

SC1406. **SUBCHAPTER 1406**

ATTENDANCE AND LEAVE
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SC1406. SUBCHAPTER 1406

ATTENDANCE AND LEAVE

- References:**
- (a) Section 6103, 6120-6133, 6303, 6304, 6304(b), 6305, 6308(b), 6322, 6323, 6326, 6327, 8171, Chapter 63, of title 5, United States Code
 - (b) Title 5, Code of Federal Regulations, Part 610, subpart D, 550.1002 , 550.1205, 630.301, 630.305, 630 subpart C, F,I, J, L, current edition
 - (c) Presidential Memorandum, “Strengthening our Commitment to Service,” April 22, 1998
 - (d) Office of Personnel Management Memorandum, “Participation of Federal Employees in Volunteer Activities,” April 23, 1998
 - (e) through (l), see enclosure 1

SC1406.1. GENERAL PURPOSE AND APPLICABILITY

SC1406.1.1. This Subchapter issues attendance and leave policies for DoD nonappropriated fund (NAF) activities and all Regular and Flexible employees unless otherwise stated.

SC1406.1.2. To help the negotiating of “total compensation packages,” the Deputy Under Secretary of Defense (Civilian Personnel Policy) may, on a case-by-case basis, waive fringe benefit provisions in this Subchapter not required by law or government-wide regulation. Such waivers shall apply at activities with NAF bargaining units where such matters are negotiated in SC711 of this Manual. The waiver request should be submitted in advance of negotiations and indicate the timing of negotiations.

SC1406.1.3. Web site addresses listed in this Subchapter are provided for the convenience of the user and do not supersede, nor are they substitutes for, applicable laws or regulations. The Department of Defense does not warrant that cited web sites are accurate, complete, or current.

SC1406.2. POLICY

SC1406.2.1. Attendance

SC1406.2.1.1. Administrative Workweek. The administrative workweek is a period of seven consecutive calendar days designated by the Heads of the DoD Components or their designees. It may begin on any day and hour. The basic workweek is established within this period.

SC1406.2.1.2. Basic Workweek. Within the administrative workweek, the basic workweek shall not exceed 40 hours, exclusive of meal times. Two consecutive days off shall be provided in each administrative workweek, whenever possible,. However, the basic workweek

may be scheduled over a period of six days, provided the total scheduled hours do not exceed 40 hours per administrative workweek. Hourly rates for employees who work less than 40 hours in the basic workweek are defined in SC1405.AP1 of this Manual.

SC1406.2.1.3. Workday. The workday shall be scheduled within a 24 hour period and may extend over 2calendar days in succession (e.g., 6:00 p.m. Monday through 2:30 a.m. Tuesday).

SC1406.2.1.4. Meal Periods. Regular meal or lunch periods shall usually be established at no less than 30 minutes or in excess of 1 hour, and shall not be considered as time worked. Meal breaks that occur when night-shift differential pay is authorized shall be included for purposes of determining a prevailing rate employee's entitlement to night-shift differential pay. No employee shall be required to work more than 6 consecutive hours without a meal period.

SC1406.2.1.5. Legal Holidays. The provisions for legal public holidays in Section 6103 of title 5 (reference (a)), are administratively extended to NAF activities and employees. Federal Statute or Executive Order may designate additional holidays.

SC1406.2.1.6. Administrative Leave. Non-emergency employees may be released from duty when an authorized official closes all or part of an activity. Administrative dismissals of NAF employees shall be according to SC610 of this Manual, which states the situations, authorities, and policies for effecting such dismissals and is administratively extended to NAF activities and employees. The Heads of the DoD Components or their designees are authorized to excuse employees from their normal duties for brief periods without charge to leave or loss of pay. This authority shall be used sparingly. Some of the common situations for which excused absence may be granted (e.g., voting, certain blood donations, etc.), and the policies that apply, are stated in SC630.7. of this Manual.

SC1406.2.1.7. Flexible and Compressed Work Schedules. Consistent with Sections 6120-6133 of reference (a), and Title 5 Code of Federal Regulations, part 610, subpart D (reference (b)), which are administratively extended to NAF activities and employees, flexible and compressed work schedules may be established. For additional information, see the Office of Personnel Management (OPM) site index at <http://www.opm.gov>.

