

**R2 OFFICE CLOSURE
SETTLEMENT AGREEMENT**

Between

**Forest Service – Rocky Mountain Region and
National Federation of Federal Employees**

The Settlement Agreement between the National Federation of Federal Employees (NFFE) and the Forest Service – Rocky Mountain Region (Management), collectively “the Parties,” constitutes a full and final settlement of any and all alleged issues and requests raised in the grievances filed on December 1, 2015, December 21, 2015, and January 19, 2016, and the Unfair Labor Practice filed by NFFE on January 27, 2016.

The Parties agree that resolution of this matter is in their mutual best interest and have agreed to set forth the terms of this Agreement in writing. This Agreement is authorized under 5 U.S.C. 71 and Article 9 of the Master Agreement.

Management Agrees to:

1. When the decision is made by Management to close an office or to authorize delayed arrival or early dismissal of employees, Management will authorize the use of administrative leave in accordance with FSH 6109.11, Chapter 30, Section 38.6a - *Dismissal and Closure Procedures for Field Offices* and Section 38.7 - *Employee Pay and Leave for Closures and Group Dismissals*.
2. Within 7 days of the signature of this settlement agreement, Management will email the signed settlement agreement and all attachments to this agreement to bargaining unit employees and their supervisors and managers in Region 2. Attachments include the following:

Attachment A: Excerpt from FSH 6109.11, Chapter 30, showing Section 38.6a - *Dismissal and Closure Procedures for Field Offices* and Section 38.7 - *Employee Pay and Leave for Closures and Group Dismissals*.

Attachment B: Scheduled Leave and Office Closure Memorandum of Understanding between the FS and NFFE, dated 2/18/16.

Attachment C: Notice of office closure, delay arrival or early dismissal

3. Within 7 days of the effective date of this settlement agreement, Management will post this Settlement Agreement, including all attachments to this agreement, on the Rocky Mountain Region internal website. This Settlement Agreement will remain on the Rocky Mountain Region and HRM Labor Relations internal websites until it is outdated due to changes in

government-wide rule or national labor-management agreement, or the parties mutually agree, in writing, to update or abolish the document.

4. Management will provide employees the agreed upon notice of office closure, delay arrival or early dismissal via email and voice messaging transmission within a reasonable time of the decision to close, delay arrival or early dismissal (Attachment C).

NFFE Agrees to:

1. Withdraw Grievances and Information Requests filed on December 1, 2015, December 21, 2015, and January 19, 2016.
2. Withdraw Unfair Labor Practice filed on January 27, 2016.

The Parties Agree to:

1. To cooperate in good faith to complete implementation of the Agreement and abide by the terms of this Agreement. If a Party believes that the other has not fully complied with one or more terms of the Agreement, that Party or his/her representative shall make a good faith effort to contact the other party to discuss and seek correction of any compliance or implementation issues before taking formal action. This does not affect any time limits for taking further action.
2. The purpose of this Settlement Agreement is to resolve the alleged issues and requests raised in the grievances filed on December 1, 2015, December 21, 2015, and January 19, 2016, and the Unfair Labor Practice filed by NFFE on January 27, 2016. This Settlement Agreement was not the result of negotiations under Article 11 or the Labor Statute, and does not affect any bargaining obligation or right that either Party might otherwise have on this or similar matters.
3. The terms of this Settlement Agreement may not be used by any other individual to justify or request similar terms and resolution.
4. If a Party believes that another Party has failed to comply with the terms of this Settlement Agreement, the Party may:
 - a. File a new step 1 grievance requesting that the terms of the Settlement Agreement be specifically implemented, OR
 - b. Reinstate the grievance at the next step from where the settlement occurred, if applicable.

Either 1 or 2 above must be done within 30 days following the date on which the grievant knew or should have known of alleged noncompliance.

5. The Parties are entering into this Settlement Agreement voluntarily, without coercion or duress, and that they fully understand the terms of this Settlement Agreement.
6. The effective date of this Agreement is date that the last person listed below signs and dates this Agreement.
7. Nothing in this agreement or in these attachments is intended to conflict with FSH 6109.11 Chapter 30, Pay Administration, Attendance, and Leave, the National MOU for Scheduled Leave During Office Closure, or the NFFE Master Agreement.



Karen L. Mora, NFFE FSC VP,
Rocky Mountain Region

3/23/16

Date



Maribeth Gustafson, Deputy Regional Forester,
Rocky Mountain Region

3-22-2016

Date

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 officers 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.

Attachment B: Scheduled Leave and Office Closure MOU

SCHEDULED LEAVE DURING OFFICE CLOSURE

MEMORANDUM OF UNDERSTANDING

BETWEEN

USDA FOREST SERVICE AND NFFE FOREST SERVICE COUNCIL, IAMAW

This Memorandum of Understanding (MOU) is between the USDA Forest Service (Management) and the National Federation of Federal Employees, IAMAW, Forest Service Council (Union), hereafter referred to as the Parties. This MOU pertains to employee leave status when they are on pre-approved leave when the office is closed due to weather or other similar situation.

