

program performance measures, and other appropriate indicators, as well as evaluation guidelines based, in part, upon those assessments, that are communicated by the agency head, or an individual specifically designated by the agency head for such purpose, to senior employees, appropriate senior employee rating and reviewing officials, and PRB members. These assessments and guidelines are to be provided at the conclusion of the appraisal period but before individual senior employee performance ratings are recommended, so that they may serve as a basis for individual performance evaluations, as appropriate. The guidance provided must conform to 5 CFR part 430, subpart C or E, as applicable;

* * * * *

(7) Accountability, so that final agency head decisions and any PRB recommendations regarding senior employee ratings consistent with 5 CFR part 430, subparts C and E, individually and overall, appropriately reflect the employee's performance expectations, relevant program performance measures, and such other relevant factors as the PRB may find appropriate; in the case of supervisory senior employees, ratings must reflect the degree to which performance standards, requirements, or expectations for individual subordinate employees clearly link to organizational mission, GPRA strategic goals, or other program or policy objectives and take into account the degree of rigor in the appraisal of their subordinate employees;

(8) Performance differentiation, so that the system(s) includes at least one summary level of performance above fully successful, including a summary level that reflects outstanding performance, as defined in § 1330.402, and so that its annual administration results in meaningful distinctions based on relative performance that take into account the assessment of the agency's performance against relevant program performance measures, as described in paragraph (a)(6) of this section, employee performance expectations, and such other relevant factors as may be appropriate. For equivalent systems that do not use summary ratings, the appraisal system must provide for clear differentiation of performance at the outstanding level; and

* * * * *

■ 33. Amend § 1330.405 by revising paragraphs (b)(1)(iii)(B) and (C) and (h)(2) to read as follows:

§ 1330.405 Procedures for certifying agency appraisal systems.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) For the agency's senior professionals covered by 5 CFR part 430, subpart E, five summary levels—an outstanding level, a fully successful level, a level between outstanding and fully successful, an unacceptable level, and a level between fully successful and unacceptable; and

(C) For agencies not subject to 5 CFR part 430, subparts C and E, a summary rating level that reflects outstanding performance or a methodology that clearly differentiates outstanding performance, as defined in § 1330.402;

* * * * *

(h) * * *

(2) An agency's system certification is automatically suspended when OPM withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under 5 CFR 430.314(c), 430.514(c), and 1330.403(e).

* * * * *

Office of Personnel Management.

Scott Kupor,

Director.

Office of Management and Budget.

Russell Vought,

Director.

[FR Doc. 2026–21316 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 630, and 715

[Docket ID: OPM–2026–0397]

RIN: 3206–AP07

Administrative Leave for Workforce Realignment and Other Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to amend its regulations governing administrative leave for workforce realignment and other purposes. This final rule more fully addresses the appropriate uses of administrative leave, including use in connection with deferred resignation programs and other workforce realignment initiatives, and for other purposes. The final rule also clarifies when an agency may provide administrative leave during a reduction-

in-force notice period and accept or deny an employee's request to withdraw a resignation in the context of a deferred resignation program.

DATES: This rule is effective November 18, 2026.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858 or by email at leavepolicy@opm.gov.

SUPPLEMENTARY INFORMATION: OPM is issuing a final rule to amend its regulations on administrative leave in 5 CFR part 630, subpart N, and related regulations on reductions in force in 5 CFR 351.806 and on resignations in 5 CFR 715.202. OPM issued a proposed rule on June 29, 2026 (91 FR 39032).

I. Digest of Public Comments

In response to the proposed rule, OPM received 30 comments during the 30-day public comment period from multiple individuals, one agency (0027), two unions (0022 and 0030), and three employee advocacy groups (0025, 0026, and 0029). All comments were posted and made available to the public in the docket at <https://www.regulations.gov/docket/OPM-2026-0397>. A reference to a comment provides the location of the item in the public record (*i.e.*, comments filed in response to the proposed rule are available at <https://www.regulations.gov/comment/OPM-2026-0397-nnnn> where “nnnn” is the comment number).

At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, the comments on the proposed regulation changes were mixed. The comments are summarized below, including suggestions for revisions that OPM considered and either adopted, adopted in part, or declined to adopt, along with OPM's supporting rationale. Section II of this preamble provides background information. Section III responds to the comments. Section IV provides a section-by-section analysis of the regulatory changes, section V sets forth the regulatory analysis, and section VI addresses regulatory compliance requirements.

II. Background

On December 17, 2024, OPM issued final regulations on administrative leave that added a new subpart N in 5 CFR part 630 (89 FR 102256). The regulations in subpart N govern use of administrative leave authorized for Federal employees under 5 U.S.C. 6329a, which was enacted as part of the Administrative Leave Act of 2016 (section 1138 of Pub. L. 114–328, December 23, 2016). OPM subsequently

identified the need to clarify certain matters in subpart N. On June 29, 2026, OPM issued a proposed rule (91 FR 39032) pursuant to its regulatory authority at 5 U.S.C. 6329a(c). The proposed rule addressed acceptable and unacceptable uses of administrative leave. In particular, OPM proposed to add a list of specific examples of acceptable uses, including use in connection with deferred resignation programs¹ and other workforce restructuring initiatives. These final regulations codify existing OPM policies on administrative leave. The primary OPM policy documents are a “Fact Sheet: Administrative Leave” and an OPM memorandum to agency Chief Human Capital Officers entitled “Template for Agency Administrative Leave Policies” (CPM 2025–12, July 30, 2025) (“Agency Policy Template”).²

In addition, the proposed rule included proposed changes to related regulations. It proposed to amend OPM’s reduction-in-force (RIF) regulations at 5 CFR 351.806 to clarify the conditions under which an agency may provide administrative leave during a RIF notice period. It also proposed to amend OPM’s resignation regulations at 5 CFR 715.202 to (1) provide that an agency has sole and exclusive discretion in deciding whether to accept or deny an employee’s request to withdraw a resignation before the resignation has become effective and (2) specifically address that an employee’s receipt of benefits provided under a deferred resignation agreement, such as paid administrative leave, is a valid reason to deny an employee’s request to withdraw a resignation.

III. Responses to Comments

A. Use of Administrative Leave in Connection With a Deferred Resignation Program

A number of comments, including 0004, 0006, 0016, 0019, 0025, 0026, and 0029, opposed codifying use of

administrative leave in connection with deferred resignation programs (DRP) as an acceptable use, arguing that use of administrative leave for workforce restructuring circumvents RIF procedures in 5 CFR part 351, which includes legal safeguards to ensure that, when necessary, employees are released from employment in an orderly manner. Commenters argued that voluntary early retirement authority (VERA) and voluntary separation incentive payments (VSIP) already provide bounded, accountable mechanisms with statutory caps, and that open-ended administrative leave is designed to escape those limits. Comment 0004 stated that OPM should reject any regulatory framework that treats administrative leave as a preferred alternative to lawful RIF procedures. Comment 0006 objected that administrative leave, traditionally a short-duration tool, is being expanded into a workforce reduction mechanism that departs from established civil service procedures.

Comment 0025 argued that deferred resignation programs require a statutory foundation separate from section 6329a, noting that Congress has separately authorized the VSIP and VERA programs and asserting that section 6329a cannot be used to “create and fund a massive governmentwide paid separation benefit.” The commenter cited public reporting estimating the cost of 2025 deferred resignation programs at approximately \$11.1 billion and urged OPM to work with Congress on a legislated transition or severance program. The commenter urged OPM to withdraw the proposal in its entirety, begin using administrative leave as intended by Congress, and seek legislation for any broader paid transition or severance program.

Comment 0016 similarly argued that VERA and VSIP already provide bounded, accountable voluntary-reduction tools with statutory caps, making open-ended administrative leave unnecessary, and that codifying open-ended administrative leave as a “transition-to-separation tool” invites agencies to route around the disciplined mechanisms Congress enacted, and to do so with public funds and no meaningful oversight. Comment 0026 recommended that OPM work with Congress to raise the statutory cap on voluntary separation incentive payments to make it a more useful tool. An individual commenter argued that the proposed rule weakens the due process protections that have sustained a competent, professional, merit-based civil service, and that it will harm Federal recruitment and retention and

requested withdrawal of the proposed rule. Due process concerns are addressed further in section III.F.

OPM disagrees that a separate statutory authorization is required to use administrative leave in conjunction with a DRP. Administrative leave provided in connection with a DRP is administrative leave under section 6329a, provided pursuant to a written agreement in which the employee voluntarily commits to separate on a specified future date. Such leave is not “placed” on an unwilling employee; it is a benefit the employee elects to accept as part of a voluntary transition to separation. The concerns that animated the Administrative Leave Act—open-ended, involuntary removal of employees from the workplace during unresolved personnel matters—are not implicated where an employee has voluntarily agreed to separate and to the terms of the transition period.

The existence of VSIP and VERA does not preclude the use of administrative leave as a complementary workforce-shaping tool. Those authorities address different benefits—lump-sum incentive payments and modified retirement eligibility, respectively—and nothing in those statutes states or implies that they are the exclusive means by which agencies may facilitate voluntary separations. Indeed, the new § 630.1403(c)(9) expressly contemplates that administrative leave may be used in conjunction with VSIP and VERA. Section 630.1403(c)(9) is limited to cases where employees sign voluntary written agreements to separate on a specified future date and receive administrative leave as a part of that voluntary agreement. Agencies have long had discretion to determine how employees in a transition-to-separation posture will be utilized, and the final rule confirms that discretion while subjecting it to Governmentwide limits established by OPM and applicable agency limits.

OPM acknowledges that VERA and VSIP are separate authorities with their own limits; the inclusion of those authorities in the same example is descriptive of the range of voluntary transition tools and does not subject administrative leave to, or exempt it from, the statutory conditions governing VERA or VSIP, which continue to apply on their own terms.

OPM does not agree that this final rule expands administrative leave into a workforce reduction tool that circumvents RIF procedures. The final rule does not waive, suspend, or displace any requirement of 5 CFR part 351. Retention registers, retention standing, veterans’ preference, and all

¹ See the following OPM memoranda on the 2025 Governmentwide deferred resignation program available at <https://www.opm.gov/chcoc/published-memos/>: “Guidance on Probationary Periods, Administrative Leave and Details” (January 20, 2025), “Guidance Regarding Deferred Resignation Program” (January 28, 2025), “Guidance on Collective Bargaining Obligations in Connection with Deferred Resignation Offer” (February 4, 2025), and “Legality of Deferred Resignation Program” (February 4, 2025).

² The OPM “Fact Sheet: Administrative Leave” is found at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/administrative-leave/>. The OPM memorandum “Template for Agency Administrative Leave Policies” (CPM 2025–12, July 30, 2025) is available at <https://www.opm.gov/chcoc/published-memos/>.

other RIF requirements continue to apply in full to any involuntary RIF separation. The only change made to part 351 is to § 351.806, which addresses an employee's duty status during the RIF notice period. Paragraph (a) retains the general expectation that an employee will remain in a duty status during the notice period. It replaces the "when possible" language with "under ordinary circumstances," which is consistent with the language used in 5 CFR 752.404(b)(3) that addresses duty status during an advanced notice period in connection with a proposed removal or suspension. The new paragraph (b) permits—but does not require—administrative leave for all or part of that period when the agency determines such leave is appropriate. This regulatory clarification is consistent with OPM policy guidance³ which already provided that an authorized agency official may provide administrative leave between an employee's receipt of a notice of involuntary separation and the effective date of that separation.

