



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 630 and 715

[Docket ID: OPM-2026-0397]

RIN: 3206-AP07

Administrative Leave for Workforce Realignment and Other Purposes

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its regulations to more fully address the appropriate uses of administrative leave, including use in connection with deferred resignation programs and other workforce realignment initiatives, and for other purposes. OPM is also proposing to amend its regulation on resignations to clarify when an agency may accept or deny an employee's request to withdraw a resignation in the context of a deferred resignation program.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments using the Federal eRulemaking Portal at www.regulations.gov. Follow the instructions for submitting comments.

Please arrange and identify your comments on the regulatory text by subpart and section number. If your comments relate to the supplementary information, please reference the heading and page number in the supplementary section. All comments must be received by the end of the comment period for them to be considered. All comments and other submissions received generally will be posted on the internet at <https://regulations.gov>, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information from comments before they are posted.

As required by 5 U.S.C. 553(b)(4), a summary of this rule may be found in the docket for this rulemaking at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606-2858 or by email at leavepolicy@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing proposed regulations to amend its regulations on administrative leave in 5 CFR part 351, subpart H and part 630, subpart N, and on resignations in 5 CFR 715.202.

Background and Summary

On December 17, 2024, OPM issued final regulations on administrative leave that added a new subpart N in 5 CFR part 630 (80 FR 102256). The regulations in subpart N govern use of administrative leave authorized for Federal employees under 5 U.S.C. 6329a, which was enacted as part of the Administrative Leave Act of 2016 (section 1138 of Public Law 114–328, December 23, 2016). OPM has identified the need to clarify certain matters in the regulations. For example, these proposed regulations provide additional information on unacceptable and acceptable uses of administrative leave. In particular, the proposed regulations add a list of specific examples of acceptable uses, including use in connection with deferred resignation programs¹ and other workforce restructuring initiatives. The proposed regulations are largely codifying existing OPM policies on administrative leave. The primary OPM policy documents are a “Fact Sheet: Administrative Leave” and an OPM memorandum to agency Chief Human Capital Officers entitled “Template for Agency Administrative Leave Policies” (CPM 2025-12, July 30, 2025) (“Agency Policy Template”).² The Agency Policy Template provided an OPM-approved draft of an agency administrative leave policy document that an agency could use as a

¹ See the following OPM memoranda on the 2025 Governmentwide deferred resignation program available at <https://www.opm.gov/chcoc/published-memos/>: “Guidance on Probationary Periods, Administrative Leave and Details” (January 20, 2025), “Guidance Regarding Deferred Resignation Program” (January 28, 2025), “Guidance on Collective Bargaining Obligations in Connection with Deferred Resignation Offer” (February 4, 2025), and “Legality of Deferred Resignation Program” (February 4, 2025).

² The OPM “Fact Sheet: Administrative Leave” is found at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/administrative-leave/>. The OPM memorandum “Template for Agency Administrative Leave Policies” (CPM 2025-12, July 30, 2025) is available at <https://www.opm.gov/chcoc/published-memos/>.

model for its own policies. The Agency Policy Template incorporated statutory and regulatory requirements as well as Governmentwide policies that supplement those requirements. It also included agency-specific policies recommended by OPM for inclusion. OPM encouraged agencies to adopt the policies in the Template for consistency across the Government.

The proposed regulations would also revise OPM regulations on resignations in 5 CFR 715.202 to (1) provide that an agency has sole and exclusive discretion in deciding whether to accept or deny a resignation before it has become effective and (2) specifically address that an employee's receipt of benefits provided under a deferred resignation agreement, such as paid administrative leave, is a valid reason to deny an employee's request to withdraw a resignation. When an employee has agreed to resign on a future date and to receive paid leave benefits prior to that date, an agency has good reasons to deny a resignation withdrawal request.

