

(2) Crediting the restored annual leave to the emergency leave donor's annual leave account effective as of the first day of the following leave year.

**§ 630.1109 Prohibition of coercion.**

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under this subpart.

(b) For the purpose of paragraph (a) of this section, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

**Subpart L—Family and Medical Leave**

SOURCE: 58 FR 39602, July 23, 1993, unless otherwise noted.

**§ 630.1201 Purpose, applicability, and administration.**

(a) *Purpose.* This subpart provides regulations to implement sections 6381 through 6387 of title 5, United States Code. This subpart must be read together with those sections of law. Sections 6381 through 6387 of title 5, United States Code, provide a standard approach to providing family and medical leave to Federal employees by prescribing an entitlement to a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs, as specified in § 630.1203(a) of this part.

(b) *Applicability.* (1) Except as otherwise provided in this paragraph, this subpart applies to any employee who—

(i) Is defined as an "employee" under 5 U.S.C. 6301(2), excluding employees covered under paragraph (b)(2) of this section; and

(ii) Has completed at least 12 months of service (not required to be 12 recent or consecutive months) as—

(A) An employee, as defined under 5 U.S.C. 6301(2), excluding any service as

an employee under paragraph (b)(2) of this section;

(B) An employee of the Veterans Health Administration appointed under title 38, United States Code, in occupations listed in 38 U.S.C. 7401(1);

(C) A "teacher" or an individual holding a "teaching position," as defined in section 901 of title 20, United States Code; or

(D) An employee identified in section 2105(c) of title 5, United States Code, who is paid from nonappropriated funds.

(2) This subpart does not apply to—

(i) An individual employed by the government of the District of Columbia;

(ii) An employee serving under a temporary appointment with a time limitation of 1 year or less;

(iii) An intermittent employee, as defined in 5 CFR 340.401(c); or

(iv) Any employee covered by Title I or Title V of the Family and Medical Leave Act of 1993 (Pub. L. 103-3, February 5, 1993). The Department of Labor has issued regulations implementing Title I at 29 CFR part 825.

(3) For the purpose of applying sections 6381 through 6387 of title 5, United States Code—

(i) An employee of the Veterans Health Administration appointed under title 38, United States Code, in occupations listed in 38 U.S.C. 7401(1) is governed by the terms and conditions of regulations prescribed by the Secretary of Veterans Affairs;

(ii) A "teacher" or an individual holding a "teaching position," as defined in section 901 of title 20, United States Code, shall be governed by the terms and conditions of regulations prescribed by the Secretary of Defense; and

(iii) An employee identified in section 2105(c) of title 5, United States Code, who is paid from nonappropriated funds shall be governed by the terms and conditions of regulations prescribed by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(4) The regulations prescribed by the Secretary of Veterans Affairs, Secretary of Defense, or Secretary of Transportation under paragraph (b)(3)

of this section shall, to the extent appropriate, be consistent with the regulations prescribed in this subpart and the regulations prescribed by the Secretary of Labor to carry out Title I of the Family and Medical Leave Act of 1993 at 29 CFR part 825.

(c) *Administration.* The head of an agency having employees subject to this subpart is responsible for the proper administration of this subpart.

[58 FR 39602, July 23, 1993, as amended at 61 FR 64451, Dec. 5, 1996; 65 FR 26486, May 8, 2000]

#### § 630.1202 Definitions.

In this subpart:

*Accrued leave* has the meaning given that term in § 630.201 of this part.

*Accumulated leave* has the meaning given that term in § 630.201 of this part.

*Administrative workweek* has the meaning given that term in § 610.102 of this chapter.

*Adoption* refers to a legal process in which an individual becomes the legal parent of another's child. The source of an adopted child—e.g., whether from a licensed placement agency or otherwise—is not a factor in determining eligibility for leave under this subpart.

*Employee* means an individual to whom this subpart applies.

*Essential functions* means the fundamental job duties of the employee's position, as defined in 29 CFR 1630.2(n). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

*Family and medical leave* means an employee's entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs, as prescribed under sections 6381 through 6387 of title 5, United States Code.

*Foster care* means 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family to

take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

*Health care provider means—*

(1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this subpart;

(2) Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question;

(3) A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law;

(4) A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or

(5) A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95–314, August 11, 1978 (92 Stat. 469), as amended by Public Law 103–344, October 6, 1994 (108 Stat. 3125).

*In loco parentis* refers to the situation of an individual who has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

*Incapacity* means the inability to work, attend school, or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition.

*Intermittent leave or leave taken intermittently* means leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of 1 hour to several