

Pay and Leave

Virtual Conference for Supervisors

Recorded March 7, 2017

Good morning and welcome to this session on pay and leave. Please place your phone on mute. If you do not have a mute button you may press *6 to mute and unmute. We have a chat box and in the upper left-hand side of your screen. Please type in good morning as you enter the conference to get the appropriate credit for the class. This session is being recorded. I'd like to pass it over to Nancy Fischer.

Good morning. Thank you and good morning, and thank you for joining me. My name is Nancy Fischer. I am in Employee Relations with the Washington Office, Division of Human Resources Branch of Labor and Employee Relations. We provide operational advice and assistance to the Washington office supervisors and managers at various locations, and we also provide employee and Labor Relations policy, development, support and expertise on all employee and Labor Relations topics for the National Park Service. Although I am currently not in a supervisory position, I do have supervisory experience from several prior jobs, namely as a personnel officer at Golden Gate and Chief of Labor and Employee Relations for the Northeast Region, and then going way back before I got into human resources, I was an interpretive supervisor out of Golden Gate. I can appreciate the challenges you all face in your supervisory roles and I hope in this morning's time we spend together you can take a few nuggets of information that may help you manage pay and leave issues.

It would be helpful if I had a little more information about the experience level out in the group. I think we have a poll question. If you could weigh in on your years of supervisory experience. I think we have it broken down into less than two years, two to five years or five years or more. If you could weigh in, that would be helpful for me. It looks like we have a wide range of experience levels, and that's a good thing. I think we can all learn from each other. I don't profess to have all the answers and I have not encountered every possible scenario, so we can take this opportunity to learn from each other.

I would like to ask the group if any of you, and you can raise your hand, if any of you are currently dealing with an employee issue the time attendance?

AJ raised his hand.

Would you be willing to give us a brief synopsis or description of issues you are dealing with and that way I can make sure we go into some detail.

Some of my issues concern people getting creative reasons for their actions for their time codes and such. I'm sorry to take up the time, but when it comes to time and pay, every once in a while I feel like I'm in somebody else's house playing Monopoly and it is always the house rules they made up.

I hear you. That aligns perfectly with some of my objectives for this session and some of the information I would like to share. My goal is at the end of the session, I would like you to describe some of the common categories of leave and associated key requirements with each one of those categories. You should also be able to identify the goals and responsibilities of the employee and supervisor as it relates to time, attendance and leave. You should be able to recognize and manage time and attendance and the issues, and to find references and resources if you need additional help.

At this point, I will put in a plug, if you ever need assistance in dealing with anything, your first line of defense whoever your HR servicing and who your labor employee relations person is. They will be in the trenches with you to help you address any issues you are facing, and as I said, not just time, attendance and leave.

I would just jump into the topic and talk a little bit about responsibilities. I think this is key for everyone to understand. I think [Indiscernible] employee and the supervisor understands carrying out roles and responsibility as it relates to time, attendance and leave and there are going to be problems.

Let's start with the employee's roles and responsibilities. I'm just going to rattle off my list for the employee side of the creation and then I would like us to bring some of the roles and responsibilities we as supervisors have. One of the first things for the employee side is to report to work as scheduled. They are also post a request leave for any periods of absence. They are expected to file the proper procedures and any supervisory instructions to request leave, and this would include providing any requested documentation, particularly medical documentation, and employees taking sick leave. Employees have a responsibility to communicate to the supervisor and the responsibility to accurately report time and attendance by the associated deadline.

Are there any other responsibilities you can think of that would fall under the employee side that I missed?

Let's move to the supervisory side. Did anyone throw out supervisor responsibilities? If it is the employee's responsibility to report to work as scheduled, what would the responsibility before the supervisor?

Mason said certify QuickTime.

Absolutely. Anything else? How are you going to know if an employee reports to work as scheduled? The key responsibility you as a manager have is to monitor an employee's time

and attendance. Notice when your employees are arriving and departing from work and when they are at work.

Create the schedule, approve leave and share accuracy.

