



UNITED STATES CAPITOL POLICE BOARD

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CAPITOL POLICE BOARD REGULATIONS PRESCRIBING A UNIFIED LEAVE SYSTEM FOR MEMBERS AND CIVILIAN EMPLOYEES OF THE UNITED STATES CAPITOL POLICE

Pursuant to the directive under Pub. L. 105-55, 111 Stat. 1177 (October 7, 1997), the Capitol Police Board hereby prescribes the following regulations:

Section I. General Provisions.

- A. The Chief of Police or his/her designee shall be responsible for the proper administration of the unified leave system and for maintaining an account of leave for each member and civilian employee.
- B. The leave time provided under this unified leave system is leave time during which a member or civilian employee would otherwise work and receive pay and is exclusive of holidays and non-workdays established by appropriate Congressional authority.
- C. A member or civilian employee employed on a part-time basis is entitled to the benefits provided by these regulations on a pro rata basis.
- D. The Chief of Police or his/her designee is authorized to issue internal operating procedures and/or directives, consistent with these regulations, as may be necessary to maintain or enhance the efficiency of service and the needs of the department.

Section II. Definitions.

- A. *Accrued leave* means the leave earned by a member or civilian employee during the current leave year that is unused at any given time in that year.
- B. *Accumulated leave* means the unused leave remaining to the credit of a member or civilian employee at the beginning of the leave year.

C. *Family member* for the purposes of these regulations is defined as parent, spouse or child. See, for example, section 825.800 of the Office of Compliance Regulations: Family and Medical Leave.

D. *Leave year* means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

E. *Medical certificate* means a written statement signed by a practicing physician or other health care practitioner certifying to the incapacitation, examination, or treatment of the patient, and to the period during which the patient was receiving professional treatment.

Section III. Annual Leave.

A. Accrual.

1. A member or civilian employee is entitled to annual leave with pay which accrues as follows--

- (a) 4 hours for each full biweekly pay period for a member or civilian employee with less than 3 years of service;
- (b) 6 hours for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the leave year is 10 hours, for a member or civilian employee with 3 but less than 15 years of service; and
- (c) 8 hours for each full biweekly pay period for a member or civilian employee with 15 or more years of service.

2. In determining years of service, a member or civilian employee is entitled to credit for all service of a type that would be creditable under section 8332 of title 5 of the United States Code, regardless of whether or not the employee is covered by subchapter III of chapter 83. However, a member or civilian employee who is a retired member of a uniformed military service who is entitled, under statute, to retired, retirement, or retainer pay on account of his or her service as such a member is entitled to credit for active military service only if --

- (a) his or her retirement was based on disability--
 - (i) resulting from injury or disease received in the line of duty as a direct result of armed conflict; or
 - (ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 1101 of title 38 of the United States Code; and
- (b) that service was performed in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized.

The determination of years of service shall be made on the basis of a written certification provided by the federal agency or Congressional entity from which service credit is being claimed.

3. A change in the rate of accrual of annual leave by a member or civilian employee takes effect at the beginning of the pay period after the pay period in which the employee completed the prescribed periods of service.

4. Members and civilian employees shall not accrue annual leave during a pay period in which he/she has a period of leave without pay.

B. Accumulation.

1. Except as provided below, annual leave which is not used by a member or civilian employee accumulates for use in succeeding years until it totals not more than 240 hours at the beginning of the first full biweekly pay period occurring in a leave year.

2. When, due to unusual emergencies it is impossible to grant requested leave to members and civilian employees, the Chief of Police or his/her designee shall have the authority to temporarily waive the above restriction on accrued annual leave.

1. Annual leave may be used by a member or civilian employee upon approval of:
 - a. a written request for absence; or
 - b. a request in an emergency situation due to unforeseen circumstances.

2. Use of annual leave is conditioned upon approval of the Chief of Police or his/her designee.

3. The Chief of Police or his/her designee shall restrict or cancel the granting of leave in accordance with the needs of the department.

4. The Chief of Police or his/her designee may grant advancement of annual leave in an amount not to exceed the amount the member or civilian employee would accrue for the remainder of the leave year in which the request is made.

Section IV. Compensatory Time Off.

A. Members who have been determined to be non-exempt under the Fair Labor Standards Act (FLSA), as applied by the Congressional Accountability Act (CAA), are eligible to elect to receive hours of compensatory time off in lieu of overtime compensation for additional duty.

