

Attachment A: Excerpt from FSH 6109.11, Chapter 30

(Note: Wording shown below with strike through is superseded by language contained in Attachment B to this Settlement Agreement)

38.6a - Dismissal and Closure Procedures for Field Offices

Use the following procedures when a disruption occurs before or during the workday in the field offices when granting leave for group dismissals. These announcements do not apply to individuals who are designated as emergency employees by their supervisors.

1. Open with Option for Unscheduled Leave or Unscheduled Telework. The office is open and employees have the option for unscheduled leave or unscheduled telework. Non-emergency employees must notify their supervisor of their intent to use unscheduled leave or unscheduled telework (if telework-ready).

a. Non-emergency employees have the option to:

- (1) Use earned annual leave, compensatory time off, credit hours, or sick leave, as appropriate;
- (2) Take leave without pay;
- (3) Rearrange their work hours under flexible work schedules; or
- (4) Perform unscheduled telework (if telework-ready).

2. Delayed Arrival with Option for Unscheduled Leave or Unscheduled Telework. The office is open under a delayed arrival and employees have the option for unscheduled leave or unscheduled telework. Non-emergency employees must notify their supervisor of their intent to use unscheduled leave or unscheduled telework.

a. If the office is open under a XX-hour delayed arrival, non-emergency employees should plan their commute so the arrival for work is no more than XX hour(s) later than the employees' normal arrival times. For example, if the office announces a 2-hour delayed arrival policy, employees who normally would arrive at 8 a.m. should arrive for work no later than 10 a.m. Such employees will be granted administrative leave for up to the designated number of hours past their normal arrival times.

b. If the office is open under a delayed arrival where employees must report by a specified time, non-emergency employees must report to their office no later than the specified time and will receive administrative leave up until the announced reporting time. For example, if the office announces that all employees must report to their office no later than 10 a.m., non-emergency employees will receive administrative leave up until 10 a.m., but may arrive at their offices earlier.

3. Early Departure. The office is open at the start of the day, but conditions change to warrant an early departure. Agency officials may determine that employees are excused XX-hours(s) earlier than their normal departure time, or the office will close at a specific time, or the office is closing immediately.

a. Non-emergency employees will be dismissed from their offices early relative to their scheduled departure times and will be granted administrative leave for the number of hours remaining in their workday beyond their early departure time, unless the employee is: scheduled to telework; departs prior to the early dismissal time, on leave (see section 38.7), working from a remote location; or, on official travel.

b. Examples:

(1) If a 2-hour early departure is announced, employees who normally work until 5 p.m. would be expected to depart at 3 p.m.

(2) If the office will close at 2 p.m., employees who normally work until 5 p.m. would be expected to depart at 2 p.m.

4. The Office is Closed. The office is closed for the entire day. Non-emergency employees will be granted administrative leave for the number of hours they were scheduled to work unless the employee is: scheduled to telework; on paid leave; on LWOP; working from a remote location; on official travel; or, on an alternate work schedule (AWS) day off.

5. Shelter-In Place. Shelter-in-place (SIP) procedures are conducted when employees (and visitors) must remain in the office or take immediate shelter in a readily accessible interior location to protect themselves. An SIP may be needed for a variety of reasons, which could include severe weather (for example, tornadoes) or danger from exposure to outside contaminants in the event of a release into the atmosphere of hazardous materials such as radiological, biological, or chemical contaminants.

a. All employees should follow their agency's emergency procedure for shelter-in-place announcements. Employees should remain in their designated safe area until they are notified by agency officials that they may return to their offices or leave their worksites.

b. Employees who are unable to enter their buildings due to shelter-in-place procedures should be granted administrative leave for the duration of the announcement.

6. Local officials refer to OPM's operating status determinations and procedures for additional information and apply it to their particular situation.

<http://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/dcdissmissal.pdf>.

38.7 - Employee Pay and Leave for Closures and Group Dismissals

Whenever the office or activity is officially closed during normal work or business hours, compensation may not be withheld from the affected employees. When employees are prevented from coming to work or released from work due to office closures or group dismissals, the absence is excused without charge to leave or loss of pay. Time is recorded as administrative leave (TC-66).