Those are all great responses. When an employee makes a leave request, it is the responsibility to take action on the request to either deny or approve that request. Another key responsibility is establishing and communicating work schedules as well as procedures for requesting leave. Any other supervisory responsibilities you can think of? One of the things I can think of if there are problems, it is your responsibility to take corrective action. Communicating with employees is another key responsibility. Complying with laws, rules, regulations and any applicable union contract or collective bargaining agreement is something that is a supervisory responsibility. If you're operating as part of a union, it is important to have a copy of that agreement and that union contract, and that you are familiar with all of your responsibilities outlined in that contract.

Your responsibilities as a supervisor are also to ensure the proper use of leave. If somebody is not [Indiscernible] the leave is not being used properly, that is on you to address. It is also your responsibility to ask for appropriate documentation in certain circumstances, mainly requesting sick leave and also assuring proper staffing levels. This sometimes may mean you have to cancel previously approved leave, and it is your responsibility to communicate that to the employees and base the decisions on operational needs.

As you can see, I have listed a number of leave categories on this slide, and there are a wide variety. We don't have a lot of time to dive too deeply into the regulatory details for all of these types of leave or the leave program, so I'm basically going to do a brief summary of the most common leave categories and talk a little bit about the key requirements for each one of those categories.

I think before we jump into that, it is important to note there are some positive impacts. Positive impacts of leave programs for management includes the leave programs and benefits associated with having these. The benefits programs is making the federal government an employer of choice. It fosters productivity and fosters high levels of employee satisfaction and commitment, and result in unwanted turnover of high performers. On the employee side of the equation, the benefits of these three programs are that they can foster greater work/life balance. That is especially key and that it allows employees to have fewer distractions and multitasking to meet competing work and life demands, and also minimizes the impact of a life crisis if you have available leave, and if you have annual leave to take or are facing a life crisis, that takes you out of the work situation and allows you to focus on whatever is going on. Those are some key benefits of the leave programs both for management and employees.

We are going to give you the nuts and bolts of the leave categories. We will start with annual leave. Annual leave is pretty much available to employees for use. Vacation, rest, relaxation, personal business or emergencies. It is theirs to use as they wish. They can use it for sick leave

purposes. It is accumulated and earned each pay period based on years of creditable service, and I'm talking primarily about full-time employees. For employees that have less than three years of service, they earn 13 days of annual leave a year for 104 hours a year. For employees that have between three and 15 years of service, they earn 20 days and 160 hours a year and that is included at a rate of six hours per pay period, except for the last pay period which is 10 hours. For longer-term employees that have more than 15 years of service, they earn annual leave at a rate of eight hours a pay period for a total of 26 days a year. It's important to note there is what is called a leave ceiling. This is the maximum amount of annual leave that can be carried over from one leave year into the next. The number of hours for that ceiling is 240 hours. An employee can only move into the next leave year with no more than 240 hours of annual leave. Anything over that is often referred to as use or lose. If an employee does not use that leave, that annual leave is forfeited unless certain requirements for that leave are met to be restored.

An important part of leave [Indiscernible] an employee retires or separates from federal service. They are paid out for their unused annual leave in a lump sum payment. That is certainly an incentive of having a stockpile of annual leave at the end of your career or when you separate from service.

Annual leave should be requested and approved in advance to the extent possible, unless there is some emergency preventing an employee from making that advanced request. Annual leave is an entitlement and the right to take annual leave, however that right is subject to the right of management to approve the time at which the leave was taken. In other words, the scheduling of that leave is scheduled to management approval. Employees are not required to explain how they are going to use their annual leave, and I would advise against asking specifically what they are going to use it for. It is theirs to use pretty much for any purpose.

Nancy, is that a problem if the employees want to use annual leave instead of sick leave?

No. If they want to conserve their sick leave and they have annual leave, that is fine. Annual leave has to be requested consistent with the established procedures and any supervisory instructions you may have in place. Failure to make those requests consistent with instructions and procedures can be grounds for disciplinary action.

