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Personnel

**LEAVE STATUS OF AIR RESERVE
TECHNICIANS WHILE PERFORMING
DUTIES IN MILITARY STATUS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFD 36-8, *Employee Benefits and Entitlements*, and provides guidance and policy for proper leave status for Air Reserve Technicians (ARTs) while performing duties in military status and civil service employees who also participate as reservists. For the purpose of this instruction, all of these individuals will be classified as ARTs. It is applicable to all assigned 944th Fighter Wing ARTs.

1. Responsibilities:

1.1. Air Reserve Technician (ART):

1.1.1. The ultimate responsibility for proper leave reporting and accounting lies with each ART. All ARTs must ensure that time away from their civilian position is reported to their timekeeper. The ART must then ensure the leave was accounted for properly by checking their Leave and Earnings Statement (LES).

1.1.2. ARTs must provide timekeepers a certified copy of all military orders and AF Forms 40A when duty has been performed during the scheduled civilian work week. Timekeepers will certify the orders verifying that a copy of the order is being maintained by them. Military pay will not accept this order unless it is signed by the timekeeper. Timekeepers will make a copy of the certified order for their records.

1.2. Timekeepers:

1.2.1. Must ensure that proper leave (military, compensatory time hours, credit hours, annual or leave without pay) is submitted for entry in the Air Force Time and Attendance System (AFTAS) program, including corrections that are needed after pay periods end.

1.2.2. Must initial the AF Form 918, **Report of Inactive Duty Training Performance - Aerial Flights (USAFR)**, before it is submitted to verify proper leave was taken and recorded for Additional Flying Training Periods (AFTPs) performed by ARTs.

2. Guidelines:

2.1. Air Reserve Technicians must be in proper leave status when performing military duty during their scheduled civilian workday to avoid dual compensation for military and civilian pay. The rules are different for active duty and inactive duty status. The guidelines have been established by publications, previous Comptroller General decisions, and AFRC/CV policy letters. The ultimate responsibility to comply is with each individual ART.

2.2. Military Active Duty:

2.2.1. The requirement to use military leave before any other leave is taken was rescinded per HQ AFRC/DPC, 13 Sep 96 letter, "Change in Policy - Military Leave" (HQ USAF/DPC Memo 3 Sep 96). The following still applies, however, regarding military leave.

2.2.1.1. Military leave must be taken in whole-day increments, not in hours. It must be used for mandays, annual tour, and any travel days associated with duty. If the duty or travel starts after the end of the civilian workday, no leave is taken for that day. If duty begins before the end of the scheduled civilian workday (including travel time), a full military leave day must be charged. When an ART is on military active duty on a Friday through the following Monday (and the military duty begins during the regular scheduled work hours on Friday), military leave must be charged for the Saturday and Sunday. If the ART is not on orders for a Friday and Monday, no leave is charged for the weekend. The same holds true for holidays. If the ART is on consecutive duty the day before and the day after the holiday, military leave must be charged for the holiday. Again, this is only required if military leave days are remaining.

2.2.1.1.1. If ARTs begin military active duty after completion of the regularly scheduled civilian workday, they are entitled to civilian pay without charge to any type of leave. There is no violation of dual compensation restrictions in this situation since the employees' regularly scheduled civilian workday was not interrupted for the purpose of performing military active duty. However, if ARTs receive military pay on successive days, they must be in a paid leave (military leave, annual leave, or compensatory time/credit hours off) status to receive pay from their civilian position on such days. This is true whether or not the employee performs a full day's work in their civilian position.

2.2.1.1.2. ARTs may not be placed in military active duty status at the end of their civilian workday and issued a separate set of military orders at the end of successive workdays for the purpose of not using any leave. Publishing separate sets of orders does not constitute beginning and ending tours of duties. Permitting ARTs to perform mandays on consecutive days without charge to leave is not authorized.

2.2.1.1.3. Employees returning to their civilian position at the beginning of the regularly scheduled civilian workday after a military tour has ended, are entitled to receive civilian pay without charge to leave even though they receive a full day's military pay. The fact that the employee may have been entitled to military pay for that day is not incompatible with the payment of civilian compensation for actual work performed after termination of the employee's active military duty.

2.2.1.1.4. When compensatory time/credit hours off, annual leave, or leave without pay is used, only the time away from the regularly scheduled workday will be charged as leave.

2.2.1.1.4.1. Inactive Duty for Training (IDT). Military leave must not be used for

IDT. Use annual leave, compensatory time/credit hours off or leave without pay will be used to perform IDT.

2.2.1.1.4.1.1. If IDT is performed during the regularly scheduled workday, the ART must be in a leave status for the period of time the IDT overlaps the regularly scheduled civilian workday.

2.2.1.1.4.1.2. ARTs may not work a straight eight-hour schedule solely for the purpose of performing an IDT period or deviate from their schedule to avoid taking proper leave.

