



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCE HEADQUARTERS
TENNESSEE NATIONAL GUARD
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JFHQ-TN-HRO-CSB

5 November 2009

MEMORANDUM FOR ALL TENNESSEE NATIONAL GUARD TECHNICIAN FEDERAL EMPLOYEES

SUBJECT: Restoration of Annual Leave

1. The maximum accumulation/carry over of annual leave from one leave year to another is 240 hours. Annual leave in excess of 240 hours is considered "use or lose", if accrued, but not used by the end of the leave year (January 2, 2010). The Defense Civilian Pay System (DCPS) performs a reduction at the beginning of the first full biweekly pay period in the new leave year, of annual leave in excess of 240 hours.
2. The agency should make every attempt to approve leave when possible in order to prevent an employee from falling in the "use or lose" category. The agency should approve and schedule the leave at the time requested by the employee or, if that is not possible because of the agency's work load, at some other time. Where the employee demonstrates that, but for an administrative error in failing to schedule the requested leave or presenting the case to the proper official for a determination of a public exigency, the leave was lost because of a public exigency or sickness and was not lost due to the fault of the employee, then the employee is entitled to restoration of the leave under 5 U.S.C 6304(d)(1)(A).
3. Leave may be restored under 5 U.S.C. 6304(d) if the leave was forfeited because of an administrative error, exigency of the public business, or sickness of the employee. Leave which is forfeited due to exigencies of public business or sickness of the employee must have had a request for leave scheduled in writing before the start of the **third biweekly pay period prior to the end of the leave year (November 21, 2009)** to be considered for restoration. This requirement (that leave be scheduled in advance) is statutory and may not be waived or modified even where extenuating circumstances may exist. The three events which allow for restoration of forfeited leave are addressed below:
 - a. **Exigency of the Public Business** – The exigency, or mission demand, must be of such importance as to preclude the use of scheduled leave. The exigency claim must be approved, normally in advance, through supervisory channels to the Human Resource Office. Once the exigency is confirmed, employees whose scheduled/approved leave is canceled may request to have their forfeited annual leave restored. Requests for restoration should be submitted before the end of the leave year with the SF-71 as supporting documentation of the leave request and disapproval.

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b. Sickness – Annual leave was forfeited because of a period of absence due to an employee's sickness or injury that occurred late in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year.

c. Administrative Error – Annual leave forfeited as a result of an administrative error may be restored to an employee's account. Whenever an administrative error is discovered that resulted in an employee's forfeiture of annual leave, the person making the discovery will immediately prepare a request for the approval of restoration of annual leave. This request will be forwarded to the delegated leave approving official through the chain of command.

4. Restored leave is placed in a special account and must be scheduled and used within two years. Restored annual leave that is not used within the established time limits is forfeited with no further right to restoration.

5. Technicians who will have "use or lose" leave at the end of the leave year, and who were unable to take scheduled leave due to specific mission reasons may submit their written request for restoration, with endorsement from each level in their supervisory chain to the Human Resource Office with the required backing documentation (Request for Leave, OPM Form 71) and a memo explaining the Exigency of Public Business, Sickness, or Administrative Error that is being used to justify the restored leave. Forward the documentation to the Customer Service Branch, ATTN: MAJ Holly I. Payne by 16 December 2009. Notification of the approval or disapproval will be forwarded to the employee and supervisor. All approvals will be forwarded to the Customer Service Representative to enter approved restored leave requests into the Defense Civilian Pay System (DCPS).

6. Point of Contact for questions is MAJ Holly Payne at 615 313-3030 or holly.payne@us.army.mil.

Encl
Fact Sheet


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RESTORED ANNUAL LEAVE

Q1. WHAT IS RESTORED ANNUAL LEAVE?

Agencies may restore annual leave that was forfeited because it was in excess of the maximum leave ceilings (i.e., 30, 45, or 90 days) if the leave was forfeited because of an administrative error, exigency of the public business, or sickness of the employee. An agency must restore the annual leave in a separate leave account.

Administrative Error

The employing agency determines what constitutes an administrative error.

Exigency of the Public Business

The employing agency determines that an exigency is of major importance and that excess annual leave cannot be used. An agency may consider restoration of annual leave **only** if the annual leave was scheduled in writing before the start of the **third biweekly pay period prior to the end of the leave year.**

Sickness

The employing agency determines that the annual leave was forfeited because of a period of absence due to an employee's sickness or injury that occurred late in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year.

Time Limit for Using Restored Annual Leave

An employee must schedule and use restored annual leave not later than the end of the leave year ending 2 years after--

- the date of restoration of the annual leave forfeited because of administrative error;
- the date fixed by the head of the agency or designee as the date of termination of the exigency of the public business; **or**
- the date the employee is determined to be recovered from illness or injury and able to return to duty.

Restored annual leave that is not used within the established time limits is forfeited with no further right to restoration. Administrative error may not serve as the basis to extend the time limit within which to use restored annual leave. This is so even if the agency fails to establish a separate leave account, fix the date for the expiration of the time limit, or properly advise the employee regarding the rules for using restored annual leave, absent agency regulations requiring otherwise.

Q2. Which account do I use to input the restored leave?

DCPS has 3 restored leave categories:

1. Restored Annual Leave Category #1 (**LR**): This restored leave will terminate in the current leave year. The balance left at the end of the leave year will be forfeited and will not be restored. **(1 year leave on record)**.
2. Restored Annual Leave Category #2 (**LQ**): This restored leave will terminate in the next leave year (current year plus one). Any balance left in this column at the end of the leave year will move to the restored leave account #1. **(2 years leave on record)**.
3. Restored Annual Leave Category #3 (**LP**): This restored leave will terminate three leave years (current year plus two) except for Unlimited Annual Leave Carryover. At the end of the leave year this balance will move to restored leave account #2. **(3 year leave on record)**.

Q3. How do I input the restored leave in DCPS?

To input restored leave, access the DCPS leave menu, then select Advance/Restored/Family Leave, input social security number, date effective, which should be the first day after the leave year ends. Input the appropriate leave code, LP (3 years), LQ (2 years) or LR (1 year) press enter, the effective date (same effective date as above) then enter the amount of hours to be restored.

DCPS will automatically set the termination date for the LP, LQ and LR codes based on the Pay Period Dates Table on the database. For unlimited annual leave carryover, restored leave due to BRAC, enter leave code LP and effective date 999999. DCPS will set the termination date as 999999. If the termination date equals 999999, the LP restored account #3 will not roll to LQ. It will remain in the LP account. To add additional hours at the start of new leave year, enter code LP and effective date 999999. These new hours will be added by the system to the hours previously entered.

Q4. What is the order of precedence in DCPS for using restored leave accounts?

If an employee has insufficient annual leave to cover the annual leave charges submitted through time and attendance, DCPS will convert the leave to code LR. If LR is insufficient, LQ will be charged. If the balance in restored account #2 is insufficient, LP will be charged .