during non-working hours and the registration place is within a reasonable 1 day round-trip travel distance of an employee's residence. If the voting jurisdiction does not permit non-workday registration, a supervisor may excuse an absence on the same basis as for voting.

8. Emergencies.

a. Hazardous Weather.

- (1) When hazardous weather conditions, such as heavy snow, icing, or hurricane, cause Federal installations to close for 1 or more whole days, all employees of offices affected by the closing, including those who otherwise would have reported back to work after a period of approved leave, are excused from work without charge to leave **except** those determined in advance to perform critical or essential functions. Employees required to remain on duty until normal closure time for ease of shutdown or other managerial considerations are not entitled to any additional compensation in the form of overtime or compensatory time solely because they were required to remain at the work site when others were dismissed early.
- (2) When hazardous weather causes Federal offices and installations to open late, all employees of the affected offices who report for duty at the delayed opening time are excused for the period while closed. In addition, leave approving officials have the discretion to excuse tardiness beyond the designated opening time if the employees had tried reasonably diligently to get to work on time. Leave approving officials may place employees who do not report for duty at all on AWOL or grant them leave, as appropriate, for the entire workday.
- (3) When hazardous weather causes Federal offices and installations to close early, leave approving officials will excuse employees in a duty status at the time of closing for the period closed. Leave approving officials shall approve and grant leave to employees on duty when an early closing is formally announced but who leave before the announced closing time or charge them as AWOL for the period of absence between their departure and the announced closing time. Leave approving officials will not grant an excused absence to employees who do not report for duty at all or leave before an early closure is formally announced, but will place them on AWOL or grant them leave, as appropriate, for the entire period of their absence.

b. Other Emergencies.

- (1) Dismissals due to unusual employment or working conditions created by a temporary disruption of air cooling or heating systems should be rare. Employees are expected to work if working conditions are reasonably adequate, even though they may be abnormal and involve minor discomforts. Before leave approving officials excuse absence, reasonable standards of judgment must clearly establish that the conditions prevent work. In so judging, consider such factors as the physical requirements of the positions involved, the work area's temperatures, and the possibility of temporarily relocating employees to unaffected work areas. Leave approving officials may grant annual or sick leave to individual employees so affected by unusual temperatures they are

incapacitated for duty or would impair their health by continuing on duty.

- (2) Leave approving officials may excuse employees from duty if an office is closed on regular workdays because of emergency conditions, including flood, earthquake, air pollution, massive power failure, extreme cold, major fires, public health or safety emergencies, or widespread interruptions to public transportation caused by incidents such as local transit employee's strikes or mass demonstrations.
9. Absence for an Employee Organization. Leave approving officials may excuse, ordinarily for up to 8 hours a leave year, an employee serving as an employee organization's representative to receive information, a briefing, or orientation on matters of mutual concern to management and the employee organization.
10. Medical Absence. Leave approving officials may excuse employees without charging them leave to undergo required medical examinations or treatments resulting from an on-the-job injury. For an on-the-job injury, the maximum excused absence on the day of injury is 8 hours. For example: an employee is scheduled 7:30 a.m. to 4:00 p.m. and at 1:00 p.m. is injured on the job, requiring medical treatment. The remainder of the shift, 3 hours, is an excused absence.
11. Group Absence. Charge group absences to attend parties, picnics, etc., that are not official functions or during which employees do not participate in their official capacity to annual leave.

