

MILITARY LEAVE

INTRODUCTION

Military leave for Federal employees, as defined by 5 United States Code (U.S.C.) 2105, and for civilian employees of the District of Columbia, is authorized by 5 U.S.C. 6323. The law provides four independent military leave entitlements. An employee who presents military orders which meet the requirements specified by the law and who has not already exhausted that entitlement may use military leave. It is possible for an employee to use military leave under more than one of these provisions consecutively.

BASIC ELIGIBILITY

Employees on the following types of appointments are entitled to military leave.

- Permanent.
- Term.
- Temporary indefinite appointments of one year or more. However, extensions of, or continuous consecutive temporary appointments, which result in more than one year of consecutive service, do not meet this requirement.
- Part-time (16-32 hours/week) permanent employees. Part-time employees scheduled to work less than 16 hours a week or more than 32 hours a week do not meet the definition of part-time career employment under 5 U.S.C. 3401(2). Therefore, these employees are **not** entitled to military leave.
- Intermittent employees are **not** entitled to military leave.

Additional requirements are noted under each of the leave categories listed below.

20 DAYS OF MILITARY LEAVE UNDER 5 U.S.C. 6323(a)

Purpose: A Reserve of the armed forces, a member of the National Guard, or a member of the Space Force in space force active status and not on sustained duty are entitled to leave without loss in pay, time, or performance or efficiency rating for active duty, active duty training and inactive duty training (IDT), funeral honors duty, or engaging in field or coast defense training.

Amount: Credited at the rate of 20 days at the beginning of each *fiscal* year (1 October). Additionally, new eligible employees and new members of a Guard or Reserve unit or members of Space Force are entitled to receive the full 20 days when entering upon duty or joining a unit. There is no minimum service requirement prior to crediting or using the leave. For example, an employee who joins a Reserve unit in March receives the full 20 days. There is no proration for a partial year. Unused leave can be carried into the next fiscal year; however, at no time may the total balance exceed 40 days.

- Full-time employees (including those on compressed and flexible work schedules) accrue 160 hours (20 days x 8 hours) of military leave each fiscal year.
- Military leave is prorated for part-time employees and for employees on an uncommon tour of duty based on the proportion of hours in an employee's tour of duty compared to a standard 80-hour tour of duty.

Example: A part-time employee who is regularly scheduled to work 40 hours in the biweekly pay period accrues 80 hours of military leave each fiscal year ($40 / 80 = 0.5 \times 160 = 80$).

Example: A firefighter who is regularly scheduled to work 144 hours in the biweekly pay period accrues 288 hours of military leave each fiscal year ($144 / 80 = 1.8 \times 160 = 288$ hours).

Charges: The leave is charged in hourly increments. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay. An employee is no longer charged military leave for weekends and other nonworkdays that occur within the period of military service. An employee who requests military leave for inactive duty training is charged only the amount of military leave necessary to cover the period of training and necessary travel. Employees on military duty which extends into a second fiscal year may use the 20 days of military leave which is credited at the beginning of the second fiscal year without returning to civilian status.

Upon request, an employee performing service with the uniform services must be permitted to use any accrued annual leave, military leave, earned compensatory time off for travel, or sick leave, if appropriate. (See 5 CFR 353.208.)

Offset Provisions: Employees on military leave under 5 U.S.C. 6323(a) keep both their military and civilian pay, including any premium pay (except Sunday premium pay). There is no offset.

Time and Attendance Code: LM – Military Leave

22 WORKDAYS OF MILITARY LEAVE UNDER 5 U.S.C. 6323(b)

Purpose: Reserves of the Armed Forces, members of the National Guard, or members of the Space Force in space force active status and not on sustained duty are entitled to leave without loss of, or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating, when performing emergency duty as ordered by the President, the Secretary of Defense, or a 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 order to active duty in support of a contingency operation* as defined in 10 U.S.C. 101(a)(13).

Amount: Leave credited under this provision is 22 workdays in a *calendar* year. Leave must be requested and authorized. There is no minimum service requirement prior to crediting or using the leave. There is no proration for a partial year. For example, an employee who joins a Reserve unit in March receives the full 22 workdays. Leave unused at the end of the calendar year is lost. It cannot be carried into the next calendar year.

Charges: An agency may charge leave only for hours the employee otherwise would have worked and received pay. The minimum charge to leave is 1 hour, but it must be taken in whole workdays and in continuous pay periods. Upon the request of an employee, the period for which an employee is absent to perform service under 5 U.S.C. 6323(b) may be charged instead to annual leave or to compensatory time off. The period of absence may not be charged to sick leave.