Employees also may request advanced annual leave. Often you will see this with newer employees who have not yet accrued a significant balance of leave and want to take some time off. There is not an entitlement to advanced annual leave. You may grant at your discretion advanced annual leave, but the amount you can grant is limited to the number of hours an employee can earn for the rest of the leave year. When you're making a decision about whether to approve a request for advanced annual leave, you should consider whether you know who you have an expectation whether the employer is going to return to work after that period. If they have told you they are not coming back, you need to be advised not to approve that advanced leave because that advanced leave is essentially a debt. We are paying

the employee for time they are not yet earned and if they were to leave the federal service, they would need to pay that back.

Any questions at this point annual leave?

The other major category is sick leave. This is earned and used based on the leave year, and for full-time employees they earn four hours every pay period, for grand total of 104 hours a year. That is not a lot. Part-time employees, their approval rate is prorated. [Indiscernible] an employee can continue to earn sick leave with no limitations throughout their entire federal career. That is an advantage at retirement, because that accumulated sick leave is counted as additional creditable service once an employee has reached and met the eligibility requirements for retirement. If an employee has an accumulated balance of the year's worth of sick leave, that additional year is added onto the creditable years of service, and that factors into the computation for somebody's retirement annuity. It is valuable to have that sick leave at retirement. If an employee separates from federal service and they just decide to leave federal service and take a job in the private sector, there is no benefit to any accumulated sick leave they may have available. However, if they return at some point to another federal job, they would be able to get that sick leave balance reinstated, so that is an important benefit that might be leaving federal service. There is the possibility they may come back, that would be a huge benefit.

Sick leave is also an entitlement in considered a qualified right and can only be used for certain purposes. There are four categories if used for sick leave. Employees can use sick leave for their own personal medical needs, and there is no limit on the number of hours. Employees may use sick leave for family care and bereavement. Let's say, taking a family member to a doctor's appointment, staying home with a sick child or any bereavement related purposes. Making arrangements following the death of a family member. An employee may take up to 13 days in a leave year for general family care and bereavement purposes. The third category for sick leave use is employees may use it to care for a family member with a serious health condition. When we are talking about family member, were talking about the definition we have been dealing with for many years at this point, family member would include spouse and parents, sons and daughters and spouses, parents and spouses, brothers and sisters and spouses, grandparents, grandchildren, domestic partners and spouses thereof, and any other individual that has a close relationship to the employee such that it is the equivalent of a family relationship. A very broad definition. An employee can use up to 12 weeks in a leave year to care for a family member with a serious health condition. If the employee has used any of the 13 days they have available for general family care and bereavement, that counts towards the 12 week period.

We have a question. [Indiscernible] one so when can we tell when a person is taking chronic sick leave.

It depends on the circumstances. You should ask questions and ask for documentation if you suspect the employee is misusing sick leave. You may want to do a leave audit, which is to go

back and look at the employee's track record, how often they are taking it, the reasons they are giving. With some employees, stuff happens and we have unlucky employees where it's one thing after the other and they are legitimate requests for sick leave. There are other employees, however, that will take advantage of the system, and that is where it's important to keep tabs on those employees and ask questions and make it known you were paying attention. That is where the documentation might come into play if you suspect somebody is misusing sick leave.

Chris commented he finds these are rarely coded correctly in QuickTime.

Okay.

The fourth use for employee sick leave is adoption-related purposes. There is no limit in the number of hours an employee leaves for adoption-related purposes.

Sick leave, by regulation, can be granted only when it is supported by administratively acceptable evidence. It's important to note often when you are talking about [Indiscernible] self-certification is often all you need for administratively acceptable evidence. We were talking about habitual leave abusers, that is where we are probably going to be requesting documentation for those sick leave requests, and you can work with your employee relations specialist to maybe put a leave restriction in place. That is a common tool we use, particularly with employees we suspect of misusing sick leave, and it requires they provide medical evidence for every sick leave absence.

Nancy, can you use sick leave to care for your sister-in-law?

Yes, that would meet the definition of family member with a serious health condition. Any other questions? I know I am running through this quickly.

We want to scroll ahead to the next few slides. That is additional detail on what we talked about already. We're going to scroll ahead to advanced sick leave. Like annual leave, employees can request advanced sick leave, and again, it's the situation where it is known or reasonably expected the employee is not going to return to duty, that would be a case where you would probably not approve advanced sick leave, because this does create a debt. The maximum amount of sick leave that can be granted is up to 30 days.

