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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

[Docket ID: OPM-2026-0463]

RIN 3206-AP18

Family and Medical Leave Act

AGENCY: Office of Personnel Management.

ACTION: Direct final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a direct final rule making technical revisions to OPM's Family and Medical Leave Act (FMLA) regulations to incorporate various statutory amendments. The rule reflects statutory changes making virtually all Federal civilian service and certain honorable active military service qualify for determining FMLA eligibility, making clear that annual and sick leave provided under an authority outside of title 5, United States Code, may be substituted for unpaid FMLA leave, and excluding certain Veterans Health Administration (VHA) employees from title 5 FMLA coverage.

DATES: This rule is effective December 14, 2026, unless significant adverse comments are received by November 16, 2026. If significant adverse comments are received, OPM will withdraw the affected provisions of this rule and issue a notice of proposed rulemaking.

ADDRESSES: You may submit comments for this direct final rule within the Federal eRulemaking Portal at <https://www.regulations.gov/>. Follow the instructions for submitting comments.

All comments must be received by the end of the comment period for them to be considered. All comments and other submissions received generally will be posted on the internet at [regulations.gov](https://www.regulations.gov/) as they are received, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited

to personal or sensitive information pertaining to third parties.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Julie Ohr, Office of Personnel Management, Workforce Policy and Innovation, (202) 606-2858, leavepolicy@opm.gov.

SUPPLEMENTARY INFORMATION: This direct final rule amends OPM's Family and Medical Leave Act (FMLA) regulations in subpart L of part 630 of title 5, Code of Federal Regulations (CFR) to reflect statutory changes enacted in January 2021¹ and December 2023.²

I. Background and Effect on Paid Parental Leave

The Family and Medical Leave Act of 1993, as amended, provides eligible employees with unpaid, job-protected leave for specified family and medical reasons under one of two separate and independent authorities, known as title I and title II of the FMLA. Title II of the FMLA added a Family and Medical Leave subchapter V in chapter 63 of title 5 of the United States Code (5 U.S.C. chapter 63, subchapter V), so it is generally referred to as "title 5 FMLA." Title 5 FMLA is administered by OPM and applies to most Federal employees who are covered by the Federal leave system under 5 U.S.C. chapter 63 and some additional categories of employees. Title I of FMLA (non-title 5 FMLA), administered by the Department of Labor (DOL), applies to private sector employees, State and local Government employees, as well as some Federal employees (including employees of the U.S. Postal Service and the Postal Regulatory Commission). DOL's FMLA regulations are found in 29 CFR part 825 and should not be applied to employees covered by title 5 FMLA.

The 2021 and 2023 statutory amendments to the title 5 FMLA law also affect an employee's eligibility for paid parental leave (PPL). This is because PPL is a type of paid leave that is substituted for unpaid FMLA leave. Therefore, to be eligible for PPL, an employee must meet all eligibility

requirements for use of FMLA leave as a covered "employee" (as defined in 5 U.S.C. 6381(1)(A)) who has completed at least 12 months of qualifying service (as required by 5 U.S.C. 6381(1)(B)). On August 10, 2020, OPM issued interim final FMLA/PPL regulations (85 FR 48075) to implement the Federal Employee Paid Leave Act (FEPLA),³ which authorizes the substitution of up to 12 weeks of PPL for unpaid FMLA leave granted in connection with the birth of an employee's son or daughter or the placement of a son or daughter with an employee for adoption or foster care. (See 5 U.S.C. 6382(a)(1)(A) and (B).) To implement FEPLA, OPM added new regulatory subpart Q (Paid Parental Leave) in 5 CFR part 630 and made necessary clarifications, changes, and additions in subpart L (Family and Medical Leave). Because the 2021 and 2023 statutory amendments addressed in this rule affect FMLA eligibility, those amendments (and this rule) therefore also affect PPL eligibility.

The 2021 and 2023 statutory amendments to title 5 FMLA were enacted after the publication of OPM's interim final FMLA/PPL rule and have been implemented through policy guidance in two OPM memoranda to heads of agencies titled "Technical Amendments Related to Family and Medical Leave and Paid Parental Leave under Section 1103 of the National Defense Authorization Act for Fiscal Year 2021" (CPM 2021-07, January 14, 2021)⁴ and "Amendment Related to Inclusion of Certain Military Active Service for Family and Medical Leave and Paid Parental Leave Eligibility Purposes under Section 1114 of the National Defense Authorization Act for Fiscal Year 2024" (CPM 2024-05, February 13, 2024).⁵ The changes made in this direct final rule implement clear statutory requirements and codify the guidance found in those memoranda.