1. When conditions make it possible to resume work and some employees are either unable or elect not to return to work, their time must be appropriately accounted for on an individual basis such as, annual leave, sick leave, credit hours, leave without pay (LWOP), and so forth.
2. Do not charge leave to employees in annual leave status on days when all employees are excused from the performance of their duties as a result of a non-workday established by Executive or Administrative order, ~~or when a complete closure of the office occurs which prevents the employee from coming to work, such as weather conditions, and so forth.~~
3. When employees who would otherwise be required to report to work are excused from work because of an office closure, other employees who do not have a scheduled workday(s) during the office closure may not be granted another non-workday. Employees taking a day off under a flexible work schedule are in nonpay status on those days and have no entitlement to an additional day off.
4. Employees who are not affected by the emergency (i.e., not prevented from working) should not be granted administrative leave.
5. Telework. When a worksite is closed for a partial or full day, employees who are regularly scheduled to telework must continue to telework or take unscheduled leave, or a combination of both for the entire workday, unless the emergency affects their ability to perform work at their telework site. Such a situation should be communicated to the supervisor as soon as possible.

Employees who were not scheduled to telework on the day of an office closure are not required to telework, unless they are identified as an emergency or mission critical employee and can perform their duties from their telework location.

6. Pre-Approved Leave.

- a. ~~The Office is Closed. When the office is closed for the entire day, employees on pre-approved paid leave will be granted administrative leave for the number of hours they were scheduled to work.~~
- b. Delayed Arrival. When the office is open under a delayed arrival, employees on pre-approved leave for the entire workday or employees who have notified their

supervisors of their intent to use unscheduled leave when a delayed arrival is announced should be charged leave for the entire workday. Such employees should not be granted administrative leave.

c. Early Departure. When the office is open at the start of the day, but conditions change to warrant an early departure, employees on pre-approved leave for the entire workday or employees who have requested unscheduled leave before an early departure is announced should continue to be charged leave for the entire workday or remainder of the workday, as applicable.

(1) If employees are on leave and are not scheduled to return on that day, the employees are not prevented from working by the emergency and should continue to be charged leave.

(2) If employees on leave are scheduled to return to work after the early or final departure time, as applicable, the employees should be granted administrative leave starting from the time they were scheduled to return from leave.

(3) If an employee's pre-approved leave commences after their early departure times (e.g., for a medical appointment), administrative leave may be granted.

7. Employees on an Alternative Work Schedule (AWS) Day Off. If Federal offices are closed on the employees' regular AWS day off, they are not entitled to an additional "in lieu of" day off. AWS employees who fulfill their biweekly work requirement in less than 10 working days are already entitled to an AWS day off. Such employees may not receive an additional day off. In addition, employees cannot be granted administrative leave on a non-workday. AWS employees whose agency's offices are closed on their AWS day off may not be granted administrative leave for the scheduled non-workday.

8. Employees on Leave Without Pay. Employees on leave without pay, leave without pay for military duty, workers' compensation, suspension, or in another nonpay status are not granted administrative leave when Federal offices are closed. These employees should remain in their current status. Employees in a nonpay status have no expectation of working and receiving pay for a day during which Federal offices are closed and therefore will not be granted administrative leave.

9. Employees Who Work from Remote Locations. Employees who are remotely situated from their work unit (i.e., 100 percent telework) when the office is closed for a partial or full day is expected to work a full day. Administrative leave will be granted if the emergency affects their telework site or if the teleworker has no work to perform because the duty station is closed.

10. Employees on Official Travel. Employees on official travel are expected to continue working on a workday when their regular duty station is closed for a partial or full day. However, if the emergency procedures of the agency make it impossible for the employees to continue work, for example, the travel assignment requires frequent contact with the agency, administrative leave may be granted.

11. Amount of Leave. For employees on a flexible work schedule, the amount of excused absence and/or administrative leave to be granted should be based on the employee's established workweek and hours as recorded in the T&A record header.

If the supervisor determines that excused absence and/or administrative leave shall be granted to employees based upon individual patterns of arrival and departure, the following methods for identifying these patterns may be used:

- a. **Constant Pattern of Arrival.** The majority of employees tend to arrive within 5 to 10 minutes of the same time each day. Once a pattern has been established, it should be used as a reference point.
- b. **Predominant Pattern of Arrival.** If an employee maintains a schedule in which one particular arrival time predominates, this arrival time should be used to determine the amount of excused absence and/or administrative leave to be granted.
- c. **Variable Pattern of Arrival.** Where there is such variation in an employee's arrival and/or departure time that there is no discernible pattern, the employee shall record 8 hours.