



## Restored Leave

DoD Financial Management Regulation (Volume 8, Chapter 5, para 050206) states that agencies may restore annual leave that was forfeited because it was in excess of the maximum leave ceilings if the leave was forfeited because of administrative error, exigency of the public business, or sickness of the employee.

Approval Requirements - The following requirements must be met before forfeited annual leave can be considered for restoration:

- A. Use of the annual leave must have been scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year **(No later than 11/26/2016)**
- B. If restoration is based on exigency of the public business, the determination that an exigency is of major importance and that annual leave may not be used must be made by the head of an activity no lower than a major field headquarters or major field installation. See 5 C.F.R. 630.305 and DoDI 1400.25-V630.4

Exigency of the public business means there is an urgent need for the employee to be at work such that excess annual leave cannot be used.

**Note: An employee's use of earned compensatory time off or credit hours does not constitute an exigency of the public business. If the use of earned compensatory time off or credit hours that are about to expire results in the forfeiture of excess annual leave, do not restore the forfeited leave.**





Q & A

Q. If an employee has properly scheduled “use-or-lose” annual leave before the start of the third biweekly pay period prior to the end of the leave year, but is unable to use some or all of the scheduled leave because of the furlough, does the furlough constitute an “exigency of the public business” that would permit an agency to restore the leave after the beginning of the new leave year?

A. Employees in this situation should make every effort to reschedule “use-or-lose” annual leave for use before the end of the current leave year. However, if this is not possible due to a lapse in appropriations, agency heads (or their designees) are encouraged to use their discretionary authority to restore any lost annual leave by determining that the employee was prevented from using his or her leave because of an exigency of the public business—namely, the need to furlough employees because of the lapse in appropriations.

Q. If an employee has properly scheduled use of “restored annual leave” that is due to expire at the end of the leave year (because it is the end of the 2-year restoration period) but that leave is canceled and lost due to lapse of appropriations, may the employing agency restore that leave again?

A. Unfortunately, no—unless Congress enacts legislation providing otherwise. There is nothing in existing law or regulation that allows restored annual leave to be restored a second time. In fact, the Comptroller General has determined that unused restored annual leave may not be restored after expiration of the 2-year period.

Q. Can an employee request leave restoration if the sickness or injury occurred late in the leave year or was of such duration that it prevented the employee from scheduling excess annual leave before the end of the leave year?

A. Yes, the agency must restore the annual leave in a separate leave account.

Q. What is the Leave Restoration process for Emergency Essential Employees in a Combat Zone?

A. Emergency essential employees in a combat zone may have their leave restored whether it was scheduled in advance or not. This amendment relieves the employees and supervisors from the administrative burden of scheduling, canceling, and restoring excess annual leave in this situation. Restored annual leave must be scheduled and used by the end of the leave year ending two (2) years after the termination of the exigency of the public business.