New § 630.1403(c)(10) and revised § 351.806 address only whether an employee may be placed in a paid, non-duty status during a RIF notice period. Those provisions do not alter the substantive or procedural requirements governing RIF, which continue to apply in full whenever an agency conducts a RIF. Nothing in this rule authorizes an agency to bypass RIF competition, retention registers, or appeal rights.

As to cost, OPM addresses costs in section III.B and regulatory-impact matters in section III.E. OPM notes here that the DRPs conducted in 2025 were undertaken pursuant to existing regulatory authority and OPM guidance; this rule codifies the availability of administrative leave for DRP programs prospectively, subject to the limits described above. OPM agrees that Congress remains free to enact additional workforce-transition authorities but disagrees that such legislation is a prerequisite to the uses identified in this rule. The sponsors of the Administrative Leave Act were concerned about costs associated with open-ended investigations of employees and did not consider a use of administrative leave that would produce long-term cost savings by facilitating workforce reductions.

OPM declines to withdraw the rule or to make changes based on this line of comments. The final rule is a lawful

exercise of OPM's authority under 5 U.S.C. 6329a(c)(1), strengthens the regulatory framework by converting policy guidance into binding prohibitions and clarifying acceptable uses, preserves the duty-status presumption during RIF notice periods, and does not alter the statutory 10-workday limit or the investigative- and notice-leave framework of section 6329b.

B. Cost of Administrative Leave and DRP

Several comments, including 0004, 0016, 0022, and 0025, objected to the cost of using administrative leave in conjunction with a DRP. Comment 0004 stated the 2025 deferred resignation programs showed waste, including paying employees who performed no work and later rehiring. The commenter believes a full accounting of the DRPs should be conducted before similar programs are codified in regulation. Comment 0016 noted that the 2025 DRP placed tens of thousands of employees in paid non-duty status for months while delivering no work to the public, a direct payroll expenditure for zero output, compounded by the loss of institutional knowledge, the collapse of continuity in mission-critical functions, and the documented degradation of agency capacity that followed. Comment 0022 commented that the proposed rule attempts to justify the administration's costly workforce reduction efforts, including widespread use of administrative leave, by promising "large long-term savings" without providing concrete support or considering downstream effects of letting employees participate in DRP.

Comment 0022 also stated that OPM failed to provide concrete support that justifies costly workforce reduction efforts, even as it acknowledges the costs of the workforce reduction initiatives that began in early 2025. The organization cited two recent studies that highlight significant expenses tied to these workforce reduction programs: (1) a June 2026 study estimated that deferred resignation programs alone have cost at least \$11 billion; and (2) another analysis from April 2026 found that the Government paid approximately \$4.5 billion in salary and benefits to employees who were not working under DRP agreements.

OPM respectfully disagrees with the commenters on the costs associated with the original DRP. OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that use of administrative leave in connection with deferred

resignation programs and other workforce restructuring initiatives can generate long-term savings by reducing Federal staffing levels. OPM did not project costs or savings from the proposed regulations themselves because the regulations codify Governmentwide policies already in place, and OPM does not expect codification to produce significant changes in the usage of administrative leave.

Further, OPM policy guidance has stated that use of administrative leave in connection with DRP is in the interest of the agency and of the Government as a whole because it facilitates workforce restructuring and realignment efforts leading to a leaner, less expensive, less wasteful, more efficient, and more mission-focused Federal workforce. OPM also notes that this policy is not open-ended: beginning in calendar year 2026, use of administrative leave by an employee in connection with a workforce realignment initiative is limited to 12 weeks in any individual instance unless a higher threshold has been jointly approved by OPM and the Office of Management and Budget. In addition, § 630.1403(a)(6) requires an authorized agency official to consider the effect on productivity and mission needs and the strength of the justification for using appropriated funds.

OPM calculates that DRP separations in 2025 represented a workforce reduction of over 6 percent, which contributed to the overall reduction of the Federal workforce of over 12 percent from December 2024 to March 2026. Those workforce reductions create significant long-term savings even after accounting for the one-time costs of DRP administrative leave, which represent less than 3 percent of total basic payroll for Federal employees. Because the payroll savings from a smaller workforce recur in every subsequent fiscal year while the administrative leave outlays are one-time transition costs, the long-term savings substantially exceed the short-term costs even under the commenters' own estimates.

OPM makes no changes in the regulations in response to this line of comments.

C. 10-Workday Limit

Comment 0025 asserted that the proposed rule exceeds OPM's authority under the Administrative Leave Act of 2016, 5 U.S.C. 6329a–6329c, by establishing a regulatory exception to the statutory 10-workday calendar year limit. The commenter argued that the section 6329a(b) 10-workday calendar-

³ See section D.1.b in OPM memorandum "Template for Agency Administrative Leave Policies" (CPM 2025–12, July 30, 2025), which is available at <https://www.opm.gov/chcoc/published-memos/>.

year limit reflects Congress's intent to curb extended agency-directed paid non-duty status, that OPM's authority under section 6329a(c)(1) to prescribe acceptable uses does not include authority to override that limit, and that authorizing months of administrative leave for workforce realignment, RIF notice periods, and settlements would render the statutory cap "optional and meaningless." The commenter urged OPM to withdraw the proposal and seek legislation for any broader paid transition or severance program. Similarly, comment 0029 asserted that the proposed rule conflicts with the 10-workday limit Congress enacted in section 6329a(b)(1) by "re-authorizing exactly the indefinite, uncontestable leave status Congress acted to eliminate."

However, comment 0029 supported retaining the language found in proposed § 630.1403(b)(3) concerning the use of administrative leave for investigative purposes. A labor organization (0030) similarly argued that the text and structure of the Act—including the separately defined and expressly limited investigative leave authority in 5 U.S.C. 6329b—show that Congress withheld the power to provide unlimited amounts of administrative leave, and cited the sense-of-Congress findings accompanying the Act (5 U.S.C. 6329a note) that agency use of administrative leave had exceeded reasonable amounts and that administrative leave should be used sparingly.

OPM disagrees that the rule exceeds its statutory authority. Congress expressly directed OPM to "prescribe regulations to carry out" section 6329a, including regulations governing the "acceptable agency uses of administrative leave" and the recording of such leave (5 U.S.C. 6329a(c)(1)). The final rule is an exercise of precisely that delegated authority: it identifies acceptable and prohibited uses of administrative leave and codifies existing Governmentwide policies to promote consistency and accountability across agencies.

The final rule does not waive, extend, or otherwise modify the 10-workday limit in section 6329a(b)(1). As OPM explained in the December 2024 final rule (89 FR 102256), the statutory limit applies where an agency "place[s]" an employee on administrative leave for investigative purposes. The 10-workday limit directly connects to a provision in the investigative leave law (section 6329b(b)(3)(A)), which bars placing an employee on investigative leave until the 10-workday limit is reached.

The final rule preserves and indeed strengthens the statutory framework. New § 630.1403(b)(3) provides clarity by expressly prohibiting use of administrative leave for investigative purposes once the employee has reached the 10-workday limit. If necessary, an agency may then use investigative leave under section 6329b, with all of that section's procedural safeguards, approvals, time limits, and reporting requirements. Thus, the final rule gives fuller effect to the statutory scheme Congress designed for the specific problem that motivated the Administrative Leave Act—prolonged, agency-directed removal of employees from the workplace during personnel investigations.

The commenter's reading—under which the 10-workday limit would govern all extended uses of administrative leave—is inconsistent with the position the commenter itself acknowledges: that general administrative leave for purposes such as voting, blood donation, and emergency closures remains outside the cap. The statute does not enumerate acceptable purposes; it delegates that task to OPM. Nothing in the text of section 6329a confines OPM's authority under subsection (c)(1) to brief or de minimis uses, and the enumerated examples in § 630.1403(c) operate within, not around, the statutory limits: uses that fall within the investigative context remain subject to the 10-workday limit, which when reached triggers coverage under section 6329b, while the workforce-realignment uses in paragraphs (c)(9) through (c)(11) address categorically different circumstances, discussed further below. The December 17, 2024, final rule cited by the commenter included this sentence: "An incidence of administrative leave lasting more than 1 workday may be approved when determined to be appropriate by an agency" (5 CFR 630.1403(a)(3)). This final rule simply adds specific examples of appropriate uses of administrative leave for periods of more than 1 workday.

The rule does not authorize unlimited administrative leave: the workforce-realignment uses in § 630.1403(c)(9) and (c)(11) are expressly subject to Governmentwide limits established by OPM—currently 12 weeks in any individual instance absent joint OPM and Office of Management and Budget approval of a higher threshold—and to any agency limits, and every use of administrative leave remains subject to the principles and decision factors in § 630.1403(a).

Finally, the "Sense of Congress" accompanying the Act—that agencies

should use administrative leave "sparingly" and manage its costs prudently—is a non-binding statement of policy that informs, but does not displace, the operative statutory text. The final rule is consistent with that policy: it retains the general principles in § 630.1403(a) that administrative leave is discretionary, should be limited to the amount reasonably necessary, and ordinarily should not exceed one workday for a single incidence, while identifying the limited circumstances in which longer periods are appropriate. It also adds new binding prohibitions (§ 630.1403(b)(3)–(5)) that constrain agency use of administrative leave. As noted above, the sponsors of the Administrative Leave Act were concerned about costs associated with open-ended investigations of employees and did not consider a use of administrative leave that would produce long-term cost savings by facilitating workforce reductions.

OPM makes no changes in response to these comments.

D. Mission Capacity

Three individual commenters (comments 0007, 0008, 0009) raised concerns about the consequences of workforce reductions on the delivery of Federal services. Comment 0007 described the impact of workforce reductions on various public health services, communications during emergencies, and technical assistance to states, and argued that the proposed rule facilitates those reductions without accounting for their effect on the public. Comment 0008 noted OPM's analysis should evaluate the cost of reduced program capacity, including reduced preparedness and loss of scientific expertise, rather than treating the cost of administrative leave in isolation. Comment 0009 was concerned about the loss of institutional and technical expertise, especially in specialized topics and areas of work and requested that OPM clarify that administrative leave is not to be used as a tool for permanent downsizing and should not be used as a routine workforce reduction strategy and that agencies should first demonstrate that mission requirements can still be met.

OPM appreciates the comments and does not dispute that changes in agency staffing can affect the delivery of public services. Those effects are addressed in the existing regulatory framework at the point of decision rather than through the list of examples of acceptable uses.

This final rule does not require an agency to provide administrative leave in any workforce realignment scenario and does not state that administrative

leave should be used as a routine workforce reduction strategy. An authorized agency official retains the sole and exclusive discretion to decline to provide it based on agency judgments regarding mission needs (§ 630.1403(a)(2) and (a)(4)). Decisions about the size and composition of an agency's workforce, and about which program functions must remain staffed, are made by the agency under separate authorities and are outside the scope of this rulemaking.

As to the request that agencies first demonstrate that mission requirements can still be met, OPM declines to change the regulatory text. Section 630.1403(a)(6) already requires the authorized agency official to consider the effect on productivity and the agency's ability to meet mission needs. The loss of specialized expertise the commenters describe is a workforce planning consideration for the agency exercising its staffing authorities rather than a matter to be governed by the administrative leave regulations.