SC1406.2.1.8. Compensatory Time Off for Religious Observances. Consistent with part 550.1002 of reference (b), which is administratively extended to NAF activities and employees, NAF employees may request and elect to work additional hours in excess of their regular work schedule, without pay, so they may take an equal amount of time off without charge to leave when personal religious beliefs require not working during certain times. However, this election may be disapproved if such change in work schedule interferes with the efficient accomplishment of the employer's mission.

SC1406.2.1.9. Volunteer Activities. Presidential Memorandum dated April 22, 1998 (reference (c)) directed the Heads of Executive Departments and Agencies to review their work scheduling practices and be flexible, when possible, to allow Federal employees to plan and take time off to do community service as allowed by public business. This memorandum applies to

NAF Activities. The OPM Memorandum, dated April 23, 1998 (reference (d)) transmitted the Presidential Memorandum and provided guidance on flexibilities that may be used for granting employees time off for volunteer activities.

SC1406.2.2. Leave

SC1406.2.2.1. Leave Year. The leave year, a consecutive 52-week period, is prescribed by the Heads of the DoD Components, or their designees, for administering leave.

SC1406.2.2.2. Annual Leave. Annual leave is an approved leave of absence with pay for personal, emergency, and other purposes.

SC1406.2.2.2.1. Annual Leave Authorization. Annual leave shall be authorized and scheduled when the workload allows and at the convenience of the employee whenever possible. Regular employees (as defined in SC1403 of this Manual) shall earn annual leave. The Heads of the DoD Components or their designees may establish policies to allow Flexible employees (as defined in SC1403 of this Manual) to earn annual leave. Authority to grant annual leave immediately prior to separating from service, when separation is known in advance, is limited to cases where the exigencies of the employer require such action, or where the employee substantially worked the entire final pay period and worked part of the last day of that period in accordance with Decisions of the Comptroller General, Volume 34 (reference (e)) This restriction largely eliminates the cost, during employment termination, of employees continuing to accrue leave while using leave, and therefore receiving a payoff greater than lump-sum payment of the unused leave balance.

SC1406.2.2.2.2. Annual Leave Accrual. Employees shall accrue annual leave hours while in pay status. Hours worked in excess of those regularly scheduled in a basic workweek or bi-weekly pay period are excluded from the leave accrual calculation. Employees receiving compensation for work injuries under Section 8171 of reference (a), and carried on the NAF employer's rolls in a leave-without-pay status, do not accrue annual leave.

SC1406.2.2.2.2.1. Employees with less than 3 years of service shall accrue 5 percent of the total hours in a basic workweek as annual leave.

SC1406.2.2.2.2.2. Employees with 3, but less than 15, years of service shall accrue 7.5 percent of the total hours in the basic workweek as annual leave, except for the final bi-weekly period of the leave year when leave shall accrue at the rate of 12.5 percent of the total hours in the basic workweek.

SC1406.2.2.2.2.3. Employees with 15 years or more of service shall accrue 10 percent of the total hours in the basic workweek.

SC1406.2.2.2.3. Time of Crediting. The Heads of the DoD Components may require employees to serve for a continuous period of 90 calendar days in a Regular appointment before earned annual leave is credited to the employee's leave account. Thereafter, leave shall be credited at the end of the period in which it is earned.

SC1406.2.2.2.4. Creditable Service for Determining Leave Accrual. Creditable service is as follows:

SC1406.2.2.2.4.1. All DoD NAF service as a Regular employee, regardless of employer. The Heads of the DoD Components or their designees may establish policies to also credit service in a Flexible appointment.

SC1406.2.2.2.4.2. Approved leave without pay (LWOP) not to exceed 1 year when receiving compensation for work injuries in accordance with Section 8171 of reference (a).

SC1406.2.2.2.4.3. Civil service employment when the move to NAF employment from a civil service position meets the requirements of Section 6308(b) of reference (a). For additional information, see the Civil Service/NAF Benefit Portability link at <http://www.cpms.osd.mil>.

SC1406.2.2.2.4.4. Credit for uniformed service is generally given for leave accrual purposes, as described in Section 6303 of reference (a), which is administratively applied. Uniformed Service may be verified by the branch in which the person served. Service in the Armed Forces is documented on the DD 214, "Certificate of Release or Discharge from Active Duty."