2.2.1.1.4.1.3. If ARTs perform IDT through their lunchtime (normally scheduled between 1130 and 1300 hours), that time is not counted against leave taken for the IDT period. Lunch periods must be noted in the employee's Time and Attendance (T&A) folder.

2.2.1.1.4.1.4. Attachment 2 contains examples of proper leave procedures for different situations when an ART performs military duty.

2.3. Section 1039, Public Law 104-106, The National Defense Authorization Act for FY96, approved 10 Feb 96, made a significant change in the area of military leave for Air Reserve Technicians. In addition to the 15 calendar days of military leave already available under 5 U.S.C. 6323(a), (b), and (c), Section 1039 authorizes 44 additional workdays of military leave in a calendar year. This Section also placed conditions on the use of this leave that is addressed below. The Defense Finance and Accounting Service is aware of these changes and will take appropriate action to establish a new military leave category (military leave-technician) in the Defense Civilian Pay System. Until the change is implemented, timekeepers should use the administrative leave code to record use of this category of military leave and supervisors must maintain a manual log to track the number of hours used during the calendar year.

2.4. The following guidance regarding use and implementation of military leave under Section 1039 is provided:

2.4.1. The new category of military leave is limited to federal employees who are military technicians, which includes ARTs.

2.4.2. Military leave under this Section can only be used to perform "active duty without military pay" for participation in non-combat operations outside the United States, its territories and possessions. "Non-combat operations" is defined as an operations mission to include site visits, exercises, and training conferences, but does not include entry into a hostile fire/imminent danger zone.

2.4.3. ARTs receive their basic civilian pay, to include premium pay for regularly scheduled overtime work that would have been earned during the period covered by this leave, and points toward reserve retirement while in this duty status. Regularly scheduled overtime work means overtime that is part of the employee's regularly scheduled administrative workweek. Within AFRC, this is usually only applicable to firefighters and law enforcement personnel. It does not apply to additional hours of work performed while TDY such as call back overtime or additional hours of work performed due to long distance flights. This is irregular or occasional overtime work.

2.4.4. Military leave under this Section can be co-mingled with the traditional 15 days of military leave, annual leave, leave without pay (LWOP), earned compensatory time, and credit hours.

However, if military duty (including paid travel days) is performed on an intervening non-workday (weekend/holiday/scheduled day off), regardless of the leave category used on the preceding workday and following workday and whether or not separate sets of orders are published, traditional military leave (if still available) must be charged to those intervening non-workdays. For example, if a military tour of duty runs from Friday through the following Monday, and the employee elects to use this new category of military leave on Friday and Monday, 2 days of traditional military leave must be charged for Saturday and Sunday, if available. If traditional military leave has been exhausted, there is no charge for Saturday and Sunday.

2.4.5. The new military leave category is available on a calendar year basis and leftover balances cannot be carried over to the next calendar year. The 44 days are converted into hours and charged on the same basis that annual leave is charged. ARTs who work 80-hour pay periods (including flexible and compressed work schedules) are entitled to a maximum of 352 hours. This category of military leave is charged for workdays only. This means that if an ART chooses to use only this category of leave for a military tour of duty that includes intervening weekends/holidays/scheduled days off, there would be no charge to this category of military leave for those intervening days and no civilian pay would be received for those intervening days.

2.4.6. In order for an ART to receive any pay for an intervening non-workday, a change to “active duty with pay” status is required. This requires use of a separate AF Form 938 for each period of conversion. Changes to civilian duty status or inactive duty status on workdays during the same military tour are also authorized, and require either the use of a DD Form 1610, AF Form 3956, or AF Form 40A. The rules for duty status conversions are outlined in HQ AFRES /CVA Memo, 8 Feb 94. Use of this military leave is at the employee’s discretion.

2.4.7. Since the employee is on “active duty without military pay,” all jurisdictional issues are covered by the military system, i.e., the employee is covered under the UCMJ, injury compensation is covered under line-of-duty procedures, reimbursement for travel, per diem and lodging are computed based on military entitlements, etc.

2.4.8. Form prescribed. 944 FW Form 13

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Attachment 1

GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

References

AFI 36-807/AFRC SUP, *Weekly and Daily Scheduling of Work and Holiday Observances*

