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HRDG 4630 - Absence and Leave - Section B - Subsection e

Last Modified:

Subchapter 4630 - Absence and Leave
Section B - Annual Leave
Subsection e - Restoring Annual Leave

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Forfeited annual leave may be restored if any one of the following conditions is met:

- There is an administrative error which causes the loss of annual leave accrual after June 30, 1960. The decision as to whether an administrative error falls within the context of this authority must be made on a case-by-case basis.
- There is sickness (or injury or any other medical condition for which paid sick leave would be approved) which prevents the employee from using scheduled annual leave. The annual leave must have been scheduled in writing and approved in writing before the beginning of the third pay period before the end of the leave year. In addition, the period of absence due to the sickness must have occurred at such a time late in the leave year or was of such duration that the annual leave could not be rescheduled for use before the end of the year to avoid forfeiture.
- There is an exigency of public business (emergency or operational demands outside the normal workload) which prevents an employee from using annual leave, provided the leave was scheduled in writing and approved in writing before the beginning of the third pay period before the end of the leave year. (See Checklist for Requesting Restored Annual Leave, Item B, for additional requirements.)

**When Forfeited
Annual Leave
Can Be Restored**

Note: The following factors by themselves **do not** constitute an exigency of public business: heavy workload, expense of detailing or hiring another employee, or having a high percentage of employees on annual leave during the same period.

- An employee is reinstated after an unwarranted or unjustified personnel action.

Effective January 30, 2023, [APHIS Administrative Notice 23-2 Leave Usage Order for Annual Leave Restoration](#) was issued.

**Restoration
Process Webinar
Slides - APHIS
Only**

This notice canceled the previous APHIS policy describing the order that leave and other paid time off was to be used.

Added 03/23

HRD is making the [APHIS webinar slides](#) available for reference. These slides explain the restoration process and will support Programs during their review of annual leave restoration requests.

Forfeited annual leave cannot be restored if:

- It does not meet the written prescheduling requirements,
- It was not canceled in writing by the supervisor,
- The cancellation was not approved in writing by a higher level supervisor/manager,
- It could have been rescheduled but the employee did not do so, and/or
- It was forfeited because compensatory or credit hours were used. This means that throughout the year, employees choosing to use paid time off in an order other than that listed below which results in lost annual leave at the end of the leave year will be ineligible for leave restoration. Effective January 30, 2023, this leave usage order does not apply to **APHIS** employees. See APHIS Administrative Notice [23-02](#) (135.91 KB).
 - ~~NDAAs 2021 Section 1111 Annual Leave (applies to 2021 leave year only)~~

**When Forfeited
Annual Leave
Cannot Be
Restored**

Updated 02/23

Use or lose annual leave,

- Restored Annual Leave,
- Compensatory time off in lieu of overtime pay,
- Compensatory time off for travel,
- Time off award (TOA)*, and
- All other leave, e.g., credit hours, annual leave.

*Note: Current USDA policy on TOAs states that each leave year employees may carryover up to 80 hours of a TOA. Any hours over 80 are forfeited.

When requesting restoration of forfeited annual leave, employees should:

**Employee
Responsibilities**

- Prepare requests in accordance with this section and the checklist (see "Employee Checklist for Requesting Restored Annual Leave" at the end of this section),
- Forward requests and all supporting documentation through the supervisor and other established administrative channels to the appropriate approving official listed in Section A, and
- Submit requests by the end of pay period six (6) of the new leave year.

When reviewing requests for restoration of forfeited annual leave, approving officials will, in accordance with guidance of this Section:

**Approving
Official
Responsibilities**

- Review and act on all requests expeditiously;
- Notify the employee in writing if request is not approved, giving the basis for disapproval;
- Notify the employee, supervisor, and the servicing personnel office (SPO) if the request is approved by issuing [Form AD-582](#), Authorization for Restored Annual Leave (see "Completion of Form AD-582, Authorization for Restored Annual Leave" at the end of this section"); and
- Maintain supporting records.