E. Economic Impact Analysis

Comment 0025 argued that OPM's cost-benefit analysis is incomplete because it does not disclose amounts already spent on extended administrative leave, quantify affected employees, compare projected savings against service losses and replacement costs, or justify the determination that the rule will not have a \$100 million annual economic effect.

Several commenters argued that the no-cost certification is arbitrary and capricious under the Administrative Procedure Act (APA) because it conflates the *act of codifying* with the *substance being codified*. Comment 0004 stated that OPM fails to account for the major economic effects of workforce reductions in its costing of the proposed rule. The commenter suggested that OPM should measure more than the payroll impact of Federal employees and requested that OPM conduct a complete and honest economic impact analysis—that accounts for local economic multiplier effects, the impact on housing markets, and the cost of lost public services—and make that analysis available for a minimum of 60 days of public comment before any rule is finalized.

Comment 0010 argued that extended administrative leave under a DRP operates as a benefit that bridges employees to retirement eligibility or to other employment and that the asserted cost savings are not credible. The same commenter stated the purported reduction in costs is nonsense unless it is accompanied by a legislative

reduction in tasking to the affected agency, because the work will just fall to the remaining employees and will either be done with less rigor and attention to detail or will be contracted out to a company that is profit-motivated instead of mission-motivated.

Comment 0016 stated that months of payroll expenditures for tens of thousands of DRP participants performing no work, the loss of institutional knowledge, the collapse of continuity in mission-critical functions, and the documented degradation of agency capacity cannot be a de minimis cost. Comment 0029 stated that real-world impacts of authorizing administrative leave for employees facing a RIF include “not only billions of dollars in direct financial losses but also serious constraints on agencies’ ability to carry out their statutory missions.” Comment 0004 objected that OPM “must conduct a complete economic impact analysis that accounts for the multiplier effect of federal employee spending in local economies, the impact on housing markets, the downstream consequences for private sector businesses that depend on stable federal employment in their communities, and the economic value of public services that go undelivered when federal employees are placed on administrative leave rather than deployed productively.” Comment 0030, a labor organization, further asserted that OPM's claimed cost savings are contrary to publicly available data, citing a June 2026 Public Citizen analysis estimating that the 2025 deferred resignation programs cost approximately \$11 billion, and Government Accountability Office (GAO) reports documenting that agencies subsequently rehired employees who had participated in those programs.

OPM disagrees that a more extensive cost analysis is required. The relevant question under E.O. 12866 and E.O. 13563 is the incremental effect of this rule relative to the baseline. The baseline includes the Governmentwide policies already in effect—including the Agency Policy Template—that parallel the rule's provisions. The distinction commenters draw between the act of codifying and the substance being codified is precisely what the baseline concept captures: because the substance is already in effect, the incremental effect of codifying it is the appropriate measure of this rule's costs and benefits. Because the rule primarily codifies those existing policies, OPM does not project that the rule itself will significantly change the usage of administrative leave or result in

incremental costs or savings approaching the \$100 million significance threshold. Expenditures associated with the 2025 deferred resignation programs were incurred under prior policies and are not costs of this rule; a retrospective accounting of those programs is beyond the scope of this rulemaking.

OPM further notes that decisions to conduct particular workforce realignment initiatives—and their associated costs and savings—are made by individual agencies under separate authorities and processes; this rule does not mandate any such initiative. To the extent the rule has effects, OPM expects them to be beneficial: greater consistency across agencies, a firmer legal foundation for existing policies, and fewer disputes. The rehiring and cost data the commenters cite concern the execution of the 2025 programs under then-existing authorities and policies; those data may inform how agencies design and administer future initiatives, but they do not alter the incremental analysis of a rule that codifies the governing framework and directs no particular program.

The economic analysis accurately reflects the impact of this rule, which applies only to Federal agencies and Federal employees and codifies policies already in effect Governmentwide through the OPM Fact Sheet: Administrative Leave and the Agency Policy Template. The certification under the Regulatory Flexibility Act addresses the absence of a significant economic impact on a substantial number of small entities. The rule does not authorize, fund, or direct any particular workforce reduction; decisions on staffing levels are made by agencies under separate authorities and remain subject to appropriations law.

OPM acknowledges the contributions Federal civilian employees make to the economy and that workforce restructuring may affect their incomes and, in turn, their communities. However, the indirect effects the commenters identify—the multiplier effect of Federal employee spending in local economies, impacts on housing markets, downstream consequences for private-sector businesses, and the economic value of public services—are consequences of agency staffing decisions made under separate authorities, not incremental effects of this rule, and E.O. 12866 does not require quantification of speculative indirect effects of actions that this rule neither mandates nor funds.

OPM notes that the Office of Information and Regulatory Affairs designated this action significant under

E.O. 12866 section 3(f) and that OPM examined the impact of the rule as required by E.O.s 12866 and 13563. An agency must consider the important aspects of the problem before it (see *Motor Vehicle Manufacturers Association of the United States, Inc. v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983)), but that obligation does not require quantification of the indirect effects of separate agency staffing decisions that this rule does not direct, and an agency's predictive judgments about the effects of its rules need only be reasonable and reasonably explained (see *FCC v. Prometheus Radio Project*, 592 U.S. 414 (2021)).

Section D.1.b of the Agency Policy Template already contemplates that workforce restructuring initiatives such as deferred resignation or VERA may lead to a separation for retirement. Section 630.1403(c)(9) is drafted consistently with that policy: it reaches employees who sign a written agreement to voluntarily separate on a specified future date. OPM does not agree that administrative leave may be provided for the purpose of enabling an employee to obtain other employment. An employee in an administrative leave status remains a Federal employee subject to applicable standards of conduct and to agency requirements governing outside employment.

OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that these programs can generate long-term savings by reducing Federal staffing levels. Whether an agency's remaining workload should be reduced, redistributed, or performed under contract is a matter for the agency and, where applicable, for Congress, and is outside the scope of this rulemaking. OPM makes no changes in response to these comments.

F. Due Process

Two individual commenters (comments 0019 and 0021) urged OPM to withdraw this proposal and preserve the due process protections that have helped maintain a competent, professional, merit-based civil service for decades. Comment 0019 expressed concern that the rule significantly weakens longstanding due process protections for Federal employees. Comment 0021 expressed concern that expanded and largely unreviewable agency discretion in the proposed rule is inconsistent with the merit system principles in 5 U.S.C. 2301 and with the independence, professionalism, and nonpartisan character of the career civil

service. The commenter further stated that regulations should be written to withstand misuse by any future administration by anchoring workforce management authority to merit system principles in 5 U.S.C. 2301.

OPM does not agree that the final rule is inconsistent with the merit system principles in 5 U.S.C. 2301. Agency discretion under these regulations is not unbounded. As the proposed rule states, acceptable uses are those uses, within the bounds of law and regulation, that an agency determines to be appropriate in its sole and exclusive discretion; the merit system principles, appropriations law, and other governing law continue to apply.

The regulatory framework contains the structural safeguards the commenter seeks. A use of administrative leave must satisfy one or more of the four guiding principles in § 630.1403(a)(1); it must be permitted under written agency policy or, if not specifically authorized in policy, be approved on a case-by-case basis by an authorized agency official at least one level higher than the official making the initial determination (§ 630.1403(a)(5); Agency Policy Template (CPM 2025–12, July 30, 2025), section B.3.b); and the authorized agency official must consider the decision factors in § 630.1403(a)(6), which include consistent treatment of similarly situated employees. Each authorized agency official is accountable for the policies he or she establishes and should be prepared to show how due consideration was given to the principles and requirements in law, regulations, and policy (Agency Policy Template, section B.3.a). Use of administrative leave must be recorded as a stand-alone category of leave and reported to OPM's Enterprise Human Resources Integration database (5 U.S.C. 6329a(b)(2); 5 CFR 630.1406(c); Agency Policy Template, section G), and managers are responsible for administering the program with integrity and for identifying, investigating, and correcting leave errors and abuse (Agency Policy Template, section H.1).

These provisions create no new authority to separate, demote, or discipline an employee. Involuntary separations remain governed by 5 CFR part 351 and, where applicable, 5 U.S.C. chapters 43 and 75. OPM declines to withdraw the rule and views these comments as largely outside the scope of the rule.

G. Allegations That the Rulemaking Is Arbitrary and Capricious

A labor organization (comment 0030) objected that OPM's process of

codifying policy decisions that OPM has already made renders this rulemaking arbitrary and capricious. The labor organization also asserted that OPM failed to make reasoned conclusions based on objective evidence about the rule's ramifications, and that the supporting analysis is internally inconsistent because it states both that the use of administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives can generate large long-term savings and that OPM does not project that costs or savings will result from the regulations. Similarly, comment 0025 argued that the rule is arbitrary and capricious because OPM did not acknowledge and adequately explain a departure from the December 2024 final rule, citing *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009).

OPM disagrees with the premise that this rule reverses the 2024 final rule. The final rule leaves the 2024 rule's core interpretive framework intact: the 10-workday limit continues to apply to agency-directed placement for investigative purposes; general administrative leave for civic, operational, and employee-support purposes continues outside that cap; and the general principles of § 630.1403(a)—including the principle that administrative leave ordinarily should not exceed one workday for a single incidence—are retained. What the rule adds are clarifying examples of acceptable uses, three new binding prohibitions, and conforming terminology. The examples largely codify OPM policies issued after the 2024 rule, including the Agency Policy Template (CPM 2025–12, July 30, 2025), and were fully explained in the proposed rule's preamble.

To the extent the rule refines the 2024 framework—for example, by expressly addressing extended leave in transition-to-separation contexts that the 2024 rule did not specifically discuss—OPM has acknowledged the additions and explained the basis for them, including agencies' experience administering the 2024 regulations and the need for greater consistency and a firmer legal foundation for existing policies. That explanation satisfies the standard articulated in *Fox Television*, 556 U.S. at 515, which requires a reasoned explanation for a change, not a heightened one, except in circumstances not present here.

As explained in the Statement of Need, after more than a year of experience applying the December 2024 final regulations, OPM identified the need to clarify certain matters, and

while OPM has issued policy guidance that largely addresses those matters, regulations are needed to achieve greater consistency across agencies and a firmer legal foundation for the policies.

Notice-and-comment rulemaking is the appropriate means of converting Governmentwide policy into binding regulation, and OPM has proposed for public comment both new prohibitions that would bind agencies and new examples of acceptable uses. OPM further notes that CPM 2025–12 described the Agency Policy Template as a living document that would be improved and refined to address issues arising during implementation.

Further, the premise that OPM had already adopted the policies being codified does not render the rulemaking arbitrary and capricious. An agency does not prejudge a rulemaking by proposing to codify its existing policies; the APA requires that the agency maintain an open mind and consider the comments received, not that it begin with an empty one (see *Association of National Advertisers, Inc. v. FTC*, 627 F.2d 1151 (D.C. Cir. 1979) (rulemaker may be disqualified only on a clear and convincing showing of an unalterably closed mind)).

