

- (1) pose a threat to the employee or others;
- (2) result in the destruction of evidence relevant to an investigation;
- (3) result in loss of or damage to Government property; or
- (4) otherwise jeopardize legitimate Government interests.

(f) REPORTING AND RECORDS.—

(1) IN GENERAL.—An agency shall keep a record of the placement of an employee in investigative leave or notice leave by the agency, including—

(A) the basis for the determination made under subsection (b)(2)(A);

(B) an explanation of why an action under clauses (i) through (iv) of subsection (b)(2)(B) was not appropriate;

(C) the length of the period of leave;

(D) the amount of salary paid to the employee during the period of leave;

(E) the reasons for authorizing the leave, including, if applicable, the recommendation made by an investigator under subsection (c)(1);

(F) whether the employee is required to telework under section 6502(c) during the investigation, including the reasons for requiring the employee to telework; and

(G) the action taken by the agency at the end of the period of leave, including, if applicable, the granting of any extension of a period of investigative leave under subsection (c) or (d).

(2) AVAILABILITY OF RECORDS.—An agency shall make a record kept under paragraph (1) available—

(A) to any committee of jurisdiction, upon request;

(B) to the Office of Personnel Management; and

(C) as otherwise required by law, including for the purposes of the Administrative Leave Act of 2016 and the amendments made by that Act.

(g) RECOURSE TO THE OFFICE OF SPECIAL COUNSEL.—For purposes of subchapter II of chapter 12 and section 1221, placement on investigative leave under subsection (b) of this section for a period of not less than 70 work days shall be considered a personnel action under paragraph (8) or (9) of section 2302(b).

(h) REGULATIONS.—

(1) OPM ACTION.—Not later than 270 calendar days after the date of enactment of this section, the Director shall prescribe regulations to carry out this section, including guidance to agencies regarding—

(A) acceptable purposes for the use of—

- (i) investigative leave; and
- (ii) notice leave;

(B) the proper recording of—

- (i) the leave categories described in subparagraph (A); and
- (ii) other leave authorized by law;

(C) baseline factors that an agency shall consider when making a determination that the continued presence of an employee in the workplace may—

- (i) pose a threat to the employee or others;

(ii) result in the destruction of evidence relevant to an investigation;

(iii) result in loss or damage to Government property; or

(iv) otherwise jeopardize legitimate Government interests; and

(D) procedures and criteria for the approval of an extension of a period of investigative leave under subsection (c) or (d).

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

(i) 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(d)(1), Dec. 23, 2016, 130 Stat. 2462.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (c)(3), (4)(B), (e) and (h)(1), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

The Administrative Leave Act of 2016, referred to in subsec. (f)(2)(C), is section 1138 of title XI of div. A of Pub. L. 114–328, Dec. 23, 2016, 130 Stat. 2460. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 101 of this title and Tables.

§ 6329c. Weather and safety 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; and

(2) 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) LEAVE FOR WEATHER AND SAFETY ISSUES.—An agency may approve the provision of leave under this section to an employee or a group of employees without loss of or reduction in the pay of the employee or employees, leave to which the employee or employees are otherwise entitled, or credit to the employee or employees for time or service only if the employee or group of employees is prevented from safely traveling to or performing work at an approved location due to—

(1) an act of God;

(2) a terrorist attack; or

(3) another condition that prevents the employee or group of employees from safely traveling to or performing work at an approved location.

(c) RECORDS.—An agency shall record leave provided under this section separately from

leave authorized under any other provision of law.

(d) REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Director of the Office of Personnel Management shall prescribe regulations to carry out this section, including—

(1) guidance to agencies regarding the appropriate purposes for providing leave under this section; and

(2) the proper recording of leave provided under this section.

(e) 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(e)(1), Dec. 23, 2016, 130 Stat. 2469.)

REFERENCES IN TEXT

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

SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

§ 6331. Definitions

For the purpose of this subchapter—

(1) the term “employee” means an employee as defined by section 6301(2), excluding an individual employed by the government of the District of Columbia;

(2) the term “leave recipient” means an employee whose application to receive donations of leave under this subchapter is approved;

(3) the term “leave donor” means an employee whose application to make 1 or more donations of leave under this subchapter is approved; and

(4) the term “medical emergency” means a medical condition of an employee or a family member of such employee that is likely to require the prolonged absence of such employee from duty and to result in a substantial loss of income to such employee because of the unavailability of paid leave (disregarding any advanced leave).

