McGowan Declaration – Exhibit T

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER,

Plaintiff,

v.

DR. JAMES BILLINGTON,
In his official capacity
as Librarian of Congress,

Defendant.

RECEIVED
MAR 24 2008

Civil Action No. 05-1090 (JR)

DEFENDANT'S RESPONSE TO PLAINTIFF'S SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS PURSUANT TO RULE 34

Defendant, James Billington, the Librarian of Congress, in accordance with the Federal Rules of Civil Procedure, hereby responds to Plaintiff's document request.

GENERAL OBJECTIONS AND QUALIFICATIONS

1. Defendant objects to Plaintiff's discovery requests to the extent that any inquiry or request seeks information or documents protected by the attorney-client privilege, or any other evidentiary privilege, or is conditionally protected under the work-product doctrine.

2. Defendant objects to Plaintiff's discovery requests to the extent that any inquiry or request seeks information or documents not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendant objects to Plaintiff's discovery requests to the extent that any inquiry or request seeks to have Defendant create documents that do not exist.

4. Defendant objects to all discovery that is unreasonably cumulative or duplicative, or is equally available to Plaintiff.

5. Defendant objects to any inquiry or request that seeks information which, if disclosed, would violate a statute or regulation. Defendant objects to any demand by Plaintiff that the documents sought be produced for copying and inspection in a manner other than that which they are kept in the usual course of business.

REQUESTS

30. Documents stating the Congressional Research Service's policies, procedures or practices regarding employee leaving (including annual leave, personal leave, family and medical leave, religious leave, and any other type of leave), including policies, procedures or practices regarding advance leave (i.e., leave taken against future accrual) and sharing of leave.

Response: Defendant objects to Request 30 as not likely to lead to the discovery of relevant admissible evidence. Subject to and without waiving its general and specific objections, documents believed to be responsive to this request are attached hereto.

March 19, 2008

Respectfully submitted,

JEFFREY A. TAYLOR, D.C. BAR #498610
United States Attorney

RUDOLPH CONTRERAS, D.C. Bar #434122
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing ***Defendant's Response to Plaintiff's Sixth Request for Production of Documents Pursuant to Rule 34*** was made by first class mail on the 19th day of March 2008 to:

Arthur B. Spitzer
American Civil Liberties Union
of the National Capital Area
1400 20th Street, N.W., #119
Washington, D.C. 20036
Artspitzer@aol.com

Sharon M. McGowan/
Kenneth Y. Choe
American Civil Liberties Union Foundation
125 Broad Street
New York, New York 10004
Smcgowan@aclu.org

BEVERLY M. RUSSELL
Assistant United States Attorney

Collective Bargaining Agreement with Congressional Research Employees Association

Page 84

ARTICLE XX

LEAVE

Section 1. Confidentiality of Records

Annual and sick leave records of an employee, or information from these records, will not be made available to the public, except when authorized in writing by the employee. The Library will make every reasonable effort to maintain confidentiality of these records to prevent access by unauthorized employees, and will instruct time and attendance clerks on appropriate procedures necessary to maintain confidentiality. Leave balances and the use of approved leave in and of themselves will not be the basis for denying promotion or instituting discipline.

Section 2. Leave Charge Increments

All types of leave will be charged in increments of fifteen (15) minutes unless changed through mutual agreement.

Section 3. Annual Leave

A. Employees will earn and accrue annual leave in accordance with applicable laws and regulations. Requests for annual leave shall be made and approved in advance, except in cases of emergency. To the greatest extent possible, consistent with workload needs, annual leave will be approved in order to satisfy the preferences of and to provide equity among employees. In cases where an employee identifies the need to have a determination by a date certain, the supervisor shall respond to the employee's request by that date. Requests for annual leave that are denied will be denied without prejudice and may be resubmitted. The employee will not be required to justify requests for annual leave, except when emergency leave is involved. Every effort will be made to accommodate requests for leave for religious holidays and for weddings, funerals, significant family events, and family emergencies.

