



UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, DC 20415-0001

OFFICE OF THE DIRECTOR

APR 29 2005

**MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS**

**FROM:** Dan G. Blair *Dan G. Blair*  
Acting Director

**SUBJECT:** Creditable Service for Annual Leave Accrual

Section 202(a) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004) amends 5 U.S.C. 6303 to provide OPM with the authority to prescribe regulations under which a newly appointed or reappointed employee may receive service credit for prior experience that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. (See CPM 2004-22, November 1, 2004). The Office of Personnel Management (OPM) recently issued interim regulations implementing this new provision (copy attached).

An employee who is covered by the Federal annual and sick leave program established under chapter 63 of title 5, United States Code, may receive service credit for prior non-Federal work experience or experience in a uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. An employee may receive credit if the experience was obtained in a position having duties that directly relate to the duties of the position to which the employee is being appointed and if it is determined by the head of the agency that the use of this authority is necessary in order to achieve an important agency mission or performance goal. We are providing the attached questions and answers to assist agencies in administering this new authority.

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources office for assistance.

cc: Human Resources Directors

Attachments

**Questions and Answers on Providing Credit for  
Determining an Employee's Annual Leave Accrual Rate**

- Q1. May an employee receive credit for non-Federal service or active duty uniformed service for determining his or her annual leave accrual rate?**
- A. Yes. Under 5 U.S.C. 6303, which was amended by section 202(a) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004), a newly appointed or reappointed employee may receive service credit for prior non-Federal service or active duty uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. The head of the agency or designee must determine that the skills and experience the employee possesses were acquired through performance in a non-Federal or active duty uniformed service position having duties which directly relate to the duties of the position to which he or she is being appointed and are necessary to achieve an important agency mission or performance goal.
- Q2. When did this provision become effective?**
- A. This provision became effective on April 28, 2005. OPM's regulations implementing this provision are available at <http://www.opm.gov>.
- Q3. Are all employees covered by this provision?**
- A. No. This provision applies only to a newly appointed employee or an employee who is reappointed following a break in service of at least 90 calendar days from the date of his or her last period of Federal civilian employment.
- Q4. How much service credit may be granted for prior non-Federal or active duty uniformed service work experience?**
- A. The amount of service credit that may be granted to an employee is determined at the sole and exclusive discretion of the head of the agency or designee. However, the amount of service credited to an employee may not exceed the actual amount of service during which he or she performed duties directly related to the position to which he or she is being appointed. An employee has no entitlement to credit for non-Federal service or active duty uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate.
- Q5. May an agency retroactively apply this provision to an employee who was newly appointed or reappointed to a position prior to April 28, 2005?**
- A. No. This provision may only be applied upon an employee's appointment to a position on or after April 28, 2005.

**Q6. What documentation is required from an employee to receive credit for prior non-Federal service or active duty uniformed service?**

- A. Each agency is responsible for determining what constitutes acceptable written documentation of an employee's qualifying non-Federal service. An employee must submit such written documentation consistent with the agency's procedures. An employee must provide written documentation from the military services to receive credit for active duty honorable uniformed service. All written documentation must be approved by the head of the agency or designee prior to the effective date of the employee's entry on duty.

**Q7. When does the employee receive credit for non-Federal service or active duty uniformed service?**

- A. Credit for non-Federal service or active duty uniformed service is granted to the employee upon the effective date of his or her initial appointment or reappointment to Federal service.

**Q8. How long does service credit granted to an employee remain creditable for annual leave accrual purposes?**

- A. Credit granted to an employee for non-Federal service or active duty uniformed service remains to the credit of the employee unless he or she fails to complete 1 full year of continuous service with the appointing agency. If an employee separates from Federal service or transfers to another Federal agency prior to completing 1 full year of continuous service with his or her appointing agency, the employee is not entitled to retain service credit for prior non-Federal service or active duty uniformed service. The appointing agency must subtract the additional service credit from the employee's total creditable service, and a new service computation date for leave must be established before the employee separates or transfers to the new agency.

**Q9. What happens to an employee's annual leave balance if he or she fails to complete 1 full year of continuous service with the appointing agency?**

- A. Any annual leave accrued or accumulated by an employee remains to the credit of the employee, even if he or she fails to complete 1 full year of continuous service with the appointing agency. The agency must transfer the annual leave balance to the new employing agency if the employee is transferring to a position to which annual leave may be transferred, or provide a lump-sum payment for unused annual leave if the employee is separating from Federal service or moving to a new position to which annual leave cannot be transferred.

