

an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

(Added Pub. L. 103-3, title II, §201(a)(1), Feb. 5, 1993, 107 Stat. 22.)

§ 6385. Prohibition of coercion

(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of any rights which such other employee may have under this subchapter.

(b) For the purpose of this section—

(1) the term “intimidate, threaten, or coerce” includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation); and

(2) the term “employee” means any “employee”, as defined by section 2105.

(Added Pub. L. 103-3, title II, §201(a)(1), Feb. 5, 1993, 107 Stat. 22.)

§ 6386. Health insurance

An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

(Added Pub. L. 103-3, title II, §201(a)(1), Feb. 5, 1993, 107 Stat. 23.)

§ 6387. Regulations

The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary of Labor to carry out title I of the Family and Medical Leave Act of 1993.

(Added Pub. L. 103-3, title II, §201(a)(1), Feb. 5, 1993, 107 Stat. 23.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993, referred to in text, is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§2611 et seq.) of chapter 28 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

§ 6391. Authority for leave transfer program in disasters and emergencies

(a) For the purpose of this section—

(1) “employee” means an employee as defined in section 6331(1); and

(2) “agency” means an Executive agency.

(b) In the event of a major disaster or emergency, as declared by the President, that results

in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

(c) The Office shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient’s credit must be exhausted before any transferred annual leave may be used.

(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office, donate annual leave to the emergency leave transfer program established under subsection (b).

(e) Except to the extent that the Office may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.

(g) The Office shall prescribe regulations necessary for the administration of this section.

(Added Pub. L. 105-18, title II, §9004(a), June 12, 1997, 111 Stat. 196; amended Pub. L. 109-229, §1, May 31, 2006, 120 Stat. 390.)

AMENDMENTS

2006—Subsecs. (f), (g). Pub. L. 109-229 added subsec. (f) and redesignated former subsec. (f) as (g).

CHAPTER 65—TELEWORK

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§ 6501. Definitions

In this chapter:

(1) **EMPLOYEE.**—The term “employee” has the meaning given that term under section 2105.

(2) **EXECUTIVE AGENCY.**—Except as provided in section 6506, the term “executive agency” has the meaning given that term under section 105.

(3) **TELEWORK.**—The term “telework” or “teleworking” refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee’s position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3165.)

TELEWORK RESEARCH

Pub. L. 111-292, § 4, Dec. 9, 2010, 124 Stat. 3173, provided that:

“(a) RESEARCH BY OPM ON TELEWORK.—The Director of the Office of Personnel Management shall—

“(1) research the utilization of telework by public and private sector entities that identify best practices and recommendations for the Federal Government;

“(2) review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, job creation and availability, urban transportation patterns, and the ability to anticipate the dispersal of work during periods of emergency; and

“(3) make any studies or reviews performed under this subsection available to the public.

“(b) USE OF CONTRACT TO CARRY OUT RESEARCH.—The Director of the Office of Personnel Management may carry out subsection (a) under a contract entered into by the Director using competitive procedures under section 303 of the Federal Property and Administrative Services Act of 1949 (former] 41 U.S.C. 253) [see 41 U.S.C. 3105, 3301, 3303 to 3305].

“(c) USE OF OTHER FEDERAL AGENCIES.—The heads of Federal agencies with relevant jurisdiction over the subject matters in subsection (a)(2) shall work cooperatively with the Director of the Office of Personnel Management to carry out that subsection, if the Director determines that coordination is necessary to fulfill obligations under that subsection.”

IMPLEMENTATION OF TELECOMMUTING PROGRAMS

Pub. L. 108-7, div. B, title VI, § 623, Feb. 20, 2003, 117 Stat. 103, as amended by Pub. L. 111-292, § 2(b)(2)(A), Dec. 9, 2010, 124 Stat. 3170, provided that: “Of the funds appropriated in this Act [div. B of Pub. L. 108-7, see Tables for classification] for the Departments of Commerce, Justice, and State, the Judiciary, and the Small Business Administration, \$100,000 shall be available to each Department or agency only to implement telecommuting programs: *Provided*, That, 6 months after the date of enactment of this Act [Feb. 20, 2003] and every 6 months thereafter, each Department or agency shall provide a report to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs: *Provided further*, That each Department or agency shall designate a Telework Managing Officer to be responsible for overseeing the implementation of telecommuting programs and serve as a point of contact on such programs for the Committees on Appropriations.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 109-108, title VI, § 617, Nov. 22, 2005, 119 Stat. 2340, as amended by Pub. L. 111-292, § 2(b)(2)(D), Dec. 9, 2010, 124 Stat. 3171.