³ Subtitle A of title LXXVI of division F of the National Defense Authorization Act for Fiscal Year 2020, Public Law 116-92, Dec. 20, 2019, 135 Stat. 1037.

⁴ https://www.opm.gov/chcoc/transmittals/2021/Technical%20Amendments%20Related%20to%20Family%20and%20Medical%20Leave%20and%20Paid%20Parental%20Leave%20under%20Section_01-14-2021_508.pdf.

⁵ <https://www.opm.gov/chcoc/transmittals/2024/CPBBFA-1.PDF>.

¹ Sec. 1103(f) of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021, Public Law 116-283, Jan. 1, 2021, 134 Stat. 3388, 3886.

² Sec. 1114(a) of NDAA for FY 2024, Public Law 118-31, December 22, 2023, 137 Stat. 136, 432.

II. January 2021 Statutory Amendments and Corresponding Regulatory Changes

The January 2021 amendments⁶ to the FMLA law revised 5 U.S.C. 6301(2)(v), 5 U.S.C. 6381(1)(B) and 5 U.S.C. 6382(d)(1) and (2) and became effective on the date of the enactment of Public Law 116–283, January 1, 2021. This section further explains each amendment and the corresponding regulatory changes.

1. The statutory amendment to section 6301(2)(v) changed the scope of employees excluded from coverage under the title 5 FMLA law. Before the amendment, section 6301(2)(v) provided that VHA physicians, dentists, and nurses in the Department of Veterans Affairs (VA) were excluded from the title 5 annual and sick leave system, since they were covered by a leave system established under 38 U.S.C. 7421. However, the original title 5 FMLA law definition of “employee” (5 U.S.C. 6381(1)) expressly included these employees as covered by title 5 FMLA. While these employees were covered by the title 5 FMLA law, OPM’s FMLA regulations provided that they would be covered by FMLA regulations prescribed by the VA Secretary (see 5 CFR 630.1201(b)(3)(i) and (4)), which were required to be consistent with the OPM regulations. The amended title 5 FMLA law, currently in effect, excludes all VHA employees covered by a leave system under 38 U.S.C. 7421 from coverage under the title 5 FMLA law. These employees are governed by a FMLA law in 38 U.S.C. 7425(c), which requires that VA provide family and medical leave in the same manner and subject to the same limitations to the maximum extent practicable, as family and medical leave is provided under the title 5 FMLA law.

To conform with the January 2021 amendments to sections 6301(2)(v) and 6381(1) OPM is removing 5 CFR 630.1201(b)(3)(i) dealing with VHA employees listed in 38 U.S.C. 7401(1) and covered by a leave system under 38 U.S.C. 7421, since paragraph (b)(3) concerns employees covered by the title 5 FMLA law. OPM is also amending paragraph (b)(4), which connects to paragraph (b)(3), to remove the reference to the VA Secretary. OPM is redesignating the remaining paragraphs (b)(3)(ii) and (iii) as paragraphs (b)(3)(i) and (ii). OPM is adding a new paragraph (v) in § 630.1201(b)(2), which lists positions to which the subpart L FMLA regulations do not apply. Paragraph (b)(2)(v) provides that subpart L does not apply to all VHA employees covered

by a leave system established under 38 U.S.C. 7421.

2. The statutory amendment to section 6381(1)(B) broadened FMLA coverage by making virtually all types of civilian Federal service (including employment on a temporary or intermittent basis) qualifying service for purposes of applying the FMLA eligibility requirement of 12 months of qualifying service. Before the amendment, the 12 months of service must have been as an “employee” who was covered by the title 5 FMLA leave provisions (as described in 5 U.S.C. 6381(1)(A))—that is, serving in a position in which the employee was eligible to use FMLA leave under the title 5 FMLA law. The amended law, currently in effect, requires that an employee complete at least 12 months of service as an employee (as defined in 5 U.S.C. 2105) of the Government of the United States, including service with the United States Postal Service, the Postal Regulatory Commission, or a non-appropriated fund instrumentality (NAFI) as described in section 2105(c). Thus, virtually all types of civilian Federal service (including employment on a temporary or intermittent basis) are now qualifying for purposes of applying the FMLA eligibility requirement for 12 months of qualifying service. (To be eligible to use title 5 FMLA leave, an employee must still meet the definition of “employee” in 5 U.S.C. 6381(1)(A). For example, those currently employed on a temporary or intermittent basis remain ineligible to use title 5 FMLA leave.)

