



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

CPM 2024-10  
April 25, 2024

Memorandum for Heads of Executive Departments and Agencies

From: Kiran A. Ahuja  
Director

**Subject: Recent Pay and Leave-Related Legislative Changes**

This is to inform you of several legislative changes and extensions affecting Federal employee pay, leave, and certain benefits. The changes result from the enactment of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Public Law 118-31, December 22, 2023).

**Section 613 – Reserve Income Replacement Program**

Section 613(a) amends 37 U.S.C. 910(g) to extend the expiration date for the Reserve Income Replacement Program from December 31, 2023, to December 31, 2024.

The Reserve Income Replacement Program is administered by the Department of Defense and provides income replacement payments for certain reserve component members experiencing extended and frequent mobilization for active-duty service. (This amendment does not affect the reservist differential authority under 5 U.S.C. 5538, which is a separate program for Federal employees. A Federal employee who is entitled to a reservist differential may not receive payments under 37 U.S.C. 910 for the same period. See the [reservist differential](#) guidance for additional information.)

**Section 1105 – 1-Year Extension of Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Certain Federal Civilian Employees Working Overseas**

Section 1105 extends through calendar year (CY) 2024 the authority provided in section 1101 of the Duncan Hunter NDAA for FY 2009 (Public Law 110-417, October 14, 2008), as amended, for the head of an agency to waive the normally applicable premium pay cap established in 5 U.S.C. 5547 for certain Federal civilian employees working overseas. The annual limitation on basic pay and premium pay allowed under the waiver authority in CY 2024 is the officially established annual salary rate for the Vice President under 3 U.S.C. 104 (\$284,600 in 2024). In addition, when an employee is granted a section 1105 waiver, any pay in addition to basic pay received for service

during the waiver period is not counted as compensation in applying the aggregate limitation on pay under 5 U.S.C. 5307.

Section 1101(d) of Public Law 110-417 continues to provide the U.S. Office of Personnel Management (OPM) Director with the discretion to issue regulations for this waiver authority. OPM does not currently plan to issue regulations. However, each agency with covered employees should establish policies for using this waiver authority. To ensure agencies apply this discretionary authority consistently, we have coordinated with the Department of Defense and the Department of State to develop the attached summary of key elements agencies should include in their policies implementing the waiver authority (Attachment). The attached summary includes additional information on employee coverage, approval criteria, and special instructions on applying the waiver authority to employees working in Iraq. Please note that (as further explained in the Attachment) the minimum duration of a qualifying overseas assignment has been reduced from 42 days to 30 days, consistent with the minimum assignment duration qualifying for overseas post differentials. The Attachment also clarifies that a qualifying “overseas location” is a location in a foreign area.

#### **Section 1108 – Exclusion of Nonappropriated Fund Employees From Limitations on Dual Pay**

Section 1108 amends 5 U.S.C. 5531(2) to exclude a position in a nonappropriated fund instrumentality (NAFI) under the jurisdiction of the armed forces from the definition of “position” for purposes of coverage under the prohibition against dual pay in 5 U.S.C. 5533. In applying the dual pay limitations under section 5533, agencies should not consider basic pay for hours worked by employees in NAFI positions under the jurisdiction of the armed forces. This change allows a covered NAFI employee who is also employed in a dual pay covered position to receive pay for both positions for work exceeding an aggregate of 40 hours per week, despite the general prohibition described in 5 U.S.C. 5533(a). This amendment was effective on December 22, 2023.

#### **Section 1109 – 1-Year Extension of Temporary Authority to Grant Allowances, Benefits, and Gratuities to Civilian Personnel on Official Duty in a Combat Zone**

Section 1109 grants the head of an agency discretionary authority until the end of **FY 2025** (September 30, 2025), to provide an individual employed by or assigned or detailed to the agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413

and chapter 9 of title I of the Foreign Service Act of 1980. The employee must be on official duty in Pakistan or a combat zone, as defined by section 112(c) of the Internal Revenue Code of 1986.