(Added Pub. L. 100-566, §2(a), Oct. 31, 1988, 102 Stat. 2834; amended Pub. L. 103-103, §3, Oct. 8, 1993, 107 Stat. 1022.)

AMENDMENTS

1993—Par. (4). Pub. L. 103-103 inserted “the term” after par. designation and inserted before period at end “(disregarding any advanced leave)”.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-103, §6, Oct. 8, 1993, 107 Stat. 1024, provided that: “Except as provided in section 2 [enacting and repealing provisions set out as notes under this section], this Act [amending this section and sections 6337, 6361, 6362, and 6373 of this title and enacting provisions set out as a note under section 6301 of this title] and the amendments made by this Act shall take effect as of the 120th day after the date of the enactment of this Act [Oct. 8, 1993] or such earlier date as the Office of Personnel Management may by regulation prescribe.”

REPEALS

Pub. L. 100-566, §2(d), Oct. 31, 1988, 102 Stat. 2844, which provided for the repeal of subchapters III (§6331

et seq.) and IV (§6361 et seq.) of this chapter effective 5 years after Oct. 31, 1988, and which also contained savings provisions for continued availability of certain leave as if such program had not been terminated, was repealed by Pub. L. 103-103, §2, Oct. 8, 1993, 107 Stat. 1022, effective Oct. 30, 1993.

[Pub. L. 103-103, §2, Oct. 8, 1993, 107 Stat. 1022, provided that the repeal made by that section is effective Oct. 30, 1993.]

IMPLEMENTATION OF LEAVE TRANSFER AND LEAVE BANK PROGRAMS

Pub. L. 100-566, §2(c), Oct. 31, 1988, 102 Stat. 2844, provided that:

“(1) No later than 3 months after the date of the enactment of this Act [Oct. 31, 1988], the Office of Personnel Management shall prescribe regulations to implement leave transfer programs pursuant to the amendments made by this Act [see Short Title of 1988 Amendment note set out under section 6301 of this title].

“(2) No later than 6 months after the date of the enactment of this Act—

“(A) the head of each agency involved under sections 6332 and 6339 of title 5, United States Code, shall establish and begin operating a leave transfer program in accordance with applicable provisions of subchapter III of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office; and

“(B) the Office of Personnel Management shall prescribe regulations to implement leave bank programs pursuant to the amendments made by this Act.

“(3) No later than 9 months after the date of the enactment of this Act, the head of each agency involved under section 6362 of title 5, United States Code, shall establish and begin operating a leave bank in accordance with subchapter IV of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office.”

REPORT TO CONGRESS

Pub. L. 100-566, §2(e), Oct. 31, 1988, 102 Stat. 2845, provided that:

“(1)(A) Within 2 years after the date of the enactment of this Act [Oct. 31, 1988] and again no later than 6 months before the scheduled termination date of any program under subchapter III or subchapter IV of chapter 63 of title 5, United States Code (excluding any program under sections 6339 and 6372 of such chapter) the Office of Personnel Management shall submit a written report to the Congress with respect to the operations of such programs.

“(B) The Office of Personnel Management may require agencies to maintain such records and to provide such information as the Office may need to carry out subparagraph (A).

“(2) The excepted agencies that establish programs under sections 6339 and 6372 of title 5, United States Code, shall report to the Congress on the operation of such programs within 2 years after the date of the enactment of this Act and again no later than 6 months before the scheduled termination of any such programs.”

CONTINUATION OF TEMPORARY LEAVE TRANSFER PROGRAMS

Pub. L. 100-566, §2(f), Oct. 31, 1988, 102 Stat. 2845, provided that: “Any temporary program allowing for transfers of leave among officers or employees of the Federal Government may, if such program is being implemented with respect to an agency (or any unit thereof) as of the date of the enactment of this Act [Oct. 31, 1988], continue to be implemented with respect to such agency (or unit), notwithstanding any provision of law which would otherwise terminate the authority for such program, pending the commencement of a leave transfer program with respect to such agency pursuant to amendments made by this Act [see Short Title of 1988 Amendment note set out under section 6301