

Questions and Answers on Excused Absence for Employees Returning from Active Duty

On November 14, 2003, President George W. Bush directed the heads of agencies to grant Federal employees who are returning from active duty 5 days of excused absence from their civilian duties. The President's memorandum is available from OPM's Web site at <http://www.opm.gov/oca/compmemo/2003/2003-14b.asp>. The Office of Personnel Management's (OPM's) memorandum and guidance on granting the 5 days of excused absence are available at <http://www.opm.gov/oca/compmemo/2003/2003-14.asp> and <http://www.opm.gov/oca/compmemo/2003/2003-14a.asp>.

The following questions and answers provide additional information to assist agencies in implementing the President's memorandum:

Q1. When must an agency grant the 5 days of excused absence? Must an agency grant the excused absence as soon as the employee returns to civilian duty?

A1. The intent of the President's memorandum is to grant 5 days of paid time off to employees returning to Federal civilian service to aid in their readjustment to civilian life. Agencies must provide a returning employee with 5 days of excused absence upon his or her return to Federal civilian duty. Upon receiving notification from an employee of his or her intent to return to civilian duty on a specific date, an agency must grant the employee 5 days of excused absence immediately prior to the employee's actual resumption of his or her duties. The commencement of the 5 days of excused absence represents a return to Federal civilian employment, and the employee is obligated to report for work at the end of the 5-day period.

If the employee had already returned to Federal civilian service prior to November 14, 2003, he or she may take the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

Q2. How does the 5 days of excused absence affect the time limits for restoring an employee to Federal civilian employment under 5 CFR part 353, subpart B?

A2. The 5 days of excused absence do not affect the time limits for exercising restoration rights, because the commencement of the 5 days of excused absence constitutes a return to civilian service. For example, an employee may take whatever grace period is allowed under part 353 and, *in addition*, is entitled to 5 days paid excused absence.

Q3. We have employees who have returned to Federal civilian duty, but are expected to be activated again. Can an employee receive 5 days of excused absence more than once?

A3. No. *Each employee* is entitled to 5 days of excused absence when he or she returns from active military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established under Executive Order 13223. Each employee will receive 5 days of excused absence, regardless of the number of activations.

Q4. Must a qualifying employee use his or her 5 days of excused absence all at once?

A4. Yes. The intent of the President's memorandum is to provide returning employees with a continuous period of paid time off to spend with their families before returning to Federal civilian duties.

Q5. May qualifying employees return to Federal civilian duty and then take the 5 days of excused absence at a later date?

A5. No. The 5 days of excused absence must be granted as soon as the employee reports back for Federal civilian duty or notifies the agency of his or her intent to return to civilian duty. In the event that an employee had already returned to civilian duty prior to November 14, 2003, the employee should be granted 5 days of excused absence at a time that is mutually agreeable to the Federal agency and the employee. The 5 days of excused absence may not be "stockpiled" for use at a later date. In addition, the 5 days of excused absence is not to be confused with "credit hours" earned under a flexible work schedule or compensatory time off earned for overtime hours.

Q6. If an employee was activated for military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established under Executive Order 13223, but was not deployed overseas, is the employee eligible for the 5 days of excused absence when he or she exercises return rights?

A6. Yes, the President's memorandum applies to all employees who were called to active duty in support of the continuing Global War on Terrorism.

Q7. If an employee who was activated was not a Federal employee when his or her tour began, but has been hired by the Federal Government since his deactivation, is the employee entitled to the 5 days of excused absence?

A7. No. The President's memorandum specifically addresses "returning Federal civil servants who were called to active duty." A new employee who was not a Federal civilian employee at the time of his or her activation does not qualify for the 5 days of excused absence.

Q8. How do agencies compute the 5 days of excused absence for part-time employees or employees on uncommon tours of duty, such as Federal firefighters? Do these employees receive 5 work days, 40 hours, or a prorated amount of excused absence?

A8. All employees are entitled to the equivalent of 1 workweek of excused absence. The period of excused absence for an employee on an uncommon tour of duty or an employee on a part-time work schedule will be prorated according to the number of hours in the employee's regularly scheduled workweek. For example:

Hours in the regularly scheduled workweek	Hours of excused absence
20	20
40	40
53	53
72	72

Q9. May the 5 days of excused absence be prorated depending upon the length of the employee's deployment?

A9. No. *Each employee* who was activated for military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established under Executive Order 13223 is entitled to 1 week of excused absence.

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