

23 | EB 1951

The Honorable Lindsay C. Warren  
Comptroller General  
General Accounting Office  
Washington 25, D.C.

OGC HAS REVIEWED.

Dear Mr. Warren:

The Central Intelligence Agency Act of 1949 (P.L. 110-81st Cong.) gives me authority to prescribe appropriate regulations to assure adequate leave in the United States for personnel of this Agency engaged in duties overseas. Section 5 (a)(3)(A) provides that with respect to officers and employees assigned to permanent duty stations outside the continental United States, its Territories, and possessions, the Agency, under such regulations, shall "Order to the United States or its Territories and possessions on leave provided for in 5 U.S.C. 30, 30a, 30b, or as such sections may hereafter be amended, every officer and employee of the agency who was a resident of the United States or its Territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter: Provided, that such officer or employee has accrued to his credit at the time of such order, annual leave sufficient to carry him in a pay status while in the United States for at least a thirty-day period."

In order to prescribe proper regulations, I wish to present certain questions for your consideration. The Act requires, as conditions of entitlement to home leave, that the officer or employee must have been a resident of the United States or its Territories and possessions at the time of his employment and that he must have accumulated thirty days' annual leave at the time home-leave orders are issued. Assuming that these requirements are fulfilled, the remaining requisite for home leave is two years' "continuous service abroad." My queries pertain to the nature and continuity of such "continuous service abroad."

Your opinion in 19 Comp. Gen. 750 indicated, in the case of a Foreign Service Officer, that the words "continuous service" did not require the officer to remain at all times physically within the "service abroad" and were not synonymous with uninterrupted service. In that case, the officer had returned to the United States for purposes of consultation in direct connection with his duties abroad, and you held that there was no break in his "continuous service abroad."

However, we are not aware of any opinion regarding the situation in which the employee has returned to this country from his foreign post for purposes of official consultation and, during the temporary

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duty in the United States, is granted a period of leave prior to his return to his foreign station; nor is there a definite guide in regard to the effect of emergency leave in the United States on the continuity of "continuous service abroad." Provided the other conditions precedent to granting of home leave as stated above are present, and the employee otherwise remains in a pay status and returns to his post abroad at the earliest opportunity, your advice in regard to the following questions would be appreciated:

1. When an employee regularly assigned to an overseas post temporarily returns to the United States for purposes of official consultation, does the grant of a period of either annual or sick leave while in the United States break the continuity of his "continuous service abroad"?

2. Does the granting of a period of annual leave to permit return to the United States at the personal expense of an employee regularly assigned to an overseas post, solely for the purpose of meeting a personal emergency, interrupt the continuity of his "continuous service abroad"?

3. In the event an employee is returned to the United States on sick leave under proper authorization at Government expense prior to the expiration of two years' "continuous service abroad," does it interrupt the continuity of such service?

4. If any or all of the three questions presented above are answered in the negative, is the amount of leave taken subject to a maximum time limitation?

5. If questions 1, 2, and 3, or any of them are answered in the negative, must the period of "continuous service abroad" be extended beyond two years for a period equal to the amount of interim leave taken before the employee is entitled to home leave?

6. If in any case covered by the first three questions, leave is construed to constitute a break in service, would it be required to again start a new two year period for home leave purposes upon return to the foreign post?

In view of the fact that the problems behind these questions must be resolved in order to implement properly the basic legislative authority for administration of this Agency, any clarifying comments you may wish to provide will be extremely helpful. In accordance with the usual practice, it would be appreciated if publication of your reply could be restricted to this Agency.

Sincerely yours,

*oned - disp via ER 7/23/50*

R. H. Millenkoetter  
Rear Admiral, USN  
Director of Central Intelligence

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