Offset Provisions: Military leave taken under 5 U.S.C. 6323(b) is subject to the provisions of 5 U.S.C. 5519, which provides that military pay (*excluding travel, transportation, and per diem allowances*) received for service for days on which civilian pay is received, must be offset. If the military pay exceeds basic civilian pay, no civilian pay is received. When employees choose not to take military leave and use annual leave or compensatory time instead, the offset rules do not apply and the employee receives full military *and* civilian pay. Nonworkdays and holidays are not included in calculating the offset to the civilian pay.

*The term “contingency operation” means a military operation that “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 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, 12304a, 12305, or 12406 of title 10, United States Code; chapter 13 of title 10, United States Code; section 3713 of title 14, United States Code; or any other provision of law during a war or during a national emergency declared by the President or Congress.

Time and Attendance Code: LL – Law Enforcement Leave

MILITARY LEAVE UNDER 5 U.S.C. 6323(c)

Purpose: Employees who are members of the District of Columbia National Guard are entitled to leave without loss in pay or time for each day of a parade or encampment ordered or authorized under title 49 of the District of Columbia Code. This provision covers each work day of service or portion thereof, performed by the National Guard under orders of the Commanding General.

Amount: There is no limit on the number of days of military leave which may be granted under 5 U.S.C. 6323(c).

Charges: Military leave authorized by 5 U.S.C. 6323(c) is charged in calendar days.

Offset Provisions: Military leave taken under 5 U.S.C. 6323(c) is subject to the provisions of 5 U.S.C. 5519, which provides that military pay (*excluding travel, transportation, and per diem allowances*) received for service for days on which civilian pay is received, must be offset. If the military pay exceeds basic civilian pay, no civilian pay is received. When employees use annual leave or compensatory time, the offset rules do not apply and the employee receives full military *and* civilian pay. Nonworkdays and holidays are not included in calculating the offset to the civilian pay. The offset of civilian compensation is computed on a daily basis, as it is paid on a daily basis. It is not to be prorated hourly.

Time and Attendance Code: LI – Military Leave (DC Guard)

Note: This leave is only for members of the District of Columbia National Guard.

44 WORKDAYS OF MILITARY LEAVE UNDER 5 U.S.C. 6323(d)

Purpose: *Military reserve technicians* are entitled to leave without loss of, or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating for days on which serving on **active duty without pay**. The active duty must be performed under 10 U.S.C. 12301(b) or 12301(d) for participation in operations outside the U.S., its territories and possessions, including during a war or national emergency declared by the President or Congress.

Eligibility: **In addition to the basic eligibility requirements noted above:**

The employee must be a military reserve technician, as defined by 5 U.S.C. 8401(30).

Under the cited definition, a *military reserve technician* is a member of one of the reserve components of the Armed Forces specified in 10 U.S.C. 10101, who is assigned to a civilian position as a technician in the administration and training of such reserve components or in the maintenance and repair of supplies issued to such reserve components; and as a condition of employment in such position, is required to be a member of one of such reserve components serving in a specified military grade.

Amount: Leave credited under this provision is 44 workdays in a *calendar* year. Leave is credited at the request of the employee. There is no minimum service requirement prior to crediting or using the leave. There is no proration for a partial year. Leave unused at the end of the calendar year is lost. It cannot be carried into the next calendar year.

Charges: The leave is converted into hours and charged on the same basis that annual leave is charged. There is no charge for nonworkdays and holidays. Employees may also use annual leave, compensatory time, or leave without pay in conjunction with the 44 days of military leave.

- Military reserve technicians who work 80 hours in the pay period (including those on flexible and compressed work schedules) are entitled to a maximum of 352 hours (8 x 44 = 352).
- Military reserve technicians who work an uncommon tour of duty have the leave adjusted in the same manner as their annual and sick leave under 5 CFR 630.210 (e.g., a technician on a 120-hour tour is entitled to 528 hours).

Offset Provisions: The provisions of 5 U.S.C. 5519 do not apply.

REFERENCES

- OPM Fact Sheet: Military Leave (*pending update*)
<https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/military-leave/>
- DoD 7000.14-R, DoD Financial Management Regulation, Volume 8: “Civilian Pay Policy,” Chapter 5, Section 21, Military Leave
https://comptroller.defense.gov/Portals/45/documents/fmr/Volume_o8.pdf

CONTACT

For additional information: dodhra.mc-alex.dcpas.list.ec-field-advisory--support@mail.mil