This final rule demonstrates that consideration: in response to the comments, OPM is adding a new acceptable-use example for physical fitness activities, adding a regulatory definition of “sole and exclusive discretion,” and making other changes described in this preamble. As to the asserted lack of factual support and internal inconsistency, OPM responds in section III.E of this preamble. In brief, the projection that codification will not significantly change the usage of administrative leave rests on the fact that agencies have operated under parallel Governmentwide policies since July 2025, and there is no inconsistency between OPM’s judgment that workforce restructuring initiatives can generate long-term savings and its projection that this rule—which neither mandates nor funds any such initiative—will not itself produce significant incremental costs or savings.

OPM makes no changes in response to these comments.

H. “Sole and Exclusive” Discretion

Comment 0025 argued that describing agency discretion (in §§ 630.1403(a) and 715.202(b)) as “sole and exclusive” is unnecessary and misleading because agency discretion remains bounded by statute, regulation, appropriations law, collective-bargaining obligations, merit system principles, and judicial review.

The commenter also stated the “sole and exclusive discretion” language “sits uneasily with OPM’s own governmentwide oversight role.”

One labor organization, comment 0030, asserted that the “sole and exclusive discretion” language is unlawful and arbitrary in that it removes administrative leave from collective bargaining by reference to OPM’s own judgment without a statutory basis (invoking Federal Labor Relations Authority precedent and the right of an exclusive representative to negotiate over conditions of employment under 5 U.S.C. 7102 and 7114). Another labor organization (comment 0022) commented that this amendment would create significant legal consequences because, under the Federal labor statute, “agencies are not required to bargain over matters over which they have sole and exclusive discretion.” AFGE National Veterans Affairs Council # 53, 71 F.L.R.A. 410, 412 & n.22 (2019). Similar comments were made by an anonymous commenter (comment 0031).

Comment 0030 asserted that OPM lacks statutory authority to insert “sole and exclusive discretion” into 5 CFR 630.1403(a) and 5 CFR 715.202(b). Under the Civil Service Reform Act of 1978 (CSRA), an involuntary resignation or a resignation induced by coercion, duress, or agency misrepresentation constitutes an adverse action (constructive removal) within the mandatory appellate jurisdiction of the Merit Systems Protection Board (MSPB). The commenter states that OPM cannot divest the MSPB of jurisdiction over involuntary-resignation and constructive-removal claims, or foreclose Federal Circuit review, because an involuntary or coerced resignation is an appealable adverse action (citing *Scharf v. Department of the Air Force*, 710 F.2d 1572 (Fed. Cir. 1983); *Luecht v. Department of the Navy*, 87 M.S.P.R. 297 (2000); and *Lindahl v. Office of Personnel Management*, 470 U.S. 768 (1985)). The comment asks that OPM remove “sole and exclusive discretion” and explicitly state that resignation withdrawal denials remain subject to MSPB review under 5 U.S.C. chapter 75.

As the preamble to the proposed rule stated, acceptable uses of administrative leave are those an agency determines appropriate “within the bounds of law and regulation.” The “sole and exclusive” formulation clarifies allocation of decision-making responsibility—that the decision whether to provide administrative leave in a given circumstance rests with the agency, that no use of administrative

leave is a mandatory entitlement, and that OPM’s enumeration of acceptable uses does not obligate any agency to provide leave in those circumstances. This is consistent with Congress’s assignment of leave-management responsibility to agency heads. The phrase does not diminish the binding prohibitions in § 630.1403(b), the statutory limits in sections 6329a and 6329b, applicable appropriations law, or the recording and reporting requirements that continue to apply, and it does not alter any applicable standard of review.

OPM’s intent regarding the use of “sole and exclusive discretion” in the administrative leave regulations (in § 630.1403(a)(2), (a)(4), and (c)) is to make explicit that the *acceptable-use determination*—whether a given circumstance qualifies for administrative leave at all—rests with the agency and cannot be converted into a mandatory entitlement, including through negotiated agreement. The statutory basis for using the term “sole and exclusive discretion” is that the law in 5 U.S.C. 6329a(c)(1) authorizes the OPM Director to prescribe regulations that address the acceptable agency uses of administrative leave. OPM believes the change better reflects the decision of Congress to give this discretionary leave authority to agency heads, who make final decisions on mission needs and the use of limited budget resources, and the sense of Congress that agency heads would be responsible for managing and overseeing the effective and prudent use of the leave.

OPM believes the intent of Congress was for agencies to always retain discretion in providing or not providing administrative leave in any circumstance (subject to law and OPM regulations) and has regulated accordingly. The use of the “sole and exclusive discretion” language is consistent with the existing text of § 630.1403(a)(4), which already requires that an agency retain the discretion to provide or not provide administrative leave in any circumstance based on agency judgments regarding mission needs and already prevents an agency from establishing any application of administrative leave as a mandatory entitlement.

In response to the comments invoking Federal Labor Relations Authority precedent, OPM confirms that the “sole and exclusive discretion” language is intended to preserve the agency’s discretion over acceptable-use determinations, which may not be limited or conditioned by a negotiated agreement or converted into a mandatory entitlement; collective

bargaining obligations under 5 U.S.C. chapter 71 otherwise continue to apply according to their terms. Under 5 U.S.C. 7117(a)(1), the duty to bargain in good faith extends to matters that are the subject of a rule or regulation only if the rule or regulation is not a Governmentwide rule or regulation; the regulations in this subpart are Governmentwide regulations issued under 5 U.S.C. 6329a(c)(1). OPM likewise confirms that nothing in this rule divests the MSPB of jurisdiction over a claim that a resignation was involuntary or the product of coercion, duress, or agency misrepresentation—which remains an appealable constructive removal—or forecloses judicial review of a final Board decision. See section III.R of this preamble.

In the preamble for the proposed regulations issued on June 29, 2026, OPM stated that an agency's use of its sole and exclusive discretion in providing administrative leave must be done "within the bounds of law and regulation" (91 FR 39033). Given the comments about the "sole and exclusive discretion" language related to administrative leave, we are adding a definition of the term in § 630.1402 to make clear that it is discretion that rests with an agency alone; that is exercised within the bounds of 5 U.S.C. 6329a and other applicable law, applicable Presidential directives, and the regulations in this subpart; and that may not be limited or conditioned by any agreement or established as a mandatory entitlement. Other than that change, OPM is making no changes in response to this line of comments. The term "sole and exclusive discretion" in § 715.202(b) should be interpreted in a similar manner.

I. Physical Fitness Activities

OPM's proposed regulations requested "comments on the policy of allowing limited use of administrative leave for physical fitness activities and on whether this policy should be included in the regulatory examples of acceptable uses." OPM received numerous comments on this proposal. See, for example, comments 0012, 0013, 0018, 0020, 0024, 0028, and 0030.

Generally, the comments were favorable for including physical fitness as an acceptable use. Comment 0011 stated that as "someone who has recommitted to better health, I would appreciate having the administrative leave available" to make time for physical fitness, which is currently difficult to do outside of duty hours with a three-hour daily commute and home commitments. Comment 0012 recounted substantial personal

improvements in weight and blood pressure after adopting a daily walking and gym regimen during Federal service, along with increased energy, no medical issues, and over 2,000 hours of unused sick leave. The commenter recommended authorizing administrative leave for physical fitness, reasoning that duty time to exercise would spur participation, improve employee health, and reduce sick leave usage.

Comment 0013 stated: "Research has shown that a healthier workforce lowers healthcare & benefit costs, enhances productivity & performance, reduces stress, improves employee engagement, & improves overall mental health." The commenter proposed authorizing a total of 3 hours of administrative leave per week (1 hour per day, three days per week, to include time for changing, travel, and showering), depending on workload and agency requirements.

Comment 0015 contended that administrative leave for physical exercise would yield near-immediate improvements in engagement and productivity and, given the connection between physical and mental well-being, would also improve job satisfaction and retention. Comment 0018 stated that permitting a limited amount of duty time for physical fitness is increasingly common across Federal agencies, typically up to one hour per day, three days per week, and recommended that OPM adopt a comparable allowance to align with prevailing practice and support employee health, morale, and readiness.

Comment 0020 described duty-time physical fitness as a strategic "people first" initiative, citing improved workforce readiness and resiliency, enhanced productivity and focus, higher morale and reduced burnout, decreased sick leave usage and absenteeism, and—because the benefit would be available annually rather than once in a career—the formation of lasting healthy habits. Noting significant return on investment and widespread private-sector adoption, the commenter urged OPM to retain physical fitness as an authorized use of administrative leave.

Comment 0023 supported the provision authorizing limited administrative leave for physical fitness, endorsing the retention of agency discretion based on mission needs, and stated that the provision would reduce burnout and improve work-life balance, well-being, motivation, and concentration. The commenter also noted that the rule's predictability should reduce disputes.

Comment 0024 recommended permitting and encouraging

administrative leave for fitness activities similar to the Civilian Fitness Program, with program goals aligned to Army fitness standards, reasoning that because Federal employees are mobilized to support the Federal Emergency Management Agency (FEMA), immigration efforts, and other demand-based taskings, a physically capable workforce improves contingency readiness. Comment 0028, citing Centers for Disease Control and Prevention (CDC) data on physical inactivity, obesity, diabetes, and heart disease, and CDC's *Physical Activity in the Workplace: A Guide for Employers*, stated that administrative leave for physical activity would support employers and their business needs because engaging in physical activities can result in reduced sick days, increased productivity, lower health care costs, and decreased risk of developing costly chronic diseases. Pointing to existing agency programs offering up to one hour three times per week, the commenter recommended permitting onsite or offsite activity.

A labor organization (comment 0022) stated that it "supports this policy and recommends including it in the regulatory examples of acceptable uses." The commenter explained that it "has negotiated a Physical Fitness Program into its contract with U.S. Customs and Border Protection (CBP)." The commenter "accordingly supports similar programs across the government and supports the idea of OPM including physical fitness activities as an example of acceptable use in the administrative leave regulations." Another labor organization (comment 0030), while opposing the proposed rule overall, stated that in the event OPM does not withdraw the rule, it supports allowing administrative leave to be used for physical fitness activities.

Comment 0027 opposed adding physical fitness because under their agency's work schedules policy, employees may elect an unpaid health and wellness break period with supervisory approval, including before and after the lunch period, to participate in health and wellness activities. The commenter further stated: "Employees must then extend their workday by the equivalent amount of time of the break." The agency stated the use of administrative leave for physical fitness activities is unnecessary at their agency, as the unpaid health and wellness break period policy has been successful in balancing employee personal needs with limited agency resources toward accomplishing its critical mission.

Following consideration of the comments, OPM is adding a new

§ 630.1403(c)(8) in this final rule listing approved physical fitness activities as an acceptable use of administrative leave and is redesignating the examples proposed as paragraphs (c)(8) through (c)(10) as paragraphs (c)(9) through (c)(11). OPM is not establishing a minimum or maximum number of hours. Instead, an authorized agency official may provide limited amounts of administrative leave for approved physical fitness activities consistent with OPM regulations on administrative leave, including consideration of the decision factors in § 630.1403(a)(6)—which include consideration of the effect on productivity and the ability to meet mission needs.

Also, as provided in § 630.1403(a)(4), authorized agency officials must retain the discretion to provide or not provide administrative leave based on agency judgments of mission needs. The new § 630.1403(c)(8) allows agencies to provide “limited amounts of administrative leave for approved physical fitness activities on a conditional basis (consistent with paragraphs (a)(4) and (a)(6) and subject to any Governmentwide policies issued by OPM or the President).” This paragraph does not apply to employees who have job-related mandatory fitness standards that allow for use of official duty time for physical fitness activities.