We're going to scroll ahead to requesting sick leave. An employee must request consistent with established procedures at any supervisory instructions. This is a key area for what you do as a supervisor is going to be important in whether you have problems or not. What is the expectation when the employees want to call out sick? Are they supposed to call in the first hour of duty? It's important all of your employees understand what those instructions are and that you monitor whether employees are following those instructions. To the extent possible, sick leave should be requested in advance, particularly when you're talking about a request for

medical appointment. Those are generally scheduled in advance, and they should be making that advanced request through the supervisory chain.

We have a question come in, do you know where we can find the definition of family member in policy or regulation?

Yes, 5 CFR 630. I don't have the specific subchapter; that is the chapter for leave and that will give you the definition of family member.

We have another question, in both situations advanced annual leave or sick leave and how this debt get paid [Indiscernible].

It is usually deducted from somebody's last check.

We will scroll ahead to the Family and Medical Leave Act. This is another employee entitlement. The Family and Medical Leave Act entitlement however generally does not apply to intermittent employees or temporary employees who are on a less than 1 year appointment. For employees to have this entitlement, they must have completed at least 12 months of service. It's not required that service be recent or consecutive. If you have questions about employee eligibility, that would be something to discuss with your employee relations specialist. Entitlement is up to 12 weeks of unpaid leave. That would be leave without pay during any 12 month period for the purposes of the birth of a child and the in the care of a newborn, the placement of a son or daughter of the employee for adoption or foster care, a son, daughter or parent with a serious health condition. This is a key point. When you're talking about the FMLA entitlement, there is a very narrow definition of a family member and that is a spouse, son, daughter or parent with a serious health condition. It is not a broader family definition we are dealing with. As I said, the entitlement is 12 weeks of unpaid leave however, employees at their election may opt if they have a balance of sick or annual leave to substitute that paid leave for unpaid leave or leave without pay if they're going to be using FMLA leave.

Employees requesting FMLA, they have to invoke their entitlement to use FMLA and to the extent possible, there is a 30 day advanced notice requirement of an employee's intent to invoke their FMLA entitlement. Employees can only take FMLA leave required under the circumstances for which they are taking it.

Employees have to make a reasonable effort to schedule planned medical treatment so as to minimize the disruption to agency operations where possible. As I said, there is a 30 days advanced notice requirement to the extent that is possible. When an employee is going to use FMLA leave, they are required to provide medical certification to support that request.

Any questions about FMLA? I know this was really fast. Okay, I will keep going and if you have questions we will address them as we can.

Voluntarily transfer program.

We have a question come in from Michelle. If an employee is taking any amount of unpaid leave, do they need a doctor's note?

If they are invoking their entitlement to FMLA, then yes. If somebody just doesn't have any annual or sick leave and they are making a request to be absent to take a vacation or whatever, then no, but FMLA does require supporting documentation.

Another question from Megan. Can employee use sick leave and also take the full 12 weeks of FMLA as well? They had two months of sickly and they take that and want to take FMLA for 12 more weeks, is that allowed?

Yes, it is. I know that can be an operational challenge, but it is a very generous benefit and that is certainly permissible.

I just want to remind you of the voluntarily transfer program. This is a huge benefit for employees that have exhausted their annual and sick leave and allows them to become a recipient to donate leave from other employees. Generally, this will come into play where an employee has to deal with their own medical needs or caring for a family member with a medical condition. Employees have to apply to become a leave recipient and then other employees can donate their accumulated annual leave. There is a list of current approved leave recipients throughout the service.

Another common category of leave is excused absence. You often hear it referred to as administrative leave, and it is available for a wide variety of purposes: blood donation, bone marrow donation, organ donor, returning from active duty, court leave if you are summoned for jury duty or if you are to serve as a witness in a nonofficial capacity in court and also potentially for voting and registration if certain criteria is met. This is a separate category and not charged to annual or sick leave.

Is there a limit for court leave?