B. Members and civilian employees who have been determined to be exempt under the (FLSA), as applied by the (CAA), may be granted compensatory time off for special circumstances as determined by the Chief of Police or his/her designee.

C. Civilian employees who have been determined to be non-exempt under the FLSA, as

applied by the CAA, may not receive compensatory time off in lieu of overtime compensation, but may receive compensatory time off for additional duty that is not eligible for FLSA overtime payment.

D. Use of Compensatory time off shall be subject to the same conditions provided for the use of annual leave in Section III.

Section V. Sick Leave.

A. Accrual.

1. A member or civilian employee accrues sick leave with pay on the basis of 4 hours for each full biweekly pay period.

2. Sick leave which is not used by a member or civilian employee accumulates for use in succeeding years.

3. Members and civilian employees shall not accrue sick leave during a pay period in which he/she has any period of leave without pay.

B. Grant of Sick Leave.

1. Subject to paragraphs 2 through 4 of this subsection, the Chief of Police or his/her designee may grant sick leave to a member or civilian employee when the member or civilian employee--

- (a) Receives medical, dental, or optical examination or treatment;
- (b) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
- (c) Provides care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental, or optical examination or treatment;
- (d) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
- (e) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or
- (f) Must be absent from duty for purposes relating to the adoption of a child or the placement of a child in foster care, including appointments with adoption/placement agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

2. The amount of sick leave granted to an employee during any leave year for the purposes of paragraph (1)(c) and (d) of this subsection may not exceed a total of 104 hours.

3. To be granted sick leave for the purposes described in paragraph (1)(c) and (d) of this subsection during any leave year in an amount exceeding a total of 40 hours, the member or employee concerned shall retain in his or her sick leave account a balance of at least 80 hours. No sick leave may be advanced under this section for the purposes of meeting the requirement to retain a minimum sick leave balance or for using additional sick leave for the purposes described in paragraphs (1) (c) and (d) of this section when such use would otherwise cause the member's or civilian employee's sick leave balance to fall below the minimum required.

4. When sick leave is granted to a member or civilian employee for the purposes described in paragraph (3) of this subsection, the amount of sick leave retained in the member's or civilian employee's sick leave account shall, in each instance, be at least equal to the minimum prescribed by paragraph (3) of this subsection after deducting the amount to be used for the purposes described in paragraphs (1) (c) and (d) of this subsection.

C. Application for Sick Leave.

1. Members and civilian employees shall request approval from the Chief of Police or his/her designee for sick leave in advance for the purposes of receiving medical, dental, or optical examination or treatment of a non-emergency nature and, to the extent possible, for the purposes described in paragraph 1(c), (d), and (f) of subsection B above.

2. Members and civilian employees shall request approval from the Chief of Police or his/her designee for sick leave as soon as possible, but not later than one hour before they are scheduled to report for duty, for the purposes described in paragraph 1(b) and (e) of subsection B above.

3. In accordance with applicable laws or when otherwise determined necessary by the Chief of Police or his/her designee, medical certification or other appropriate documentation may be required in connection with use of sick leave.

D. Advancement of Sick Leave.

1. Members and civilian employees may request advancement of sick leave not to exceed a total of 240 hours in a twelve month period for a serious health condition as defined in section 825.800 of the Office of Compliance Regulations: Family and Medical Leave.

2. Requests for advancement of sick leave must be approved by the Chief of Police or his/her designee.

3. Sick leave will not be advanced unless all other leave has been exhausted.

F. Credit for Unused Sick Leave from Prior Federal Civilian Service.

1. Any accumulated sick leave earned while employed in any federal government office, when certified in writing by such office, will be credited to the leave record of a member or civilian employee.

G. Sick Leave used in the Computation of Annuity.

1. Sick leave which is eligible to be used in the computation of annuity for a member or civilian employee shall, upon retirement, be charged against his or her sick leave account and may not thereafter be used, transferred, or recredited.

H. Use of Sick Leave during Annual Leave.

1. The Chief of Police or his/her designee may grant sick leave to a member or civilian employee who becomes ill during a period of annual leave.

2. Members and civilian employees should notify the Chief of Police or his/her designee as prescribed in subsection (C) of this section.

Section VI. Minimum Leave Request.

A. Leave may be used in increments of not less than 15 minutes.

Section VII. Administrative Leave.

A. Administrative leave is leave with pay for a purpose approved the Chief of Police or his/ her designee that is not charged against a member's or civilian employee's leave balance.

