

## GUIDELINES FOR MILITARY CONTINGENCY/LAW ENFORCEMENT MILITARY LEAVE

### GENERAL:

- For timekeeping, the correct Defense Civilian Pay System (DCPS) Type Hour Code is “LL”. This code should only be used for workdays to designate all contingency/law enforcement leave. Time and attendance submission of these codes should occur concurrently with the periods of the submission of the offsetting military pay information. If a member has just been activated, then an estimate of the military entitlements must be given to the Customer Service Representative (CSR) before leave can be granted. When the member receives the actual military leave and earnings statement(s) (LES), a copy must be forwarded to the CSR to certify the estimate against the actual.
- Personnel entitled to law enforcement/contingency leave, must provide a copy of military orders, the military LES(s) (already serving) or an estimate of military entitlements to the Customer Service Representative (CSR) when requesting this leave. If all information is not received, then the leave will not be input until all documentation is received. The military LES must cover the same pay periods where the contingency operations/law enforcement leave is used. It is the member’s responsibility to ensure that documentation on any military pay entitlements, which are paid retroactively for the period of leave requested, be provided to the CSR as soon as possible. The employee should advise the CSR when the military pay documents are submitted about any additional entitlements, if known, (this includes such items as family separation allowance and imminent danger pay which are frequently paid retroactively). These documents in combination with civilian payroll records will become the basis for pay comparisons. The DCPS will make the majority of the adjusting computations. For certification purposes, the member needs to provide a copy of the Return to Active Duty (REFRAD) to the CSR. Combat tax exemption does not affect either military or civilian pay calculations, as the law states gross to gross comparisons.
- The CSR will review the military LES(s) and calculate military pay and entitlement amounts on the attached Remedy worksheet and submit them to the payroll office. A separate remedy ticket should be prepared when Contingency Operations/Law Enforcement Leave is not used continuously. If a member reports additional earnings, then the CSR will provide the additional information via the same Remedy worksheet, indicating only the differences. All monthly military compensation will be included in the calculation of military pay. This includes but is not limited to basic pay, basic allowance for housing, basic allowance for subsistence, family separation allowance, imminent danger pay, hardship duty pay, sea duty pay, flight pay, hazardous duty incentive pay, and monthly medical pays. Payments for per diem, transportation allowances, travel allowances or one time annual payments such as clothing allowances are not included in the monthly military pay computation.
- If the member’s leave was granted using an estimate of military entitlements and the member has not provided an actual military LES, the member must be notified that the leave granted through DCPS must be converted to leave without pay (annual leave may be substituted if requested by the employee). When the leave is converted to leave without pay, the member will be indebted to the government for the amount of overpayment of civilian pay due to the

usage of any days of the 22-days of additional military leave for a contingency operation or law enforcement.

- If an overpayment does occur, amounts to be involuntarily offset from employees' civilian pay will be done in accordance with the rules set out in 5 U.S.C. §5514(a).
- It is critical that the members understand that leave used near pay year-end based on an estimate must be settled before the end of the pay year. If the member does not submit the actual military LES(s) timely (before the W-2 is issued), the member will be indebted for net pay plus certain deductions and Federal, State and Local taxes. It is the Internal Revenue Service requirements that there will be no reduction in the gross indebtedness for federal, state or local income taxes that can no longer be recouped due to the tax year-end. In example 5, PPE December 13, 2003, the member owes \$1,934.73 for the current year. If the member does not repay this amount before W-2's are issued, then the amount owed would be \$1,934.73 plus \$363.04 Federal and \$213.60 State taxes for a total of \$2,511.37. **Leave that is requested retroactively to a prior pay-year would not have the same tax effect. Any civilian pay due for this period would be reflected on the current year IRS form W-2.**
- The 22-days of military leave for contingency operations/law enforcement should **be taken in whole workdays and in continuous pay periods**. The leave is charged based on the employee's daily tour of duty (TOD). For example, a normal scheduled 8-hour civilian TOD will be charged as 8 hours of leave; a 9-hour TOD will be charged as 9 hours of leave, etc. The Comptroller General has stated that when the additional military leave is authorized, it must be taken before other forms of leave such as annual or regular military leave are used.
- Authorized personnel who work a 40-hour week or 80 hour biweekly schedule are entitled to a total of 22 days or 176 hours of contingency operations/law enforcement military leave per calendar year. A portion may be used for contingency operations and a portion for law enforcement duty. Personnel who work non-standard schedules such as 40-hour, 96-hour, 106-hour, 120-hour, or 144-hour bi-weekly schedules will have their additional military leave prorated per the following table:

Hours in the regularly scheduled biweekly pay period	Ratio of hours in the regularly scheduled pay period to an 80-hour pay period (the number of hours in the pay period/80)	Hours of contingency operations/law enforcement leave accrued each calendar year (Rounded to nearest hour)	Pay period of contingency operations/law enforcement leave accrued each calendar year
40	.5 (40/80)	.5 X 176 = 88 hours	2.2 40-hour pay periods
96	1.2 (96/80)	1.2 X 176 = 211 hours	2.2 96-hour pay periods
106	1.325 (106/80)	1.325 X 176 = 233 hours	2.2 106-hour pay periods
112	1.4 (112/80)	1.4 X 176 = 246 hours	2.2 112-hour pay periods
120	1.5 (120/80)	1.5 X 176 = 264 hours	2.2 120-hour pay periods
144	1.8 (144/80)	1.8 X 176 = 317 hours	2.2 144-hour pay periods