SC1406.2.2.2.5. Accrual Rate Change Effective Date. A change in the rate of accrual is effective at the beginning of the first pay period after completing required service.

SC1406.2.2.2.6. Maximum Annual Leave Accumulation. Consistent with Section 6304 of reference (a), which is administratively extended to NAF activities and employees, the maximum amount of accrued annual leave that may be carried forward from one leave year to another is 240 hours with the following exceptions:

SC1406.2.2.2.6.1. Consistent with 6304(b) of reference (a), which is administratively extended to NAF activities and employees, employees stationed outside the United States may carry forward a maximum of 360 hours.

SC1406.2.2.2.6.2. The Heads of the DoD Components, or their designees, may allow employees in payband NF-6 to carry forward from one leave year to another a maximum of 720 hours. Section 630.301 of reference (b), shall be used as a guide to ensure that annual leave accumulated and carried over does not exceed leave benefits for civil service employees.

SC1406.2.2.2.6.3. Special annual leave rules apply to employees assigned to an installation designated for closure as explained in SC1417 of this Manual.

SC1406.2.2.2.6.4. If the Heads of the DoD Components or their designees decide that an exigency, as defined in part 630.305 of reference (b), is of such importance that it prevents using annual leave subject to forfeiture (i.e., accumulated annual leave in excess of the maximum amount that maybe carried forward from 1 leave year to another), the leave otherwise

forfeited may be restored in accordance with part 630, Subpart C of reference (b) regarding restoring annual leave, using restored leave, and time limits for such use. These rules are administratively extended to NAF activities and employees.

SC1406.2.2.2.7. Lump-Sum Payment for Annual Leave

SC1406.2.2.2.7.1. Entitlement. A NAF employee shall receive a lump-sum payment for any unused annual leave credited to the employee's leave record when he or she separates from one of the six major NAF employers (the Army, the Navy Personnel Command, the Navy Exchange Service Command, the Marine Corps, the Air Force, and the Army, and the Air Force Exchange Service). However, if a NAF employee is transferring from one NAFI to another NAFI, the employee's annual leave credit and the funds to cover its cost may be transferred from the losing to gaining employer if the two employers agree and the employee elects such a transfer of credit instead of receipt of a lump-sum payment.

SC1406.2.2.2.7.1.1. Employees, including the Reservists and the National Guard members, entering long-term active duty in the Armed Forces may elect to have their accumulated leave remain to their credit until they return from active duty or receive lump-sum payment.

SC1406.2.2.2.7.1.2. A DoD NAF employee who moves to a DoD appropriated fund position, without a break in service of more than 3 days, shall not be paid lump-sum annual leave. The employee's NAF annual leave balance transfers to the employee's credit in the appropriated fund leave system in accordance with Section 6308(b) of reference (a). Leave shall be administered in accordance with the rules of the gaining employment system.

SC1406.2.2.2.7.2. Computation. The civil service rules at part 550.1205 of reference (b) for computing lump-sum payment for annual leave are administratively extended to the computation of lump-sum payment for a NAF employee's annual leave.

SC1406.2.2.2.7.3. Restrictions.

SC1406.2.2.2.7.3.1. Employees may not be paid for any part of their leave balance at anytime while employed unless they are transferred to a position and/or status that is ineligible to accrue leave. (subparagraph SC1406.2.2.2.1., states the restrictions against allowing the use of leave (instead of a lump-sum payment) immediately prior to separation when the separation is known in advance.)

SC1406.2.2.2.7.3.2. The Heads of DoD Components may restrict the lump-sum payment of accrued leave for employees who separate before completing 90-days of continuous employment from the initial hire date.

SC1406.2.2.2.7.4. Commission or Incentive-Paid Employees. Employees compensated in whole or in part by such forms of pay as tips, commission, piece rates or other

non-time based compensation are covered by the same annual leave policy that applies to Regular employees. However, the leave is computed on the basis of the payline or prevailing rate as defined in OPM's Operating Manual for NAF Federal Wage Employees (reference (f)).

SC1406.2.2.3. Sick Leave

SC1406.2.2.3.1. Eligibility. Sick leave shall be credited to Regular employees, and as decided by the NAF component, may be credited to Flexible employees. Employees with sick leave to their credit may be granted such leave for medical reasons and for other purposes explained in subparagraphs SC1406.2.2.5 and SC1406.2.2.6., below.