J. Employee Geographic Relocation

Three individual commenters (comments 0002, 0003, 0005) proposed that OPM add an example authorizing administrative leave for an employee who must relocate his or her residence to accept a new appointment or assignment. Comment 0002 argued that omitting such a use is inconsistent with providing administrative leave for a civilian employee accompanying a military spouse under 5 CFR 630.1403(c)(7). Comment 0003 argued that a recruitment, relocation, or retention incentive is not the exclusive means of addressing relocation burdens and that administrative leave is needed to avoid a gap in pay status when an employee moves between appointments. Comment 0005 noted administrative leave for employees relocating a significant distance from their current duty station would allow employees to better manage the transition without depleting their earned personal leave. All three of these commenters acknowledged that agencies already have the discretion to offer administrative leave for this purpose. Two of the commenters (comments 0002 and 0003) proposed regulatory text authorizing administrative leave for an

employee’s own relocation to a new appointment or assignment.

OPM does not support adding an example that allows general use of administrative leave for activities related to an employee’s move to a different permanent duty station. Adding such an example would indicate a Governmentwide policy that such use is acceptable. OPM prefers to let agencies adopt their own policies in this area. The example in § 630.1403(c)(7)—allowing use of administrative leave for an employee whose spouse, a member of the uniformed services or a Federal civilian employee, must relocate as a result of military orders or agency direction, as applicable—does reflect an established Governmentwide policy in section D.1.c of the Agency Policy Template (CPM 2025–12, July 30, 2025). That policy implements a specific Presidential directive—E.O. 14100 of June 9, 2023—and OPM’s related memorandum of November 9, 2023, to agency heads. There is no comparable Governmentwide directive addressing an employee’s own change of residence to accept a new appointment or assignment, and OPM does not view the absence of such an example as an inconsistency in the proposed list.

We note that, if an employee has been approved to receive a house hunting allowance under 41 CFR part 302–5 (which an agency may choose to apply to employees under certain specified conditions), time spent on house hunting activities during regular work hours is treated as official duty time. Also, time spent on activities to accomplish tasks that are directly required in connection with an approved move to a new permanent duty station determined to be in the Government’s interest (resulting in payment of relocation expenses)—such as obtaining passports and vaccinations, adhering to government housing authority requirements (if applicable), or being present for packing and receiving of household goods—is considered official duty time. Finally, the list in § 630.1403(c) is noncomprehensive. An agency may adopt its own written policy to allow limited use of administrative leave for move-related activities that are not duty time, if such use is determined to be in the Government’s interest and the use satisfies the guiding principles in § 630.1403(a)(1), the authorized agency official considers the decision factors in § 630.1403(a)(6), and the use is approved consistent with § 630.1403(a)(5) and section D.2.h of the Agency Policy Template.

OPM declines to add the suggested example.

K. Reliance Interests

Comment 0025 argued that OPM failed to consider reliance interests, citing *Department of Homeland Security v. Regents of the University of California*, 591 U.S. 1 (2020), including agencies’ investments in implementing the 2024 rule and operational reliance on employees remaining in duty status through reorganizations and RIF notice periods.

OPM has considered the reliance interests the commenter identifies and concludes they do not counsel against finalizing the rule. First, because the rule largely codifies policies already in effect under the Agency Policy Template since July 2025, agencies, payroll providers, and employees have been operating under substantially these policies for approximately a year; codification reduces, rather than disrupts, transition burdens by confirming the framework agencies have already implemented. The changes required—principally conforming terminology, incorporating the new binding prohibitions, and providing specific examples of acceptable uses—are modest.

Second, as to operational reliance, the rule is permissive, not mandatory. It does not require any agency to place any employee on administrative leave during a workforce realignment or RIF notice period. Agencies retain full discretion to keep employees in duty status—and under revised § 351.806, duty status remains the rule under ordinary circumstances—precisely so that agencies can weigh mission needs, knowledge transfer, records preservation, and service continuity in each case. The judgment about whether an employee’s continued presence serves the Government’s interests during a particular realignment is one the agency, not OPM, is best positioned to make.

L. Comment Period Length

An individual commenter and a labor organization argued that the 30-day comment period, which included the Independence Day Federal holiday, did not afford a “meaningful opportunity” to comment as contemplated by the APA. The labor organization cited *North Carolina Growers’ Association, Inc. v. United Farm Workers*, 702 F.3d 755, 770 (4th Cir. 2012), in support of that asserted requirement. The commenters also stated that Executive Orders 12866 and 13563 contemplate a 60-day comment period. Comment 0004 requested a minimum 60-day public comment window to review any revised economic analysis. The labor

organization (comment 0030) requested that OPM reopen the comment period for an additional 60 days.

OPM provided a 30-day comment period. The Administrative Procedure Act prescribes no minimum period. Courts have upheld comment periods considerably shorter than the period provided here (see, e.g., *Northwest Airlines, Inc. v. Goldschmidt*, 645 F.2d 1309 (8th Cir. 1981) (upholding a 7-day comment period)), and *North Carolina Growers' Association* is not to the contrary: that case involved a 10-day comment period on the suspension of recently promulgated regulations, in which the agency declined to consider comments addressing the merits of the underlying rules.

Here, OPM provided three times that period, placed no limits on the subjects commenters could address, and has considered and responded to the comments received in this preamble. The 60-day period referenced in Executive Orders 12866 and 13563 is not a hard requirement that applies in all cases (see E.O. 12866, section 6(a), 58 FR 51735, 51740 (October 4, 1993); E.O. 13563, section 2(b), 76 FR 3821, 3822 (January 21, 2011)). E.O. 12866 states that the 60-day period should be used in “most cases.” In any event, these Executive orders are management directives to agencies that do not create privately enforceable rights (E.O. 12866, section 10; E.O. 13563, section 7(d)).

OPM received 30 comments, including detailed legal and economic submissions from labor organizations and public-interest groups, indicating that interested parties had an adequate opportunity to comment. Moreover, because the rule largely codifies Governmentwide policies that have been publicly available since July 2025, interested parties were already familiar with the substance of the proposals. OPM declines to reopen or extend the comment period.

M. Duty Status Presumption During RIF Notice Periods (§ 351.806)

Comment 0025 urged OPM to preserve the existing duty-status presumption during RIF notice periods, arguing that RIF notices are not disciplinary, that employees perform valuable transition work during notice periods, that existing authorities already address unusual cases, and that OPM has not identified a gap warranting a RIF-specific administrative-leave authorization.

The final rule preserves the duty-status presumption with a minor change in terminology. Revised § 351.806(a) provides that “[u]nder ordinary circumstances, an employee will remain

in a duty status during the notice period.” The change from “when possible” to “under ordinary circumstances” conforms the RIF regulation to the parallel standard in 5 CFR 752.404(b)(3) governing notice periods for proposed removals and suspensions, and more accurately reflects that the determination involves an assessment of circumstances rather than literal possibility. Paragraph (b) then confirms—consistent with the Agency Policy Template—that an agency may place a RIF-affected employee on administrative leave for all or part of the notice period when the agency determines that such leave is appropriate and consistent with part 630, subpart N.

OPM agrees that RIF notice periods are not inherently disciplinary and that employees frequently perform valuable work during them; that is why duty status remains the default. But circumstances vary: an agency may determine, for example, that continued systems access during a large-scale reorganization presents security or records-integrity risks, that available work has genuinely ceased for the affected positions, or that other Government interests warrant non-duty status. The rule leaves that judgment to the agency familiar with the facts, rather than requiring agencies to rely on a patchwork of assignment, telework, and leave authorities that may not fit the circumstances of a RIF. Nothing in the revision permits use of administrative leave inconsistent with subpart N of part 630.

N. Nomenclature Change (“Grant” To “Provide”) (Part 630, Subpart N)

Comment 0025 objected to replacing “grant/granted/granting” with “provide/provided/providing” throughout subpart N, arguing that the change extends agency-directed administrative leave beyond the limits of the Act and the 2024 rule by encompassing leave imposed without employee consent.

OPM disagrees that the nomenclature change effects any substantive expansion of authority. As explained in the proposed rule, “grant” inaccurately implies that administrative leave is furnished only at an employee’s request, which has never been the case—for example, employees have long been placed on administrative leave for investigative purposes without their consent, a practice Congress itself recognized and regulated in sections 6329a and 6329b. “Provide” is a neutral term that accurately describes the provision of administrative leave with or without the employee’s consent. The statutory 10-workday limit continues to

apply to employees “placed” on administrative leave for investigative purposes, as provided in § 630.1404(a). For other uses of administrative leave, which may be voluntarily accepted or imposed without the employee’s consent, we are using the term “provide.” The terminology change harmonizes the regulatory text with existing practice and with the structure of the statute; it does not authorize any use of administrative leave that would otherwise be impermissible.

O. Prohibition on Administrative Leave for Poll Workers (§ 630.1403(b)(5))

Several comments, including 0016, 0022, 0030, and 0031, objected to the prohibition of administrative leave for service as a poll worker or poll observer found in proposed § 630.1403(b)(5). The commenters argued that the prohibition is unrelated to workforce realignment, discourages civic participation amid documented poll-worker shortages, saves little, and reverses OPM’s prior guidance that agencies allow up to 4 hours of administrative leave for nonpartisan poll service. A labor organization (comment 0022) characterized limited administrative leave for nonpartisan poll service as an important, pro-democracy policy choice. Another labor organization (comment 0030) argued that OPM offered no reasoned explanation or evidence for the prohibition and characterized it as an attempt to stifle Federal employees’ exercise of their constitutional rights.

OPM notes that the changes in the administrative leave regulations are not limited to changes related to workforce realignment. OPM acknowledges that this provision changes OPM’s prior policies that agencies could allow limited administrative leave for nonpartisan poll service. However, those prior policies were a departure from longstanding Governmentwide policies that existed before 2020, which focused on administrative leave for voting, not for poll workers. Based on its authority to regulate acceptable uses of administrative leave, OPM has determined that administrative leave should be limited to the purpose of ensuring employees a reasonable opportunity to vote (see § 630.1403(c)(2)). OPM policy (section E.1.d of the Agency Policy Template) already provided that administrative leave may not be used to cover service by poll workers or poll observers in connection with elections, whether that service is partisan or nonpartisan and whether paid or unpaid. Limiting administrative leave to voting itself also avoids placing agencies in the position

of assessing whether particular election-related service is partisan or nonpartisan.

The prohibition does not restrict any employee's ability to serve as a poll worker or poll observer; it addresses only whether that service will be subsidized with paid leave from Federal duty, and a decision not to subsidize an activity does not infringe the right to engage in it (see *Regan v. Taxation With Representation of Washington*, 461 U.S. 540, 549 (1983)). Employees who wish to serve as poll workers or poll observers may use other available workforce flexibilities, including annual leave, compensatory time off earned via overtime work, compensatory time off for travel, credit hours under a flexible work schedule, an adjustment of working hours under a flexible work schedule, or leave without pay. OPM makes no change in response to these comments.

P. Administrative Leave Prior to a Holiday (§ 630.1403(c)(5))

Regarding § 630.1403(c)(5), comment 0024 stated that early dismissal before a Federal holiday should not be subject to a hard 2-hour cap and that longer dismissals should be available for particular occasions, including days of national observance.