B. In an emergency that prevents an employee from submitting a leave request in advance, the employee must call his or her immediate supervisor at the beginning of the workday or as soon as possible thereafter. If the immediate supervisor is unavailable, the employee must use the call transfer procedure to talk to or leave a message with the person to whom the call is forwarded. The employee may be transferred to another supervisor by that person.

C. Supervisory denial of a request for annual leave, including emergency annual leave, may be appealed to the next higher level supervisor. When the employee's request is denied by the next higher level supervisor, the reason for the denial shall be given to the employee as soon as possible.

D. An employee who does not report to work when expected, including an employee whose request for emergency annual leave has been denied, will be put in an Absent Without Official Leave status pending clarification of the reason for the absence.

Absence without official leave (AWOL) is an absence without pay that results from a determination by an employee's supervisor or other Library official that no type of approved leave will be granted for a period of absence for which the employee did not obtain advance approval or for which a subsequent request for leave or excused tardiness was denied. A charge of an absence as AWOL does not, in itself, constitute a disciplinary action, although AWOL may subject an employee to appropriate disciplinary action.

E. To assure equity, the Library will issue a notice to staff once during the first six months of the year and once during the last six months to encourage them to monitor their compensatory time and use-or-lose leave so that at the end of the leave year leave can be granted equitably among all bargaining unit staff.

F. In the event of a conflict in scheduling annual leave among employees, supervisors shall seek to treat employees equitably while considering factors including, but not limited to, seniority, compensatory time balances and use-or-lose status, critical work, determinable personal and financial hardships, and significant family events.

G. When annual leave has been requested and approved, approval will not be canceled except in extraordinary situations in which the presence of the individual employee is required by the work needs of the Library and only after the employee has been consulted and informed. In deciding whether to cancel any previously approved leave, the Library will consider possible alternatives and any personal reasons, including personal and financial hardships, presented by the employee. In these situations, the employee normally will be notified at least three (3) working days in advance of the beginning of the scheduled leave period.

H. Advance annual leave may be granted to the extent such leave will accrue to the employee during the remainder of the current leave year or in the time remaining on his or her appointment, whichever occurs sooner.

Section 4. Use of Compensatory Time

The use of compensatory leave shall be governed by the relevant provisions in this Agreement on annual leave.

Section 5. Sick leave (personal, family, funerals and adoption)

A. General categories

The Library will grant sick leave to an employee when an employee:

1. Receives medical, dental, or optical examination or treatment; or

2. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth; or

3. Provides care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment; or

4. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member (see B. below); or

5. 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

6. Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings, required travel, and any other activities necessary to allow the adoption to proceed (see E. below).

B. Sick Leave to Provide Care to a Family Member or to Make Arrangements Necessitated by the Death of a Family Member

1. A full-time employee may use a total of 40 hours of sick leave per leave year to provide care to a family member or to make arrangements necessitated by the death of a family member. Said sick leave may be advanced. A full-time employee may use up to an additional 64 hours of sick leave per year for these purposes, so long as the use of such additional leave does not bring that employee's sick leave account below 80 hours. Such additional sick leave may not be advanced.

2. A part-time employee may use sick leave equal to the average number of hours of work in the employee's weekly scheduled tour of duty to provide care to a family member or to make arrangements necessitated by the death of a family member. Said sick leave may be advanced. A part-time employee may use additional sick leave for these purposes up to an amount equal to the number of hours normally accrued by that employee during a leave year so long as the use of such additional leave does not bring that employee's sick leave account below twice the average number of hours work in the employee's weekly scheduled tour of duty. Such additional sick leave may not be advanced.

3. If the number of hours in the employee's tour of duty is changed during the leave year, the employee's entitlement to use sick leave for these purposes shall be recalculated based on the employee's new tour of duty.

4. If an employee does not use any or all of the amount of sick leave provided for family care or bereavement purposes in a leave year, it cannot be accumulated in succeeding years.