The Parties agree:

1. The attached changes pertaining to office closures and employees on pre-approved leave, shown in red, will be made to the FSH 6109.11, Chapter 30.
2. The parties have jointly developed the attached all employee communication regarding this change.
3. The parties agree that until further negotiations of the Agency's Telework Policy occur, only employees who are scheduled to telework or who are designated as emergency employees will be required to telework during times when the office is closed for weather or other situation. Simply checking the box on the AD-3018, which states:

Employee understands that USDA may require participating employees to work from their telework site, e.g. home, satellite office, or other location during periods of Unscheduled Telework authorization due to area closures, dismissals, unforeseen emergencies or other reasons as authorized by the Supervisor.

does not constitute notification that the employee is required to telework.

4. This MOU becomes effective when both of the following have been completed:
 - (a) The Interim Directive FSH 6109.11, Chapter 30 on this subject is issued and
 - (b) Approval by the Agency Head or that date on which the thirty (30) day time limit for agency head review expires, whichever is earlier.

Either Party may request, consistent with midterm negotiations under Article 11 of the Master Agreement, to re-open or re-negotiate the agreement.

Agreed to:

 2/18/12
Date

Gene Blankenbaker
Deputy Director HRM
Forest Service


Date

Melissa Baumann
Secretary-Treasurer
NFFE Forest Service Council

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. ~~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 Paid Leave. Employees on pre-approved paid leave during a full-day office closure, delayed arrival, or early departure, shall continue to be charged leave for the period for which their leave has been approved.
 - a. Full day office closure. When the office is closed for the entire day due to weather conditions or other situation, employees on pre-approved paid leave will continue to be charged leave for the part of the day when they were scheduled for approved leave. Such employees should not be granted administrative leave for their period of scheduled leave. Employees on scheduled leave for the entire day shall continue to be charged leave and will not be granted administrative leave.
 - 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



Intended Audience: All FS Employees

Office Closure Procedures during Inclement Weather & Emergencies

What You Need to Know

The Absence and Leave policy has been updated for those employees on pre-approved paid leave when the office is closed due to inclement weather and emergencies. If an employee has pre-approved leave at the same time as an office closure, then the employee's time in leave status continues. Employees on pre-approved paid leave during a full-day office closure, delayed arrival, or early departure, shall continue to be charged leave for the period for which their leave has been approved and will not code administrative leave (TC-66) on their timesheet for that period.

HRM has also developed a [quick reference guide](#) to help managers and employees with coding time during office closures, delayed openings, or early departures.

Finally, the Office of Personnel Management (OPM) has released information on [HR flexibilities to assist agencies and managers with HR options during emergency situations](#).

If You Have Questions or Need Assistance

Employees who have specific questions regarding their leave status during office closures should contact their supervisor or HRM, or open an HR Help case by:

1. Logging into [ConnectHR \(Dashboard\)](#) and click on the HR Help link. For detailed instructions, visit the [HR Help How-to Add a Case](#) guide.
2. Sending an e-mail to: ASC_HRM_Contact_Center@fs.fed.us
3. Or by calling the HRM Contact Center at 1-877-372-7248, Press 2.

We want your feedback!

HRM values your feedback. Please complete this short [survey](#) to help us improve HRM messages to better meet your needs and interests.

.....
Do not respond to this mass email message.
.....

Attachment C: Rocky Mountain Region Office Closure, Delay Opening, and Early Departure Script

Office Closure:

“Due to inclement weather (or other emergency situation), the Regional Office will be closed on (DATE).

Non-emergency employees will be granted administrative leave for the number of hours they are regularly scheduled to work.

Emergency employees are expected to report to work unless otherwise directed by their supervisor.

Employees scheduled to telework must continue their telework schedule or take unscheduled leave, or a combination of both for the entire workday. Employees with approved telework agreements who were not regularly scheduled to telework may choose to do so if they have work to perform and have notified their supervisor.

Employees on pre-approved paid leave shall continue to be charged leave for the period for which their leave has been approved. Employees on official travel status are expected to continue regular schedule.”

Delay Opening:

“Due to inclement weather (or other emergency situation), the Regional Office will open at XXXX hours.

Non-emergency employees will be granted administrative leave for the number of hours they are regularly scheduled to work.

Emergency employees are expected to report to work unless otherwise directed by their supervisor.

Employees scheduled to telework must continue their telework schedule or take unscheduled leave, or a combination of both for the entire workday. Employees with approved telework agreements who were not regularly scheduled to telework may choose to do so if they have work to perform and have notified their supervisor.

Employees on pre-approved paid leave shall continue to be charged leave for the period for which their leave has been approved. Employees on official travel status are expected to continue regular schedule.”

Early Departure:

“Due to inclement weather (or other emergency situation), the Regional Office will close at XXXX hours.

Non-emergency employees will be granted administrative leave for the number of hours they are regularly scheduled to work.

Emergency employees are expected to report to work unless otherwise directed by their supervisor.

Employees scheduled to telework must continue their telework schedule or take unscheduled leave, or a combination of both for the entire workday. Employees with approved telework agreements who were

not regularly scheduled to telework may choose to do so if they have work to perform and have notified their supervisor.

Employees on pre-approved paid leave shall continue to be charged leave for the period for which their leave has been approved. Employees on official travel status are expected to continue regular schedule.”