CHAPTER 10. EMPLOYEE GRIEVANCES

- A. Purpose. This Chapter establishes the procedures to process grievances under which covered employees may seek redress of employment concerns and dissatisfactions. Where a negotiated procedure exists it will be the exclusive procedure available to employees in the Bargaining unit for resolving grievances falling within its coverage.
- B. Policy. Management's goal is to treat employees fairly and resolve employee dissatisfactions promptly and equitably. Despite the initial attempt to resolve a grievance, management recognizes an employee may desire to seek resolution at a higher level. This Chapter prescribes the procedures for pursuing and handling grievances to that extent. The Coast Guard Exchange System (CGES) and Morale, Well-Being, and Recreation (MWR) Program adhere to a policy of considering such matters objectively and resolving them promptly. These procedures are designed to achieve these objectives.
- C. Commandant's Role. Commandant (G-WPX) provides advice and guidance on processing grievances. If the formal grievance-deciding official requires a hearing examiner's or fact finder's assistance, Commandant (G-WPX) assists as requested.
- D. Definitions.
1. Bargaining unit employee. An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.
 2. Day. A calendar day.
 3. Deciding official. Management or supervisory officials in the line of authority over the grievant have the responsibility to decide informal and formal grievances. Grievance-deciding officials must be at a higher administrative level than the official who initiated the subject action. At the informal step, an employee presents a grievance involving performance ratings to the approving official for reconsideration. The employee then presents the formal grievance, if any, to the next level supervisor in the chain of command. For a grievance involving the commanding officer for MWR, the CGES region manager, or Commandant (G-WPX) personally, in each case the informal grievance deciding official is the next higher official in the chain of command and the formal deciding official is the next higher level in the chain of command.
 4. Employee. A non-bargaining unit employee, an employee in a bargaining unit that does not have a negotiated contract in effect, or any former Coast Guard NAF employee for whom a personal remedy can be provided.
 5. Fact finder. An individual the formal grievance-deciding official appoints to investigate an issue(s) raised in a grievance. The fact finder must be a person uninvolved in the subject issue and who holds a position equal to any official

who recommended, advised, decided, or otherwise is or was involved in the contended matter. The fact finder may be an employee within the Coast Guard command or of another Coast Guard command, or any other person competent to carry out the fact-finding investigation.

6. Grievance. An employee's or group of employees' written request for personal relief in a matter of concern or dissatisfaction about their employment subject to the commanding officers' for MWR and CGES managers' control.
7. Hearing examiner. A person the formal grievance-deciding official authorizes to conduct a hearing on an issue(s) raised in a grievance. The hearing examiner must have been trained to conduct hearings, is uninvolved in the contended matter, and occupies a position equal to an official who recommended, advised, decided, or otherwise was involved in the contended matter.
8. Nonappropriated Fund Activity. An organizational entity under the commanding officer for MWR and Commandant (G-WPX) for CGES.
9. Personal relief. A specific remedy directly benefiting the grievant(s); it may not include a request for disciplinary or other action affecting another employee or individual.
10. Employee Scope. These policies and procedures extend to present non-bargaining unit employees except for probationary, intermittent, and temporary employees not entitled to grievance rights.

E. Subject Scope.

1. Generally, an employee can contest any matter of personal concern or dissatisfaction subject to the commanding officers' for MWR, CDC or CGES managers' control.
2. This Chapter does not apply to these matters:
 - a. The content of published Department of Homeland Security and Coast Guard regulations and policies unless the complainant questions the interpretation of the policy or that local requirements are at variance with such policy requirement. In this case the proponent of the regulation or policy may be requested to provide the official interpretation and decision.
 - b. Non-selection for appointment or promotion from a group of properly ranked, certified candidates or failure to receive a noncompetitive action.
 - c. Grievances covered by a negotiated agreement.

- d. An action that ended a temporary promotion and returned the employee to the position from which promoted or an equivalent position.
- e. A supervisor's determination of objectives and performance standards for an employee's position.
- f. Granting or not granting a performance, incentive, honorary, or any other discretionary award. Adopting or not adopting a suggestion or invention.
- g. Separation during probationary period or separation from a temporary or intermittent appointment provided all procedural requirements pertaining to such separation have been met.
- h. A position classification or job grading decision processed in accordance with chapter 5 of this manual, except for the assignment of a payband position to a particular band.
- i. A decision appealable under law or regulation through other authority, such as the Federal Labor Relations Authority (FLRA) or Equal Employment Opportunity Commission (EEOC). Examples are:
 - (1) Labor organization complaints.
 - (2) An unfair labor practice complaint processed under the FLRA.
 - (3) Allegations of violations of the Fair Labor Standards Act.
 - (4) Allegations of discrimination due to age, race, color, religion, sex, sexual orientation, national origin, or disability.
- j. Personnel actions voluntarily requested by the employee.
- k. Wage or salary rates or schedules established by appropriate authority.
- l. Separation of off duty military personnel upon withdrawal of their commanding officer's permission to work.
- m. Reassignment to a position at the same rate of pay and appointment category.
- n. Separation for disqualification as stated in Chapter 19.E.7., of this manual.
- o. Separation for abandonment of position.
- p. Any issue previously decided in an earlier grievance by the employee.

