

LAW REVIEW 126
2005

Paid Military Leave for Federal Employees

By CAPT Samuel F. Wright, JAGC, USNR*

Q: I am a federal civilian employee and a lieutenant commander in the Naval Reserve. As you explained in Law Reviews 33 and 62, federal employees earn 120 hours of paid military leave per fiscal year. The entitlement used to be 15 days. My civilian supervisor insists on charging me 24 hours of paid military leave per day, so I only get five days of paid leave (5 times 24). What gives? I thought that Congress changed the law from 15 days to 120 hours to make the entitlement more generous, not less generous.

A: You are correct that Congress amended 5 U.S.C. 6323 (15 days to 120 hours) for the purpose of making the entitlement more generous. Formerly, the middle weekend of a 12-day annual training period counted in using up the 15 days of paid military leave. Now, it does not count.

The U.S. Office of Personnel Management (OPM) is responsible for administering the various kinds of leave for federal employees, including paid military leave under 5 U.S.C. 6323. The OPM Web site specifically addresses this issue, as follows: "Military leave should be credited to a full-time employee on the basis of an 8-hour workday. The minimum charge to leave is one hour. *An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.*" (*Emphasis in original.*) Your supervisor is clearly wrong in charging you 24 hours per day in military leave. [See also *Butterbaugh v. Department of Justice*, 336 F.3d 1332 (Fed. Cir. 2003).]

**Military title used for purposes of identification only. The views expressed herein are the personal views of the authors and should not be attributed to the U.S. Marine Corps, the Department of the Navy, the Department of Defense, or the U.S. government. The best way to reach Captain Wright is by e-mail, at samwright50@yahoo.com.*