

rated at 30 percent or more is entitled to leave, without loss or reduction in pay, for purposes of undergoing medical treatment for such disability for which sick leave could regularly be used.

(b)(1) The leave credited to an employee under subsection (a) may not exceed 104 hours.

(2) Any leave credited to an employee pursuant to subsection (a) that is not used during the 12-month period described in such subsection may not be carried over and shall be forfeited.

(c)(1) In order to verify that leave credited to an employee pursuant to subsection (a) is used for treating a service-connected disability, such employee shall submit to the head of the employing agency certification, in such form and manner as the Director of the Office of Personnel Management may prescribe, that such employee used such leave for purposes of being furnished treatment for such disability by a health care provider.

(2) In the case of an employee of an office of the legislative branch, the certification described in paragraph (1) shall be prescribed—

(A) in the case of an employee of the House of Representatives, by the Committee on House Administration of the House of Representatives;

(B) in the case of an employee of the Senate, by the Committee on Rules and Administration of the Senate; or

(C) in the case of an employee of any other office of the legislative branch, by the head of the office.

(d) In this section—

(1) the term “employee” has the meaning given such term in section 2105, and includes—

(A) an officer or employee of the United States Postal Service or the Postal Regulatory Commission; and

(B) notwithstanding subsection (a) of section 7421 of title 38, an individual occupying a position listed in subsection (b) of such section;

(2) the term “service-connected” has the meaning given such term in section 101(16) of title 38; and

(3) the term “veteran” has the meaning given such term in section 101(2) of such title.

(Added Pub. L. 114-75, §2(a), Nov. 5, 2015, 129 Stat. 640; amended Pub. L. 115-238, §2(a), Sept. 7, 2018, 132 Stat. 2450; Pub. L. 115-364, §1(a), Dec. 21, 2018, 132 Stat. 5088.)

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-364 designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(1). Pub. L. 115-238 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the term ‘employee’ has the meaning given such term in section 2105, and includes an officer or employee of the United States Postal Service or of the Postal Regulatory Commission;”.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-238, §2(b), Sept. 7, 2018, 132 Stat. 2450, provided that: “With respect to a position listed in section 7421(b) of title 38, United States Code, the amendment made by subsection (a) [amending this section] shall apply to any individual appointed to such a position on or after the date of enactment of this Act [Sept. 7, 2018].”

EFFECTIVE DATE

Pub. L. 114-75, §2(c), Nov. 5, 2015, 129 Stat. 641, provided that: “The amendments made by subsection (a) [enacting this section] shall apply with respect to any employee (as that term is defined in section 6329(d)(1) of title 5, United States Code, as added by subsection (a)) hired on or after the date that is 1 year after the date of enactment of this Act [Nov. 5, 2015].”

REGULATIONS

Pub. L. 115-364, §1(b), Dec. 21, 2018, 132 Stat. 5088, provided that: “Not later than 9 months after the date of the enactment of this Act [Dec. 21, 2018], the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the head of each other office of the legislative branch shall prescribe regulations governing the application of section 6329 of title 5, United States Code, including the certification requirement under subsection (c) of such section, to employees of the House of Representatives, employees of the Senate, and employees of such office, respectively.”

Pub. L. 114-75, §2(d), Nov. 5, 2015, 129 Stat. 641, provided that: “Not later than 9 months after the date of enactment of this Act [Nov. 5, 2015]—

“(1) the Director of the Office of Personnel Management shall prescribe regulations with respect to the leave provided by the amendment in subsection (a) [enacting this section] for employees, but not including employees of the United States Postal Service or the Postal Regulatory Commission; and

“(2) the Postmaster General shall prescribe regulations for such leave with respect to officers and employees of the United States Postal Service and the Postal Regulatory Commission.”

§ 6329a. Administrative leave

(a) DEFINITIONS.—In this section—

(1) the term “administrative leave” means leave—

(A) without loss of or reduction in—

(i) pay;

(ii) leave to which an employee is otherwise entitled under law; or

(iii) credit for time or service; and

(B) that is not authorized under any other provision of law;

(2) the term “agency”—

(A) means an Executive agency (as defined in section 105 of this title);

(B) includes the Department of Veterans Affairs; and

(C) does not include the Government Accountability Office; and

(3) the term “employee”—

(A) has the meaning given the term in section 2105; and

(B) does not include an intermittent employee who does not have an established regular tour of duty during the administrative workweek.

(b) ADMINISTRATIVE LEAVE.—

(1) IN GENERAL.—During any calendar year, an agency may place an employee in administrative leave for a period of not more than a total of 10 work days.

(2) RECORDS.—An agency shall record administrative leave separately from leave authorized under any other provision of law.