Proposed Changes to Administrative Leave Regulations

Nomenclature Changes

OPM is proposing to replace the word "grant" (and associated variations of "granted" and "granting") with the word "provide" (or applicable variations "provided" and "providing") throughout subpart N. These changes occur in §§ 630.1402, 630.1403, and 630.1405. The word "grant" implies that administrative leave is provided at an employee's request, which is generally not the case. In some cases, employees may be placed in administrative leave status without their consent—e.g., for investigative purposes. The word "provide" has a broader meaning that would encompass uses of administrative leave with or without the employee's consent.

Section 630.1401—Purpose and applicability

OPM is proposing to revise § 630.1401(b) to add another category of employees to which subpart N does not apply—namely, Presidential appointees or other employees who are excluded from coverage under the title 5 leave laws under 5 U.S.C. 6301(a)(2)(x)-(xiii). Such employees are entitled to the pay of their position solely because of their status as an officer (5 U.S.C.

5508), without regard to the specific hours they work. Such leave-exempt employees do not have a work schedule that makes them account for specific hours through work or time off.

Section 630.1402—Definitions

OPM is proposing to remove the definition of “head of the agency” from § 630.1402. The definition was developed to be used in connection with the originally proposed version of § 630.1403(a)(5)(i) that appeared in proposed regulations published by OPM on July 13, 2017 (82 FR 32263), and that required approval of administrative leave policies by the head of the agency. The definition of “head of the agency” allowed for delegation only to a single agency-headquarters-level official who reported directly to the agency head. However, in the final regulations issued on December 17, 2024 (89 FR 102256), OPM revised § 630.1403(a)(5)(i) as follows: “Permitted under written agency policies (established by the head of the agency or by other agency officials under a specific delegation of authority).” Thus, there were no limits placed on the agency head’s power to delegate. OPM erred in adopting the definition of “head of the agency” in the December 2024 final regulations.

Section 630.1403—Principles, prohibitions, and examples of acceptable uses

OPM is proposing to add the words “sole and exclusive” before the word “discretion” in § 630.1403(a)(2) and (4). OPM believes this better reflects the decision of Congress to give this new discretionary leave authority to agency heads who make final decisions on mission needs and use of limited budget resources and the sense of Congress that agency heads would be responsible for managing and overseeing the effective and prudent use of the leave. OPM is authorized to prescribe regulations governing the acceptable uses of administrative leave (5 U.S.C. 6329a(c)(1)). This proposed regulatory change reflects OPM’s judgment that acceptable uses are those uses, within the bounds of law and regulation, that an agency determines to be appropriate in its sole and exclusive discretion. The “sole and exclusive discretion” language is consistent with the existing regulation at § 630.1403(a)(4), which states that an agency “must retain the discretion to grant or not grant administrative leave in any

circumstance based on agency judgments regarding mission needs.” At the same time, that regulation prevents an agency from establishing any application of administrative leave as a mandatory entitlement.

OPM is proposing to add a sentence to § 630.1403(a)(3) that points to examples of when it is appropriate for an agency to approve an incidence of administrative leave lasting more than 1 workday. Those examples are provided in a new paragraph (c), which is discussed below.

OPM is proposing to revise § 630.1403(b) dealing with regulatory prohibitions on use of administrative leave. In paragraph (b)(2), OPM is clarifying that the prohibition on using administrative leave to recognize employee performance or contributions does not prevent an agency from providing administrative leave to the general workforce of the agency (or an organization within the agency) as a morale-boosting special goodwill gesture, even if that action is broadly linked to the accomplishments of the workforce. This issue was raised by an agency after the final regulations on administrative leave were published in December 2024, and OPM addressed it in its Agency Policy Template. The proposed regulation is consistent with that guidance.

OPM is also proposing to add in § 630.1403(b) three new regulatory prohibitions, which are already addressed in OPM’s Agency Policy Template, but which would be binding prohibitions that agencies must apply.

