

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

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FILE: B-142753

DATE: NOV 26 1975

MATTER OF: Donald G. Phillips - Administrative Leave

DIGEST:

The granting of administrative leave to an employee for acclimatization rest after he completed a full day of duty and traveled over 7 hours by air on return from Guam after crossing the international date line is a proper exercise of administrative authority. This is so since the Civil Service Commission has not issued general regulations covering the granting of administrative leave and, therefore, each agency, under the general guidance of the decisions of the Comptroller General, which are discussed in the applicable FPM Supplement, has the responsibility for determining the situations in which excusing employees from work without charge to leave is appropriate.

This action concerns a request by the Director, Accounting Division, Region IX, Department of Housing and Urban Development (HUD) for a decision as to whether it is within HUD's authority to grant excused absence without charge to annual leave or loss of pay to an employee for acclimatization rest after he has completed a full day of duty, traveled 7 hours and 35 minutes by air on return from Guam, and crossed the international date line.

As a general rule, we render formal decisions only to heads of Departments and agencies, disbursing and certifying officers, and to claimants who have filed monetary claims with our Office. See 31 U.S.C. §§ 74 and 82d. However, in view of the fact that the problems involved in the instant situation are of a recurring nature, we are treating the request as if it had been submitted by the Secretary of Housing and Urban Development under the broad authority of 31 U.S.C. § 74.

The record shows that Mr. Donald G. Phillips, a HUD employee, whose official duty station was Honolulu, Hawaii, was traveling under Travel Authorization CTA #8, July 1, 1974, from Agaña, Guam, to Honolulu, Hawaii. Mr. Phillips left Guam on December 6, 1974, at 11:55 p.m., after completing a full day's work. He arrived in Honolulu at 11 a.m. on December 6, 1974, having crossed the international date line while on a flight of 7 hours and 35 minutes.

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Mr. Phillips arrived at his residence at 12:15 p.m. The question is raised whether administrative leave may be granted to the employee after he has completed a full day of duty, traveled 7 hours and 35 minutes by air, and traveled to his residence, all on the same calendar date.

An employee in a travel status is entitled to reasonable hours of rest. However, no general rule with respect to rest periods after long air flights can be promulgated and each case must be determined on its merits. Cf. B-164709, August 1, 1968.

Paragraph 1-7.5a[✓] of the Federal Travel Regulations (FPMR 101-7) issued by the General Services Administration, effective May 1, 1973, provides as follows:

"Time changes during air travel. When an individual travels direct between duty points which are separated by several time zones and at least one of the duty points is outside the conterminous United States, per diem entitlement is not interrupted by reason of a rest period allowed the individual en route or at destination under appropriate agency rules."

However, that regulation applies only to the payment of travel expenses and not to the granting of leave. B-171543, September 10, 1973. As the employee concerned was at his permanent duty station, Honolulu, on the day in question no further travel allowances could be paid.

The Civil Service Commission has issued no general regulations on the subject of granting excused absence to employees without charge to leave (commonly called administrative leave). However this matter is discussed in FPM Supplement 990-2, Book 630, subchapter S11. Further, regulations on this subject which apply only to daily, hourly and piecework employees, e.g. wage board employees, which were issued under the authority of 5 U.S.C. § 6104[✓] are contained in 5 C.F.R. § 610.301[✓] et seq. In general, those regulations provide that an administrative order relieving or preventing a daily, hourly or piecework employee from working may be issued for one or more of the following reasons:

"(a) Normal operations of an establishment are interrupted by events beyond the control of management or employees;

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"(b) For managerial reasons, the closing of an establishment or portions thereof is required for short periods:

"(c) It is in the public interest to relieve employees from work to participate in civil activities which the Government is interested in encouraging; or

"(d) The circumstances are such that an administrative order under paragraph (a), (b), or (c) of this section is not appropriate and the department or agency under its regulations excuses, or is authorized to excuse, without charge to leave or loss of pay, employees paid on an annual basis."

Under administrative practice and decisions of our Office similar standards are applied to salaried (General Schedule) employees. Among the various purposes for which the granting of administrative leave has been recognized either by law, Executive order, Executive policy, or decisions of our Office, are those mentioned in FPM Supplement 990-2, Book 630, subchapter 511. These include:

- (1) Registering and voting
- (2) Civil Defense activities
- (3) Participation in military funerals
- (4) Blood donations
- (5) Tardiness and brief absences
- (6) Taking examinations
- (7) Attendance at conferences or conventions
- (8) Representing employee organizations
- (9) Office closings

Paragraph a of subchapter 511-5 of Book 630 contains the following general instruction with regard to the type of absence in question:

"With few exceptions, agencies determine administratively situations in which they will excuse employees from duty without charge to leave and may by administrative regulation place any limitations or restrictions they feel are needed. * * *

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Thus, in the absence of statute, an agency may excuse an employee for brief periods of time without charge of leave or loss of pay at the discretion of the agency. Compare 44 Comp. Gen. 643 (1965) wherein it was held that employees could only be excused from duty without charge to leave or loss of pay for a lengthy period when such absence was in connection with furthering a function of the agency.

Although the pertinent HUD regulations regarding excused absences (600-1, section 8) which were furnished our Office provide further instructions with respect to the specific circumstances in which administrative leave may be granted, they do not provide specific guidance for the situation described above.

Since the Commission has not issued general regulations covering the grant of administrative leave, each agency is responsible for determining those situations in which excusing employees from work without charge to leave is appropriate under the general guidance of the decisions of this Office as they are discussed in the applicable FPM Supplement.

In the instant case Mr. Phillips performed a full day of work, traveled 7 hours and 35 minutes during night hours, and crossed several time zones within a period of 24 hours. Since the scope of authority for the granting of time off without charge to leave in circumstances similar to those in this case is not clearly defined in law and regulations and since the granting of administrative leave for brief periods of time is within the discretion of the agency, our Office will not question the granting of such leave in these circumstances. See 53 Comp. Gen. 582 (1974).

OFFICERS AND EMPLOYEES
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