Pub. L. 108-447, div. B, title VI, § 622, Dec. 8, 2004, 118 Stat. 2919, as amended by Pub. L. 111-292, § 2(b)(2)(C), Dec. 9, 2010, 124 Stat. 3171.

Pub. L. 108-199, div. B, title VI, § 627, Jan. 23, 2004, 118 Stat. 99, as amended by Pub. L. 111-292, § 2(b)(2)(B), Dec. 9, 2010, 124 Stat. 3171.

TELECOMMUTING IN EXECUTIVE AGENCIES

Pub. L. 106-346, § 101(a) [title III, § 359], Oct. 23, 2000, 114 Stat. 1356, 1356A-36, provided that: “Each executive agency shall establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance. Not later than 6 months after the date of the enactment of this Act [Oct. 23, 2000], the Director of the Office of Personnel Management shall provide that the requirements of this section are applied to 25 percent of the Federal workforce, and to an additional 25 percent of such workforce each year thereafter.”

§ 6502. Executive agencies telework requirement

(a) TELEWORK ELIGIBILITY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this chapter, the head of each executive agency shall—

(A) establish a policy under which eligible employees of the agency may be authorized to telework;

(B) determine the eligibility for all employees of the agency to participate in telework; and

(C) notify all employees of the agency of their eligibility to telework.

(2) LIMITATION.—An employee may not telework under a policy established under this section if—

(A) the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or

(B) the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement that—

(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) is mandatory in order for any employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by the head of an agency, not apply to any employee of the agency whose official duties require on a daily basis (every work day)—

(A) direct handling of secure materials determined to be inappropriate for telework by the agency head; or

(B) on-site activity that cannot be handled remotely or at an alternate worksite; and

(5) be incorporated as part of the continuity of operations plans of the agency in the event of an emergency.

(Added Pub. L. 111-292, § 2(a), Dec. 9, 2010, 124 Stat. 3165.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 111-292, which was approved Dec. 9, 2010.

§ 6503. Training and monitoring

(a) IN GENERAL.—The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 6502(b)(2);

(3) teleworkers and nonteleworkers are treated the same for purposes of—

(A) periodic appraisals of job performance of employees;

(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(C) work requirements; or

(D) other acts involving managerial discretion; and

(4) when determining what constitutes diminished employee performance, the agency shall consult the performance management guidelines of the Office of Personnel Management.

(b) TRAINING REQUIREMENT EXEMPTIONS.—The head of an executive agency may provide for an exemption from the training requirements under subsection (a), if the head of that agency determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this chapter.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3166.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (b), is the date of enactment of Pub. L. 111-292, which was approved Dec. 9, 2010.

§ 6504. Policy and support

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

(2) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

(3) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies;

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care; and

(C) the National Archives and Records Administration on policy and policy guidance for telework in the areas of efficient and effective records management and the preservation of records, including Presidential and Vice-Presidential records.

(c) SECURITY GUIDELINES.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in coordination with the Department of Homeland Security and the National Institute of Standards and Technology, shall issue guidelines not later than 180 days after the date of the enactment of this chapter to ensure the adequacy of information and security protections for information and information systems used while teleworking.

(2) CONTENTS.—Guidelines issued under this subsection shall, at a minimum, include requirements necessary to—

(A) control access to agency information and information systems;

(B) protect agency information (including personally identifiable information) and information systems;

(C) limit the introduction of vulnerabilities;

(D) protect information systems not under the control of the agency that are used for teleworking;

(E) safeguard wireless and other telecommunications capabilities that are used for teleworking; and

(F) prevent inappropriate use of official time or resources that violates subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch by viewing, downloading, or exchanging pornography, including child pornography.

(d) CONTINUITY OF OPERATIONS PLANS.—

(1) INCORPORATION INTO CONTINUITY OF OPERATIONS PLANS.—Each executive agency shall incorporate telework into the continuity of operations plan of that agency.

(2) CONTINUITY OF OPERATIONS PLANS SUPERSEDE TELEWORK POLICY.—During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(e) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

(f) POLICY GUIDANCE ON PURCHASING COMPUTER SYSTEMS.—Not later than 120 days after the date of the enactment of this chapter, the Director of the Office of Management and Budget shall issue policy guidance requiring each executive agency when purchasing computer systems, to purchase computer systems that enable and support telework, unless the head of the agency determines that there is a mission-specific reason not to do so.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3167.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsecs. (c)(1) and (f), is the date of enactment of Pub. L. 111-292, which was approved Dec. 9, 2010.

§ 6505. Telework Managing Officer

(a) DESIGNATION.—The head of each executive agency shall designate an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable delegating authority may assign.