5. A family member means the following relatives of the employee: spouse and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

C. Requesting Sick Leave

To the extent the use of such leave is foreseeable, requests for sick leave shall be submitted in advance using WebTA. When an employee is unable to request sick leave in advance because of unforeseen sickness, injury or other circumstances, the employee, if possible, shall make a reasonable effort to inform his or her immediate supervisor of the need for sick leave and the expected return-to-duty date by telephone no later than the beginning of the employee's fixed schedule or the core period. If the supervisor is unavailable, the employee must use the call transfer procedure to talk to or leave a message with the person to whom the call is forwarded. The employee may be transferred to another supervisor by that person. Employees may be

required for good and sufficient reasons to call in to report continued sickness or incapacitation on each day they are absent unless sick leave for a continued sickness or incapacitation has been previously approved.

D. Appeal of Denial

Supervisory refusal to grant sick leave may be appealed to the next higher level supervisor. When the employee's request is denied by the next higher level supervisor, the reason for the denial shall be given to the employee as soon as possible.

E. Medical certificates

1. Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) workdays of continuous duration. In cases where the nature of the illness was such that an employee did not need to see a medical practitioner, the employee's written statement concerning the illness may be accepted. In such instances the employee's written statement must be filed within five (5) work days after return to duty. Applications for sick leave for an employee to care for a member of his or her immediate family having a communicable disease, or when the employee is required to be absent because of exposure to a communicable disease, require a statement from the local health authorities or a health care provider indicating the period of isolation, quarantine or restriction of movement of the patient.

2. An employee suffering from a recurring condition requiring occasional absences of longer than three (3) days shall provide a medical certificate attesting to the nature of the condition. Thereafter, the employee need only submit a personal statement in lieu of a medical certificate, providing that the Library determines that a medical certificate is not necessary.

3. Employees who are released from duty because of illness on advice of medical personnel in the Library's health units shall not be required to furnish a medical certificate to substantiate sick leave for time released. An employee so released from duty will be charged sick leave beginning at the time of departure from the Library. Employees obtaining examination or treatment at a Library health unit, or from another health unit in an emergency while in the performance of duty, shall be regarded as in duty status and shall not be charged sick leave if they are returned to duty.

4. Any inquiry into a questionable medical certificate will be conducted by the Health Services Office. Advance notice of such inquiry shall be given to the employee involved. Any possible issues of misconduct will be handled as the Library determines is appropriate in the situation involved.

F. Abuse of sick leave

The Parties recognize the substantial contribution that accumulated sick leave has made to employees' welfare at times, and therefore urge that this benefit not be abused. In those individual cases where the Library believes that an employee is abusing or improperly using sick leave, the employee shall be first advised orally of the problem by the appropriate supervisor. The employee may have a representative present at this meeting. Thereafter, if the Library believes it warranted, it may request the employee to furnish a medical certificate for each subsequent absence on sick leave, and the employee shall be so advised in writing. Those cases requiring a medical certificate

shall be subsequently reviewed to determine whether such requirement can be eliminated. Such review shall take place no later than the end of four (4) months from the date of the issuance of the written notice requiring a medical certificate. When it has been determined that the restriction is no longer necessary, all records pertaining to the matter, including the final notice, shall be removed from work site files and Official Personnel Folders. However, removal of such records does not preclude the Library from considering and relying on the facts of the restriction in any future leave restriction or disciplinary action occurring within two (2) years from the date the original restriction was no longer deemed necessary unless a recurring pattern has been established.

G. Sickness During Annual Leave

When sickness occurs during annual leave, the period of illness may be charged to sick leave, subject to provisions of Section 5.E (1 and 2) above.

H. Sick Leave for Treatment for Injuries in the Performance of Duty

Employees injured in the performance of duty, and requiring examination or treatment by the health unit or a medical practitioner, will be excused without charge to leave during the scheduled workday on which the injury was sustained.

Section 6. Leave for Purposes Relating to the Adoption of a Child

A. An employee may be granted annual leave, accrued and accumulated sick leave, or leave without pay for the adoption of a child. The leave may cover a period of time involved in the adjustment in bringing the adopted child into the employee's home.

B. The purposes for which an adoptive parent may request sick leave include appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel, and any other activities necessary to allow the adoption to proceed. Sick leave may also be granted for any periods during which an adoptive parent is ordered or required by the adoption agency or by a court of competent jurisdiction to be absent from work to care for the adopted child.

