



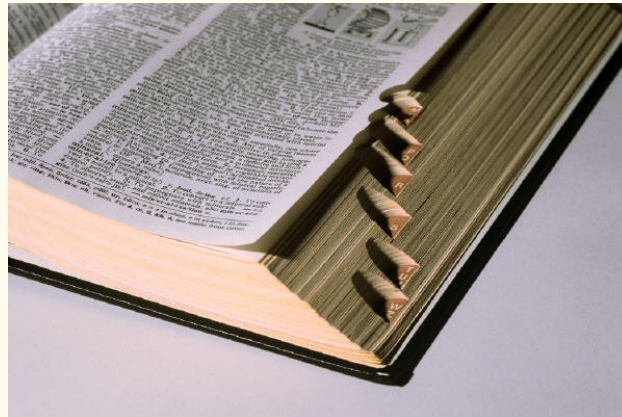
A New Day for the Civil Service

Addressing AWOL

What is AWOL?

Absence Without Leave:

- AWOL is a non-pay status that covers an absence from duty which has not been approved.



Why Address AWOL?

- AWOL is misconduct!
- Attendance issues are among the most common challenges for federal supervisors.
- Employees' failure to report to work as scheduled can have a negative impact on an organization's ability to complete the mission.



AWOL Facts

- AWOL is an employee attendance issue.
- An agency may discipline an employee who is AWOL.
- Remember, an employee is AWOL when:
 - An employee is absent from their assigned place of duty;
 - The absence was not authorized; and/or
 - The leave requested by the employee has been properly denied



AWOL and Administrative Case Law



The legal elements of AWOL have been established through decisions of the Merit Systems Protection Board and the Federal Circuit.



Addressing Attendance

Supervisors should:

- Establish written leave procedures for their employees to follow.
- Address tardiness or leave abuse promptly.
- Document!



Recording AWOL

- AWOL can be recorded in fractions of an hour – in accordance with the agencies' payroll system.
- Notating AWOL in and of itself is not a disciplinary action, however it could be the *basis* for taking disciplinary action.





A Basic Approach to Unexcused Absences:

- Ensure employee is on notice of work schedule
- Ensure employee was notified of policy and procedures for excused absences
- Determine appropriate discipline based on the circumstances of the case

Where's Waldo?

- Employee remains on agency premises, but not at the specified work location.

“an employee need not be absent from the work site to be found AWOL”



**Buchanan v. Department of Energy 247 F.3d 1333 (2001)*

But the bus was late- again!

- The responsibility of arriving to work on time is the employee's!

“An agency is under no obligation to accommodate an employee's transportation problems”

**Williams v. Department of Health and Human Services 29 M.S.P.R. 525 (1985)*





Leave Restriction Letters

- A leave restriction letter is a non-disciplinary letter to the employee that conveys the following information:
 - The supervisor's expectations regarding leave usage
 - Specific information about leave balances and/or specific dates when employee has not followed proper procedure or the pattern of leave abuse
 - The leave procedures that they are required to follow
 - The period of restriction
 - Consequences of not following the procedures in the future



Charging AWOL

AWOL should be charged when the following conditions are met:

- 1) The employee was instructed to report for duty and fails to do so, OR
- 2) The requested leave was appropriately denied and the employee did not show up for work, OR
- 3) The employee does not provide medical documentation, the documentation is insufficient or not submitted within the time frame provided

Efficiency of the Service

MSPB has consistently held that there is a connection between AWOL and the efficiency of the service standard.

“Unauthorized absence, by its very nature, disrupts the efficiency of the service”

**Crutchfield v. Department of the Navy
73 M.S.P.R. 444 (1997)*



AWOL Nexus

- The Board has determined that unauthorized absences are directly related to the performance of an employee's duties.

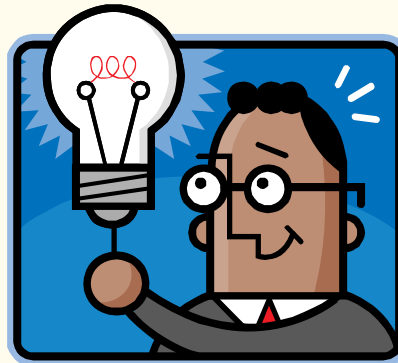
“The relationship between an employee's unauthorized absences and the efficiency of the service is so direct that proof of unauthorized absences generally is sufficient to establish the required nexus”

**Williams v. Department of Army 24 M.S.P.R. 537 (1984)*



Charge 'Failure to Follow' Too!

- When an employee is AWOL and has not requested leave, charge 'failure to follow instructions' as well, if you can prove the following elements:
 - There were proper leave procedures in place
 - The employee was *aware* of the procedures
 - The employee did not follow them





LWOP \neq AWOL!

- Leave without pay (LWOP) is an *approved* temporary *nonpay* status and absence from duty.
- In most instances, granting LWOP is a matter of **supervisory discretion** and may be limited by agency internal policy.
- In general, management should not retroactively charge AWOL if the employee was granted the leave in the first place!
- However, an employee who fails to provide requested medical documentation may have previously approved LWOP changed to AWOL.