To conform with the amendment to section 6381(1)(B), OPM is revising 5 CFR 630.1201(b)(1)(ii)(A) to codify that service as an employee under 5 U.S.C. 2105 is qualifying for purposes of applying the FMLA eligibility requirement for 12 months of qualifying service. Qualifying service includes service by employees serving on a temporary or intermittent basis who meet the definition of “employee” in 5 U.S.C. 2105.

OPM is also adding a paragraph (G) in § 630.1201(b)(1)(ii) to address that service with the United States Postal Service or the Postal Regulatory Commission is qualifying service. There is an existing paragraph (D) in § 630.1201(b)(1)(ii) providing that service by a NAFI employee under 5 U.S.C. 2105(c) is qualifying service. While section 6381(1)(B) did not address such NAFI service before the 2021 statutory amendments, the treatment of NAFI employees under the title 5 FMLA law (including the creditability of NAFI service towards the 12-month service requirement) was

already addressed in 5 U.S.C. 2105(c)(1)(E) and in OPM FMLA regulations back to 1993.⁷

3. The statutory amendments to section 6382(d)(1) and (2) made clear that an employee may substitute annual or sick leave earned under an authority outside of title 5, United States Code, for unpaid FMLA leave by removing the requirement that the annual or sick leave be under the leave system established under 5 U.S.C. chapter 63, subchapter I. The law in effect before the amendment only addressed the substitution of annual or sick leave credited “under subchapter I.” The amended law, currently in effect, clarifies that the rules governing the substitution of annual or sick leave for unpaid FMLA leave apply equally to annual or sick leave provided under a non-title 5 authority.

No revision to the regulations governing the substitution of paid leave is necessary because § 630.1206(b)(2)(i) and (c)(1) already allow annual or sick leave under an “equivalent annual or sick leave under another authority” to be substituted for unpaid FMLA leave.

III. December 2023 Statutory Amendment and Corresponding Regulatory Change

The December 2023 technical amendment⁸ to the title 5 FMLA law revised 5 U.S.C. 6381(1)(B) to allow qualifying military service to count toward the 12-month service requirement for FMLA eligibility. That amendment became effective on the date of the enactment of Public Law 118–31, December 22, 2023. This section further explains the amendment and the corresponding regulatory change.

The statutory amendment to section 6381(1)(B) broadened FMLA eligibility by providing that service “which qualifies as honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps of the United States” is qualifying service for the purpose of establishing eligibility for title 5 FMLA leave (and for paid parental leave for employees who otherwise qualify based on the birth or placement of a child). The law in effect before the 2023 amendment required completion of at least 12 months of service “as an employee (as defined in section 2105) of the Government of the United States, including service with the United States Postal Service, the Postal Regulatory Commission, and a nonappropriated

⁷ See 5 CFR 630.1201(b)(3)(iii) as promulgated in the 1993 regulation at 58 FR 39596, 39603 (July 23, 1993).

⁸ Sec. 1114(a), Public Law 118–31, Dec. 22, 2023, 137 Stat. 136, 432.

⁶ Section 1103(f), Public Law 116–283, 134 Stat. 3889.

fund instrumentality as described in section 2105(c).” Section 2105 refers to civilian employees appointed in the civil service. Thus, service with an armed force was not qualifying service (other than service qualifying under the Uniformed Services Employment and Reemployment Rights Act or otherwise performed during an interruption in Federal civilian service as described in 5 CFR 630.1201(b)(1)(ii)(F)). The amended law, currently in effect, allows honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps of the United States to count towards the 12-month service requirement for establishing eligibility for title 5 FMLA leave (and for paid parental leave for employees who otherwise qualify based on the birth or placement of a child). Thus, an employee may meet the 12-month service requirement for title 5 FMLA leave eligibility purposes through any combination of qualifying civilian service and qualifying military service. Based on the law, qualifying military service does not include service in the Coast Guard or in the commissioned corps of the Public Health Service.