- q. Allegations of mismanagement when no form of personal relief to the employee is appropriate.
- F. Right to Present. An employee is entitled to present a grievance through the procedures contained in this Manual.
- 1. Access to Advice. An employee presenting a grievance is entitled to communicate with and seek advice from the servicing personnel office. The appropriate designee may counsel and advise the employee on procedural aspects and employee rights in submitting and processing grievances. The appropriate designee must inform the employee in writing of his or her right to file a grievance or an EEO complaint if the employee believes their EEO rights have been violated. However, an employee may not file a grievance and an EEO complaint on the same issue. If no local source is available, Commandant (G-WPX) will provide technical advice.
 - 2. Representation, Freedom from Restraint, Official Time. In presenting a grievance, an employee has the right to have a representative of his or her own choice accompany, represent, and advise the employee. The grievant must designate the chosen representative in writing and provide written notice of any subsequent change. Information related to the grievance will not be released to the representative until authorization to do so is received by the grievance deciding official. The employee and his or her representative, if chosen, have these rights:
 - a. Freedom from restraint, interference, coercion, discrimination, or reprisal; and,
 - b. A reasonable amount of official time, as determined by grievance-deciding officials, to present the grievance (meet with the examiner or management officials considering grievance) if otherwise in an active duty status.
 - 3. Rejecting a Representative. The informal grievance-deciding official may disallow an employee's chosen representative on the basis of: priority needs of the Government, Coast Guard Exchange System, and/or Morale, Well-Being, and Recreation Program; costs to any of these three entities; conflict of interest; or conflict of position. The employee may challenge the decision to the next higher management level by letter within 5 calendar days after the rejection and obtain a decision within 10 calendar days after the grievance-deciding official(s) receives the challenge before proceeding with the grievance. If the formal step grievance-deciding official first decides to reject the representative, that decision is final.
- G. Informal Procedures. An employee must complete action under informal procedures before the next higher management level will accept a grievance for formal processing procedures.

1. Time Limits. An employee shall contest a particular act within 15 calendar days after the act or event occurred or the date the employee reasonably could have been expected to become aware of the act or occurrence. The informal grievance-deciding official can extend these deadlines if the grievant or management can show circumstances beyond their control, e.g., illnesses, absences, complex issues, or workload, delayed their actions.
2. Requirements.
 - a. To initiate the informal procedure, an employee presents a written grievance to his or her immediate supervisor or to the next higher level in the chain of command if the grievance concerns the immediate supervisor and could not be resolved at the supervisor's level; if so, the grievant may elect to bypass the immediate supervisor but must inform the supervisor of this intention. When presenting a grievance, the employee must so inform the informal grievance-deciding official, clearly stating he or she is invoking the grievance procedure and not merely discussing an item for clarification or presenting a problem the employee does not intend to contest.
 - b. A properly presented informal grievance must:
 - (1) Be written;
 - (2) Be filed by the deadline;
 - (3) Contain sufficient detail to identify and clarify the basis of the grievance;
 - (4) Specify the corrective action sought and relief directly affecting the grievant.
 - (5) If chosen, contain the employee representative's name, phone number, and location;
 - (6) Contain the employee's or chosen representative's signature.
3. Acceptance, Rejection, and Remand. The informal grievance-deciding official determines whether to accept or fully or partly reject any grievance presented (according to Paragraph G.2. of this Chapter). If that official does not have the authority to resolve the matter, he or she contacts Commandant (G-WPX) for procedural guidance. In deciding to accept or reject a grievance, with the assistance of Commandant (G-WPX) the informal grievance-deciding official determines whether the grievance meets the requirements of this Chapter in Paragraph H.2.a. If the grievance does not clearly describe the issues or relief sought, the informal grievance-deciding official may remand the grievance to the grievant for clarification or additional information. The grievant must

clarify those matters within 5 calendar days. If the informal grievance-deciding official rejects all or part of the grievance, the employee may contest that decision in writing within 5 calendar days to the formal grievance-deciding official. The formal grievance-deciding official's decision on the rejected issue(s) is final and not subject to further review.

