



NATIONAL COUNCIL OF SOCIAL SECURITY  
MANAGEMENT ASSOCIATIONS, INC.  
3303 SOUTH WAKEFIELD STREET  
SUITE 103  
ARLINGTON, VA 22206  
TELEPHONE: (202) 547-8530  
FAX: (571) 312-2333  
[www.ncssma.org](http://www.ncssma.org)

8/13/2017

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RACHEL EMMONS  
Phone: (202) 547-8530  
[rachele@greystone-group.com](mailto:rachele@greystone-group.com)

Acting Director Kathleen McGettigan  
US Office of Personnel Management  
Theodore Roosevelt Federal Building  
1900 E Street NW  
Washington, DC 20415-1000

Re: RIN 3206-AN49

Dear Ms. McGettigan:

Federal agencies have the authority to grant paid excused absences, otherwise known as administrative leave, to employees based on the broad management authority provided in the Code of Federal Regulations (CFR) 5 U.S.C. 301-302. The regulation does not expressly address excused absences and it does not set the parameters on the use of administrative leave. Some direction on the use of administrative leave authority is provided in Comptroller General decisions and Office of Personnel Management (OPM) guidance.

On July 13, 2017, OPM proposed new regulations on the granting and recording of administrative leave, investigative leave, notice leave, and weather and safety leave. The Administrative Leave Act of 2016 created these new categories of authorized paid leave and established parameters for their use. In addition, a new subpart in 5 CFR Part 630 specifies, "Under 6329a(b)(1), an agency may place an employee on administrative leave for no more than 10 total workdays in any given calendar year." The intent of the proposed regulation was to address concerns that administrative leave usage had exceeded reasonable amounts, especially related to personnel-related investigations, resulting in significant cost to the government. Congress' intent is to have agencies use administrative leave sparingly and reasonably, consider alternatives to the use of administrative leave when employees are under investigation, and act quickly to conclude investigations and take personnel action or return the employee to duty. The National Council of Social Security Management Associations (NCSSMA) supports these principles and believes the proposed regulatory framework effectively executes upon the intent of Congress in the statute.

Federal professional management associations have shared a positive working relationship with their respective agencies for decades. The basis for the relationship and support provided to NCSSMA and our members are in the CFR.

Agencies' relationships with their respective management associations are mandated by 5 CFR 251.201 Subpart B (a). Agency support to these organizations is governed by 5 CFR 251.202. Section 251.202 at (a)(2) provides the agency with the authority to "... pay expenses of employees to attend professional organization meetings when such attendance is directly concerned with agency functions or activities and the agency can derive some benefits from employee attendance at such meetings." At 251.202 (a)(3) the agency is advised to follow "... a liberal policy in authorizing excused absence for employees who are willing to pay their own expenses to attend a meeting of a professional association from which an agency could derive some benefits."

In addition, some agencies, like the Social Security Administration (SSA), have Personnel Policy Manuals (PPM) that mirror the CFR regarding support to management associations. For SSA, the PPM at S251\_2 5.6.1 states, "Payment for travel and per diem may be authorized for association members to attend association meetings that are scheduled with SSA management officials for the purpose of discussing SSA as well as association business and preliminary or follow-up meetings on preceding or following days." At S251\_2 5.6.3 the PPM states, "Excused absence may be approved for association members to attend association meetings."

The above citations for the legal and regulatory authority basis not only provide for both payment of travel and per diem, but also the basis for excused absence for association members who are willing to pay their own expenses to have meetings and meet with agency executives.

The proposed regulation does not differentiate between administrative leave approved for association activities and administrative leave approved for investigations, notice, weather and safety. There is no specification on administrative leave use outside the 10-day cap as it pertains to professional association meetings that are tied to the mission of the agency. In addition, the Administrative Leave Act of 2016 only specifies a 10-day cap on administrative leave with regard to investigative leave. Section 3: Duration of Leave, Subsection A: Investigative Leave states, "Subject to extensions of a period of investigative leave for which an employee may be eligible under subsection (d) and (e), the initial placement of an employee in investigative leave shall be for a period not longer than 10 days." Administrative leave caps outside the use for investigations are not specified in any other section of the Act. We believe the new regulation is not in line with the intent of the Act and will have an unintended consequence of limiting the ability for professional associations to meet with their respective agency leaders.

The work undertaken by Federal professional management organizations directly benefits the agencies and Federal executives and managers we represent. The

limitation on administrative leave as it pertains to its use for association activities will severely limit the ability to hold meetings with agency executives. These meetings with agency leaders are imperative to each agency's function and, ultimately, beneficial to the members served and the American people.

It is appreciated that the proposed regulation change will bring cost-savings to the government and hold agencies accountable for administrative leave approved during adverse personnel actions. However, the unintended consequence of the regulation, as written, will limit the ability of professional organizations to meet with their agency leaders.

We respectfully request that OPM amend the proposed language in 5 CFR Part 630 to exclude professional executive and management association meetings from the 10-day limit on administrative leave approval as this was not the intent of the Administrative Leave Act of 2016.

Should you require additional information or want to discuss this issue further, please contact Rachel A. Emmons with the National Council of Social Security Management Associations (NCSSMA) at [rachele@greystone-group.com](mailto:rachele@greystone-group.com) or (202) 547-8530. Thank you in advance for your consideration of our comments and request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Detzler".

Christopher Detzler  
NCSSMA President