C. Use of sick leave for these purposes is in addition to the employee's entitlement to unpaid leave under the Family and Medical Leave Act of 1993 (5 U.S.C secs. 6381-6387 and LCR 2015-21).

Section 7. Advance Sick Leave

In cases of serious illness or ailments, employees may be granted sick leave in advance of its accrual, up to a total of 240 hours. In granting such advance sick leave the following shall be taken into consideration:

A. whether the staff member's leave record reflects an abuse of sick leave privileges;

B. whether there is any adverse action pending against the staff member;

C. whether it is reasonably expected that the employee will return to duty;

D. whether the staff member is expected to retire, to be separated, or to resign before any advanced sick leave is repaid;

E. whether the employee's appointment will expire before the employee will earn sufficient leave to repay the amount advanced;

F. whether the amount credited to the employee in the retirement fund will cover the period of advance sick leave.

As a general rule, a serious disability or ailment will be construed to mean an ailment or disability lasting for five (5) or more consecutive workdays. However, the actual advance may be for any part of the total absence. In special circumstances, additional advance sick leave may be granted for absences of less than five consecutive workdays for an ailment or disability related to the serious ailment or disability. Sick leave may be advanced even though the employee has annual leave to his credit, with the understanding that the total advance will be charged to such leave subsequently earned. All requests for advance sick leave shall be accompanied by a certificate from a licensed physician. If the physician or a staff member prefers, he/she may furnish the certificate directly to the Supervisor of Health Services, LM G40, as indicated on the Request for Advance Sick Leave, Form LW 3/71 (rev 7/90).

Section 8. Leave Transfer Program and Family Leave

If an employee uses sick leave to care for a family member under section 5 above, such leave shall be considered as available paid leave for the purpose of determining an employee's eligibility to become a leave recipient under the voluntary leave transfer program.

Section 9. Absence for Maternity Purposes

A. Maternity purposes are the birth or adoption of a child, the termination of a pregnancy, the incapacitation or confinement related to pregnancy, to the termination of a pregnancy or to adoption, or postnatal mother and/or infant care.

B. Pregnancy or parenthood are conditions which may require the employee to be absent from the job because of incapacitation or necessary parental duties. To the extent available, sick leave may be used to cover the time required for physical examination and to cover the period of incapacitation or necessary parental duties. An absence for pregnancy confinement is to be treated like any other medically certified temporary disability.

C. Annual, sick and leave without pay (LWOP) may be granted for maternity reasons. The employee may request them in the order she prefers. The beginning and duration of the absence shall be determined by the Library after consulting with the employee and reviewing any pertinent medical records. The Library's determination may be subject to the grievance procedure. Requests for advance sick leave for maternity reasons shall be treated by the supervisor the same as any other request for advanced leave. Any approved absence in excess of available annual or sick leave will be recorded and treated as leave without pay. The employee should make known her intent to request leave for maternity reasons indicating the type of leave, approximate dates, and anticipated duration at least thirty (30) calendar days in advance to allow her supervisor time to prepare for any staffing adjustments which may be necessary.

D. No arbitrary date will be established by the Library requiring a pregnant employee to cease work or to prevent her from returning to work after childbirth. These decisions will be based upon the needs of the Library and the employee's medical condition, and determinations contrary to the employee's wishes may be the subject of a grievance.

E. The Library's overall objective is to make use of her skills for as long as the pregnant employee is not incapacitated for duty. If the pregnant employee, because of medical incapacitation, asks for modification of her duties or a temporary reassignment to other available work for which she is qualified, every reasonable effort will be made to accommodate her. The Library has the right to require medical certification as to the nature of the limitations which are recommended by the employee's physician.

F. An employee should substantiate any claims of capacity or incapacity for work.

Section 10. Absence for Paternity Reasons

A male employee, upon request, shall be granted accrued annual leave or may be granted leave without pay up to forty-five (45) work days for purposes of aiding, assisting, or caring for his newborn child, the mother of his newborn child, or minor children, including adopted child or children. See Section 6 above for the use of sick leave for purposes of adoption. The Library may, in its discretion, grant additional leave for these purposes.