4. Informal Grievance Decision. The informal grievance-deciding official shall investigate the grievance as appropriate, which may include meeting with the grievant and his or her representative. Processing grievances promptly should be a priority responsibility. The informal grievance-deciding official develops a grievance file and provides the grievant a written decision within 15 calendar days of receiving the employee's written grievance. If the informal deciding official is unable to reply within 15 days, he or she must inform the grievant why he or she needs additional time and indicate when the employee can expect the response. If the informal grievance-deciding official does not reply or requests a delay, the grievant may file a formal grievance. The written decision should include these elements:
 - a. The date of the informal grievance and the date received;
 - b. A statement of the issue(s) the employee's grievance presented and requested relief;
 - c. Findings and conclusions on the contested issue(s);
 - d. The decision(s) on the contested issue(s). If the informal grievance-deciding official grants the relief the employee requested or an alternate solution satisfactorily resolves the grievance, the decision should include a statement to that effect. If the grievance is not resolved, the decision should state any attempts made to obtain a satisfactory resolution; and
 - e. A statement advising the employee how to submit a formal grievance, including the name and location of the formal step deciding official and deadline by when the employee must submit the written grievance.

H. Formal Grievance Procedures. An employee whose grievance is not resolved informally may file a grievance with the formal grievance-deciding official within 5 calendar days after receiving the informal grievance decision. Normally, the formal grievance-deciding official is the next higher level manager, except commanding officers for MWR and Commandant (G-WPX) for CGES. Commanding officers for MWR are always the formal deciding official on removals and suspensions of 15 or more days for MWR employees.

1. Format. A properly presented formal grievance must:

- a. Be written;
 - b. Be presented within 5 calendar days after the informal grievance decision;
 - c. Contain sufficient detail to identify and clarify the basis of the grievance and discuss only issues raised at the informal step;
 - d. Specify relief applying only to the grievant as the corrective action sought;
 - e. State why the adjustment proposed at the informal step, if any, was unacceptable;
 - f. If chosen, contain your representative's name, phone number, and location;
 - g. Contain your representative's signature.
2. Formal Grievance-Deciding Official's Action. If an employee files a formal grievance, the formal grievance-deciding official must request the grievance file from the informal grievance-deciding official. The formal deciding official may use any of these procedures in issuing a final decision.
- a. Personally review the grievance file, informally investigate the grievance, which may include meeting with the grievant and his or her representative, and issue the final decision;
 - b. Appoint a fact finder to investigate and report findings, conclusions, and recommendations for resolving the grievance. When employing a fact finder, the deciding official immediately sends a copy of the fact-finding report and any other relevant material to the grievant for review and comment. After examining the fact finder's report and the grievant's response, the formal grievance-deciding official issues the final decision.
 - c. In unusual situations appoint a grievance hearing examiner to conduct a hearing. The grievance hearing examiner prepares report findings, conclusions, and recommendations for resolving the grievance. The formal grievance-deciding official issues the final decision based on the grievance file and hearing examiner's report.
3. Formal Grievance Decision. The formal grievance-deciding official should provide the grievant a written decision within 90 days after the date the employee filed the formal grievance. The written decision should include:
- a. The formal grievance's date and date received.
 - b. The issue(s) the employee's grievance presented and requested relief.

- c. Finding(s) and conclusion(s) on the contested issue(s).
- d. The decision(s) on the contested issue(s). If the formal grievance-deciding official grants the employee's requested relief or an alternate solution satisfactorily resolves the grievance, the decision should so state. If the grievance is not resolved, the decision should state any attempts made to obtain a satisfactory resolution.
- e. The decision is final and the formal grievance-deciding official will not further consider the contested matter.

