



MVD CPAC Monthly Minute

Military Leave



There are two types of military leave that we primarily see within our organization. Military leave under 5 U.S.C. 6323 (a) which provides 15 days (120 hours) per **fiscal** year for active duty, active-duty training, and inactive duty training i.e., monthly training or reserve duty. There is also military leave under 5 U.S.C. 6323 (b) which provides an additional 22 days of military leave per **calendar** year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor.

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

- Permanent
- Term
- Temporary indefinite appointments of one year or more. 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 and those that are on appointments of less than one year are not entitled to military leave.**

Military Leave under 5 U.S.C. 6323 (a) provides 15 days (120 hours) of paid military leave per **fiscal** year for active duty and/or reserve military training. We most commonly see this used with those in the reserves/National Guard to cover the two-week annual training and/or any other training that may be done during their normal civilian work hours. Military leave may only be used on days that an eligible employee would normally be working and receiving pay. Eligible employees that works Monday through Friday should not be authorized military leave for Saturday and/or Sunday. If an employee entitled to military leave works different rotating days of the week and is scheduled for a weekend shift but has military service will be authorized military leave for that day(s). Those using military leave under this authority will be paid their normal civilian salary to include any premium pay (except Sunday premium pay) the employee would have received if not on military leave. Along with the full civilian salary the employee will receive their full military salary. An employee eligible for military leave may carry over a maximum of 15 days per fiscal year meaning that they may have up to 30 days (240 hours) of military leave under this authority at one time. For those that do not work fulltime the number of days/hours of military leave is prorated.

Military leave under 5 U.S.C. 6323 (b) provides an additional 22 days of military leave per **calendar** year for those that have been called to active duty or emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for eligible employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service because of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10, U.S.C. **Individuals authorized the additional 22 days of military leave will receive the difference between their military salary and civilian salary, not both.** If the employee authorized the additional 22 days of military leave has a civilian salary that is less than their military salary (excluding travel pay, per diem, transportation) then they will not see any additional pay by using this leave. Under this authority an eligible employee may instead use earned annual leave and/or compensatory time off in order to receive their full military and civilian pay.

If an authorized employee is going to use the 22 additional days of military leave, there are steps that need to be taken before activation/deployment, while activated/deployed (if possible), and upon return.

The Customer Service Representative (CSR) for the eligible employee's Agency must submit a ticket to DFAS prior to allowing the use of this leave. It is imperative that the information gets submitted quickly to the CSR so that they may begin the process with DFAS. **Important: Many agencies will elect to pay an eligible employee their full civilian salary during the 22 days of military leave. At the end of the 22-day period of military leave, the agency will require the employee to refund to the agency an amount equal to the amount of military pay received (less any travel, transportation, or per diem allowances) up to the amount of his or her civilian pay for the time that corresponds to the 22 workdays of military leave.**

Before activation/deployment:

- Submit a copy of your orders to your Customer Service Representative (CSR).
- Submit an estimate of your military entitlements. All pay an employee receives less travel pay, transportation, and per diem, is considered a military entitlement. i.e., Basic Housing Allowance, Imminent Danger Pay, Flight Pay, Basic Pay, etc.

While activated/deployed:

- Submit a copy of your Military Leave and Earning Statement (LES) for the Period(s) for which you are taking leave. This is used to ensure the difference between military and civilian pay is accurate.

Return from activation/deployment:

- Submit any military LES's not provided during deployment and were for the period in which the 22-days of military leave were used to your CSR.
- Ensure the CSR does not need any other documentation.

If there are questions regarding eligibility for the additional 22 days of military leave, please contact your local Labor Management and Employee Relations Specialist (LMER) and/or your CSR. A copy of the orders for which the person is being activated/deployed will be needed prior to making a determination of eligibility.

For more information on this subject, please visit: [OPM Fact Sheet - Military Leave](#); [DFAS - Using Military Leave](#)

Please visit our website to find this tip as well as archived tips at: <https://usace.dps.mil/sites/INTRA-CPAC/SitePages/MVD.aspx>

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