The first new regulatory prohibition (§ 630.1403(b)(3)) is that administrative leave may not be used for the purpose of placing an employee in a nonduty status during an investigation of the employee’s conduct or performance once the employee has reached the 10-workday calendar year limit in 5 U.S.C. 6329a(b)(1) and § 630.1404 in connection with a given investigation. Consistent with the intent of Congress, once the 10-workday limit is reached, the agency must use investigative leave under 5 U.S.C. 6329b if it wishes to continue to conduct an investigation and continue to keep the employee in a paid nonduty status. The language “in connection with a given investigation” is intended to cover situations in which an employee was placed on

administrative leave due to an investigation, reached the 10-workday limit in that calendar year, and is then placed on section 6329b investigative leave as part of a continuing investigation. Once an employee has reached the 10-workday limit in connection with a given investigation, that limit is no longer applicable in governing the use of section 6329b investigative leave with respect to the same investigation. Thus, if the investigation continues into the next calendar year, the agency can continue to place the employee on section 6329b investigative leave even though the employee has not reached the 10-workday limit on section 6329a administrative leave in the new calendar year. (Section 6329b(b)(3)(A) bars use of section 6329b investigative leave until expiration of the 10-workday period, but this bar applies only in making a decision to start an initial period of investigative leave in connection with a given investigation.)

The second new regulatory prohibition (§ 630.1403(b)(4)) is that administrative leave may not be used for a purpose for which sick leave could be used under OPM regulations (5 CFR 630.401(a))—unless such use in a particular scenario is specifically approved by Governmentwide policy issued by OPM or the President. As a general principle, allowing administrative leave to be used for a sick leave purpose would inappropriately circumvent the will of Congress, which established a specific type of leave called “sick leave.” A general bar is necessary to prevent agencies from using administrative leave as a supplemental sick leave benefit, which they could feel pressure to do in individual circumstances. The general bar applies regardless of whether an employee has an available balance of sick leave. The exception to the general bar requires OPM or Presidential approval, which should be provided only in exceptional circumstances. For example, during the COVID-19 national emergency, OPM adopted a Governmentwide policy that allowed administrative leave to be used in some very limited circumstances in which sick leave normally would have been used (e.g., time spent getting and recovering from a vaccination).

The third new regulatory prohibition (§ 630.1403(b)(5)) is that administrative leave may not be used to cover service by poll workers or poll observers in connection with elections.

OPM's current policies allow administrative leave to give employees a reasonable opportunity to vote on an election day, and OPM is proposing in this regulation that that policy be codified (see proposed § 630.1403(c)(2)). However, OPM does not believe it is appropriate to use administrative leave for other election-related matters beyond facilitating an opportunity for an employee to vote. Employees may choose to use their accrued annual leave or other available workforce flexibilities to serve as poll workers or poll observers.

OPM is proposing to add a new paragraph (c) in § 630.1403 that provides a noncomprehensive list of examples of acceptable uses of administrative leave. This list signals that an agency can provide administrative leave in the covered scenarios without having to be concerned that it may be contrary to Governmentwide policies. At the same time, agencies are not required to provide administrative leave in the listed scenarios. Agencies retain the sole and exclusive discretion to determine whether to provide administrative leave to any employee or category of employees based on their consideration of agency mission requirements. The listed examples are generally consistent with current OPM policies in its Agency Policy Template but would have a regulatory foundation if included in final regulations. The listed examples of acceptable uses of administrative leave are:

(1) For investigative purposes until the employee has reached the 10-workday calendar year limit;

(2) To provide an employee who has not voted early with a reasonable opportunity to vote on a regular election day;

(3) To allow an employee to donate blood during the employee's tour of duty;

(4) To allow an employee to participate in an agency's employee assistance program for problem identification and referral to an outside resource and for general employee orientation or education activities;

(5) To provide for early dismissal (generally no more than 2 hours) on the scheduled workday immediately before a Federal public holiday as a morale-boosting general goodwill gesture;

(6) To allow an employee to rest and recover following unusually lengthy tours of duty or extended travel for work purposes (for example, the U.S. Forest Service in the Department of Agriculture or the Department of the Interior may provide 2 to 3 days of administrative leave to employees who have completed an extended deployment to fight a wildland fire);