I. Discrimination Allegations.

- 1. If an employee alleges discrimination based on race, color, national origin, sex, sexual orientation, age, religion, or physical or mental disability at any stage of the grievance procedure, the grievance-deciding official must inform the grievant in writing that introduction of the allegation will terminate the grievance. The grievant must be given the opportunity to either withdraw the allegation and continue under the administrative grievance procedure or proceed under the discrimination complaint procedure, commencing with the counseling stage. The grievance-deciding official must document the grievant's decision and include it in the case file. If the grievant chooses to pursue the discrimination complaint, the grievance-deciding official cancels the grievance, and notifies the grievant. The personnel office shall maintain the grievance file separately in the personnel or administrative office.
- 2. The Department of Homeland Security Civil Rights Investigative Procedures Manual describes how to process a Nonappropriated Fund civilian employee's allegation of discrimination based on sexual orientation. Equal Employment Opportunity, Chapter 17 of this Manual, contains information on these procedures.

J. Combining Grievances. If two or more CGES or MWR employees have identical grievances, such as the dissatisfaction expressed and relief requested are the same, the grievance-deciding official may join the grievances for processing as a group grievance. The grievance-deciding official will notify the employees and require them to designate a representative for the group.

K. Canceling a Grievance. A grievance may be canceled by:

- 1. The employee. An employee may cancel a grievance at any stage of the process but having done so, may not reactivate the grievance.
- 2. Terminating Employment. If an employee's Coast Guard employment terminates, the grievance-deciding official cancels the grievance unless the employee requested a remedy that would result in personal relief after

termination.

3. Death. An employee's death automatically terminates a grievance unless the adjustment sought involves pay to the deceased's beneficiaries.
 4. Management. The informal grievance-deciding official cancels a grievance if the employee does not furnish required information or duly advance the grievance on time. The informal grievance-deciding official notifies the employee in writing of the reasons for canceling the grievance and the employee's right to protest the cancellation in writing to the next higher management level within 5 calendar days of receiving the notice. If the formal grievance-deciding official initially decides to cancel the grievance, that decision is final and not subject to further review.
- L. Grievance File. When a grievance is submitted, the receiving official starts a grievance file that becomes the grievance proceedings' official file. The servicing personnel office maintains a grievance file and destroys it 3 years after the case is closed. The grievance file contains copies of all documents pertinent to the grievance processing, including:
1. The employee's written grievance;
 2. Any available documentation of informal and formal grievance processing through the steps;
 3. Available documentation of the grievance-deciding official's efforts to communicate with the grievant and resolve the grievance equitably for both management and the grievant;
 4. Written designation of the grievance hearing examiner or a copy of the grievant's hearing examiner designation notice;
 5. Records or copies of available documents related to the grievance;
 6. Witnesses' affidavits, depositions, or signed written statements;
 7. The fact finder's reports of personal interviews or group meetings;
 8. The transcript or written summary of any hearing held;
 9. Any written exceptions to the transcript or summary;
 10. Any written comments the employee, his or her representative, or the management representative made on reviewing the grievance file;

11. A copy of the grievance decision; and
 12. Any correspondence or documents about rejecting an employee's representative, the grievant's challenge of the rejection, and the decision on the challenge.
- M. Obtaining a Hearing Examiner. Commanding officers for MWR and CGES region managers may request a hearing examiner from these sources:
1. On written or telephoned request, Commandant (G-LGL) will assign an Administrative Law Judge.
 2. Commandant (G-WPX) will assist if Commandant (G-LGL) cannot provide an Administrative Law Judge.
- N. Grievance Hearings. A grievance-deciding official schedules hearings only when required under these circumstances.
1. Scheduling. If a hearing examiner holds a hearing, he or she schedules it at a time that will ensure meeting deadlines. An employee may request for good cause and a hearing examiner postpone a scheduled hearing; such postponement extends the 90-day limit.
 2. Site. Normally the hearing site is the grievant's place of employment except when the parties agree otherwise.
 3. Hearing Record. The hearing examiner consults with the formal grievance-deciding official and then determines whether to have a verbatim transcript or summary made of the hearing proceedings. The deciding official arranges for such administrative support as required for a proper hearing.
 4. Witnesses. Both parties are entitled to produce witnesses. The examiner determines whether to call a witness to testify after considering the requests made by the grievant and the CGES or MWR Program. The CGES and MWR programs make their employees available as witnesses when the hearing examiner so requests unless it is administratively impractical to do so. The CGES or MWR Program notifies the hearing examiner in writing of their reasons for declining to make a witness available. If they otherwise would be in a duty status, employees are in a duty status while available as witnesses.
 5. Travel Expenses. Unless otherwise agreed, management does not pay travel and related costs for the grievant's witnesses or participants at the hearing.
 6. Closing the Record. The hearing examiner determines whether to permit post-hearing briefs; and if so, adds the time granted for submitting post-hearing briefs to the 90-day time limit. The parties may verbally summarize testimony for the record at the hearing conclusion. The hearing record closes at the hearing