**Q10. May an employee receive service credit for non-Federal work experience for purposes other than determining an employee's annual leave accrual rate?**

A. No. Non-Federal service or active duty uniformed service is creditable only for the purpose of determining an employee's annual leave accrual rate.

**Q11. May an employee receive credit for the same period of non-Federal service or active duty uniformed service on more than one occasion?**

A. An employee may not receive dual credit for service. Once an employee is permanently credited with a period of non-Federal service or active duty uniformed service (after completion of 1 full continuous year with the appointing agency), that period of service may not be considered for further credit if the employee has a future break in service.

If an employee loses service credit for non-Federal service or active duty uniformed service because he or she fails to complete 1 full continuous year of service with the appointing agency, an agency may choose to provide credit for that period of time to the employee in the future if and when he or she is reappointed to a Federal position. An agency may provide credit for the same period of non-Federal service or active duty uniformed service if the employee has had a break in service of at least 90 calendar days and meets all of the conditions for receiving credit for such service.

**Q12. What happens to service credit granted to an employee if he or she separates from Federal service or transfers to another Federal agency after completing 1 full year of continuous service?**

A. Once an employee completes 1 full year of continuous service with the appointing agency, the period of service for which he or she was granted service credit for his or her non-Federal or active duty uniformed service work experience is permanently creditable for the purpose of determining his or her annual leave accrual rate for the duration of the employee's career.

### **Processing Actions**

**Q13. How should an agency document credit for non-Federal service or active duty uniformed service so that it may be verified throughout the employee's Federal career?**

A. Non-Federal service or active duty uniformed service must be documented on the SF-144A or an agency equivalent form used in lieu of the SF-144A. Agency equivalent forms may be variations on the SF-144A or printouts from computer programs that calculate service computation dates. Such credit is to be granted in terms of years and months, and the exact number of years and months of credit being granted is recorded in Part I, Column B, of the SF-144A. Additionally,

include a reference in the "Remarks" section of the SF-144A indicating that the SCD-Leave includes creditable non-Federal service or active duty uniformed service work experience that otherwise would not be credited.

**Q14. How is credit for non-Federal service and active duty uniformed service documented on the SF-50?**

- A. The period of service being credited must be included in Block 31 of the SF-50 that effects the appointment of the individual with the agency. Remark codes B73, B74, and M39 (include in remark M39 the total of all periods of active duty uniformed service for which the employee is receiving credits towards the Service Computation Date (SCD) for leave) also must be included on the SF-50, as appropriate.

**Q15. If the service to be credited is properly documented and approved in advance, but the agency inadvertently does not include the credit in Block 31 on the SF-50 that was processed to effect the appointment, how is the oversight corrected?**

- A. The agency must process a personnel action to change the employee's SCD (Nature of Action (NOA) code 882/Change in SCD) showing the revised date in Block 31 of the SF-50. The NOA 882 action must show remark code B35 and include remark codes B73, B74, and M39 (include in remark M39 the total of all periods of active duty uniformed service for which the employee is receiving credit towards the SCD-Leave), as appropriate. The effective date of the NOA 882 action is the date the employee entered on duty.

**Q16. What is the text of new remark codes B73, B74, and B75?**

- A B73 – You are receiving (enter yrs. and mos., e.g. "2 yrs., 6 mos.") credit towards your SCD-Leave as shown in Block 31 for non-Federal service from (date) to (date). This credit will not hereafter cease to be creditable unless you fail to complete 1 full year of continuous service with this agency.

B74 – You are receiving (enters yrs. and mos., e.g., "2 yrs., 6 mos.") credit towards your SCD-Leave as shown in Block 31 for active duty uniformed service from (date) to (date). This credit will not hereafter cease to be creditable unless you fail to complete 1 full year of continuous service with this agency.

B75 – Changes SCD-Leave from (date) because employee failed to complete 1 full year of continuous service with the appointing agency.

- Q17. If the service to be credited is properly documented and approved in advance and is included in Block 31 of the SF-50 that effects the appointment, but a mathematical error is detected once the action has been processed and distributed, how is the oversight corrected?**
- A. The agency must process a personnel action to correct the SF-50 that effected the appointment (NOA 002/Correction).
- Q18. What action must an agency take to withdraw service credit if an employee fails to complete 1 year of continuous service?**
- A. Prior to processing the personnel action that separates the employee from Federal service or transfers the employee to another Federal agency, the agency must process a personnel action to change the employee's SCD-Leave (NOA 882/Change in SCD) subtracting out the referenced credit. The NOA 882/Change in SCD action must include remark code B75. Alternatively, the agency may choose to process both the NOA 882/Change in SCD and the separation action on the same SF-50. If the agency processes both actions on the same SF-50, NOA 882/Change in SCD must be shown in Blocks 5-A and 5-B and the separation action in Blocks 6-A and 6-B.