OPM notes that § 630.1403(c)(5) does not establish a hard cap since it states that the administrative leave should "generally" be no more than 2 hours. This regulation should be read with sections D.2.d and E.2.a of the Agency Policy Template (CPM 2025–12, July 30, 2025), which provide that such leave may not exceed 2 hours unless specifically approved by the agency head. The flexibility the commenter seeks for longer periods of dismissal for particular occasions is therefore already available through agency head approval. Presidentially directed closures and days of national observance provided by the President using his or her constitutional authority as head of the Executive branch are not administrative leave under 5 U.S.C. 6329a and are not governed by subpart N or by an agency's administrative leave policy (Agency Policy Template, section A.2.b and Appendix 1). Such occasions are therefore outside this rulemaking. OPM notes separately that proposed § 630.1403(b)(1) continues to prohibit use of administrative leave to mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105).

Q. Settlement Agreement (§ 630.1403(c)(11))

Comment 0025 argued that authorizing extended administrative

leave to facilitate the voluntary resignation of employees with documented poor performance or misconduct under a settlement agreement recreates the pre-Act practices Congress sought to control, and that the provision lacks meaningful time limits, approval procedures, or reporting requirements.

Comment 0026 recommended that the settlement agreement example at proposed § 630.1403(c)(10) (redesignated as § 630.1403(c)(11) in this final rule) be removed or relocated to the investigative leave framework so the leave is tracked with specificity and that OPM not conflate administrative leave with the performance and conduct action procedures in 5 U.S.C. chapters 43 and 75.

OPM disagrees. Section 630.1403(c)(11) is a narrow provision subject to multiple conditions: there must be documented allegations of poor performance or misconduct by the employee (see discussion later in this section); the leave must be provided under a settlement agreement; the agency must determine that the settlement is in the Government's best interests; and the agency must first consider all other reasonable alternatives. The leave is also subject to Governmentwide limits established by OPM and any agency-specific limits.

These conditions distinguish the provision from the pre-Act practice GAO documented, in which employees remained in indefinite paid non-duty status during unresolved investigations and adverse actions with no resolution in sight. By contrast, leave under paragraph (c)(11) is tied to a negotiated resolution—a definite separation date—and serves to conclude, not prolong, the personnel matter. Settlement of disputed personnel actions can avoid protracted litigation costs and expedite the removal of employees whose performance or conduct has been identified as unsatisfactory—outcomes consistent with efficient and prudent management of the workforce. Where an agency instead pursues an adverse action, the notice-leave framework of section 6329b continues to apply according to its terms; nothing in this rule alters it.

Accordingly, OPM declines to remove § 630.1403(c)(11) or to relocate this use to investigative leave. Investigative leave under 5 U.S.C. 6329b is available only in connection with an ongoing investigation and only after the 10-workday administrative leave period has been exhausted, and notice leave is available only after an agency has proposed an adverse action. As the commenter recognizes, a settlement may

be reached after an investigation has concluded, and it may also be reached where no investigation was opened; in those circumstances neither section 6329b category is available. If an employee is being excused from duty for investigative purposes after reaching the 10-workday limit, § 630.1403(b)(3) forecloses the pre-2016 practice, since it requires that section 6329b be applied. OPM notes that, if administrative leave is used in connection with a settlement agreement, that usage will be documented in the settlement agreement and will be tracked as administrative leave in agency timekeeping and payroll systems. OPM has revised the language in § 630.1403(c)(11) to make clear that, while no final determination of poor performance or misconduct need be found, an agency may apply this provision only where the allegations of poor performance or misconduct are documented.

R. Resignation Withdrawal (§ 715.202(b))

Many commenters opposed treating an employee's acceptance of deferred-resignation benefits as a valid reason to deny a resignation withdrawal. Two individual commenters (comments 0014 and 0016) opposed any proposal that would categorically prohibit employees from withdrawing a resignation before its effective date because they believed an employee who may have decided under duress/short deadlines may feel trapped. Comment 0016 urged OPM to withdraw provisions proposed in § 715.202(b) arguing that an employee's acceptance of deferred-resignation benefits should not by itself justify denying withdrawal of the resignation. The commenter stated that prior practice permitted withdrawal before the effective date absent a concrete agency reason such as a committed replacement hire or administrative disruption and that OPM had offered no principled basis for foreclosing reconsideration before the resignation takes effect. The commenter further argued that recharacterizing the receipt of leave benefits—benefits the employee did not design and the commenter asserted were often accepted under duress and compressed deadlines—as itself a valid reason to deny withdrawal "inverts the protective purpose of the rule," and that resignation should remain a decision an employee can reconsider until it takes effect.

Comment 0014 believes OPM should adopt a policy that balances the interest of both employees and agencies and that an agency be permitted to decline a withdrawal request before its effective

date only where granting it would cause the agency substantial hardship or prejudice. A labor organization (comment 0022) objected to this provision stating it is unfair to employees who frequently make these decisions under needlessly short deadlines, without complete or accurate information. The labor organization suggested that, if OPM insists on making resignation decisions irrevocable, it should at a minimum give employees more time to make these difficult and important choices. In addition, comments 0026 and 0031 argued the change is unnecessary because § 715.202 already says “may” and that whether to accept a withdrawal or seek repayment should be left to individual agencies and to collective bargaining, and that OPM failed to consider less-restrictive alternatives and offered two: (1) retaining the traditional operational-disruption standard (committed replacement hire or position abolition, per *Luecht*), and (2) permitting withdrawal conditioned on retroactively reclassifying the administrative leave to annual leave, compensatory time, or leave without pay (LWOP) (recoupment). Comment 0026 stated that changing the resignation regulations is unnecessary because § 715.202(b) is already permissive, with a recommendation that a time component be added within which an employee may withdraw a deferred resignation.

This final rule does not categorically prohibit the withdrawal of a resignation. Revised § 715.202(b) retains the requirement that an agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason and explains that reason to the employee, and it retains the rule that avoidance of adverse action proceedings is not a valid reason.

OPM notes that the revision to § 715.202(b) makes two changes. It states that the decision to accept or decline a withdrawal request is made in the agency’s sole and exclusive discretion, and it adds one further example to the nonexclusive list of valid reasons—the employee’s acceptance of benefits provided under a deferred resignation agreement. The list continues to read “includes, but is not limited to,” and continues to identify administrative disruption and the hiring or commitment to hire a replacement, which are the agency-reliance circumstances the commenter describes. Nothing in the final rule requires an agency to decline a withdrawal request in any case, and an agency remains free to accept one where it determines that

retaining the employee serves its interests.

OPM identified the need for this example because, when an employee has agreed to resign on a future date and has received paid administrative leave in connection with that agreement, there is no authority to require or permit repayment of the administrative leave benefits after they have been provided. Identifying acceptance of such benefits as a valid reason gives agencies a clear and specific regulatory basis for a determination they may already make under the existing regulation. OPM declines to adopt the additional balancing standard the commenter proposes, which would constrain discretion the existing regulation affords agencies.

In response to comments 0026 and 0031, OPM acknowledges that § 715.202(b) already uses permissive language, and the final rule retains it: an agency may, in its sole and exclusive discretion, accept or decline an employee’s request to withdraw a resignation, and may decline only when it has a valid reason and explains that reason to the employee. OPM has also considered the less-restrictive alternatives commenters offered and declines to adopt them. Retaining only the traditional operational-disruption standard is unnecessary because the regulation continues to identify administrative disruption and the hiring or commitment to hire a replacement as valid reasons; the revision adds one further nonexclusive example rather than displacing those reasons. OPM likewise declines to condition withdrawal on retroactive reclassification of administrative leave to annual leave, compensatory time, or leave without pay because, as explained above, there is no authority to require or permit repayment or reclassification of administrative leave benefits after they have been provided. OPM does not agree that a separate statutory authority for deferred resignation is needed to support the provision: the resignation is effected under § 715.202(a), and the paid leave provided before its effective date is administrative leave under 5 U.S.C. 6329a. As to the recommendation to add a time component within which an employee may withdraw a deferred resignation, OPM declines to add a fixed period to § 715.202. That section applies at any time before the resignation becomes effective, and the timing terms of a particular deferred resignation offer, including the length of any decision window, are a matter of program design rather than of this regulation. As to concerns that employees accept deferred resignation offers under compressed

deadlines or duress, nothing in this rule prevents an agency from granting a withdrawal request, and an employee who contends that a resignation was involuntary or the product of duress, coercion, or agency misrepresentation retains the right to appeal to the Merit Systems Protection Board; this rule does not affect that review. To the extent comments 0030 and 0031 suggest that these matters be left to case-by-case collective bargaining, § 715.202 is a longstanding Governmentwide regulation, and under 5 U.S.C. 7117(a)(1) the duty to bargain does not extend to matters that are the subject of a Governmentwide rule or regulation. OPM makes no changes in response to these comments.

S. Miscellaneous Comments

Comment 0027 asked how agency limits on workforce realignment leave interact with the Governmentwide limit and whether the regulatory text should state that a longer agency limit requires OPM approval; whether the regulations will address employees in Schedule Policy/Career positions and agency grievance procedures; and whether extended administrative leave is cost-effective relative to reduction-in-force procedures, with a recommendation that deferred resignation leave be limited to 10 days unless the employee is retirement eligible.

Agency limits must operate within the Governmentwide limit; an agency may adopt a more restrictive limit but may not exceed the Governmentwide limit on its own authority. The current Governmentwide limit, stated in section D.1.b of the Agency Policy Template (CPM 2025–12, July 30, 2025), is that beginning in calendar year 2026, use of administrative leave by an employee in connection with a workforce realignment initiative is limited to 12 weeks in any individual instance unless a higher threshold has been jointly approved by OPM and the Office of Management and Budget in a specified set of circumstances. A higher threshold of 6 months was later approved for workforce-restructuring-related DRP agreements that took effect in FY 2026. OPM notes that the phrase “subject to Governmentwide limits established by OPM or agency limits” in § 630.1403(c)(9) and (c)(11) specifically incorporates any Governmentwide limit. To clarify that agency limits cannot supersede Governmentwide limits, we are revising the phrase in those two paragraphs by substituting “and” for “or”.

Employees in Schedule Policy/Career positions who have an established work schedule are covered on the same basis

as other covered employees. As the comment notes, agencies retain the sole and exclusive discretion to determine whether to provide administrative leave to any employee or category of employees based on their consideration of agency mission requirements, and an agency may address specific categories or scenarios in its own written policy under § 630.1403(a)(5).

Agency grievance procedures are governed by 5 CFR part 771 and any applicable negotiated grievance procedure and are outside the scope of these leave regulations.

OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that these programs can generate long-term savings by reducing Federal staffing levels and can reduce the need to apply administratively burdensome and disruptive reduction-in-force procedures. OPM declines to limit administrative leave for deferred resignation participants to 10 days. Agencies need the flexibility to provide longer periods of administrative leave (within the bounds of Governmentwide limits) if they determine a longer period is necessary to incentivize more employees to agree to voluntarily separate and to achieve workforce reduction goals.

