

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
NATIONAL BUSINESS CENTER  
HUMAN RESOURCES OPERATIONS DIVISION

INFORMATION BULLETIN

**(NOTE TO SUPERVISORS:** Please ensure that all employees without e-mail access receive a paper copy of this All-Employee distribution.)

Memorandum

To: All NBC Employees

From: Samuel Doutrich III /s/  
Chief, Human Resources Operations Division

Subject: Charges to Military Leave for Reserve Training - Butterbaugh Claims

The purpose of this memo is to provide NBC employees information on how to handle administrative claims to correct a Federal employee's leave record as it relates to military leave that was erroneously charged for non-work days that occurred during their absence for National Guard or Reserve service.

Such claims are generally referred to as "Butterbaugh" claims, because they originate from a Federal Circuit decision in *Butterbaugh v. Department of Justice (DoJ)*, 336 F.3d 1332 (Fed. Cir. 2003) . The U.S. Circuit Court of Appeals for the Federal Circuit ruled that agencies had been misapplying the provisions in 5 U.S.C. 6323 by charging employees with military leave on the basis of calendar days instead of work days that occurred during their period of military service. Since that decision, there have been numerous appeals, decisions, rulings, etc., regarding how far back into the past an individual may claim a correction be made to the military leave charged to a leave record. Appeal decisions as recent as August 2007 have not identified a retroactive time limit.

As in all leave claims, the burden of proof is on the employee to demonstrate they are entitled to the leave they are claiming. If you think you have been erroneously charged annual leave for a non-work day that occurred during a period of National Guard or Reservist service, and want to file a claim to have the mistake corrected, you must submit a written claim identifying the dates of each period of military service for which an error has been made. You must also attached a copy of the National Guard or Reservist orders, certification of attendance, or other documentation indicating that you engaged in one or more period of active military duty that included non-work days during the applicable claim period. You can be credited for 1 day of annual leave for each non-work day occurring within a period of active duty for which you were charged military leave and a maximum of 4 days of annual leave may be credited for each fiscal year.

Process steps for submitting a claim are as follows:

- 1) The employee submits a written claim and supporting documentation through the employee's first line supervisor.
- 2) The supervisor will submit the request, along with supporting documentation, to the servicing Human Resources (HR) Specialist for review.
- 3) The servicing HR Specialist will review the documentation and provide a recommendation for approval or disapproval to the servicing HR Office (HRO) Branch Chief.

4) Once approved by the servicing HRO Branch Chief, the HRO will transmit the claim to the NBC Payroll Operations Division, Payroll Operations Branch, Pay Processing Section 3.

Any annual leave credited as a result of an employee's claim must be placed in a restored leave account in accordance with 5 U.S.C. 6304(d)(1)(a) and 5 CFR 630.306, and the restored leave must be used by the employee by the end of the leave year in progress 2 years after the date of restoration.

If you have any questions regarding this process and whether you think an error was made in your leave record for past National Guard or Reserve absence, please contact your servicing Human Resources Office.