# Rules and Regulations

Federal Register

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Friday, April 29, 2005

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 630

RIN 3206-AK80

#### Absence and Leave; Creditable Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing interim regulations to implement a provision of the Federal Workforce Flexibility Act of 2004 which provides an agency with the authority to grant a newly appointed or reappointed employee credit for prior work experience that otherwise would not be creditable for the purpose of determining the employee's annual leave accrual rate.

**DATES:** *Effective Date:* The interim regulations become effective on April 28, 2005.

*Comment Date:* Comments must be received on or before June 28, 2005.

**ADDRESSES:** Send or deliver written comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Rm. 7H31, 1900 E Street, NW., Washington, DC 20415, by fax at (202) 606-0824, or by e-mail to [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Sharon Dobson by telephone at (202) 606-2858, by fax at (202) 606-0824, or by e-mail at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is issuing interim regulations to implement Section 202(a) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004). Section 202(a) amends 5 U.S.C. 6303 to provide OPM with the authority to prescribe regulations under which a

newly appointed or reappointed employee who is covered by the Federal annual and sick leave program established under chapter 63 of title 5, United States Code, may be given service credit for prior experience that otherwise would not be creditable for the purpose of determining the employee's annual leave accrual rate. An employee may receive credit if the experience was obtained in a position having duties that directly relate to the duties of the position to which he or she is being appointed and if it is determined by the head of the agency that the use of this authority is necessary in order to achieve an important agency mission or performance goal.

Section 202(a) provides that not later than 180 days after enactment of the Act (April 28, 2005), OPM must prescribe regulations to allow the credit of non-Federal service for the purpose of determining an employee's annual leave accrual rate. OPM has added regulations at 5 CFR 630.205 to provide agencies with the authority to grant a newly appointed or reappointed employee with service credit for annual leave accrual rate purposes based on prior non-Federal work experience or a period of active duty in a uniformed service.

The interim regulations at 5 CFR 630.205(a) allow the head of an agency or designee to provide service credit for work experience that otherwise would not be creditable for the purpose of determining the annual leave accrual rate of a newly appointed employee or an employee who is reappointed following a break in service of at least 90 calendar days after his or her last period of civilian Federal employment. Prior to granting such credit, the agency head or his or her designee must determine that the employee meets both of the following conditions:

(1) The skills and experience the employee possesses are essential to the new position and were acquired through performance in a non-Federal position having duties that directly relate to the position to which he or she is being appointed; and

(2) The use of this authority is necessary to achieve an important agency mission or performance goal.

Previously, an employee who is a retired member of a uniformed service under 5 U.S.C. 3501 could be granted

credit only for periods of active duty served during a campaign or expedition for which a campaign badge was issued. The new regulations at 5 CFR 630.205(b) provide that an employee who is a retired member of a uniformed service may be granted credit for any period of active military service during which he or she performed duties directly related to the position to which he or she is being appointed. As in the case of granting credit for non-Federal service, when hiring a retired member of the uniformed service, the head of the agency must determine that the use of this authority is necessary to achieve an important agency mission or performance goal.

When an agency head or designee makes a determination to provide service credit for experience that otherwise would not be creditable, the agency must provide credit only for non-Federal work experience or experience in a uniformed service during which the employee performed duties that directly relate to the duties of the position to which he or she is appointed. An employee must provide written documentation, acceptable to the agency, of his or her qualifying service. The interim regulations at 5 CFR 630.205(e) require an agency to establish guidelines for documenting the use of this authority, as well as recordkeeping procedures to allow for the reconstruction of each action.

Credit for non-Federal work experience or experience in a uniformed service is granted to an employee on the date of his or her initial appointment or reappointment following a break in service of 90 calendar days from the date of his or her last period of civilian Federal employment. Service credit granted to an employee will remain creditable for annual leave accrual purposes unless the employee fails to complete 1 full year of continuous service with the appointing agency.

If an employee separates from Federal service or transfers to another agency prior to completing 1 full year of continuous service with the appointing agency, he or she is not entitled to retain service credit for non-Federal or active duty work experience. Prior to the transfer or separation of the employee, the agency must establish a new service computation date for leave under 5 U.S.C. 6303(a), subtracting the credit that was provided for non-Federal or

military work experience. However, all unused annual leave accrued and accumulated by an employee as a result of receiving credit for non-Federal or uniformed service remains to the credit of the employee and must be transferred to the new agency under 5 CFR 630.501 or liquidated by a lump-sum payment under 5 CFR 550.1205, as appropriate.

#### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR 630

Government employees.