SC1406.2.2.3.2. Sick Leave Credit Accruals. Employees shall accrue sick leave hours at the rate of 5 percent of pay status hours except hours worked in excess of those regularly scheduled in a basic workweek or bi-weekly pay period are excluded from leave accrual calculation.

SC1406.2.2.3.3. Sick Leave for Commission or Incentive-Paid Employees. Compensation and computing sick leave for commission or incentive paid-employees are the same as those prescribed in subparagraph SC1406.2.2.2.7.4., above.

SC1406.2.2.3.4. Accumulation of Sick Leave. There is no limit on the amount of sick leave that employees may accumulate and carry forward from year to year. No payment for unused sick leave shall be made to an employee under any circumstances. Unused sick leave that an employee has accumulated at the time of his or her retirement shall be added to the employee's period of creditable NAF service for retirement purposes.

SC1406.2.2.3.5. Transfer of Sick Leave. On transfer of an employee to another DoD NAF employer, the employee's sick leave credits shall be transferred between the NAF employers without a transfer of funds, provided that the employee did not receive service credit for unused sick leave in the computation of an annuity.

SC1406.2.2.3.6. Sick Leave Recredit

SC1406.2.2.3.6.1. If a former DoD NAF employee returns to DoD NAF employment (regardless of employer) after a separation related to a "Business Based Action (BBA)," as defined in DoD 1401.1-M (reference (g)), his or her sick leave balance at the time of such separation shall be restored. If separation was not related to a BBA, restoring the balance of the sick leave is at the discretion of the employer.

SC1406.2.2.3.6.2. An employee, who is converted from Regular to Flexible status and loses sick leave credit, shall be recredited sick leave if he or she returns to Regular status with the same or different NAF employer.

SC1406.2.2.4. On-the-Job Injury. An employee covered by workers' compensation insurance under Section 8171 of reference (a) may be granted sick leave payments from the employee's accumulated sick leave balance in an amount which, when added to workers'

compensation benefits, approximates but does not exceed the employee's basic salary. Annual leave may be substituted in the absence of sick leave.

SC1406.2.2.5. Family and Medical Leave Act (FMLA). NAF employees are covered by Pub. L. 103-3 (1993) (reference (h)). The Act entitles certain Federal employees to 12 administrative workweeks of LWOP (or they may use their accrued annual or sick leave instead) during any 12-month period for one or more of the following reasons: the birth of a son or daughter and care of the newborn; the placement of a son or daughter with the employee for adoption or foster care; the care of a spouse, son, daughter or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or a serious health condition of the employee that makes the employee unable to carry out the essential function of his or her position.

SC1406.2.2.5.1. Employees in both Regular and Flexible continuing positions, i.e., positions without a documented time limitation, or a “not to exceed” date, who have completed at least 12 months of service (not required to be 12 recent or consecutive months) are covered under Title II of reference (h). The OPM regulations are administratively extended to NAF activities and employees covered under Title II and are published in part 630, Subpart L of reference (b). (A fact sheet summarizing key FMLA rules is also available at <http://www.opm.gov>.)

SC1406.2.2.5.2. NAF employees serving under a Flexible appointment with a stated time limitation or “not to exceed” date of one year or less are subject to the provisions of Title I of reference (h). Employees covered under Title I must meet the eligibility criteria prescribed by the Department of Labor (DOL) regulations, 29 CFR, Part 825 (reference (i)). Title I may be found via the DOL website index at <http://www.dol.gov>. The DOL requires that all covered employers display and keep displayed a DOL prepared poster summarizing major FMLA provisions. This poster is available at the DOL website.

SC1406.2.2.5.3. Health Coverage. During approved periods of FMLA leave, employees who are enrolled in the NAF Health Benefits Program (HBP) (HMO or non-HMO) may continue health insurance coverage (medical and dental) according to the provisions of SC1408.AP1 of this Manual.

SC1406.2.2.5.4. Grievances. DoD personnel may not interfere with a NAF employee’s statutory right to take family or medical leave. Employees who are covered under the provisions of reference (h), and who believe management has not fully complied with the applicable rules, may file grievances according to NAF employer grievance procedures, use negotiated grievance procedures, or use any other procedure that may be available to them. (Additional grievance procedures that may be available to employees covered under Title I of reference (h) include filing a complaint with the DOL Wage and Hour Division, Employment Standards Administration.)