(7) To provide up to 5 days of administrative leave for a civilian employee who needs time off to effectuate a change in his or her residence to a different geographic area in order to accompany a qualifying spouse—that is, a spouse who is a member of a one of the uniformed services or a civilian Federal Government employee—when the qualifying spouse’s residence change is the result of military orders or agency direction, as applicable;

(8) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM or agency limits) to employees who sign a written agreement to voluntarily separate on a specified future date as a transition-to-separation tool that supports workforce restructuring and realignment initiatives that are based on agency and Governmentwide interests, including voluntary deferred resignation programs, use of voluntary separation incentive payments, or use of voluntary early retirement authorizations;

(9) To provide administrative leave to employees subject to an involuntary separation via a reduction in force (RIF) during the period between receipt of the RIF notice and the RIF separation when the agency determines it is in the Government’s best interests; or

(10) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM or agency limits) to facilitate the voluntary resignation of employees with documented poor performance or misconduct under a settlement agreement that the agency determines is in the Government’s best interests after considering all other reasonable alternatives.

The use of administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives is particularly important. These programs facilitate workforce realignment efforts that will lead to a leaner, less expensive, more efficient, and more mission-focused Federal workforce. While there is a temporary cost to providing administrative leave, these programs can generate large long-term savings by reducing Federal staffing levels. They can reduce the need to apply administratively burdensome and disruptive reduction-in-force procedures. They can also facilitate and expedite the removal of employees whose performance or conduct has been identified as unsatisfactory.

As noted above, the list of examples in the proposed § 630.1403(c) is a noncomprehensive list. OPM may address other examples in policy guidance. For example, OPM's Agency Policy Template addresses possible use of limited amounts of administrative leave for approved physical fitness activities as long as the use is consistent with OPM regulations on administrative leave, including consideration of the decision factors in § 630.1403(a)(6). The Agency Policy Template further states that, in providing such leave, authorized agency officials (1) must retain the discretion to provide or not provide administrative leave based on agency judgments of mission needs and (2) may not grant the administrative leave as an entitlement without regard to mission needs. OPM invites comments on the policy of allowing limited use of administrative leave for physical fitness activities and on whether this policy should be included in the regulatory examples of acceptable uses. OPM requests that those commenters supporting use of administrative leave for physical fitness activities provide their views on the principles, conditions, and limitations that should govern such use.

Proposed Changes to Reduction-in-Force (RIF) Regulations

OPM is proposing to revise 5 CFR 351.806 to clarify that that use of administrative leave during a RIF notice period is permissible, if an agency determines that there is justification for putting the RIF-affected employee in nonduty status. Under the current § 351.806, agencies are directed to keep a RIF-affected employee in duty status during a RIF notice when possible.

Keeping a RIF-affected employee in duty status may not be possible if an agency is concerned it could jeopardize Government interests. The proposed regulatory clarification is consistent with OPM's Agency Policy Template, which specifically stated that an agency may provide administrative leave during a RIF notice period, if it determines such use supports agency interests. Also, we are proposing to revise § 351.806 to state that the general rule of keeping an employee in duty status during a RIF notice period applies in "ordinary circumstances" instead of "when possible." This change is consistent with the language in the regulation in 5 CFR 752.404(b)(3) dealing with keeping an employee in duty status during the notice period for a proposed removal or suspension.

Proposed Changes to Resignation Regulations

OPM is proposing to revise paragraph (b) of 5 CFR 715.202. In current regulations, § 715.202(b) allows an agency to accept or decline an employee's request to withdraw a resignation before its effective date. If an agency declines such a request, it must provide a valid reason and explain that reason to the employee. In the proposed revision to § 715.202(b), OPM is making clear that the decision to accept or decline a resignation withdrawal request is made at the agency's sole and exclusive discretion. Also, OPM is adding another example of a valid reason for declining an employee's request—namely, that the employee accepted benefits under a deferred resignation agreement. For example, if an employee received paid administrative leave in connection with a deferred resignation agreement, an agency may determine that it would be inappropriate to allow an employee to withdraw the resignation and keep the paid leave benefits. There is no authority to require or permit repayment of the administrative leave benefits after it has been provided.