On continuity of institutional knowledge, § 630.1403(a)(6) requires an authorized agency official to consider the effect on productivity and the agency's ability to meet mission needs before providing administrative leave, and an agency retains discretion to structure an agency-specific initiative, including the amount of leave provided and any transition or knowledge-transfer expectations, accordingly.

Comment 0017 objected to the provision in subpart H of part 351 under which, in an emergency, an agency that lacks work or funds may place a RIF-affected employee on annual leave during the notice period without the employee's consent, and argued that the employee should be able to choose between annual leave and leave without pay in those circumstances.

This comment is outside the scope of this rulemaking. OPM did not propose any substantive change to that longstanding provision, which appears in this final rule at § 351.806(c) only because § 351.806 is being restructured and republished in full. OPM notes that, under § 351.806(c), an employee may not be placed on leave without pay without the employee's consent, and the emergency annual leave provision applies only when, in an emergency, the

agency lacks work or funds for all or part of the notice period.

OPM makes no changes in response to these comments.

IV. Section-By-Section Analysis

In this section IV, we provide descriptions of the regulatory changes by section and paragraph. More detailed explanations and justifications for the regulatory changes may be found in the Supplementary Information for the June 29, 2026, notice of proposed rulemaking (91 FR 39032) and in the responses to comments in this preamble.

Section 351.806 (RIF and Administrative Leave)

OPM is revising § 351.806 to clarify that use of administrative leave during a RIF notice period is permissible, if an agency determines that there is justification for putting the RIF-affected employee in non-duty status. OPM is also revising § 351.806 to state that the general rule of keeping an employee in duty status during a RIF notice period applies in "ordinary circumstances" instead of "when possible," consistent with the language in § 752.404(b)(3) (dealing with keeping an employee in duty status during the notice period for a proposed removal or suspension).

Subpart N of Part 630 (Administrative Leave—Nomenclature Changes)

OPM is replacing the word "grant" (and associated variations of "granted" and "granting") with the word "provide" (or applicable variations "provided" and "providing") throughout subpart N. These changes occur in §§ 630.1402, 630.1403, and 630.1405. The word "provide" has a broader meaning that would encompass uses of administrative leave with or without the employee's consent.

Section 630.1401 (Administrative Leave—Applicability)

OPM is revising § 630.1401(b) to add another category of employees to which subpart N does not apply—namely, Presidential appointees or other employees who are excluded from coverage under the title 5 leave laws under 5 U.S.C. 6301(2)(x)–(xiii).

Section 630.1402 (Administrative Leave—Definitions)

OPM is removing a no-longer-relevant definition of "head of the agency" from § 630.1402. Changes made in the December 17, 2024, final regulations made the definition unnecessary, and it should have been deleted at that time.

OPM is adding a definition of "sole and exclusive discretion" to make clear that agency discretion is exercised

within the bounds of applicable law, Presidential directives, and the regulations in subpart N, and may not be limited or conditioned by any agreement or established as a mandatory entitlement.

Section 630.1403 (Administrative Leave—Principles, Prohibitions, and Acceptable Uses)

In paragraphs (a)(2) and (4) of § 630.1403, OPM is adding the words "sole and exclusive" before the word "discretion" to better reflect the decision of Congress to give this new discretionary leave authority to agency heads who make final decisions on mission needs and use of limited budget resources and the sense of Congress that agency heads would be responsible for managing and overseeing the effective and prudent use of the leave. This regulatory change reflects OPM's judgment that acceptable uses are those uses, within the bounds of law and regulation, that an agency determines to be appropriate in its sole and exclusive discretion.

In paragraph (a)(3), OPM is adding a sentence that points to examples of when it is appropriate for an agency to approve an incidence of administrative leave lasting more than 1 workday, which are found in a new paragraph (c).

In paragraph (b), OPM is revising the regulatory prohibitions on use of administrative leave. In paragraph (b)(2), OPM is clarifying that the prohibition on using administrative leave to recognize employee performance or contributions does not prevent an agency from providing administrative leave to the general workforce of the agency (or an organization within the agency) as a morale-boosting special goodwill gesture, even if that action is broadly linked to the accomplishments of the workforce. OPM is also adding three new regulatory prohibitions in paragraphs (b)(3) through (b)(5), which are already addressed in OPM's Agency Policy Template.

Paragraph (b)(3) provides that administrative leave may not be used for the purpose of placing an employee in a non-duty status during an investigation of the employee's conduct or performance once the employee has reached the 10-workday calendar year limit in 5 U.S.C. 6329a(b)(1) and § 630.1404 in connection with a given investigation. Once the 10-workday limit is reached, the agency must use investigative leave under 5 U.S.C. 6329b if it wishes to continue to conduct an investigation and continue to keep the employee in a paid non-duty status.

The language “in connection with a given investigation” is intended to cover situations in which an employee was placed on administrative leave due to an investigation, reached the 10-workday limit in that calendar year, and is then placed on section 6329b investigative leave as part of a continuing investigation. Once an employee has reached the 10-workday limit in connection with a given investigation, that limit is no longer applicable in governing the use of section 6329b investigative leave with respect to the same investigation. Thus, if the investigation continues into the next calendar year, the agency can continue to place the employee on section 6329b investigative leave even though the employee has not reached the 10-workday limit on section 6329a administrative leave in the new calendar year. (Section 6329b(b)(3)(A) bars use of section 6329b investigative leave until expiration of the 10-workday period, but this bar applies only in making a decision to start an initial period of investigative leave in connection with a given investigation.)

Paragraph (b)(4) provides that administrative leave may not be used for a purpose for which sick leave could be used under OPM regulations (5 CFR 630.401(a))—unless such use in a particular scenario is specifically approved by Governmentwide policy issued by OPM or the President. The exception to the general bar requires OPM or Presidential approval, which should be provided only in exceptional circumstances.

Paragraph (b)(5) provides that administrative leave may not be used to cover service by poll workers or poll observers in connection with elections. OPM’s current policies allow administrative leave to give employees a reasonable opportunity to vote on an election day (see § 630.1403(c)(2)); however, OPM does not believe it is appropriate to use administrative leave for other election-related matters beyond facilitating an opportunity for an employee to vote.

OPM is adding a new paragraph (c) that provides a noncomprehensive list of examples of acceptable uses of administrative leave. This list signals that an agency can provide administrative leave in the covered scenarios without having to be concerned that it may be contrary to Governmentwide policies. At the same time, agencies are not required to provide administrative leave in the listed scenarios. Agencies retain the sole and exclusive discretion to determine whether to provide administrative leave to any employee or category of

employees based on their consideration of agency mission requirements—within the bounds of law and regulation. The listed examples are generally consistent with current OPM policies in its Agency Policy Template. Of particular note, the list includes examples of using administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives.

Paragraph (c)(8), added in this final rule in response to comments, addresses the limited use of administrative leave for physical fitness activities; the examples proposed as paragraphs (c)(8) through (c)(10) are redesignated as paragraphs (c)(9) through (c)(11). See the discussion of this topic earlier in the preamble.

Technical Corrections

OPM is also making three technical corrections in this final rule that do not alter the substance of the rule as proposed. First, OPM is revising the authority citation for part 630 to restore the authority for subpart Q (Paid Parental Leave), which was added to the citation by the August 10, 2020, final rule implementing the Federal Employee Paid Leave Act (85 FR 48075) as “subpart Q issued under 5 U.S.C. 6387,” but was inadvertently omitted when the authority citation was revised in the December 17, 2024, final rule (89 FR 102256). Second, OPM is correcting an internal cross-reference in § 630.1403(a)(5)(ii), which refers to “paragraph (i) of this paragraph (a)(5)” rather than to “paragraph (a)(5)(i) of this section”; the text of paragraph (a)(5)(ii) is otherwise unchanged. Third, OPM is conforming the cross-reference to 5 CFR 610.102 in § 630.1405(b) to the citation style used elsewhere in part 630.

Section 715.202 (Resignations)

OPM is revising § 715.202(b), which deals with employees’ requests to withdraw a resignation before its effective date. OPM is making clear that the decision to accept or decline a resignation withdrawal request is made at the agency’s sole and exclusive discretion. Also, OPM is adding another example of a valid reason for declining an employee’s request—namely, that the employee accepted benefits under a deferred resignation agreement. For example, if an employee received paid administrative leave in connection with a deferred resignation agreement, an agency may determine that it would be inappropriate to allow an employee to withdraw the resignation and keep the paid leave benefits.

Severability

OPM intends the provisions of this final rule to be severable. If any

provision, or its application to any person or circumstance, is held invalid or unenforceable, OPM intends that the remaining provisions and their applications remain operative to the fullest extent permitted by law. OPM would have adopted those remaining provisions independent of the provision or application held invalid.

The rule addresses distinct matters, including coverage and agency discretion under the administrative leave regulations, specific prohibited and acceptable uses of administrative leave, employee status during a reduction-in-force notice period, and withdrawal of resignations. Each change serves the purposes explained separately in this preamble. For example, the prohibitions and examples of acceptable uses in § 630.1403 address different circumstances; removing one would not prevent agencies from applying the others under the remaining governing requirements. Likewise, the withdrawal of resignation provisions in § 715.202 can operate independently of the examples authorizing administrative leave because they govern whether an agency may decline a withdrawal request when it has a valid reason. Although § 351.806(b) references part 630, subpart N, that reference does not depend on every provision of subpart N remaining effective. Agencies could continue to apply § 351.806(b) subject to the surviving administrative leave requirements. Accordingly, the remaining provisions would continue to provide useful guidance and function sensibly without any provision held invalid, subject to applicable law and court rulings.

V. Regulatory Analysis

A. Statement of Need

After having over 1 year of experience in applying the final regulations on administrative leave issued in December 2024, OPM has identified the need to clarify certain matters in the regulations. While OPM has issued policy guidance (see footnote 2) that largely addresses these matters, regulations are needed to achieve greater consistency across agencies and a firmer legal foundation for the policies. OPM is adding certain prohibited uses of administrative leave so that the prohibitions are binding on agencies. OPM is adding examples of acceptable uses of administrative leave so that agencies can be assured those uses have a regulatory foundation. For example, OPM is including the extended use of administrative leave in connection with a deferred resignation program as an acceptable use of administrative leave. Also, through

these regulations, OPM is better fulfilling its statutory charge to prescribe regulations that address agency uses of administrative leave (5 U.S.C. 6329a(c)(1)). OPM also identified the need to clarify that agencies have sole and exclusive discretion in making decisions to provide or not provide administrative leave, subject to governing law and regulations.

OPM is amending the RIF regulation in 5 CFR 351.806 to clarify when administrative leave may be provided during a RIF notice period.

OPM is also amending the resignation regulation in 5 CFR 715.202 to identify the acceptance of benefits, such as administrative leave, as a valid reason for an agency to deny an employee's request to withdraw a resignation commitment made as part of a deferred resignation agreement. This gives agencies a clearer regulatory basis for denying a resignation withdrawal request by a participant in a deferred resignation program.

B. Regulatory Alternatives

OPM considered the alternative of not adding additional regulatory prohibitions or examples of acceptable uses of administrative leave and instead relying on OPM policies. For the reasons given in the Statement of Need section, OPM concluded that various policies should be codified in regulation. With respect to the revision of the resignation regulation, OPM considered the possibility of not making the change but determined agencies would be better served by a regulation that gives them a clear and specific legal basis for denying a resignation withdrawal request by an employee participating in a deferred resignation program.