conclusion, unless the examiner specifies otherwise.

7. Second Hearings. A hearing examiner holds only one hearing in connection with a grievance.
8. Information Copy. Immediately on receipt, the grievance deciding official sends a copy of each impartial third-party report of findings and recommendations to Commandant (G-WPX) for information and program maintenance purposes.

CHAPTER 17. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

- A. Policy. This Chapter discusses the Coast Guard's Civil Rights Program, whose program manager and policy-setting authority is the Assistant Commandant for Civil Rights (G-H). Every aspect of the Coast Guard civilian employee Equal Employment Opportunity Program is affirmatively planned, developed, implemented, and maintained in full accord with the Constitution and other pertinent laws, policies, rules, and regulations to assure equal opportunity and non-discrimination in recruitment, selection, advancement, or career development opportunities due to political views, religion, labor organization affiliation, marital status, race, sex, ethnicity, non-disqualifying physical or mental disability, age, or sexual orientation. Every Coast Guard employee shall fully comply with the letter and spirit of this policy in performing all official actions and take care to avoid even the appearance of discrimination based on any category listed above.
- B. Key Equal Employment Opportunity (EEO) Program Elements. The Coast Guard Equal Employment Opportunity Program for appropriated and nonappropriated fund (NAF) civilian employees is published in Coast Guard Equal Opportunity Program Manual, COMDTINST M5350.4 (series), which stipulates:
1. Organization and leadership responsibilities.
 2. Developing affirmative action plans to ensure progress in achieving equal employment opportunity.
 3. Procedures for processing discrimination complaints.
 4. Guidelines for evaluating progress in achieving equal employment opportunity.
 5. Procedures for participating in affirmative outreach programs.
- C. Local Action Plans. Each command for MWR and CGES Exchange Manager develops affirmative action plans to achieve equal employment opportunity goals. All management officials and supervisors must become involved in the program's goals, actions, and projects to ensure progress and can take these actions to fulfill these responsibilities.
1. Conduct an annual work force analysis to determine if work force imbalances exist; as required, develop a plan to correct such imbalances based on these analyses, vacancy projections, and organizational goals, including internal employee development and external recruitment strategies.
 2. Implement internal employee development and external recruitment strategies and make decisions and selections that positively affect organizational goals.

3. Use orientation sessions or other appropriate means to emphasize complete support for the EEO program. Evaluate subordinate managers and supervisors on their individual performance in correcting work force imbalances and overall contributions toward meeting organizational goals.
 4. Wherever possible without adversely affecting the unit's mission, restructure positions to provide less skilled or disadvantaged persons opportunities to acquire the qualifying training and experience for occupations with greater promotion potential.
 5. Actively participate in special employment programs, such as the Student Education Employment Program.
 6. Counsel and encourage all employees to develop additional skills through reimbursable after-hours study whenever possible; see Chapter 13., Paragraph J. of this Manual.
- D. Supervisory Responsibilities. In addition to taking those actions to implement local affirmative action plans, supervisors are responsible for:
1. Selecting employees solely based on merit and fitness.
 2. Distributing work equally among employees.
 3. Granting privileges impartially.
 4. Administering disciplinary measures fairly and equitably.
 5. Settling complaints promptly at the lowest level and satisfactorily whenever possible.
- E. Discrimination Complaints. Use these procedures to process an individual complaint:
1. The aggrieved person contacts the EEO counselor within 45 calendar days of the alleged discriminatory act, the effective date of an alleged discriminatory personnel action, or the date the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action.
 2. The counselor has 30 calendar days to attempt to resolve the matter informally with the management official authorized to effect or direct remedial action.
 3. The counselor issues a Notice of Right to File an individual complaint, or if counseling is not completed within 30 days, obtains written permission from the affected person to extend counseling up to 60 more days.

