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HRDG 4630 - Absence and Leave - Section H - Subsection b

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Subchapter 4630 - Absence and Leave

Section H - Absences to Perform Duty with the Uniformed Services

Subsection b - Members of the Reserve or National Guard

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Purpose

This Subsection describes conditions for granting military leave for training and duty under 5 U.S.C. 6323(a) for a reservist or member of the National Guard. This Subsection should be read in conjunction with [Subsection a](#) --USERRA.

The following criteria apply in determining entitlement to military leave under 5 U.S.C. 6323(a). An employee must:

Eligibility

- Be full-time or part-time,
- Have a permanent appointment or an appointment without time limitation; i.e., indefinite (includes employees on indefinite temporary appointments of more than one year),
- Be in the competitive or excepted service, and
- Be a member of a reserve component of the uniformed services or a member of the National Guard.

Eligible full-time employees earn 15 days of military leave each fiscal year based upon an 8-hour workday (15 days x 8 hours = 120 hours). Military leave is used in 1-hour increments. It may be taken successively or intermittently during each fiscal year . Up to 15 days of unused military leave may be carried over to the next fiscal year, but no more than 30 days of military leave may be used by a full-time employee in any fiscal year. Eligible full-time employees who enter on duty after the beginning of the fiscal year earn 15 days, available for use in the remainder of the fiscal year.

Entitlement for Full-time Employees

Note: Effective December 28, 2001, employees may use their 15 days of military leave for funeral honors duty (as described in 10 U.S.C. 12503 and 32 U.S.C. 115 [P.L. 107-107 Section 563 amends 5 U.S.C. 6323 (a)(1)]).

Example: An eligible full-time employee entered on duty on December 1 and was credited with 15 days of military leave. During the remainder of the fiscal year, the employee used 10 days. At the beginning of the next fiscal year, the employee carried 5 days over and was credited with another 15 days. The employee now has a total of 20 days of military leave available for use in the current fiscal year.

5 U.S.C. 6323 (b) provides 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation* as defined in section 101(a)(13) of title 10, United States Code.

* The term "contingency operation" means a military operation that

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(a) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
(b) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of title 10, United States Code, chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

Eligible part-time employees and employees on uncommon tours of duty are entitled to military leave on a prorated basis. The actual number of hours to which entitled is based proportionally on the number of hours in the employee's regularly scheduled biweekly pay period.

Entitlement for Part-time Employees	Hours in the regularly scheduled biweekly pay period	Ratio of hours in the regularly scheduled pay period to an 80-hour pay period (The number of hours in the pay period ÷ 80)	Hours of military leave accrued each fiscal year
	40	.5 (40 ÷ 80)	.5 x 120 = 60 hours
	106	1.325 (106 ÷ 80)	1.325 x 120 = 159 hours
	120	1.5 (120 ÷ 80)	1.5 x 120 = 180 hours
	144	1.8 (144 ÷ 80)	1.8 x 120 = 216 hours

Military leave is charged in 1-hour increments (Section 642, Treasury & General Govt. Appropriations Act, 2001, incorporated in P.L. 106-554 Section 101 [a][3], amending 5 USC 6323[a], effective 12/21/2000). Military leave may not be charged for the hours than an employee would not otherwise work and receive pay.

Members of the Reserves and/or National Guard may not be charged military leave for non-duty days, typically weekends and holidays that occur within the period of military service (effective 12/21/2000). Nonworkdays at the beginning or end of the period of military leave are also not charged against military leave.

Employees requesting military leave for inactive duty training (generally 2, 4, or 6 hours in length) will only be charged the amount of military leave needed to cover the period of training and necessary travel. Hours in the employee's normal workday that are not chargeable to military leave must be worked or charged to another leave category, as appropriate.

Counting Days for Military Leave

Example: A full-time employee whose tour of duty is Monday through Friday starts military training on Saturday. The training ends the following Saturday. Neither Saturday is counted as a day of military leave because both are nonworkdays occurring at the beginning and end of the military duty period. The employee is charged for 5 days (40 hours) of military leave.

Example: A full-time employee whose tour of duty is Monday through Friday begins military duty on Friday. The training ends the following Monday (4 days later). Saturday and Sunday (the nonworkdays) fall wholly within the period of absence and may not be counted as days of military leave. The employee is charged a total of 2 days (16 hours) of military leave (Friday through Monday).

Example: A part-time employee whose regularly scheduled tour of duty is Monday through Thursday (8am - 3pm) begins a period of military duty on Friday. The training ends the following Monday. Friday, Saturday, and Sunday (the nonworkdays) are not counted as days of military leave. The employee is charged with 6 hours of military leave for Monday.

**Use of Other
Leave**

At the employee's request, annual leave, advance annual leave, LWOP, earned compensatory time off for travel (CTOT), or sick leave, if appropriate, may be granted during a period of military duty if there is not enough military leave to cover the entire period, or if he/she is not eligible for military leave.

(See Federal Register Volume 72, Number 50, dated March 15, 2007.)

**Pay While on
Military
Leave**

An employee on military leave, or other paid leave, while on military duty under 5 U.S.C. 6323(a) is entitled to pay for his/her civilian position as well as pay for his/her military service.

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