OPM is revising 5 CFR 630.1201(b)(1)(ii) by adding a new paragraph (H), which addresses qualifying military service. This revision conforms to the current statute, as explained below.

Paragraph (H) allows “honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps, including full-time National Guard duty; or active duty performed by a member of the Reserves of the Army, Navy, Air Force, or Marine Corps, but not including service in the Coast Guard or in the commissioned corps of the Public Health Service” to be qualifying for purposes of applying the FMLA eligibility requirement for 12 months of qualifying service. The inclusion of full-time National Guard duty is based on the definition of “active service” in 10 U.S.C. 101(d)(3), which expressly includes “full-time National Guard duty”, which is defined in 10 U.S.C. 101(d)(5). That definition of “active service” also includes service on “active duty,” which is defined in 10 U.S.C. 101(d)(1) and would include active duty performed by a member of the Reserves of the Army, Navy, Air Force, or Marine Corps. In the absence of a definition of the term “active service” as used in 5 U.S.C. 6381(1)(B)(ii), OPM must use the standard title 10 definition of that term and related terms. This position is reflected in the OPM memorandum (CPM 2024–05, February 13, 2024) issued regarding the 2023 statutory amendment.

OPM is also amending § 630.1202 to add definitions of “active duty,” “active service,” and “full-time National Guard duty,” each of which cross-references the corresponding definition in 10 U.S.C. 101(d). These definitions support consistent application of paragraph (b)(1)(ii)(H) and do not independently expand or restrict the service that qualifies under that paragraph.

IV. Expected Impact

1. Statement of Need

While OPM has issued policy guidance addressing these matters, OPM has determined that this regulatory action is necessary to achieve greater consistency across agencies. Through publication of this direct final rule, OPM is fulfilling its statutory charge in 5 U.S.C. 6387 to prescribe regulations that address FMLA leave and PPL. This rule helps employees better understand their eligibility for FMLA and PPL, which are time-limited benefits.

2. Impact

This rule will primarily affect Federal agencies that administer title 5 FMLA and Federal employees who may qualify for FMLA/PPL. Since OPM would be codifying in regulation existing FMLA/PPL statutory requirements, OPM does not expect significant changes in the usage of those programs. Agencies must follow the statutory amendments. Agencies generally follow OPM policies, but having a regulation that aligns with the authorizing statute avoids confusion regarding eligibility for these important entitlements. Since this proposed rule affects only Federal agencies and employees, it would have no substantial impact on local economies or labor markets.

3. Costs

As explained in the Impact section, OPM does not expect the direct final rule to result in significant changes in the usage of FMLA/PPL. The statutory technical amendments were effective in 2021 and 2023, and the associated OPM implementation guidance is already in place. OPM is simply incorporating these statutory revisions in regulation to avoid conflicting and confusing program administration. Accordingly, OPM does not project that costs or savings will result from the direct final rule. OPM believes the administrative burdens associated with implementing the rule will be de minimis, since agencies are already operating under parallel statutory authorities and OPM policies. There could be minor administrative cost savings to the extent that codifying policies in regulations reduces disputes.

4. Benefits

This direct final rule amends OPM’s FMLA and PPL regulations to reflect statutory changes that expanded FMLA/PPL eligibility. This direct final rule gives agencies and employees clear regulatory authority to make proper determinations regarding FMLA/PPL eligibility, improving program integrity and enhancing transparency and accountability in the administration of the FMLA/PPL programs. In particular, Federal employees with non-title 5 Federal service or honorable active military service will benefit from clearer regulations.

5. Alternatives

OPM considered the alternative of not regulating the statutory provisions that were already addressed in OPM guidance. OPM concluded that to ensure agencies and employees are aware of the updated legal authorities, these statutory amendments should be codified in regulation. The direct final rule will ensure consistency and proper administration of the FMLA/PPL programs.

6. Severability

If any provision of this direct final rule is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, OPM believes that the various provisions should be severable and need not be impacted.

V. Regulatory Compliance

1. Notice and Comment

Changes to the FMLA authorities are technical in nature and not subject to notice and comment rulemaking. This rulemaking aligns OPM’s regulations with 5 U.S.C. chapter 63, subchapter V. The technical statutory amendments are clear, not subject to interpretation, and implementing guidance has already been issued. This rule does not establish new procedures for administering the FMLA/PPL programs.