- The Offset worksheet provided is to be used by the payroll offices or the National Guard to compute both the civilian and military amounts to determine the offset. The total monthly military pay amount will be divided by 30 for all months to determine a military daily rate of pay. The military daily rate of pay will be multiplied by a factor to equate the number of hours of contingency/law enforcement leave taken in any given day. This is necessary in order to maintain pay parity between employees who work a regular 40-hour 8 hours per day week tour of duty (TOD) and employees, who work uncommon TODs, including personnel on flexible or compressed work schedules. For example, employees such as firefighters, emergency medical technicians or others with an uncommon tour of duty, the comparison ratio must be computed. The following chart shows typical work schedules and common number of hours worked during specific pay periods. The chart also shows how the multiplication factor used to calculate the military pay offset is determined.

Hours in the regularly scheduled biweekly pay period	Hours of contingency operations/law enforcement leave accrued each calendar year	Number of days of additional military leave authorized	Average number of hours per work day per pay period (this is the denominator)	Hours charged as LL in a work day	Multiplication factor to determine daily military rate to offset
40	88 hours	22	$88/22 = 4$ hours	4	$4/4 = 1$
40	88 hours	22	$88/22 = 4$ hours	8	$8/4 = 2$
80	176 hours	22	$176/22 = 8$ hours	8	$8/8 = 1$
80	176 hours	22	$176/22 = 8$ hours	9	$9/8 = 1.125$
80	176 hours	22	$176/22 = 8$ hours	10	$10/8 = 1.25$
96	211 hours	22	$211/22 = 9.6$ hours	24	$24/9.6 = 2.5$
106	233 hours	22	$233/22 = 10.6$ hours	12	$12/10.6 = 1.13207$
106	233 hours	22	$233/22 = 10.6$ hours	24	$24/10.6 = 2.26415$
112	246 hours	22	$246/22 = 11.2$ hours	24	$24/11.2 = 2.1428$
112	246 hours	22	$246/22 = 11.2$ hours	8	$24/11.2 = .7142$
120	264 hours	22	$264/22 = 12$ hours	24	$24/12 = 2$
144	317 hours	22	$317/22 = 14.4$ hours	24	$24/14.4 = 1.66667$

- Weekends or regular days off (RDO) will not be charged against the 22-workday entitlement. Employee/member will retain the military pay received on these weekend/RDO days.
- When a holiday falls within the period of contingency/law enforcement leave, the member may retain both the military and civilian pay for these holidays. There will be no leave charge against the 22 contingency operations/law enforcement leave workdays for those holidays (exception firefighters).
- Employees who have a regularly scheduled tour of duty (TOD) that includes night differential or shift work **will have** those amounts included in the civilian pay entitlement calculation.

- Employees who have a regularly scheduled TOD that includes regularly scheduled overtime **will have** that overtime included in the civilian pay entitlement calculation when leave is taken for a full pay period. Note National Guard Technicians are not entitled to overtime.
- Employees who have a regularly scheduled TOD that includes regularly scheduled overtime **will not have** that overtime included if they do not meet the over 40 hours in a week requirement.
- Employees, who have a regularly scheduled TOD that includes a Sunday, **will not** have the Sunday pay included in the pay entitlement calculation.
- Employees, who have a regularly scheduled TOD that includes exposure to hazard or environmental differentials, **will not** have those amounts included in the pay entitlement calculation.
- Employees who have a TOD that includes an “in-lieu-of” holiday **will not** be charged a day of leave for their in-lieu of holiday and they **will** receive both their military and civilian pay for the in-lieu of holiday.
- Employees, who have an entitlement to FLSA overtime calculation (over 40 hours in a week or over 80 hours biweekly), **will not** have that FLSA overtime computed when choosing to use less than their scheduled weekly or biweekly TOD for the military leave.
- Employees who have entitlements to other types of premium pay (Emergency Medical Technicians and Air Traffic Controllers with Standby premium pay, Law Enforcement Officers with law enforcement pay, and employees whose regular scheduled TOD includes pay for administrative uncontrollably overtime) will have that pay included in the pay calculations when using the additional 22-days of military leave.

#### FIREFIGHTERS:

- Employees, who are firefighters **will be** charged a day of leave against the 22-workdays on any holiday that they would have been scheduled to work. Firefighters do not qualify for paid holidays.
- Employees, who are firefighters, **will have** their regularly scheduled overtime included in the calculation of the difference between the military pay and civilian pay when the number of hours of military leave (LL code leave) taken, or a combination of hours of LL, LM, or LA leave taken meets the minimum number of hours to qualify for overtime pay. (This would also apply to the firefighter who returns to work during a pay period and is coded for hours of actual work.) Employees who are firefighters **will not** have their overtime included in the civilian pay calculation if the total number of paid hours during the pay period is less than the minimum number of qualifying hours for overtime. For example, a firefighter who uses 2 days (48 hours) of LL type code leave in a pay period and for the remainder of the period is in a KG (leave without pay status); will not receive overtime according to the calculation.