Regulatory Impact Analysis

A. Statement of Need.

After having over 1 year of experience in applying the final regulations on administrative leave issued in December 2024, OPM has identified the need to clarify certain matters in the

regulations. While OPM has issued policy guidance (see footnote 2) that largely addresses these matters, regulations are needed to achieve greater consistency across agencies and a firmer legal foundation for the policies. OPM is proposing to add certain prohibited uses of administrative leave so that the prohibitions are binding on agencies. OPM is proposing to add examples of acceptable uses of administrative leave so that agencies can be assured those uses have a regulatory foundation. For example, OPM is proposing to include the extended use of administrative leave in connection with a deferred resignation program as an acceptable use of administrative leave. Also, through the proposed regulations, OPM is better fulfilling its statutory charge to prescribe regulations that address agency uses of administrative leave (5 U.S.C. 6329a(c)(1)). OPM also identified the need to clarify that agencies have sole and exclusive discretion in making decisions to provide or not provide administrative leave, subject to governing law and regulations.

OPM is also proposing to amend the resignation regulation in 5 CFR 715.202 to identify the acceptance of benefits, such as administrative leave, as a valid reason for an agency to deny an employee's request to withdraw a resignation commitment made as part of a deferred resignation agreement. This gives agencies a clearer regulatory basis for denying a resignation withdrawal request by a participant in a deferred resignation program.

B. Regulatory Alternatives.

OPM considered the alternative of not adding additional regulatory prohibitions or examples of acceptable uses of administrative leave and instead relying on OPM policies. For the reasons given in the Statement of Need section, OPM concluded that various policies should be codified in regulation. With respect to the proposed revision of the resignation regulation, OPM considered the possibility of not making the change but determined agencies would be better served by a regulation that gives them a clear and specific legal basis for denying a resignation withdrawal request by an employee participating in a deferred resignation program.

C. Impact

Since OPM would be codifying in regulation existing policies on administrative leave, OPM does not expect significant changes in the usage of administrative leave. Agencies generally follow OPM policies even if they are not legally binding in the way regulations are. Codifying policies in regulations would provide a firmer legal foundation for those policies, promote consistency across agencies, and avoid disputes between employees and agencies. Since this proposed regulation affects only Federal agencies and employees, it would have no substantial impact on local economies or labor markets.

D. Costs.

As explained in the Impact section, OPM does not expect the proposed regulations to result in significant changes in the usage of administrative leave. Governmentwide policies that parallel the proposed regulations are already in place. OPM is simply giving its policies an enhanced legal standing by incorporating them in regulation. Accordingly, OPM does not project that costs or savings will result from the proposed regulations. OPM believes the administrative burdens associated with implementing the proposed regulations, if finalized, will be de minimis, since agencies are already operating under parallel OPM policies. There could be minor administrative cost savings to the extent that codifying policies in regulations reduces disputes.

Similarly, OPM does not expect the proposed change to the resignation regulation to have a significant effect on the number of resignation withdrawals. The existing regulation already allows an agency to deny an employee's request to withdraw a resignation for a valid reason. The proposed regulation simply identifies an employee's acceptance of benefits (such as administrative leave) as part of a deferred resignation agreement as a specific example of a valid reason. The proposed regulation could result in fewer or less lengthy disputes, but the number of affected cases would be very small.

E. Benefits

This proposed rule has important benefits. The proposed regulations would provide more transparency and accountability, provide a firmer legal foundation for allowing or prohibiting

certain uses of administrative leave, promote consistency across agencies, clarify the authority of agencies, and reduce potential disputes. With respect to the proposed revision of the resignation regulation, it would provide a regulatory basis for denying a resignation withdrawal request and set clear expectations for employees who enter into a deferred resignation agreement.