Section 11. Family and Medical Leave Act

LCR 2015-21, Family and Medical Leave, which establishes the Library's policy and procedures for the administration of the Family and Medical Leave Act (FMLA) of 1993, is hereby incorporated by reference. The Act is intended to balance the demands of the workplace with the needs of employees and their families by allowing eligible employees to take reasonable amounts of leave for: 1) medical reasons, 2) the birth or adoption/foster care of a child, and 3) the care of a child, spouse, or parent who has a serious health condition.

Section 12. Leave Without Pay

Leave Without Pay is substantially different from annual leave and sick leave. It is not an additional leave category for which an employee accrues leave or to which an employee is entitled. The authorization of leave without pay (LWOP) is a matter of administrative discretion and may be granted without regard to the employee's unused leave credit. Requests for LWOP of less than thirty (30) work days may be granted under the same consideration for workload demands as apply to annual leave absences. As stated in LCR 2015-12, responsible officers must recognize that extended LWOP (i.e., over thirty (30) work days) involves certain costs and inconveniences to the Library, including the encumbrance of a position, loss of needed services, credit of six months of each year toward retirement, and coverage without cost to the staff member for up to one year under the health and life insurance programs. Thus each request for extended LWOP must be examined closely to make certain that the value of such extended leave to the Government as well as to the staff member is sufficient to offset the administrative inconveniences. As a basic condition for approval of extended LWOP there must be reasonable expectation that the staff member will return to the Library at the end of the period. In addition, it should be apparent that at least one of the following benefits would result: (1) increased job ability, (2) protection or improvement of the staff member's health, or (3) retention of a desirable staff member. Justifiable causes for extended LWOP include but are not limited to: a) education or training including self-directed study likely to result in increased competence; b) temporary service with another non-federal, public or private agency leading to increased job effectiveness or contributing to the public welfare; c) temporary illness or incapacitation; d) protection of an employee's status pending final action by the Office of Personnel Management on a claim for disability retirement, after all sick and annual leave have been exhausted; e) pending final action by Bureau of Employees' Compensation for a disability claim for an employment connected injury or disease. Employees who use LWOP in excess of

80 hours a year shall have subsequent requests for more LWOP in the same year reviewed.

Staff must realize that extended leave without pay (LWOP) affects their accumulation of leave (annual and sick), retirement coverage, life insurance coverage and enrollment, health benefits coverage and enrollment, unemployment compensation, injury compensation, and creditability of service. These effects of extended leave without pay are the same as those described in the appendix to LCR 2021-4 (Policy and Procedures for Short-Term Furloughs.)

Section 13. Tardiness

Employees on fixed work schedules are expected to report for work on time and be present for duty at the time assigned to work. The employee shall inform his or her supervisor promptly of the reason for any tardiness. Infrequent tardiness of less than one hour may be excused by the supervisor. Employees on flexitime who are tardy (defined as arriving later than the beginning of the applicable core period) will not be excused for tardiness except in extraordinary circumstances. Employees who are repeatedly tardy may be subject to disciplinary action.

Section 14. Excused Absence for Emergency Conditions

Excused absences may be granted for emergency conditions which interrupt normal operations or which prevent employees from reporting to work. The Library will make a determination regarding unsafe, unhealthy or hazardous working conditions (e.g., extreme heat or cold, flood, fire, poor ventilation, breakdown of essential building systems) which might necessitate early dismissal or temporary reassignment of those employees affected. The Association will be advised concerning this determination. The Association may request the Library to declare emergency conditions.

The Library will apply the guidelines set forth in Special Announcement 97-19, dated November 25, 1997 (incorporated in this contract as Appendix A), or its successor, for either charging leave or excusing employees without charge to leave when emergency conditions arise during working or nonworking hours.

Section 15. Court Leave

An employee will be granted authorized absence from work status without charge to leave or loss of pay for jury duty or for participating in judicial proceedings in a non-official capacity as a witness on behalf of the United States, the District of Columbia, or a state or local government. Court leave shall be granted in accordance with applicable rules and regulations (LCR 2015-16).

