§ 630.212 Use of annual leave to establish initial eligibility for retirement or continuation of health benefits.

(a) An employee may elect to use annual leave and remain on the agency's rolls in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement, as provided in:

(1) Section 351.606(b)(1) for an employee who would otherwise have been separated by reduction in force procedures under part 351 of this chapter; or

(2) Section 351.606(b)(2) of this chapter for an employee who would otherwise have been separated by adverse action procedures under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function).

(b)(1) Annual leave that may be used for the purposes described in paragraph (a) of this section includes all accumulated, accrued, and restored annual leave to the employee's credit prior to the effective date of the reduction in force or relocation (including transfer of function).

(b)(2) Annual leave that is advanced to an employee under 5 U.S.C. 6302(d), including any advance annual leave that may be credited to an employee's leave account after the effective date of the reduction in force or relocation (including transfer of function), may not be used for purpose of this section.

(3) For purposes of this section, the employing agency may approve the use of any or all annual leave donated to an employee under part 630, subpart I, of this chapter (Voluntary Leave Transfer Program), or made available to the employee under part 630, subpart J, of this chapter (Voluntary Leave Bank Program), as of the effective date of the reduction in force or relocation.

[82 FR 10683, Mar. 10, 1997]

§ 630.301 Annual leave accrual and accumulation—Senior Executive Service, Senior-Level, and Scientific and Professional Employees.

(a) Annual leave accrues at the rate of 1 day (8 hours) for each full biweekly pay period for each full pay period for an employee who is covered by 5 U.S.C. 6301, who is employed for the full pay period, and who—

(1) Holds a position in the Senior Executive Service (SES) which is subject to 5 U.S.C. 5333; or

(2) Holds a senior-level (SL) or scientific or professional (ST) position which is subject to 5 U.S.C. 5376.

(b) The head of an agency may request that OPM authorize an annual leave accrual rate of 1 full day (8 hours) for each biweekly pay period for additional categories of employees who are covered by 5 U.S.C. 6301 and who hold positions that are determined by OPM to be equivalent to positions subject to the pay systems under 5 U.S.C. 5333 or 5376. Such a request must include documentation that the affected pay system is equivalent to the SES or SL/ST pay system because it meets all three of the following conditions:

(1) Pay rates are established under an administratively determined (AD) pay system that was created under a separate statutory authority. If an AD position has a single rate of pay established under an authority outside of 5 U.S.C. chapters 51 and 53, the minimum rate of the rate range (excluding locality pay) must be at least equal to the minimum rate for the SES and SL/ST pay systems (120 percent of the rate for level IV of the Executive Schedule; and the maximum rate of the rate range (excluding locality pay) must be at least equal to the rate for level IV of the Executive Schedule; and the maximum rate of the rate range (excluding locality pay) must be at least equal to the rate for level IV of the Executive Schedule;

(2) Covered positions are equivalent to a “Senior Executive Service position” as defined in 5 U.S.C. 3132(a)(2), a senior-level position (i.e., a non-executive position that is classified above
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GS-15, such as a high-level special assistant or a senior attorney in a highly-specialized field who is not a manager, supervisor, or policy advisor), or a scientific or professional position as described in 5 U.S.C. 3104; and

(3) Covered positions are subject to a performance appraisal system established under 5 U.S.C. chapter 43 and 5 CFR part 430, subparts B and C, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance.

(c) If OPM approves an agency’s request to cover additional categories of employees, the higher annual leave accrual rate will become effective for the pay period during which OPM approves the agency’s request. Agencies must credit annual leave at the 8-hour accrual rate for affected employees who are employed for the full pay period.

(d) An employee who moves to a position not covered by this section will no longer be entitled to the higher annual leave accrual rate established under paragraph (a) or (b) of this section, except as provided in 5 U.S.C. 6303(a).

(e) Unused annual leave accrued by an employee while serving in a position subject to one of the pay systems under 5 U.S.C. 5383 (Senior Executive Service) or 5 U.S.C. 5376 (Senior-Level and Scientific or Professional) or 10 U.S.C. 1607(a) (Intelligence Senior Level), shall accumulate for use in succeeding years until it totals not more than 90 days (720 hours) at the beginning of the first full biweekly pay period (or corresponding period for an employee who is not paid on the basis of biweekly pay periods) occurring in a calendar year.

(f) When an employee in a position outside of those listed in paragraph (e) of this section moves to a position covering by paragraph (e) of this section, any annual leave accumulated prior to movement shall remain to the employee’s credit.

(1) Any annual leave restored to the employee under 5 U.S.C. 6304(d); and

(ii) Any annual leave advanced to the employee under 5 U.S.C. 6302(d) that had not yet been earned.

(2) Annual leave credited to an employee that is in excess of 90 days (720 hours) shall be subject to reduction in the same manner as provided in 5 U.S.C. 6304(c) until the employee’s accumulated annual leave is equal to or less than 90 days (720 hours). For the 1994 leave year, 5 U.S.C. 6304(c) shall be applied only for leave earned and used...
§ 630.302 Maximum annual leave accumulation—forty-five day limitation.

(a) The effective date on which an employee (otherwise eligible thereunder) becomes subject to section 6304(b) of title 5, United States Code, is the:

(1) Date of his entry on duty when he is employed locally;

(2) Date of his arrival at a post of regular assignment for duty; or

(3) Date on which he begins to perform duty in an area outside the United States and the area of recruitment or from which transferred, when the employee is required to perform duty en route to his post of regular assignment for duty.

(b) Subject to section 6304(c) of title 5, United States Code, the maximum amount of annual leave that may be carried forward into the next leave year by an employee who is transferred or reassigned to a position in which he is no longer subject to section 6304(b) of that title is determined as follows:

(1) When, on the date prescribed by paragraph (c) of this section, the amount of an employee’s accumulated and accrued annual leave is 30 days or less, he may carry forward the amount prescribed by section 6304(a) of title 5, United States Code;

(2) When, on the date prescribed by paragraph (c) of this section, the amount of an employee’s accumulated and accrued annual leave is more than 30 days but not more than 45 days, he may carry forward the full amount thereof that is unused at the end of the current leave year;

(3) When, on the date prescribed by paragraph (c) of this section, the amount of an employee’s accumulated and accrued annual leave is more than 45 days, he may carry forward the amount of unused annual leave to his credit at the end of the current leave year that does not exceed:

(i) 45 days, if he is not entitled to a greater accumulation under section 6304(c) of title 5, United States Code; or

(ii) The amount he is entitled to accumulate under section 6304(c) of that title, if that amount is greater than 45 days.

(c) For the purposes of paragraph (b) of this section, an agency shall determine the amount of an employee’s accumulated and accrued annual leave at the end of the pay period which includes:

(1) The date on which the employee departs from his post of regular assignment for transfer or reassignment, except that when the employee is required to perform duty en route in an area in which he would be subject to section 6304(b) of title 5, United States Code, if assigned there, it is the date on which he ceases to perform the duty; or

(2) The date on which final administrative approval is given to effect a change in the employee’s duty station when he is on detail or leave in the United States, or in an area (the Commonwealth of Puerto Rico or a territory or possession of the United States) from which he was recruited or transferred.

§ 630.303 Part-time employees; earnings.

A part-time employee for whom there has been established in advance a regular tour of duty on 1 or more days during each administrative workweek, and a part-time employee on a flexible work schedule for whom there has been established only a biweekly work requirement, earn annual leave as follows:

(a) An employee with less than 3 years of service earns 1 hour of annual leave for each 20 hours in a pay status.

(b) An employee with 3 but less than 15 years of service earns 1 hour of annual leave for each 13 hours in a pay status.