Regulatory Compliance

A. Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

B. Regulatory Review

The Office of Information and Regulatory Affairs in the Office of Management and Budget has designated this as a significant regulatory action under E.O. 12866 section 3(f). Accordingly, OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of \$100 million or more in any one year or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold. This rule is not expected to be considered a regulatory action under E.O. 14192 because it imposes no more than de minimis costs.

C. Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Director

of OPM certifies that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and (b)(2) of E.O. 12988.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Paperwork Reduction Act

This rulemaking does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects

5 CFR Part 351

Administrative practice and procedure, Government employees.

5 CFR Part 630

Emergency preparedness, Government employees, Reporting and recordkeeping requirements, Wages, Weather.

5 CFR Part 715

Government employees.

Signing Statement

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management

Jerson Matias

Federal Register Liaison

For the reasons stated in the preamble, OPM proposes to amend 5 CFR parts 351, 630, and 715 as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 2301, 3502, 3503, 38 U.S.C. 4331; E.O. 14284, 90 FR 17729; 5 CFR 2.2(c). Sec. 351.801 also issued under E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart H—Notice to Employee

2. Revise § 351.806 to read as follows:

§ 351.806 Status during notice period.

(a) *General.* Under ordinary circumstances, an employee will remain in a duty status during the notice period.

(b) *Administrative leave.* Nothing in this section precludes an agency from placing an employee on administrative leave for all or part of the notice period when the agency determines that such leave is appropriate and the use of administrative leave is consistent with part 630, subpart N, of this chapter.

(c) *Emergency lack of work or funds.* When, in an emergency, the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without the employee’s consent, on leave without pay with the employee’s consent, or in a nonpay status without the employee’s consent.

PART 630—ABSENCE AND LEAVE

3. The authority citation for 5 CFR part 630 is revised to read as follows:

Authority: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311. Subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163. Subpart G issued under 5 U.S.C. 6305(c) and 6311. Subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b). Subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340. Subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a). Subpart K issued under 5 U.S.C. 6391(g). Subpart L issued under 5 U.S.C. 6383(f) and 6387. Subpart M issued under Sec. 2(d), Pub. L. 114–75, 129 Stat. 641 (5 U.S.C. 6329 note). Subpart N issued under 5 U.S.C. 6329a(c). Subpart O issued under 5 U.S.C. 6329b(h). Subpart P issued under 5 U.S.C. 6329c(d).

Subpart N—Administrative Leave

4. In subpart N:

- a. Remove the word “grant”, wherever it appears, and add, in its place, the word “provide”;
- b. Remove the word “granted”, wherever it appears, and add, in its place, the word “provided”; and
- c. Remove the word “granting”, wherever it appears, and add, in its place, the word “providing”.

5. Amend § 630.1401 by revising paragraph (b) to read as follows:

§ 630.1401 Purpose and Applicability.

* * * * *

(b) This subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, but does not apply to—

(1) An intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek; or

(2) A Presidential appointee or other employee who is excluded from coverage under title 5 leave laws (5 U.S.C. 6301(a)(2)(x)-(xiii)) and who is entitled to the pay of his or her office solely because of status as an officer (5 U.S.C. 5508).

* * * * *

§ 630.1402 [Amended]

6. Amend § 630.1402 by removing the definition of “Head of the agency”.

7. Amend § 630.1403 by:

a. Revising the section heading;

b. In paragraph (a)(2), adding the words “sole and exclusive” before the word “discretion”;

c. Revising paragraph (a)(3);

d. In paragraph (a)(4), adding the words “sole and exclusive” before the word “discretion”;

e. Revising paragraph (b); and

f. Adding paragraph (c).

The revisions and additions made by paragraphs a, c, e, and f of the above amendatory instructions read as follows:

§ 630.1403 Principles, prohibitions, and examples of acceptable uses.

(a) * * *

(3) Administrative leave is appropriately used for brief or short periods of time—usually for not more than 1 workday. An incidence of administrative leave lasting more than 1 workday

may be approved in applicable circumstances described in paragraph (c) of this section or when otherwise determined to be appropriate by an agency.