Section 16. Voting and/or Registering to Vote

Excused absence will be granted for purposes of voting and/or registering to vote in accordance with applicable rules and regulations of the Library.

Section 17. Bone Marrow or Organ Donation

Excused absence will be granted for the time necessary for an employee to serve as a bone-marrow or organ donor; however, such leave may not exceed seven days in a calendar year.

Section 18. Limited Duty Assignments

The need to limit regular duties of a staff member for medical reasons shall be concurred in by the Health Services Office, who shall notify the supervisor of the nature of the limitation, its probable duration, and possible accommodation, including the use of temporary reassignments and details, consistent with this Agreement.

Library of Congress
101 Independence Ave. SE
Washington, D.C. 20540
Comments: lcweb@loc.gov
(01/3/05)

LIBRARY OF CONGRESS REGULATIONS

Subject: Compensatory Time to be Used for Religious Observances

Section 1. Purpose

This Regulation describes the Library's policy and procedures for adjusting work schedules for staff members requesting time off for religious observances as authorized under Title IV of Public Law 95-390.

Section 2. Coverage

All staff members shall be covered under this Regulation, except those staff members whose tours of duty are on an "intermittent" basis.

Section 3. Policy on Compensatory Time off for Religious Observances

A. Under the law and this Regulation, a staff member whose personal religious beliefs require being absent from work during a regular workday or workweek may elect to work compensatory overtime to make up for the time to be used for religious observances, rather than taking annual leave.

B. The Library will not rule on the validity of a staff member's personal religious belief, i.e., to judge that one particular belief is more or less valid than another; however, the Library is obligated to insure that the intent of this law and Regulation is carried out, and reserves the right to question the staff member's request to use Compensatory Time for Religious Observance when there are indications that such a request is based on considerations other than the staff member's personal religious beliefs.

C. To the extent that such adjustments in work schedules do not severely disrupt the Library's mission, staff members in each instance shall be afforded the opportunity to work compensatory overtime, and shall in each instance be granted compensatory time off for religious observances when that staff member states that his/her personal religious beliefs require abstaining from work during certain periods of the workday or workweek.

D. For the purpose stated in Section 3.C., above, a staff member may so work before or after being granted compensatory time for religious observances. Advanced compensatory time granted shall be repaid by the staff member by working an equal amount of compensatory overtime within three months of the date the advanced compensatory time was taken. Division chiefs, or other appropriate officers, shall be responsible for assuring compliance with this provision. Compensatory overtime earned and compensatory time used shall be credited to a staff member on an hour for hour basis only.

(Supersedes October 30, 1978, issuance of LCR 2013-19)

Section 4. Pay Period Limitation for Working Compensatory Overtime

A staff member shall not work more than 20 hours of compensatory overtime during any one pay period for religious observances, except when specifically authorized by the department head, or his designee, and that authorization shall not exceed 40 hours during any one pay period.

Section 5. Accumulation of Compensatory Overtime for Religious Observances

Staff members may accumulate up to 80 hours of compensatory overtime to be used for religious observances which may be carried over from one leave year to the next. Under no circumstance shall a staff member be paid for such compensatory overtime worked.

Section 6. Procedures for Requesting Approval for Compensatory Overtime Work or Use for Religious Observances

A. Requests to work for compensatory time to be used for religious observances normally shall be approved not less than two pay periods in advance by the department head, or his/her designee, on Form LW 5/67a, Authorization for Compensatory Overtime for Religious Observances (copies available in Supply Unit), prepared in duplicate, with the white copy to be retained by the Time and Attendance (T&A) Clerk and the yellow copy by the Certifying Officer.

B. Authorization for out-of-hours access to Library offices shall be required in advance as set forth in LCR 1810-2, Section 4.B.(4).