B. The Chief of Police or his/her designee may authorize administrative leave for such circumstances as:

1. Leave for Jury Duty.

a. A member or civilian employee who is summoned for jury duty and must be absent from work will continue to receive full pay and will not be charged annual leave.

b. Upon receipt of such summons, the member or civilian employee must notify the Chief of Police or his/her designee immediately and must provide a copy of the summons or other written documentation requiring jury duty.

2. Leave for Military Duty.

a. A member or civilian employee who is an Armed Forces reservist or a member of a National Guard unit and is called to active duty will be given paid leave for that purpose not to exceed 15 days in a fiscal year. In cases where the

service is for law enforcement or a national emergency declared by the President, the limitation may be extended to a maximum of 22 days within a calendar year.

b. A member or civilian employee must notify the Chief of Police or his/her designee as soon as possible of a need for leave under this section.

c. To apply for leave under this subsection, members and civilian employees must submit appropriate documentation, including a copy of any military orders, to the department.

d. Members and civilian employees who require absences for military duty will be accorded all benefits provided by applicable law.

C. The Chief of Police or his/her designee is authorized to grant administrative leave for other purposes that would promote the efficiency of service or the needs of the Department as determined by the Chief of Police.

Section VIII. Family and Medical Leave.

A. Under the provisions of the Family and Medical Leave Act (FMLA) as incorporated by the CAA, a member or civilian employee who has worked as an employee of a congressional employing office for at least 12 months and for at least 1250 hours during the previous 12 months is entitled to up to a total of 12 weeks of unpaid leave during any 12-month period for the following family and medical reasons:

1. to care for a child after birth;

2. to adopt a child or to receive a child in foster care;

3. to care for a spouse, son, daughter, or parent who has a serious health condition;

or

4. for the employee's serious health condition that makes the employee unable to perform his/her job.

B. The FMLA defines the term "serious health condition" and such definition is hereby incorporated by reference.

C. When requesting leave, members and civilian employees must explain the reason for the leave to allow the Chief of Police or his/her designee to determine whether the leave qualifies as FMLA leave.

D. To be entitled to FMLA leave, a member or civilian employee must intend to return to work following the leave.

E. Each member or civilian employee's 12-month period begins on the day the employee first takes FMLA leave.

F. A member or civilian employee who is on Type 1 or 2 FMLA leave may, at his/her option, use accrued annual leave and/or, when applicable, compensatory time off.

G. A member or civilian employee who is on Type 3 or 4 FMLA leave may, at his/her option, use accrued annual leave, compensatory time off and/or sick leave.

H. Such annual and sick leave, but not compensatory time off, will offset the 12 weeks of FMLA leave entitlement.

I. While a member or civilian employee is on FMLA leave, whether paid or unpaid, the government contribution for the member's or civilian employee's federal retirement, health and life insurance will continue.

J. A member or civilian employee must provide at least 30 days advance notice if FMLA leave is foreseeable.

K. If 30 days advance notice is not practicable, a member or civilian employee must give as much advance notice as possible.

L. When Type 3 or 4 FMLA leave is foreseeable based on planned medical treatment, the member or civilian employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly with the Department's operations. However, members and civilian employees should not delay seeking immediate medical attention when necessary.

M. For all instances of FMLA leave, a member or civilian employee must submit a written request for leave, even if the request is filed after the leave has commenced.

N. Written requests for FMLA leave must be submitted to the Chief of Police or his/her designee and shall include the dates of such leave and the reason(s) for the leave.

O. A member's or civilian employee's failure to provide notice may result in denial of FMLA leave

P. Medical certification is required to support a request for leave because of a serious health condition of the member or civilian employee or his/her spouse, son, daughter, or parent.

Q. In appropriate cases, the Chief of Police or his/her designee may require a second or third medical opinion, and may require certification that the employee is able or unable to return to work.

R. All medical certifications and related records will be kept confidential.

S. In accordance with applicable law, most members and civilian employees returning from FMLA leave will be restored to his/her same or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of a member's or civilian

employee's leave.

T. A member or civilian employee on FMLA leave shall not accrue annual or sick leave during a pay period in which he/she has a period of leave without pay.

Section IX. Leave Without Pay.

A. Leave without pay is an authorized uncompensated absence which has been approved or directed by the Chief of Police or his/her designee and shall apply uniformly consistent with the provisions of Pub. L. 105-18.