See "Checklist for Reviewing Requests for Restored Annual Leave" at the end of this section. Questions should be referred to the leave policy specialist, Employment and Classification Policy Branch, MRPHR.

The SPO will, upon receipt of the approved [AD-582](#):

- Expeditiously update the National Finance Center (NFC) data base with the number of hours restored;
- Notify the timekeeper, providing T&A instructions; and
- File a copy of the approved AD-582 in the employee's Official Personnel Folder.

SPO Responsibilities

Note: Because the restored leave will not be available for use in the NFC data base until after the SPO has updated the system and notified the timekeeper, the timekeeper should take no action to update the employee's time and attendance records until such notification is received.

Effective January 30, 2023, the leave usage order noted below does not apply to **APHIS** employees. See APHIS Administrative Notice [23-02](#) (135.91 KB).

To avoid the loss of annual leave at the end of the leave year, it is recommended that leave be used in the following order:

Leave Usage Order

Updated 02/23

- ~~NDA 2021 Section 1111 Annual Leave (applies to 2021 leave year only)~~
- Use or Lose Annual Leave,
- Restored Annual Leave,
- Compensatory Time Off in Lieu of Overtime Pay,
- Compensatory Time Off for Travel (CTOT),
- Time Off Award (TOA)*, and
- All other leave, e.g., credit hours, annual leave

Note: Use sick leave, as appropriate.

***Note:** Current USDA policy on TOAs states that each leave year employees may carryover up to 80 hours of a TOA. Any hours over 80 are forfeited.

Unless otherwise specified by the SPO, restored leave must be used by the end of the leave year that is 2 years after one of the following:

- The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness. 5 CFR 630.306(a)(3)

Scenario 1

An employee puts in a written request for 40 hours of annual leave for the week of January 6, 2014, to go on a family ski vacation. However, at the end of December, he is involved in a serious car accident and is hospitalized through the end of January. He forfeits the 40 hours of annual leave. He is then released to an inpatient rehabilitation center for further care. He returns to work on March 10, 2014. Since his annual leave was cancelled because of his injury and could not be rescheduled before the end of the leave year, the requirements for the restoration of forfeited annual leave are met. HRO restores the 40 hours of forfeited annual leave to the employee.

In order to avoid the forfeiture of his restored annual leave, the employee must schedule and use it no later than the end of the leave year ending 2 years after the date that he is determined to be recovered and able to return to duty. He is determined able to return to duty on March 10, 2014. Two years after March 10, 2014, is March 10, 2016. March 10, 2016, occurs in the 2016 leave year, which ends January 7, 2017. Thus, the employee must schedule and use the restored annual leave no later than January 7, 2017.

Scenario 2

An employee puts in a written request to take annual leave during the last 3 weeks of the leave year. However, the employee has influenza during the week of December 22, so she requests to substitute sick leave for her scheduled annual leave while she has the flu. On December 30, she informs her supervisor that she has recovered from the flu and doesn't need any more sick leave, but she would like to use her already-scheduled annual leave. She returns to work on January 13 after

CHECKLIST FOR REQUESTING RESTORED ANNUAL LEAVE

Employees should follow this checklist when preparing requests for restoration of annual leave forfeited due to exigencies of the public business (operational emergencies) or illness. Incomplete requests will delay action by the approving official. Questions should be referred to the leave policy specialist, Employment and Classification Policy Branch, MRPHR.

Memo requesting approval for restoration contains:

___ Name, last 4 digits of the social security number, title, grade, and duty station.

___ Amount of leave forfeited.

___ Date(s) leave was requested, approved, and canceled.
A. _____

___ Beginning and ending dates of the operational emergency (exigency of the the public business) or illness (as applicable).

___ Details on why the leave could not have been rescheduled and used during the remainder of the leave year.

Documents supporting the request include:

___ Form(s) SF-71, or equivalent, that:

- Request approval of annual leave,
- Are approved by supervisor, and
- Indicate both a request and approval date before the start of the third pay period before the end of the leave year.

___ Written cancellation of leave by supervisor and concurrence of higher-level management official. The statement should include specific reasons as to why there is no alternative to the cancellation.
B. _____

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