In addition to the technical FMLA changes, this rule adds three definitions to assist with the administration of these FMLA technical amendments. This rule is suitable for direct final rulemaking because it is non-controversial and consistent with Federal law and policy. OPM does not expect to receive any significant adverse comments related to these regulatory updates. These provisions of the rule will be beneficial to agencies and employees because they will improve compliance in administering the FMLA/PPL programs established in current law. The regulatory revisions make no changes to

the legal obligations or rights of any affected parties (*i.e.*, they reflect statutory requirements that are already in effect). OPM accordingly finds that it is in the public interest to have this rule be effective as soon as possible.

The changes made by this rule are already effective as outlined in OPM’s prior guidance memoranda (CPM 2021–07 and CPM 2024–05). If significant adverse comments are received, OPM will withdraw the affected provisions of this direct final rule and publish a proposed rule for comment. A significant adverse comment is one that explains: (1) why the rule is inappropriate, including challenges to the rule’s underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. If no significant adverse comments are received, this direct final rule will become effective immediately. Agencies have had sufficient time to make changes needed to implement the rule. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

2. Regulatory Review

OPM has examined the impact of this rule as required by E.O. 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold but has otherwise been designated as a “significant regulatory action” under section 3(f) of E.O. 12866. This rule is not considered an E.O. 14192 regulatory action because it imposes no more than de minimis costs.

3. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because the rule will apply only to Federal agencies and employees.

4. Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Director of OPM certifies that this rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

5. Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

6. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

7. Congressional Review Act

OMB’s Office of Information and Regulatory Affairs has determined this rule does not satisfy the criteria listed in 5 U.S.C. 804(2). In addition, this is a rule relating to agency management or personnel and does not come within the meaning of the term “rule” as used in 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

8. Paperwork Reduction Act

This rulemaking does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 5 CFR Part 630

Government employees, Wages.

Signing Statement

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.
Jerson Matias,
Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR part 630 as follows:

PART 630—ABSENCE AND LEAVE

- 1. The authority citation for part 630 continues to read as follows:
Authority: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311; subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G issued under 5 U.S.C. 6305(c) and 6311; subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b); subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340; subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a); subpart K issued under 5 U.S.C. 6391(g); subpart L issued under 5 U.S.C. 6383(f) and 6387; subpart M issued under Sec. 2(d), Pub. L. 114–75, 129 Stat. 641 (5 U.S.C. 6329 note); subpart N issued under 5 U.S.C. 6329a(c); subpart O issued under 5 U.S.C. 6329b(h); and subpart P issued under 5 U.S.C. 6329c(d).

Subpart L—Family and Medical Leave

- 2. Amend § 630.1201 by:
 - a. Revising paragraph (b)(1)(ii)(A);
 - b. In paragraph (b)(1)(ii)(E), removing the “or” at the end;
 - c. In paragraph (b)(1)(ii)(F), removing “paragraphs (A) through (E) of this paragraph (b)(1)(ii).” and adding in its place “paragraphs (b)(1)(ii)(A) through (E) of this section;”;
 - d. Adding paragraphs (b)(1)(ii)(G) and (H);
 - e. In paragraph (b)(2)(iii), removing the “or” at the end;
 - f. In paragraph (b)(2)(iv), removing the period and adding it its place “; or”;
 - g. Adding paragraph (b)(2)(v);
 - h. Removing paragraph (b)(3)(i);
 - i. Redesignating paragraphs (b)(3)(ii) and (iii) as paragraphs (b)(3)(i) and (ii); and
 - j. In paragraph (b)(4), removing “Secretary of Veterans Affairs,” and the comma after “Defense”.

The revision and additions read as follows:

§ 630.1201 Purpose, applicability, and agency responsibilities.

- * * * * *
- (b) * * *
- (1) * * *
- (ii) * * *

(A) An employee (as that term is defined in 5 U.S.C. 2105) of the Government of the United States;
* * * * *

(G) An employee performing service with the United States Postal Service or the Postal Regulatory Commission; or

(H) A member performing honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps, including full-time National Guard duty and active duty performed by a member of the Reserves of the Army, Navy, Air Force, or Marine Corps, but not including service in the Coast Guard or in the commissioned corps of the Public Health Service.

(2) * * *

(v) An employee of the Veterans Health Administration who is covered by a leave system established under 38 U.S.C. 7421 (see also 38 U.S.C. 7425(c)).