4. The aggrieved person may file an individual formal complaint with the appropriate Department of Homeland Security (DHS) Regional Office or the Chief, Compliance Operations Division (S-34), U.S. Department of Homeland Security, 400 7th Street SW, Washington, DC 20590, within 15 days after receiving the Notice of Right to File.
5. If accepted, DHS assigns an investigator. On completing the investigation, the investigator gives the complainant a copy of the Report of Investigation (ROI) and notice he or she has these choices:
 - a. A right to a hearing by an Equal Employment Opportunity Commission (EEOC) Administrative Judge (AJ).
 - b. A DHS decision without a hearing. If the complainant elects a DHS decision without a hearing, the Chief, Compliance Operations Division (S-34), makes the final agency decision.
 - c. A right to appeal to the EEOC Office of Review and Appeals within 30 calendar days after receiving the DHS's final decision.

F. Discrimination Complaints Based on Sexual Orientation.

1. Because the Civil Rights Act, Title VII, does not cover discrimination based on sexual orientation, Commandant (G-H) has modeled these procedures in Coast Guard Equal Opportunity Program Manual, COMDTINST M5350.4(series).
2. The process provides an opportunity for pre-complaint counseling, an impartial investigation, and a final decision by the Department's Office of Civil Rights. However, unlike the EEO complaint process, a complainant has no right to request a hearing before an EEOC Administrative Judge or receive compensatory damages if the Department finds discrimination.
3. A sexual orientation complainant may elect to pursue a complaint through the Office of Special Counsel (OSC).
 - a. The Office of Special Counsel investigates complaints of prohibited personnel practices and seeks corrective action either based on its investigation's results or if the agency has failed to take corrective measures.
 - b. A complainant may file an initial discrimination complaint based on sexual orientation with DHS or the OSC, but not both, pursuant to this Chapter.
 - c. If a complainant initially files with OSC within 45 days of the alleged discrimination or, if a personnel action, within 45 days of its effective date, and OSC decides it does not have jurisdiction to investigate that complaint,

the complainant may pursue the allegation under the DHS process. However, the complainant must initiate pre-complaint counseling within 15 calendar days after receiving OSC's denial of jurisdiction.

- G. Negotiated EEO Complaints. Some Coast Guard labor agreements require processing bargaining unit employees' discrimination allegations under negotiated grievance procedure provisions. An employee in a recognized bargaining unit has the right, protected under statute, to choose whether to use the administrative EEO complaint procedure or negotiated grievance procedure. Once the employee chooses the avenue of complaint, the decision is irrevocable.
- H. Supervisor Self-Evaluation Checklist. Supervisors will treat all employees equitably without regard to race, religion, color, national origin, sex, sexual orientation, disability, age, political affiliation (except as required by law), marital status, or membership in an employee organization and build in a mixed group a feeling of employee confidence and mutual respect. Supervisors can take these actions to determine how well they are meeting these objectives:
1. Continually review records to see if female and minority group (African-American, Hispanic, Native American, and Asian-Pacific Islander) staffing compares with local population ratios and whether such employees disproportionately occupy relatively low-paid jobs.
 2. If the staffing pattern is imbalanced, develop an action plan to improve the situation by positive counseling and action. Encourage women and minority group employees to develop their skills, determine career objectives, and apply for higher-level jobs.
 3. Stress performance and production in supervising activity employees and disregard physical appearance and/or personality differences.
 4. Guard against allowing personal feelings on race, religion, or nationality to interfere with supervisory practices.
 5. In considering employees for training, details, or promotion, avoid preference based on fraternal activities or common outside interests.
 6. When interviewing candidates for a vacant position, avoid allowing personal reactions based on non-job factors to influence selections.
 7. When informal or formal discrimination complaints arise, make a special effort to avoid being defensive and try to see the other person's point of view.