(c) STATUS WITHIN AGENCY.—The Telework Managing Officer of an agency shall be a senior official of the agency who has direct access to the head of the agency.

(d) RULE OF CONSTRUCTION REGARDING STATUS OF TELEWORK MANAGING OFFICER.—Nothing in this section shall be construed to prohibit an individual who holds another office or position in an agency from serving as the Telework Managing Officer for the agency under this chapter.

(Added Pub. L. 111-292, §2(a), Dec. 9, 2010, 124 Stat. 3168.)

§ 6506. Reports

(a) DEFINITION.—In this section, the term “executive agency” shall not include the Government Accountability Office.

(b) REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT.—

(1) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this chapter and on an annual basis thereafter, the Director of the Office of Personnel Management, in consultation with Chief¹ Human Capital Officers Council, shall—

(A) submit a report addressing the telework programs of each executive agency to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives; and

(B) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(2) CONTENTS.—Each report submitted under this subsection shall include—

(A) the degree of participation by employees of each executive agency in teleworking during the period covered by the report (and for each executive agency whose head is referred to under section 5312, the degree of participation in each bureau, division, or other major administrative unit of that agency), including—

(i) the total number of employees in the agency;

(ii) the number and percent of employees in the agency who are eligible to telework; and

(iii) the number and percent of eligible employees in the agency who are teleworking—

(I) 3 or more days per pay period;

(II) 1 or 2 days per pay period;

(III) once per month; and

(IV) on an occasional, episodic, or short-term basis;

(B) the method for gathering telework data in each agency;

(C) if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency, the reasons for the positive or negative variation;

(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

(F) an assessment of the progress each agency has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to telework, such as the impact of telework on—

(i) emergency readiness;

(ii) energy use;

(iii) recruitment and retention;

(iv) performance;

(v) productivity; and

(vi) employee attitudes and opinions regarding telework; and

(G) the best practices in agency telework programs.

(c) COMPTROLLER GENERAL REPORTS.—

(1) REPORT ON GOVERNMENT ACCOUNTABILITY OFFICE TELEWORK PROGRAM.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this chapter and on an annual basis thereafter, the Comptroller General shall submit a report addressing the telework program of the Government Accountability Office to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Oversight and Government Reform of the House of Representatives.

(B) CONTENTS.—Each report submitted by the Comptroller General shall include the

¹ So in original. Probably should be preceded by “the”.

same information as required under subsection (b) applicable to the Government Accountability Office.

(2) REPORT TO CONGRESS ON OFFICE OF PERSONNEL MANAGEMENT REPORT.—Not later than 6 months after the submission of the first report to Congress required under subsection (b), the Comptroller General shall review that report required under subsection (b) and submit a report to Congress on the progress each executive agency has made towards the goals established under section 6504(b)(2).

(d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each executive agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Officers Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Officers Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under subsection (b); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(Added Pub. L. 111–292, §2(a), Dec. 9, 2010, 124 Stat. 3169.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsecs. (b)(1) and (c)(1)(A), is the date of enactment of Pub. L. 111–292, which was approved Dec. 9, 2010.

Subpart F—Labor-Management and Employee Relations

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AMENDMENTS

1978—Pub. L. 95–454, title VII, §§701, 703(a)(2), Oct. 13, 1978, 92 Stat. 1191, 1217, in heading for Subpart F inserted “Labor-Management and” before “Employee”, in heading for chapter 71 substituted “LABOR-MANAGEMENT RELATIONS” for “POLICIES”, in heading for subchapter I substituted “GENERAL PROVISIONS” for “EMPLOYEE ORGANIZATIONS”, in item 7101 substituted “Findings and purpose” for “Right to organize; postal employees”, in item 7102 substituted “Employees’ rights” for “Right to petition Congress; employees”, added items 7103 to 7106, and added subchapter II and items 7111 to 7120, subchapter III and items 7121 to 7123, and subchapter IV and items 7131 to 7135. Former subchapter II heading “ANTIDISCRIMINATION IN EMPLOYMENT” and items 7151 to 7154, “Policy”, “Marital status”, “Physical handicap”, and “Other prohibitions”, respectively, were transferred to subchapter I of chapter 72 and renumbered and amended.

SUBCHAPTER I—GENERAL PROVISIONS

§ 7101. Findings and purpose

(a) The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

(Added Pub. L. 95–454, title VII, §701, Oct. 13, 1978, 92 Stat. 1192.)

PRIOR PROVISIONS

A prior section 7101, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 91–375, §6(c)(19), Aug. 12, 1970, 84 Stat.