B. A member or civilian employee may request leave without pay in the same manner as requesting annual leave or sick leave.

C. As a basic condition of approval of leave without pay, there must be a reasonable assurance that the member or civilian employee will return to duty at the end of the approved period.

D. Leave without pay shall in no case exceed one year from the date such leave commences.

Section X. Use of Accrued Leave before Separation from Service with the Department.

A. Members and civilian employees should provide the Chief of Police or his/her designee at least two weeks notice of his/her intent to separate from the Department.

B. In the case of members subject to mandatory retirement, the Chief of Police or his/her designee shall notify the affected member 90 days prior to his/her mandatory separation date.

C. Upon separation from service with the Department, any unused annual leave will be paid to the member or civilian employee in a lump-sum payment as prescribed in section XVI, below.

Section XI. Leave Sharing Program.

A. The voluntary leave sharing program is limited to members and civilian employees of the Department. It provides for the donation of accrued annual leave from one member and/or civilian employee to the sick leave account of another member and/or civilian employee when needed because of a medical or family emergency or other personal hardship.

B. Definitions.

1. *Available paid leave* means accrued, advanced and/or accumulated annual or sick leave and recredited or restored annual or sick leave.

2. *Family Emergency or Personal Hardship* means an unforeseen situation involving a member or civilian employee that is likely to require the member's or civilian employee's absence

from duty for 10 or more workdays and is likely to result in a substantial loss of income to the member or civilian employee because of the unavailability of accrued leave.

3. *Leave donor* means a member or civilian employee whose voluntary written request for transfer of annual leave to the sick leave account of a leave recipient is approved by the Chief of Police or his/her designee.

4. *Leave recipient* means a current member or civilian employee for whom the Chief of Police or his/her designee has approved an application to receive leave in his/her sick leave account from the annual leave accounts of one or more leave donors.

5. *Medical emergency* means a medical condition of a member or civilian employee or a family member of such member or civilian employee that is likely to require a member or civilian employee's absence from duty for 10 or more workdays and is likely to result in a substantial loss of income to the member or civilian employee because of the unavailability of accrued leave.

C. Application to Become a Leave Recipient.

1. A member or civilian employee may make written application to the Chief of Police or his/her designee to become a leave recipient. If a member or civilian employee is not capable of making application on his or her own behalf, a personal representative of the potential leave recipient may make written application on his or her behalf.

2. Each application shall be accompanied by the following information concerning each potential leave recipient:

- a. The name, and rank or position title of the potential leave recipient;
- b. The reasons transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, family emergency or personal hardship and, if it is a recurring one, the approximate frequency of the medical emergency, family emergency or personal hardship affecting the potential leave recipient;

3. The Chief of Police or his/her designee may request additional information or certification from one or more physicians, or other appropriate individuals, with respect to the medical emergency, family emergency or personal hardship.

D. Approval of Application to Become a Leave Recipient.

1. Before approving an application to become a leave recipient, the Chief of Police or his/her designee shall determine that the absence from duty without available paid leave because of the medical emergency, family emergency or personal hardship is or is expected to be at least 10 workdays.

2. In making a determination as to whether a medical emergency, family emergency or personal hardship is likely to result in a substantial loss of income, the Chief of Police or his/her designee shall not consider factors other than whether the absence from duty without available paid leave is or is expected to be at least 10 workdays.

E. Application to Become a Leave Donor.

1. To become a leave donor, a member or civilian employee must submit a written request to the Chief of Police or his/her designee that specifies the number of hours of his/her accrued annual leave to be transferred to the sick leave account of an approved leave recipient.

2. Before approving a member or civilian employee's request to become a leave donor, the Chief of Police or his/her designee shall ensure that the donor--

- a. will have a minimum combined annual and/or compensatory time off balance of at least 60 hours after reduction of the requested hours to be donated.
- b. indicates the full name on the request of the leave recipient and the number of hours to be donated.
- c. is not donating leave to a leave recipient who is an immediate supervisor or other official in the donor's chain of command.

F. Transfer of Donated Leave.

1. All accrued and accumulated leave of a leave recipient must be used prior to transfer of the donated leave to the leave recipient.

2. The transfer of leave will cease when the medical emergency, family emergency or personal hardship ceases. Leave that was transferred, and not used, shall be returned to the leave donor(s). In the case of multiple donations from different leave donors, leave will be returned on a pro rata basis.