Dan G. Blair,

*Office of Personnel Management, Acting Director.*

■ Accordingly, OPM is amending 5 CFR part 630 to read as follows:

#### PART 630—ABSENCE AND LEAVE

■ 1. The authority citation for part 630 is revised to read as follows:

**Authority:** 5 U.S.C. 6311; 630.205 also issued under Pub. L. 108-411, 118 Stat 2312; 630.301 also issued under Pub. L. 103-356, 108 Stat. 3410 and Pub. L. 108-411, 118 Stat 2312; 630.303 also issued under 5 U.S.C. 6133(a); 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102-484, 106 Stat. 2722, and Pub. L. 103-337, 108 Stat. 2663; subpart D also issued under Pub. L. 103-329, 108 Stat. 2423; 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100-566, 102 Stat. 2834, and Pub. L. 103-103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100-566, and Pub. L. 103-103; subpart K also issued under Pub. L. 105-18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103-3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102-25, 105 Stat. 92.

#### Subpart B—Definitions and General Provisions for Annual and Sick Leave

■ 2. Section 630.205 is added to read as follows:

##### § 630.205 Credit for non-Federal and uniformed service for determining annual leave accrual rate.

(a) The head of an agency or his or her designee may, at his or her sole discretion, provide credit for service that otherwise would not be creditable

under 5 U.S.C. 6303(a) for the purpose of determining the annual leave accrual rate of a newly appointed employee or an employee who is reappointed following a break in service of at least 90 calendar days after his or her last period of civilian Federal employment. The head of the agency or his or her designee must determine that the skills and experience the employee possesses are—

(1) Essential to the new position and were acquired through performance in a non-Federal position having duties that directly relate to the duties of the position to which he or she is being appointed; and

(2) Necessary to achieve an important agency mission or performance goal.

(b) Notwithstanding 5 U.S.C. 6303(a), the head of an agency or his or her designee may, at his or her sole discretion, provide credit for active duty uniformed service that otherwise would not be creditable under 5 U.S.C. 6303(a) for the purpose of determining the annual leave accrual rate of an employee who is a retired member of a uniformed service as defined by 38 U.S.C. 4303. The head of the agency or his or her designee must determine that the skills and experience the employee possesses are—

(1) Essential to the new position and were acquired through performance in a position in the uniformed services having duties that directly relate to the duties of the position to which he or she is being appointed; and

(2) Necessary to achieve an important agency mission or performance goal.

(c) When the head of an agency or his or her designee makes a determination to provide credit for non-Federal service or active duty in the uniform services under paragraph (a) or (b) of this section, he or she must determine the amount of service that will be credited. The amount of service credited may not exceed the actual amount of service during which the employee performed duties directly related to the position to which the employee is being appointed.

(d) An employee must provide written documentation, acceptable to the agency, of his or her non-Federal or uniformed service.

(e) The agency must establish documentation and recordkeeping procedures sufficient to allow reconstruction of each action.

(f) Credit for prior non-Federal or uniformed service work experience under paragraph (a) or (b) of this section is granted to the employee upon the effective date of his or her initial appointment to the agency or reappointment after a 90-day break in service and remains creditable for

annual leave accrual purposes thereafter unless the employee fails to complete 1 full year of continuous service with the appointing agency.

(g) If an employee separates from Federal service or transfers to another agency before completing 1 full year of continuous service with the appointing agency—

(1) Any credit under paragraph (a) or (b) of this section must be subtracted from the employee's total creditable service before the employee transfers or separates, and the agency must establish a new service computation date for leave accrual purposes under 5 U.S.C. 6303(a);

(2) Any annual leave accrued or accumulated by an employee as a result of receiving credit for service under paragraph (a) or (b) of this section remains to the credit of the employee; and

(3) The agency must—

(i) Transfer the annual leave balance to the new employing agency under 5 CFR 630.501 if the employee is transferring to a position to which annual leave may be transferred; or

(ii) Make a lump-sum payment under 5 CFR 550.1205 for any unused annual leave if the employee is separating from Federal service or moving to a position to which annual leave cannot be transferred.

[FR Doc. 05-8681 Filed 4-27-05; 2:37 pm]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2003-19053; Airspace Docket No. 04-ANM-10]

RIN 2120-AA66

#### Revision of VOR Federal Airway 208

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies Federal Airway 208 (V-208) by changing the originating point of the airway from the Santa Catalina, CA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the Ventura, CA, VORTAC. This modification extends V-208 by incorporating a route segment that air traffic control (ATC) frequently assigns to aircraft arriving in the Los Angeles, CA, terminal area. This action will enhance air safety, simplify routings,