



Office of Human Resources and Administration Worklife and Benefits Service (058)

Fact Sheet – Military Leave

An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces (Air Force, Army, Navy, Marines and Coast Guard).

Coverage: Any full-time Federal civilian employee whose appointment is not limited to 1 year is entitled to military leave. Military leave under 5 U.S.C. 6323(a) is prorated for part-time career employees and employees on an uncommon tour of duty.

Types of Military Leave

- 5 U.S.C. 6323(a) provides 15 days per fiscal year for active duty, active duty training, and *inactive duty training*. An employee can carry over a maximum of 15 days into the next fiscal year. Inactive Duty Training is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training. For further information, see Department of Defense Instruction Number 1215.6, March 14, 1997.
- 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.
- 5 U.S.C. 6323(c) provides unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty ordered or authorized under title 39 of the District of Columbia Code.
- 5 U.S.C. 6323(d) provides that Reserve and National Guard Technicians *only* are entitled to 44 workdays of military leave for duties overseas under certain conditions.

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

(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.

Days of Leave: Military leave is credited to a full-time employee on the basis of an 8-hour workday.

- The minimum charge to leave is 1 hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay. Therefore, employees cannot be charged for military leave in increments of 15, 30 and 45 minutes.

Fact Sheet – Military Leave (cont’d)

- Employees who request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves or and National Guard will not be charged military leave for weekends and holidays that occur within the period of military service.
- A full-time employee working a 40-hour workweek will accrue 120 hours (15 days x 8 hours) of military leave in a fiscal year, or the equivalent of three 40-hour workweeks.
- Military leave under 6323(a) will be prorated for part-time employees and for employees on uncommon tours of duty based proportionally on the number of hours in the employee's regularly scheduled biweekly pay period.

Examples:

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

Affect on Civilian Pay

- An employee's civilian pay remains the same for periods of military leave under 5 U.S.C. 6323(a), including any premium pay (except Sunday premium pay) an employee would have received if not on military leave.
- For military leave under 5 U.S.C. 6323(b) and (c), an employee's civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave, compensatory time, compensatory time off for travel, if appropriate, in order to retain both civilian and military pay.

References

- 5 U.S.C. 5519 and 5 U.S.C. 6323
- Public Law 106-554, December 21, 2000
- Public Law 108-136, November 24, 2003
- VA Handbook 5011, Part III, Chapters 2 and 3
- Comptroller General opinions:
 B-227222 (11/05/78)--entitlement
 B-211249 (09/20/83)--incompatible with civilian service
 B-241272 (02/15/91)--duty into new leave year