C. Requests to use compensatory time (advanced or previously earned) for religious observances shall be approved on Form LW 5/67b, Authorization to Use Compensatory Overtime for Religious Observances, prepared in duplicate, not less than two pay periods in advance, except in emergency situations, by the department head or his/her designee. The white copy shall be retained by the T&A Clerk and the yellow copy by the Certifying Officer. Religious compensatory leave does not command any priority or preference of use over ordinary annual leave.

D. Should the staff member's request to take compensatory overtime off for religious observances be denied, the supervisor shall show in writing, using Form LW 5/67b (see Section 6.C., above), that the granting of the request will severely disrupt the Library's mission and that the staff member's request cannot be reasonably accommodated or that there are indications that such a request is based on consideration other than the staff member's personal religious beliefs.

E. Required Record Keeping on Compensatory Time Earned for Religious Observances

(1) When the compensatory time is worked (earned), the time shall be recorded (in duplicate) on Form LW 5/67c, Compensatory Time Earned and/or Used for Religious Observances, prepared in duplicate, initialed by the staff member and signed by the Certifying Officer. The white copy shall become part of the official pay and leave records and shall be retained until after a General Accounting Office audit or for a period of three years, whichever comes first. The yellow copy shall be forwarded with the T&A Report to the Payroll Preparation Unit.

2. Religious compensatory time earned shall not be recorded in the Compensatory Earned column on the T&A Report.

F. Required Record Keeping on Compensatory Time Used for Religious Observances

1. Religious compensatory time actually used shall be recorded on Form LW 5/67c, prepared in duplicate; initialed by the staff member and signed by the Certifying Officer. The white copy shall become part of the official pay and leave records and shall be retained by the T&A Clerk until after a General Accounting Office audit or for a period of three years, whichever comes first. The yellow copy shall be forwarded with the T&A Report to the Payroll Preparation Unit.

2. Religious compensatory time used shall not be recorded in the Compensatory Used column on the T&A Report.

G. Requirement to Maintain Annual Record of Religious Compensatory Leave

Religious compensatory time earned and used shall be recorded each pay period on Form LW 5/67d, Religious Compensatory Leave Account, by the T&A Clerk, who is responsible for maintaining and retaining this form as part of the official time and attendance record.

Section 7. Exceptions to Existing Laws

The premium pay provisions for overtime work as authorized by 5 U.S.C., Sections 5542, 5543, 5544 and Section 7 of the Fair Labor Standards Act of 1938, as amended, do not apply to compensatory overtime worked by a staff member for religious observances.

Section 8. Indebtedness for Unearned Compensatory Time Used

A. When a staff member has not worked an equal amount of compensatory time within three months of the date the advanced compensatory time was taken, recovery shall be made. The recovery shall be either charged to annual leave, if the staff member consents, or the time shall be converted to leave without pay.

B. When a staff member who is indebted to the Library for used but unearned compensatory time is separated, recovery shall be made in accordance with LCR 2015-9, Indebtedness for Unearned Leave Upon Separation.

Section 9. Abuse of Rights and Privileges

If a staff member abuses the rights and privileges granted under the law and this Regulation, the staff member shall be subject to appropriate penalties as are provided for misuse or abuse of other forms of leave.

LIBRARY OF CONGRESS

AUTHORIZATION TO WORK COMPENSATORY OVERTIME FOR RELIGIOUS OBSERVANCES

In accordance with LCR 2013-19, I am requesting that I be authorized to work compensatory time on the following dates and hours:

Dates	Hours	Dates	Hours

I understand I cannot be paid for This Compensatory Overtime.

CHECK APPROPRIATE BOX:

☐ Compensatory overtime work is requested before the compensatory time IS TO BE USED

☐ Compensatory overtime work is requested after the compensatory time IS TO BE USED

NOTE: THIS INFORMATION IS NOT TO BE REPORTED ON THE TIME AND ATTENDANCE REPORT.

Employee Signature _____ Date _____

OFFICIAL ACTION ON REQUEST

☐ Approved ☐ Disapproved (If disapproved, give reason)

Division Chief Signature _____ Date _____

LW 5/67a (10/78) NOTE: Prepare in duplicate, original copy to be submitted with Form LW 1/67, Time and Attendance Report. Copy to be retained by Time and Attendance Clerk.