C. Impact

Since OPM is codifying in regulation existing policies on administrative leave, OPM does not expect significant changes in the usage of administrative leave. Agencies generally follow OPM policies even if they are not legally binding in the way regulations are. Codifying policies in regulations provides a firmer legal foundation for those policies, promotes consistency across agencies, and avoids disputes between employees and agencies. Since this final regulation affects only Federal agencies and employees, it will have no substantial impact on local economies or labor markets.

D. Costs

As explained in the Impact section, OPM does not expect the regulations to result in significant changes in the usage

of administrative leave.

Governmentwide policies that parallel the final regulations are already in place. OPM is simply giving its policies an enhanced legal standing by incorporating them in regulation.

Accordingly, OPM does not project that costs or savings will result from the regulations. OPM believes the administrative burdens associated with implementing these final regulations will be de minimis, since agencies are already operating under parallel OPM policies. There could be minor administrative cost savings to the extent that codifying policies in regulations reduces disputes. Several commenters challenged this assessment, arguing that OPM must account for the costs of the 2025 deferred resignation programs and for broader economic effects of workforce reductions. As explained in section III.E of this preamble, the relevant measure under E.O. 12866 and E.O. 13563 is the incremental effect of this rule against a baseline that includes the Governmentwide policies already in effect. Expenditures associated with the 2025 programs were incurred under existing authorities and policies and are part of that baseline, and decisions to undertake particular workforce realignment initiatives are made by agencies under separate authorities that this rule neither mandates nor funds.

Similarly, OPM does not expect the change to the resignation regulation to have a significant effect on the number of resignation withdrawals. The existing regulation already allows an agency to deny an employee's request to withdraw a resignation for a valid reason. The regulation simply identifies an employee's acceptance of benefits (such as administrative leave) as part of a deferred resignation agreement as a specific example of a valid reason. The final regulation could result in fewer or less lengthy disputes, but the number of affected cases would be very small.

E. Benefits

This rule has important benefits. The regulations provide more transparency and accountability, provide a firmer legal foundation for allowing or prohibiting certain uses of administrative leave, promote consistency across agencies, clarify the authority of agencies, and reduce potential disputes. With respect to the revision of the RIF regulation, it clarifies when it is appropriate to provide administrative leave during a RIF notice period. With respect to the revision of the resignation regulation, it will provide a regulatory basis for denying a resignation withdrawal request and set clear expectations for employees who

enter into a deferred resignation agreement.

VI. Regulatory Compliance

A. Regulatory Flexibility Act

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

B. Regulatory Review

The Office of Information and Regulatory Affairs in the Office of Management and Budget has designated this as a significant regulatory action under E.O. 12866 section 3(f). Accordingly, OPM has examined the impact of this rule as required by E.O.s 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 in any one year 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. This rule is not considered a regulatory action under E.O. 14192 because it imposes no more than de minimis costs. This rule has been reviewed by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Federalism

This regulation 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 final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

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

E. Unfunded Mandates Reform Act of 1995

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.

F. Paperwork Reduction Act

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

G. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), requires that agencies submit final rules to Congress and the Comptroller General of the United States for review before the rules can take effect. OPM will submit this final rule and other required materials to Congress and the Comptroller General. The Office of Information and Regulatory Affairs has determined that this rule is not a “major rule” as defined by the Congressional Review Act (5 U.S.C. 804(2)).

List of Subjects

5 CFR Part 351

Administrative practice and procedure, Government employees.

5 CFR Part 630

Emergency preparedness, Government employees, Reporting and recordkeeping requirements, Wages, Weather.

5 CFR Part 715

Government employees.

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 parts 351, 630, and 715 as follows:

PART 351—REDUCTION IN FORCE

- 1. The authority citation for part 351 is revised to read as follows:

Authority: 5 U.S.C. 1103, 1104, 1302, 2301, 3502, 3503; 38 U.S.C. 4331; E.O. 14284, 90 FR 17729; 5 CFR 2.2(c). Sec. 351.801 also issued under E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart H—Notice to Employee

- 2. Revise § 351.806 to read as follows:

§ 351.806 Status during notice period.

(a) *General.* Under ordinary circumstances, an employee will remain in a duty status during the notice period.

(b) *Administrative leave.* Nothing in this section precludes an agency from placing an employee on administrative leave for all or part of the notice period when the agency determines that such leave is appropriate and the use of administrative leave is consistent with part 630, subpart N, of this chapter.

(c) *Emergency lack of work or funds.* When, in an emergency, the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without the employee’s consent, on leave without pay with the employee’s consent, or in a nonpay status without the employee’s consent.

PART 630—ABSENCE AND LEAVE

- 3. The authority citation for 5 CFR Part 630 is revised 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); subpart P issued under 5 U.S.C. 6329c(d); and subpart Q issued under 5 U.S.C. 6387.

Subpart N—Administrative Leave

- 4. In subpart N:
 - a. Remove the word “grant”, wherever it appears, and add, in its place, the word “provide”;
 - b. Remove the word “granted”, wherever it appears, and add, in its place, the word “provided”; and
 - c. Remove the word “granting”, wherever it appears, and add, in its place, the word “providing”.
- 5. Amend § 630.1401 by revising paragraph (b) to read as follows:

§ 630.1401 Purpose and applicability.

* * * * *

(b) This subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, but does not apply to—

(1) An intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek; or

(2) A Presidential appointee or other employee who is excluded from coverage under title 5 leave laws (5 U.S.C. 6301(2)(x)–(xiii)) and who is entitled to the pay of his or her office solely because of status as an officer (5 U.S.C. 5508).

* * * * *

- 6. Amend § 630.1402 by removing the definition of “Head of the agency” and adding, in alphabetical order, the definition of “Sole and exclusive discretion” to read as follows:

§ 630.1402 Definitions.

* * * * *

Sole and exclusive discretion means discretion that rests with an agency alone; that is exercised within the bounds of 5 U.S.C. 6329a and other applicable law, applicable Presidential directives, and the regulations in this subpart; and that may not be limited or conditioned by any agreement or established as a mandatory entitlement to administrative leave.

- 7. Amend § 630.1403 by:
 - a. Revising the section heading;
 - b. In paragraph (a)(2), adding the words “sole and exclusive” before the word “discretion”;
 - c. Revising paragraph (a)(3);
 - d. In paragraph (a)(4), adding the words “sole and exclusive” before the word “discretion”;
 - e. Revising paragraph (a)(5)(ii);
 - f. Revising paragraph (b); and
 - g. Adding paragraph (c).

The revisions and addition read as follows:

§ 630.1403 Principles, prohibitions, and examples of acceptable uses.

(a) * * *

(3) Administrative leave is appropriately used for brief or short periods of time—usually for not more than 1 workday. An incidence of administrative leave lasting more than 1 workday may be approved in applicable circumstances described in paragraph (c) of this section or when otherwise determined to be appropriate by an agency.

* * * * *

(5) * * *

(ii) Reviewed and approved by an official of the agency who is (or is acting) at a higher level than the official making the determination, if the specific type of use and amount of leave for that use has not been authorized under established written policy as described in paragraph (a)(5)(i) of this section.

* * * * *

(b) *Specific prohibited uses.* An agency may not provide administrative leave—

(1) To mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105);

(2) As a reward to recognize the performance or contributions of an employee or group of employees (*i.e.*, in lieu of a cash award or a time-off award), except that an agency may provide administrative leave to all employees of an organization as a morale-boosting goodwill gesture, even if it is broadly linked to the accomplishments of the organization;

(3) For investigative purposes (*i.e.*, involving an “investigation” as defined in § 630.1502) after an employee has reached the 10-workday calendar year limit described in § 630.1404 in connection with a given investigation;

(4) For a purpose for which sick leave could be used (§ 630.401(a))—unless such use in a particular scenario is specifically approved by

Governmentwide policy issued by OPM or the President; however, an employee who is eligible to use sick leave may be provided administrative leave on the same basis it is provided to an employee who is not so eligible when the administrative leave is provided for some other purpose; or

(5) To cover service by poll workers or poll observers in connection with elections.

(c) *Examples of acceptable uses.* An agency may, at its sole and exclusive discretion, provide administrative leave in circumstances that satisfy the requirements in paragraph (a) of this section, including in the following circumstances:

(1) For investigative purposes until the employee has reached the 10-workday calendar year limit described in § 630.1404;

(2) To provide an employee who has not voted early with a reasonable opportunity to vote on a regular election day;

(3) To allow an employee to donate blood during the employee’s tour of duty;

(4) To allow an employee to participate in an agency’s employee assistance program for problem identification and referral to an outside resource and for general employee orientation or education activities;

(5) To provide for early dismissal (generally no more than 2 hours) on the scheduled workday immediately before a Federal public holiday as a morale-boosting goodwill gesture;

(6) To allow an employee to rest and recover following unusually lengthy tours of duty or extended travel for work purposes (for example, the U.S. Forest Service in the Department of Agriculture or the Department of the Interior may provide 2 to 3 days of administrative leave to employees who have completed an extended deployment to fight a wildland fire);

(7) To provide up to 5 days of administrative leave for a civilian employee who needs time off to effectuate a change in his or her residence to a different geographic area in order to accompany a qualifying spouse—that is, a spouse who is a member of one of the uniformed services or a civilian Federal Government employee—when the qualifying spouse’s residence change is the result of military orders or agency direction, as applicable;

(8) To provide limited amounts of administrative leave for approved physical fitness activities on a conditional basis (consistent with paragraphs (a)(4) and (6) and subject to any Governmentwide policies issued by OPM or the President) for employees who do not have job-related mandatory fitness standards that allow for use of official duty time for such activities;

(9) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM and agency limits) to employees who sign a written agreement to voluntarily separate on a specified future date as a transition-to-separation tool that supports workforce restructuring and realignment initiatives that are based on agency and Governmentwide interests, including voluntary deferred resignation programs, use of voluntary separation incentive payments, or use of voluntary early retirement authorizations;

(10) To provide administrative leave to employees subject to an involuntary separation via a reduction in force (RIF)

during the period between receipt of the RIF notice and the RIF separation when the agency determines it is in the Government’s best interests; or

(11) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM and agency limits) to facilitate the voluntary resignation of employees with documented allegations of poor performance or misconduct under a settlement agreement that the agency determines is in the Government’s best interests after considering all other reasonable alternatives.

§ 630.1405 [Amended]

■ 8. Amend § 630.1405 by removing, in paragraph (b), the words “5 CFR 610.102” and adding in their place the words “§ 610.102 of this chapter”.

PART 715—NONDISCIPLINARY SEPARATIONS, DEMOTIONS, AND FURLOUGHS

■ 9. The authority citation for 5 CFR Part 715 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart B—Voluntary Separations

■ 10. Revise § 715.202 to read as follows:

§ 715.202 Resignation.

(a) *General.* An employee is free to resign at any time, to set the effective date of his or her resignation, and to have his or her reasons for resigning entered in his or her official records.

(b) *Withdrawal of resignation.* An agency may, in its sole and exclusive discretion, accept or decline an employee’s request to withdraw his or her resignation at any time before it has become effective. An agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption, the hiring or commitment to hire a replacement, or the employee’s acceptance of benefits provided under a deferred resignation agreement. Avoidance of adverse action proceedings is not a valid reason.

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