Section 1109 amends section 1603(a)(2) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234, June 15, 2006), as added by section 1102 of the NDAA for FY 2009 (Public Law 110-417, October 14, 2008) and amended by section 1112 of the NDAA for FY 2012 (Public Law 112-81, December 31, 2011), section 1104 of the NDAA for FY 2013 (Public Law 112-239, January 2, 2013), section 1102 of the NDAA for FY 2014 (Public Law 113-66, December 26, 2013), section 1102 of the NDAA for FY 2015 (Public Law 113-291, December 19, 2014), section 1102 of the NDAA for FY 2016 (Public Law 114-92, November 25, 2015), section 1133 of the NDAA for FY 2017 (Public Law 114-328, December 23, 2016), section 1108 of the NDAA for FY 2018 (Public Law 115-91, December 12, 2017), section 1115 of the NDAA for FY 2019 (Public Law 115-232, August 13, 2018), section 1104 of the NDAA for FY 2020 (Public Law 116-92, December 20, 2019), section 1106 of the NDAA for FY 2021 (Public Law 116-283, January 1, 2021), section 1114 of the NDAA for FY 2022 (Public Law 117-81, December 27, 2021), and section 1103 of the NDAA for FY 2023 (Public Law 117-263, December 23, 2022).

#### **Section 1110 – Enhanced Shore Leave for Department of Defense Civilian Mariners**

Section 1110 amends 5 U.S.C. 6305 by establishing a new paragraph (d) to provide a covered Department of Defense officer, crewmember, or other employee serving aboard an oceangoing vessel on an extended voyage with 2 days of shore leave for every 7 calendar days of qualifying service. This authority was effective on December 22, 2023. With respect to covered employees, this new law supersedes the OPM regulatory provision in 5 CFR 630.703(a) describing a shore leave accrual of 1 day for every 15 calendar days of qualifying service. However, employees covered by 5 U.S.C. 6305(c) who are not employed by the Department of Defense will continue to accrue shore leave at the rate of 1 day for every 15 calendar days of qualifying service.

#### **Section 1114 – Creditability of Certain Honorable Active Service for Family and Medical Leave Act (FMLA) Leave (including Paid Parental Leave) and Parental Bereavement Leave Eligibility Purposes**

Section 1114(a) makes certain honorable active (military) service creditable for FMLA eligibility purposes by amending 5 U.S.C. 6381(1)(B) to add a new clause (ii) providing

that service “which qualifies as honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps of the United States” is creditable service for title 5 FMLA leave eligibility (and therefore also paid parental leave) purposes. To be eligible for FMLA leave, an employee must have completed 12 months of qualifying service. Under the amended section 6381(1), the qualifying service may be service (1) as an employee (as defined in 5 U.S.C. 2105) of the Government of the United States, including service with the United States Postal Service, the Postal Regulatory Commission, and a nonappropriated fund instrumentality as described in section 2105(c) or (2) which qualifies as honorable active military service in the Army, Navy, Air Force, Space Force, or Marine Corps of the United States. The qualifying civilian service and qualifying military service are combined in applying the 12-month service requirement. Because of the law change providing credit for qualifying military service, some employees who did not have enough Federal civilian service to meet FMLA leave eligibility requirements might immediately become entitled to use FMLA leave (to include FMLA leave with substitution of paid parental leave) based on their previous active military service. For additional guidance, see [CPM 2024-05](#).

Subsections (b) and (c) of section 1114 address Federal employee FMLA leave eligibility under statutes other than title 5. Federal employees covered by FMLA leave laws outside title 5 should direct questions to their leave system administrator.

The amendment to section 6381(1) of the FMLA statute also applies to the eligibility requirements for parental bereavement leave. Under 5 U.S.C. 6329d, an individual is eligible for parental bereavement leave only if the individual meets the definition of “employee” in the title 5 FMLA provision in 5 U.S.C. 6381(1) at the time of the child’s death. As explained above, under the amended section 6381(1), certain military service is now qualifying. Thus, some employees may immediately become entitled to use parental bereavement leave. An employee does not invoke FMLA in order to use parental bereavement leave but must meet the FMLA eligibility requirements in order to use the leave. [CPM 2022-08](#) provides general guidance on the parental bereavement leave authority but does not reflect the FMLA amendment described in this paragraph.

### **Additional Information**

Agency headquarters-level human resources offices may contact OPM at [paypolicy@opm.gov](mailto:paypolicy@opm.gov) (for the pay authorities discussed in this memorandum) or [leavepolicy@opm.gov](mailto:leavepolicy@opm.gov) (for the leave authorities discussed in this memorandum).

Employees should contact their agency human resources office for further information on this memorandum.

Attachment

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, and Human Resources Directors