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

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Subchapter 4630 - Absence and Leave

Section H - Absences to Perform Duty with the Uniformed Services

Subsection c - Active Duty in Aid of Law Enforcement

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Purpose

This Subsection describes conditions for granting military leave for active duty in aid of law enforcement under 5 U.S.C. 6323(b).

Eligibility

Full-time employees who are members of a reserve component of the Armed Forces or the National Guard are eligible for military leave under 5 U.S.C. 6323(b).

Eligible employees are entitled to military leave under this provision to provide military aid to enforce the law when they:

Applicability

- Perform Federal service;
- Perform full-time military service for a State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, or a territory of the United States. Full-time service includes the time an employee reports until the time he/she is relieved by appropriate orders; or
- Are activated to assist civil authorities in the protection or saving of life or property or the prevention of injury. The most common activation of National Guardsmen and Reservists for these purposes is general assistance in response to a natural disaster, such as an earthquake or hurricane.

Entitlement

An eligible employee is entitled to 22 workdays (or 176 hours), per calendar year. This leave is in addition to the military leave granted each fiscal year for training or duty under 5 U.S.C. 6323(a).

Use of military leave under this provision is subject to the following conditions and requirements:

Conditions and Requirements

- Excused absence may not be granted to an employee who has used all available military leave under this provision. However, if such employee is ordered to perform additional periods of active military service, he/she will be granted annual leave, LWOP, or any unused military leave available for training and duty.
- Employees ordered to perform duty under 5 U.S.C. 6323(b) may request to use accrued annual leave or available compensatory time/credit hours for such absence instead of being charged military leave. This period of absence may not be charged to sick leave.

Pay While on Military Leave in Aid of Law Enforcement

Employees on military leave under 5 U.S.C. 6323(b) are entitled to the same compensation, including premium pay, that they would have received if work had been performed in their civilian positions on the days and hours they were required to be absent. The gross amount of military pay which they receive for a day on which they would otherwise work is deducted from their civilian pay for that day. However, employees are entitled to retain military pay:

- For a day on which they do not receive civilian pay,
- To the extent that it exceeds their civilian pay for any day or part of a day, and
- For any period they elected to use accrued annual leave or available compensatory time instead of being charged military leave.

Arranging Adjustment in Civilian Pay

In order to adjust the amount of civilian pay, the employee should:

- Submit a check or money order, payable to the agency, for the gross amount of military pay for the days the employee also received civilian pay (refer to the table in Section D, Subsection a, ["Disposal of Nonretainable Fees"](#) for more information); or,
- Submit a request to the servicing personnel office that collection of the gross amount be offset against his/her civilian pay. The request should include documentation specifying the amount to be deducted from the civilian pay.

If the employee is unable to provide the specific information on military pay, the supervisor should obtain necessary information from the military organization involved and initiate action to offset the employee's civilian pay as required.

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