There is not. That would generally be supported with a court summons and the appropriate paperwork if an employee would get further service afterwards. Is still incumbent upon the employee and the supervisor to communicate about what is going on. Oftentimes in a court situation, you are a potential juror and stand by while they go to the jury selection process and that can take days. The communication is going to be important, then the documentation the employee gets after they fulfill their service. Any other questions?

It looks like we have one more. Are these all coded as 060 admin time?

I suspect not. I am not a QuickTime expert on timecard coding. I think there are separate codes, but don't quote me on that. That would be a question for the timekeeper. Anything else?

Just two other people commented that, yes, they are separate sub-codes.

The last two categories of leave I want to chat about briefly our leave without pay and AWOL. Leave without pay is an approved nonpaid leave status. Generally, leave without pay is at management's discretion, unless there is an entitlement to that leave without pay and it would be an entitlement to be without pay. In several instances, we're talking about FMLA in this entitlement. We said there is an entitlement to leave without pay under FMLA. There is also an entitlement if there is a period of service in the uniformed services and uniformed services employment and Re-employment Rights Act and also an entitlement for leave without pay when receiving workers compensation payments from the Department of Labor. If an employee is requesting leave without pay, as I said, that is totally discretionary whether you approve that or not. Like annual and sick leave, any request for leave without pay should be made consistent with the established procedures and instructions employees have for requesting time off.

The other category, the last one this absence without leave or AWOL. Unlike leave without pay, this is unauthorized and unapproved absence. This is the only category of leave that we actually charge by the minute. If an employee is 14 minutes late to work, didn't call or follow the proper procedures and not a legitimate reason for their tardiness, they would charge them 14 minutes of AWOL. AWOL is not disciplinary action that it can be grounds for disciplinary action. Any questions about AWOL?

Let's spend a few minutes about talking about common time, attendance and leave issues. We have touched on some of these already. We are talking about tardiness, frequent unscheduled absences, failure to follow proper procedures to request leave, failure to request leave and obtain approval, extended lunch breaks, departures from work without approval and potentially unsupported sick leave absence.

Nancy, we had a question, can we approve [Indiscernible] or should we code it as AWOL?

We can certainly go back and correct a timesheet if you want to approve that absence as annual leave. If there is a legitimate reason and you have talked to the employee, that's fine, and that is often the right thing to do. AWOL is often charged with more employees that have a pattern and they are not following the proper procedures. That is where you want to play hardball and charge AWOL and leave that AWOL charge as grounds for taking some kind of disciplinary action. If an employee has a legitimate excuse or reason that sits well with you, you have the authority to go back and authorize that absence retroactively as annual leave.

Are there any legitimate excuses for AWOL?

It is all on a case-by-case basis. Maybe public transit was down. Having worked at the Washington office, the Metro service tended to be spotty the last couple of years, and that can be an issue. Anybody who takes public transit is going to be impacted. Maybe there was a burglary at the employee's house and they were caught up in dealing with that, and work probably wasn't their first priority, so you have got to talk to the employee and get the circumstances that make a judgment call. By all means, you can seek out the advice of your employee relations specialist if you need assistance in making that determination.

If they are charged AWOL they are not paid for that time?

That's correct. And unauthorized unpaid status. Although it is not discipline, it is helpful as it is not paid, because that does hit the employees in their paycheck.

Let's continue on and talk about some of the preventative measures you as supervisors can take to avoid some of these common time, attendance and leave issues. We have touched on a lot of these, but let's see if we can compile a list. What can you do to prevent issues from occurring to begin with your employee? Any thoughts?

AJ said be consistent.

Yes, that is important. Employees pay attention to that. They know if you or treating somebody differently.

Communicate expectations.

Absolutely. You as a manager should establish a culture of communication with your employees. Anything else? A lot of these preventative measures go back to the list we compiled earlier on supervisor responsibilities. Paying attention, monitoring time and attendance, leave usage and patterns. This is something I would advise you to do, keep track of time and attendance issues with your employees and however you do that is up to you, but maybe you have a daily calendar and somebody calls in, you make a note on that day on your calendar. This person called in sick and didn't report to work until 10:00 a.m., and do that with each instance of unscheduled absence or failure to follow proper procedures. You have a running documentation of what is going on with your employees and you can also determine whether there is a pattern. I have dealt with supervisors in the past what had employees who showed classic signs of leave abuse. They were calling in sick consistently on Fridays, Mondays, or the day before or after a holiday. That is a clear pattern of potential leave abuse.