AFI 37-128, *Administrative Orders*

AFMAN 36-8001, *Reserve Personnel Participation and Training Procedures*

AFI 65-103, *Temporary Duty Orders*

AFI 65-109, *Preparation of AF For 938*

HQ AFRC Time and Attendance Handbook for Air Reserve Technicians

HQ USAF/DPC Memo, 3 Sep 96

Abbreviations and Acronyms

AD—Active Duty

ADT—Active Duty for Training

AFTP—Additional Flying Training Periods

AGTP—Additional Ground Training Periods

AT—Annual Tour

ET—Equivalent Training

IDT—Inactive Duty for Training

MPA—Military Personnel Appropriations

RPA—Reserve Personnel Appropriations

UTA—Unit Training Assembly

Attachment 2**EXAMPLES OF PROPER LEAVE STATUS FOR ARTS PERFORMING MILITARY DUTY**

EXAMPLE 1. An ARTs regularly scheduled civilian workweek is 0730-1630, Monday through Friday, with a one-hour lunch break from 1130-1230. Member is placed on ADT status at 1700 on Monday and is released from duty at 2300 on the same Monday night. No charge to leave is required as the individual completed their civilian workday prior to the start of the manday tour. (Reference 49 Comptroller General 233 (1969))

EXAMPLE 2. An ART has the same civilian tour of duty as in Example 1. Member is placed in ADT status at 1700 hours on Monday and released from duty at 1730 on Tuesday. No leave is charged for Monday as military duty did not begin until after the end of the regularly scheduled civilian workday. The ART must be in a leave status for Tuesday as member was in military status during their regularly scheduled civilian workday. (Reference 49 Comptroller General 233 (1969))

EXAMPLE 3. Same work schedule. Member is placed in manday status for one day starting at 1630 and is released from duty at 2300 on each of the following days, Monday, Tuesday, and Wednesday. Separate sets of orders are issued for each day. Although military duty does not start each day until the end of the civilian workday, the individual must be charged for leave for Tuesday and Wednesday. These are consecutive military days even though the individual is able to perform his/her civilian duties during the regularly scheduled civilian workday. Leave is not charged for Monday because the ART did not start military duty until after the civilian workday was completed. (Reference: CG B-133972 and 37 Comptroller General 255)

EXAMPLE 4. Same work schedule. Member is placed on ADT starting at 1630 on the following days, Monday, Wednesday, and Friday. The individual is released from duty each day in sufficient time so as to arrive home prior to midnight. In this case, consecutive days have not been performed, the duty was performed after the civilian workday was completed, and therefore no charge to leave is required. However, if the individual is entitled to and received a travel day at the end of the tour on Monday or Wednesday, then appropriate leave must be taken on Tuesday or Thursday.

EXAMPLE 5. Same work schedule. Member is placed on ADT beginning 1630 Friday and is released from duty on Sunday. No charge to leave is required because the military duty did not start before the completion of the civilian workday on Friday, and he/she was released from duty before the start of the regularly scheduled workday the following Monday.

EXAMPLE 6. Same work schedule. Member is placed on ADT at 1630 on Friday and is released from duty at 1200 on Monday. Monday is a day of leave because the ART was unable to report to their civilian workplace at the regularly scheduled time of 0730 even though he/she may have worked in their civilian capacity for the remainder of Monday. Friday is not charged to military leave as the individual was able to complete his/her regularly scheduled civilian workday. Saturday and Sunday are not charged to leave

days as no leave was used on Friday. If the duty had begun prior to the end of the civilian workday on Friday, then four days of military leave have to be charged to the individual. (Reference: Defense Finance and Accounting Decision, 6 June 1991)

EXAMPLE 7. Same work schedule. Member is placed in manday status at 1700 on Monday, released from duty at 0730 on Tuesday, performs their regularly scheduled civilian workdays, Tuesday and Wednesday, is again placed in manday status at 1700 on Wednesday, released at 0730 on Thursday, and reports to their civilian workplace. In this case, leave is not charged for Monday and Wednesday, because they completed their regularly scheduled civilian workday prior to reporting for military duty on Monday and Wednesday. However, the individual must be charged leave on Tuesday and Wednesday as they received military compensation for Tuesday and Wednesday even though they were able to report to and complete their regularly scheduled workday. Performing military duty on Monday through Thursday is consecutive days of military duty even though the individual was able to complete their regularly scheduled civilian workdays on Tuesday and Wednesday. (Reference: Comptroller General Decision B-133972)

EXAMPLE 8. The ARTs regularly scheduled civilian workday is 0730-1630, Monday through Friday, with a one-hour lunch break from 1130-1230. Member is scheduled to fly an AFTP at 1530. They will **NOT** elect to work through the scheduled lunch period to complete the scheduled eight-hour workday at 1530 to avoid taking appropriate leave from 1530-1630. They also will **NOT** reschedule their workday to begin at 0630 in order to avoid taking appropriate leave.

EXAMPLE 9. An ART has a regularly scheduled workday of 0700-1600 with lunch from 1100-1200. Member elects to fly an AFTP from 1100-1500. Three hours of leave must be taken from 1200-1500. Leave is not required from 1100-1200 as this is not part of the regularly scheduled workday. They cannot split their workday to perform an AFTP, AGTP, or ET. That is, they cannot work a portion of their regularly scheduled workday, perform an AFTP, AGTP, or ET, and then complete the workday.