(c) REGULATIONS.—

(1) OPM REGULATIONS.—Not later than 270 calendar days after the date of enactment of

this section, the Director of the Office of Personnel Management shall—

(A) prescribe regulations to carry out this section; and

(B) prescribe regulations that provide guidance to agencies regarding—

(i) acceptable agency uses of administrative leave; and

(ii) the proper recording of—

(I) administrative leave; and

(II) other leave authorized by law.

(2) AGENCY ACTION.—Not later than 270 calendar days after the date on which the Director of the Office of Personnel Management prescribes regulations under paragraph (1), each agency shall revise and implement the internal policies of the agency to meet the requirements of this section.

(d) RELATION TO OTHER LAWS.—Notwithstanding subsection (a) of section 7421 of title 38, this section shall apply to an employee described in subsection (b) of that section.

(Added Pub. L. 114-328, div. A, title XI, § 1138(c)(1), Dec. 23, 2016, 130 Stat. 2461.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

SENSE OF CONGRESS

Pub. L. 114-328, div. A, title XI, § 1138(b), Dec. 23, 2016, 130 Stat. 2460, provided that: “It is the sense of Congress that—

“(1) agency use of administrative leave, and leave that is referred to incorrectly as administrative leave in agency recording practices, has exceeded reasonable amounts—

“(A) in contravention of—

“(i) established precedent of the Comptroller General of the United States; and

“(ii) guidance provided by the Office of Personnel Management; and

“(B) resulting in significant cost to the Federal Government;

“(2) administrative leave should be used sparingly;

“(3) prior to the use of paid leave to address personnel issues, an agency should consider other actions, including—

“(A) temporary reassignment; and

“(B) transfer;

“(4) an agency should prioritize and expeditiously conclude an investigation in which an employee is placed in administrative leave so that, not later than the conclusion of the leave period—

“(A) the employee is returned to duty status; or

“(B) an appropriate personnel action is taken with respect to the employee;

“(5) data show that there are too many examples of employees placed in administrative leave for 6 months or longer, leaving the employees without any available recourse to—

“(A) return to duty status; or

“(B) challenge the decision of the agency;

“(6) an agency should ensure accurate and consistent recording of the use of administrative leave so that administrative leave can be managed and overseen effectively; and

“(7) other forms of excused absence authorized by law should be recorded separately from administrative leave, as defined by the amendments made by this section [see section 1138a of Pub. L. 114-328 set out as a Short Title of 2016 Amendment note under section 101 of this title].”

GAO REPORT

Pub. L. 114-328, div. A, title XI, § 1138(d)(2), Dec. 23, 2016, 130 Stat. 2468, provided that: “Not later than 5

years after the date of enactment of this Act [Dec. 23, 2016], and every 5 years thereafter, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the results of an evaluation of the implementation of the authority provided under sections 6329a and 6329b of title 5, United States Code, as added by subsection (c)(1) of this section and paragraph (1) of this subsection, respectively, including—

“(A) the number of times that an agency, under subsection (c)(1) of such section 6329b—

“(i) consulted with the investigator responsible for conducting the investigation to which an employee was subject with respect to the decision of the agency to grant an extension under that subsection; and

“(ii) did not have a consultation described in clause (i), including the reasons that the agency failed to have such a consultation;

“(B) an assessment of the use of the authority provided under subsection (d) of such section 6329b by agencies, including data regarding the number and length of extensions granted under that subsection;

“(C) an assessment of the compliance with the requirements of subsection (f) of such section 6329b by agencies;

“(D) a review of the practice of agency placement of an employee in investigative or notice leave under subsection (b) of such section 6329b because of a determination under subsection (b)(2)(A)(iv) of that section that the employee jeopardized legitimate Government interests, including the extent to which such determinations were supported by evidence; and

“(E) an assessment of the effectiveness of subsection (g) of such section 6329b in preventing and correcting the use of extended investigative leave as a tool of reprisal for making a protected disclosure or engaging in protected activity as described in paragraph (8) or (9) of section 2302(b) of title 5, United States Code.”

§ 6329b. Investigative leave and notice leave

(a) DEFINITIONS.—In this section—

(1) the term “agency”—

(A) means an Executive agency (as defined in section 105 of this title);

(B) includes the Department of Veterans Affairs; and

(C) does not include the Government Accountability Office;

(2) the term “Chief Human Capital Officer” means—

(A) the Chief Human Capital Officer of an agency designated or appointed under section 1401; or

(B) the equivalent;

(3) the term “committees of jurisdiction”, with respect to an agency, means each committee of the Senate or House of Representatives with jurisdiction over the agency;

(4) the term “Director” means the Director of the Office of Personnel Management;

(5) the term “employee”—

(A) has the meaning given the term in section 2105; and

(B) does not include—

(i) an intermittent employee who does not have an established regular tour of duty during the administrative workweek; or

(ii) the Inspector General of an agency;

(6) the term “investigative entity” means—