SC1406.2.2.5. Expanded Family and Medical Leave Policies. Although not required, the Heads of the DoD Components or their designees may grant the “family friendly” expanded benefits to NAF employees that include voluntary leave transfer or donation, sick leave for

family care purposes, and sick leave for adoption, subject to the policies regulated by Part 630 of reference (b). These rules may also be found on the OPM site index at <http://www.opm.gov> (See Leave Administration).

SC1406.2.2.6. Leave Donation/Bank Programs. The Heads of the DoD Components or their designees may establish Leave Donation and/or Leave Bank programs to allow NAF employees to transfer leave to other NAF employees for medical or family emergency or other hardship situations. The OPM leave transfer programs for appropriated fund employees may be used as a guideline part 630, subpart I-J of reference (b). The transfer of leave between appropriated fund and NAF employees for the purpose of donating leave is prohibited.

SC1406.2.2.7. Home Leave. Home leave is a special category of leave that employees who serve abroad earn in addition to their annual leave if they meet certain requirements. Home leave rules may be found in Section 6305 of reference (a), and part 630, subpart F of reference (b). These provisions are administratively extended to NAF activities and employees.

SC1406.2.2.8. Donor Leave. Section 6327 of reference (a) entitles an employee in or under an Executive Agency to additional leave beyond annual and sick leave, to allow the employee to serve as a bone-marrow or organ donor. Such additional leave is granted without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance rating. Employers shall inform employees of this entitlement. Further details, including limitations, are in Chapter 63 of reference (a).

SC1406.2.2.9. Military Leave. Military leave provisions in Section 6323 of reference (a) are administratively extended to NAF activities and employees. Regular employees (full or part-time) and Flexible employees whose appointment is not limited to 1 year or less are entitled to time off with pay for certain types of active and inactive duty in the National Guard or the Reserves of the Armed Forces. Military leave is prorated for part-time employees and eligible Flexible employees based on the number of hours in the employee's regularly scheduled bi-weekly pay period. Additional information may be found at www.opm.gov.

SC1406.2.2.10. Return of Active Duty Military Members to Federal Civilian Employment. When employees return to duty from Military Service, they shall have the same leave accrual entitlements they should have enjoyed had they remained at work in accordance with the Uniform Services Employment and Reemployment Rights Act of 1994, codified in Section 4316 of title 38 U.S.C. (reference (i)). Additionally, as directed in the Presidential Memorandum, dated November 14, 2003 (reference (k)), employees returning from active Military Service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operations subsequently established under Executive Order 13223, (reference (l)), shall be granted 5 days of excused absence, without charge to leave, prior to the employee's resumption of his or her duties, or at a time mutually agreeable between the employer and employee, if the employee has already returned to duty.

SC1406.2.2.11. Court Leave. Court leave as described in Section 6322 of reference (a) is administratively extended to NAF activities and employees. Court leave is authorized absence from work, without charge to leave or loss of pay, for jury duty or to appear (not in an official

duty capacity) as a witness when the United States, the District of Columbia, or a State or local government is a party to the proceeding.

SC1406.2.2.12. Funeral Leave. The provisions of Section 6326 of reference (a) are administratively extended to NAF activities and employees to allow employees to take leave to make arrangements for or attend the funeral or memorial service for an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. Funeral leave may not exceed 3 workdays.

SC1406.2.2.13. Leave Without Pay (LWOP). LWOP is an approved temporary nonpay status and absence from duty. On request, such leave may be granted instead of annual or sick leave. LWOP shall not be granted for a period exceeding 1 year except for military service and other circumstances considered appropriate.

SC1406.2.2.14. Absence Without Leave (AWOL). AWOL is an unauthorized absence from duty. This is a non-pay status.

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Decisions of the Comptroller General, Volume 34, page 61, 1954
- (f) OPM's Operating Manual for NAF Federal Wage Employees, current edition
- (g) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988
- (h) Public Law 103-3, "The Family and Medical Leave Act of 1993," February 5, 1993
- (i) Title 29, Code of Federal Regulations, Part 825, "Family and Medical Leave Act," current edition
- (j) Section 4316 of title 38, United States Code
- (k) Presidential Memorandum, November 14, 2003
- (l) Executive Order 13223, September 14, 2001