* * * * *

■ 3. Amend § 630.1202 by adding, in alphabetic order, the definitions for “Active duty”, “Active service”, and “Full-time National Guard duty” to read as follows:

§ 630.1202 Definitions.

* * * * *

Active duty, as used in § 630.1201(b)(1)(ii)(H), has the meaning given that term in 10 U.S.C. 101(d)(1).

Active service has the meaning given that term in 10 U.S.C. 101(d)(3).

* * * * *

Full-time National Guard duty has the meaning given that term in 10 U.S.C. 101(d)(5).

* * * * *

[FR Doc. 2026–21104 Filed 10–14–26; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2421, 2422, 2426, and 2429

Meaning of Terms as Used in This Subchapter; Representation Proceedings; National Consultation Rights and Consultation Rights on Government-Wide Rules or Regulations; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) publishes this document to implement the vacatur of the interim final rule published March 24, 2026 (Interim Final Rule). Except for certain minor or technical changes that were part of the Interim Final Rule but were not vacated, this document reinstates the wording of the affected regulations as they appeared before the Interim Final Rule took effect.

DATES: This final rule is effective on October 15, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Tso, Solicitor, at solmail@flra.gov or at (771) 444–5778.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 2026, the FLRA published the Interim Final Rule with a request for comments. Meaning of Terms as Used in This Subchapter; Representation Proceedings; National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations; Miscellaneous and General Requirements, 91 FR 13933 (Mar. 24, 2026) (Member Anne Wagner dissenting). The Interim Final Rule was effective April 23, 2026. *Id.* at 13933. In a memorandum and order on June 29, 2026, the United States District Court for the District of Massachusetts held that the Interim Final Rule and its April 23, 2026, effective date were arbitrary and capricious. *See AFGE, AFL–CIO v. FLRA*, 838 F.Supp.3d 90 (D. Mass. June 29, 2026). In a final judgment on July 8, 2026, the District Court vacated the Interim Final Rule, except for certain minor or technical changes that are discussed in Section II below. *See id.*, Final J., Dkt. No. 45 (D. Mass. July 8, 2026). In order to implement the District Court’s vacatur, this document reinstates the wording of the affected regulations as they appeared before the Interim Final Rule took effect—except for the minor or technical changes that the vacatur did not affect. These reinstated regulations were already in effect as a matter of law due to the District Court’s decision, but this publication restores their appearance in the *Code of Federal Regulations*. The FLRA has sought reconsideration of the District Court’s decision. The FLRA will issue a superseding notice in the **Federal Register** if the District Court’s decision is vacated.

II. Minor or Technical Changes

The Interim Final Rule’s minor or technical changes that the District Court did not vacate are set forth in 5 CFR 2422.3; 2422.5; 2422.6; 2422.34; 2426.2(b)(2)(i), (iv), & (v), and (b)(3)(ii); 2426.12(b)(2)(i), (iv), & (v), and (b)(3)(ii); 2429.7; and 2929.24(f)(7) and (f)(9). *See id.* Because these revisions have remained unchanged since the Interim Final Rule’s effective date, they are not changed in this final rule.

III. Procedural and Other Matters

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that when an agency for good cause finds that notice-and-comment

procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for comment. The FLRA has determined that there is good cause for dispensing with an opportunity for comment, inasmuch as this rule merely conforms the text in the *Code of Federal Regulations* to the requirements of the District Court’s decision.

Additionally, the FLRA finds that providing notice and an opportunity to comment is unnecessary because the FLRA is simply conducting the ministerial task of implementing the final judgment of the District Court.

Further, the FLRA finds good cause to make the revisions immediately effective under § 553(d)(3) of the Administrative Procedure Act. *See id.* 553(d)(3). Section 553(d)(3) provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, “except . . . as otherwise provided by the agency for good cause,” among other exceptions. *Id.* The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996). The FLRA has determined that there is good cause for making this final rule effective immediately because it merely implements the District Court’s decision that already vacated the Interim Final Rule (except for minor or technical changes). Accordingly, this final rule is effective immediately upon publication.

E.O. 12866

Pursuant to E.O. 12866 (“Regulatory Planning and Review”), as amended by E.O. 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the E.O.

E.O. 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866.

This final rule was drafted and reviewed in accordance with E.O. 12866 and E.O. 13563. OMB has determined that this final rule is not a “significant regulatory action” as defined in section 3(f)(1) of E.O. 12866.

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. The