Some other suggestions that came in, keep records of training and establish a regular schedule with four hours.

Yes.

Asking appropriate questions is also important as a supervisor. It tells the employee you are paying attention. If they are out sick and they come back, ask questions. Put them on the spot and make them explain.

I had a previous administrative officer that would grant administrative leave to an employee that did not come to work because they lived on the road not plowed by the county.

I can see where that could be acceptable. I think in the current climate we are working in with telework, the availability of telework, that situation may be less and less that yes, you certainly could grant administratively if it was unsafe for an employee to come to work for just that reason. You have some discretionary authority to grant for those types of situations. Another preventative measure would be to stay on top of use or lose leave. You should know who your long-term employees are who are in a situation where they're going to in -- going into each year with hundreds of hours of use or lose leave and it is your responsibility along with the employee's responsibility to schedule the use of that leave throughout the year so it's not lost. It prevents a situation from occurring where the employee comes to you December 1st and says I have 60 hours of use or lose and I'm not coming until January. You don't have to accept that. That doesn't mean your hands are tied and you have to prove that request.

If in the previous roads example, the employee would still need to ask permission?

Yes.

Some reactive measures where we are having issues with time, attendance and leave. Any thoughts about that? Some of these leave measures touch on things we have already talked about, but it is kind of a good review. That is where documentation will come in handy when you're keeping track of your employee if they are calling in, make a note of what they tell you. Talk to the employee and get the facts before you are forced to make a judgment call to approve or deny a request.

If you are having issues, take appropriate corrective action, and this is where you want to tap into your servicing and employee relations specialist. The first line of defense is counseling the employee and putting them on notice. Remind them about the proper procedures and they are not following them and failure to do so in the future could result in disciplinary action. You can document that counseling in writing to the employee. I would suggest you prepare a memo. I usually require written confirmation, and that is a summary of the discussion you have had about leave usage and the proper procedures, and you put them on notice that if things don't change disciplinary action could follow for further instances of leave issues.

Then we would move to progressive discipline. A letter of reprimand, suspension or ultimately removal if issues continue. Be sure to charge AWOL when appropriate. If somebody is absent and they have not requested leave or followed the proper procedures, there is no legitimate reasonable excuse for their absence and not requested leave, make sure you charge AWOL and it's on their time sheet and potentially take disciplinary action based on that AWOL

charge. Somebody ready mentioned to be consistent, and another reminder, you've got to be mindful of any management obligations and be familiar with any applicable union contracts. I already harped on the importance of working with your employee relations specialist.

The last couple of slides I'm not really going to review. I know you have an opportunity to obtain the PowerPoint presentation and I have compiled these last few slides as potential talking points if you have to counsel an employee about lead issues, whether it is tardiness or calling in sick frequently or if they are not following proper procedures. Just as I have dealt with employee relations issues over the years, I compiled a variety of potential topics and you can pick and choose the talking points if they are applicable to the situation you are dealing with, and that will give you a script when you are sitting down with an employee to counsel them about whatever the issue is. They are provided for your reference.

We have a couple minutes left. Any questions about anything we haven't covered that we need to revisit? We haven't had a lot of time to talk about a subject we could probably spend all day on.

It looks like one comment is coming in.

And if anyone has any suggestions or approaches they have used they have found helpful that you would be willing to share with the group, that would be great as well.

A question about lunch breaks, and does the supervisor require them or is it an employee option?

Lunch breaks are required if you are working more than six hours.

Great, thanks.

An employee cannot take their lunch break at half an hour or an hour early. It is supposed to be taken in the middle of the workday. Anything else from the group?

Nothing else in the chat.

All right. I appreciate everyone's time and attendance and your participation. If any questions come to mind afterwards, by all means I'm available to get out of phone call and chat with you if you want to talk about specific issues or if you need assistance finding out to your employee relations specialist is, I can chat with you.

Thanks Nancy, and thanks everyone for great session.

Thank you everybody and have a great day.