3. In the case of a member or civilian employee who has incurred a performance of duty injury or illness that qualifies as a medical emergency, donated leave received will be returned to the leave donor(s) if the leave recipient elects to repurchase the leave used under the regulations of the U.S. Department Labor, provided however, that such donated leave is not otherwise subject to the accumulation restriction contained in section III (B)(1), above.

4. The minimum donation is four hours. However, the Chief of Police or his/her designee may waive this requirement in certain circumstances.

G. Prohibition Against Coercion or Reprisal.

1. A member or civilian employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other member or

civilian employee for the purpose of interfering with any right such member or civilian employee may have with respect to donating, receiving, or using leave under this section.

2. For the purposes of paragraph 1, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an assignment, promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of an assignment, promotion, or compensation).

Section XII. Reimbursement for Unearned Leave.

A. When a member or civilian employee who is indebted for unearned leave is separated from service with the Department, the Chief of Police or his/her designee should:

1. Require the member or civilian employee to refund the amount of leave pay for which he or she is indebted; or
2. Deduct that amount from any pay due him or her.

B. For the purposes of this section, a member or civilian employee who enters active military service with a right to restoration is deemed not to have separated from service with the Department.

C. This section does not apply when a member or civilian employee;

1. Dies;
2. Is eligible for disability retirement; or
3. Resigns or is separated because of a disability which prevents him/her from returning to duty or continuing in the service and which is the basis of the separation as determined by the Chief of Police or his/her designee on medical evidence deemed acceptable.

Section XIII. Limitation on Redesignation of Paid Leave Used.

A. Paid leave charged to a particular category of leave may not be redesignated unless it is authorized by the Chief of Police or his/her designee to correct an administrative error.

Section XIV. Transfer of Existing Leave within a Member or Civilian Employee's Account.

A. A Member or civilian employee may request to transfer his or her existing annual leave and/or compensatory time to offset a negative sick leave balance.

B. A member or civilian employee may request to transfer existing compensatory time to offset a negative annual leave balance.

C. Existing sick leave cannot be transferred to offset a negative annual leave balance.

Section XV. Repurchase of Sick Leave used a Result of a Performance of Duty Injury or Illness.

A. The Chief of Police or his/her designee may recredit sick leave to the leave account of a member or civilian employee who elects to buy back sick leave used as a result of a job-related disability for which a claim has been accepted by the U.S. Department of Labor.

B. Sick leave will be reccredited only in accordance with regulations promulgated by the U.S. Department of Labor.

Section XVI. Lump Sum Payment for Accumulated and Accrued Annual Leave on Separation from the Department.

A. Upon approval of the Capitol Police Board, a member or civilian employee who is separated from service or who dies while employed may be paid a lump sum payment.

B. The lump sum payment shall--

1. be equal to the pay the member or civilian employee would have received had such member or civilian employee remained in the service until the expiration of the period of annual leave;
2. be based on the rate of basic pay in effect on the last day of service of the separating member or civilian employee.
3. not be calculated on the basis of extending the period of leave described in paragraph 1 of this section by any holiday occurring after separation from service;
4. be considered pay for taxation purposes only; and
5. be paid only after the Chairman of the Capitol Police Board certifies the applicable period of leave to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate.

C. Nothing in this section shall authorize a lump-sum payment for members and civilian employees who separated prior to the effective date of Pub. L. 105-55.

Section XVII. Lump-Sum Payment for Accumulated and Accrued Leave on Entering Active Duty.

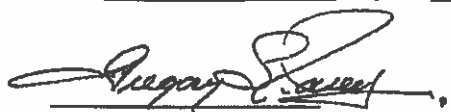
A. A member or civilian employee who enters active duty in the armed forces may:

1. receive a lump-sum payment for accrued annual leave in accordance with section XVI above, in addition to any pay or allowance payable from the armed forces; or
2. elect to have the leave remain to the credit of such member or civilian employee until such member or civilian employee returns from active duty.

Section XVIII. Effective Date.

The regulations prescribed herein shall be effective upon approval by both the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate.

By unanimous concurrence of the Capitol Police Board the regulations prescribing a unified leave system for members and civilian employees of the United States Capitol Police are hereby adopted this 21ST day of MAY, 1998:



Gregory S. Casey
Member



Wilson Livingood
Chairman
U.S. Capitol Police Board



Alan Hantman
Member