* * * * *

(b) *Specific prohibited uses.* An agency may not provide administrative leave—

(1) To mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105);

(2) As a reward to recognize the performance or contributions of an employee or group of employees (i.e., in lieu of a cash award or a time-off award), except that an agency may provide administrative leave to all employees of an organization as a morale-boosting goodwill gesture, even if it is broadly linked to the accomplishments of the organization;

(3) For investigative purposes (i.e., involving an “investigation” as defined in 5 CFR 630.1502) after an employee has reached the 10-workday calendar year limit described in § 630.1404 in connection with a given investigation;

(4) For a purpose for which sick leave could be used (5 CFR 630.401(a))— unless such use in a particular scenario is specifically approved by Governmentwide policy issued by OPM or the President); however, an employee who is eligible to use sick leave may be provided administrative leave on the same basis it is provided to an employee who is not so eligible when the administrative leave is provided for some other purpose; or

(5) To cover service by poll workers or poll observers in connection with elections.

(c) *Examples of acceptable uses.* An agency may at its sole and exclusive discretion provide administrative leave in circumstances that satisfy the requirements in paragraph (a) of this section, including in the following circumstances:

(1) For investigative purposes until the employee has reached the 10-workday calendar year limit described in § 630.1404;

(2) To provide an employee who has not voted early with a reasonable opportunity to vote on a regular election day;

(3) To allow an employee to donate blood during the employee’s tour of duty;

(4) To allow an employee to participate in an agency's employee assistance program for problem identification and referral to an outside resource and for general employee orientation or education activities;

(5) To provide for early dismissal (generally no more than 2 hours) on the scheduled workday immediately before a Federal public holiday as a morale-boosting goodwill gesture;

(6) To allow an employee to rest and recover following unusually lengthy tours of duty or extended travel for work purposes (for example, the U.S. Forest Service in the Department of Agriculture or the Department of the Interior may provide 2 to 3 days of administrative leave to employees who have completed an extended deployment to fight a wildland fire);

(7) To provide up to 5 days of administrative leave for a civilian employee who needs time off to effectuate a change in his or her residence to a different geographic area in order to accompany a qualifying spouse—that is, a spouse who is a member of a one of the uniformed services or a civilian Federal Government employee—when the qualifying spouse's residence change is the result of military orders or agency direction, as applicable;

(8) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM or agency limits) to employees who sign a written agreement to voluntarily separate on a specified future date as a transition-to-separation tool that supports workforce restructuring and realignment initiatives that are based on agency and Governmentwide interests, including voluntary deferred resignation programs, use of voluntary separation incentive payments, or use of voluntary early retirement authorizations;

(9) To provide administrative leave to employees subject to an involuntary separation via a reduction in force (RIF) during the period between receipt of the RIF notice and the RIF separation when the agency determines it is in the Government's best interests; or

(10) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM or agency limits) to facilitate the voluntary resignation of an employee with documented poor performance or misconduct under a settlement agreement that

the agency determines is in the Government's best interests after considering all reasonable alternatives.

PART 715—NONDISCIPLINARY SEPARATIONS, DEMOTIONS, AND FURLOUGHS

8. The authority citation for 5 CFR part 715 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 10577, 19 FR 7521, 3 CFR, 1954-1958 Comp., p. 218.

Subpart B—Voluntary Separations

* * * * *

9. Revise § 715.202 to read as follows:

§ 715.202 Resignation.

(a) *General.* An employee is free to resign at any time, to set the effective date of his or her resignation, and to have his or her reasons for resigning entered in his or her official records.

(b) *Withdrawal of resignation.* An agency may, in its sole and exclusive discretion, accept or decline an employee's request to withdraw his or her resignation at any time before it has become effective. An agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption, the hiring of or commitment to hire a replacement, or the employee's acceptance of benefits provided under a deferred resignation agreement. Avoidance of adverse action proceedings is not a valid reason.

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