

OFFICE OF MANAGEMENT

RESTORATION OF FORFEITED ANNUAL LEAVE

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PURPOSE

- This MAPP provides information on the restoration of forfeited annual leave and the procedures for requesting and using restored annual leave for civilian employees in the Center for Drug Evaluation and Research (CDER).
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REFERENCES

- FDA Staff Manual Guide 1431.15, Authority to Restore Annual Leave, November 12, 2004
 - HHS Instruction 630-1-40F, Restoration of Annual Leave, July 26, 1996
(http://www.hhs.gov/ohr/manual/96_18.pdf)
 - HHS Guide for Timekeeping, Chapter 4, Restored Annual Leave, January 18, 2005 (FDA Intranet click: Payroll/Timekeeper Information/Guide for Timekeeping/Related Links-Guide for Timekeeping)
 - CDER MAPP 4657.12, Voluntary Leave Transfer Program, November 7, 1997
(<http://www.fda.gov/cder/mapp/4657-12.pdf>)
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DEFINITIONS

- **Forfeited Annual Leave:** Also referred to as Use-or-Lose Annual Leave, is annual leave in excess of an employee's maximum carryover balance that will be lost if it is not used before the end of the leave year.
- **Restored Annual Leave:** Forfeited annual leave that is approved for restoration and is carried over to the next leave year.
- **Administrative Error:** An error that is administrative in nature (e.g., a timekeeping error, a payroll error).
- **Exigency of Public Business:** A work situation requiring immediate action or attention (e.g., a special project with a short deadline, an unusually heavy workload).
- **Extended Exigency:** Significant circumstances that meet **all** of the following four conditions:
 1. Constitutes a threat to the national security, safety, or welfare
 2. Lasts more than 3 calendar years
 3. Affects a segment of an agency or occupational class
 4. Precludes subsequent use of both restored and accrued annual leave within the time limit specified

POLICY

- The Center Director delegates approval authority to the Center Executive Officer, Office of Management, to determine conditions that permit restoration of annual leave and to approve/disapprove restored annual leave. The Executive Officer is responsible for reviewing and approving or disapproving each case on its merits.
- Generally, annual leave in excess of an employee's maximum carryover balance is forfeited if not used before the end of the leave year. The maximum carryover balance is **240 hours** for most civilian employees and **720 hours** for Senior Executive Service (SES) employees.
- Forfeited annual leave may be considered for restoration **only** under one of the following conditions:
 1. To correct an administrative error, when the error causes the loss of annual leave
 2. When annual leave is scheduled in writing, in advance, but its use is subsequently denied due to an exigency of public business. **Only** the approving official (Center Executive Officer) is authorized to determine whether an exigency exists.
 3. When use of scheduled annual leave is prevented by illness or injury, provided that the annual leave was scheduled in writing, in advance, and its use could not be rescheduled between the termination of illness or injury and the end of the leave year, either as a

result of an exigency or because the termination of the illness or injury occurred too late in the leave year to permit rescheduling

- In 2 and 3 above, the employee must submit a written request (OPM-71 or other leave approving documentation) for the use-or-lose leave *prior to the beginning of the third biweekly pay period before the end of the leave year*. Employees *cannot* have leave restored unless they request annual leave in advance and in writing, even if they suspect that its use will be denied. If the above requirements are not met, the forfeited annual leave cannot be restored because this is **not** considered an administrative error. The only exception is a prolonged illness preceding the end of the leave year where the employee may be presumed to have requested proper scheduling of the annual leave.
- The leave approving official must approve the employee's request for use or lose annual leave for the time requested by the employee. If the leave cannot be approved for use at the requested time, the leave must be rescheduled for use at some other mutually agreeable time before the end of the leave year.

If an exigency occurs that necessitates cancellation of the employee's approved use-or-lose annual leave, the **Center Executive Officer** will determine whether or not an exigency exists of such importance that the employee cannot be released from duty, and whether there is any reasonable alternative to the cancellation of the employee's use-or-lose annual leave. The determination of an exigency must be documented and specific beginning and ending dates must be established before the employee's scheduled leave is canceled. See Procedures section to request an exigency of public business.

- If the requirements in the bullet above are not met (i.e., the employee's request for use-or-lose leave was submitted but not approved or the exigency determination was not made before the employee's leave was canceled), this may be considered an administrative error and the forfeited annual leave may be considered for restoration.
- If an exigency, illness, or injury that caused cancellation of an employee's use-or-lose annual leave terminates before the end of the leave year, every effort must be made to reschedule the annual leave before the end of the leave year to avoid forfeiture.
- An employee may not use credit hours in lieu of use-or-lose annual leave to maintain the use-or-lose balance to have the annual leave restored. Use-or-lose leave must be used before credit time.
- If an employee has a restored leave balance from a previous year that is due to expire in the current year, the restored leave should be used before using current use-or-lose annual leave.
- An employee wishing to donate his or her use-or-lose annual leave may participate as a leave donor in the Voluntary Leave Transfer Program. The Voluntary Leave Transfer Program allows an employee to donate various amounts of his or her annual leave, before the end of the leave year, to an employee participating in the Program. For further information on the Voluntary Leave Transfer Program, please refer to the reference section above.
- An employee separating from the federal government with accumulated annual leave,

including unused restored leave in a separate account, is paid a lump sum at his or her current hourly rate for all unused annual leave at the time of separation. The lump sum payment may be adjusted to collect the amount of any debt owed to the government.

- When an employee transfers to another agency, unused restored annual leave is transferred in accordance with standard regulatory provisions governing leave transfers.
- When an employee separates from the federal government, receives a lump sum annual leave payment, and is then reemployed in the federal government before the end of the period covering the lump sum payment, the regular and restored annual leave is recredited and the lump sum payment is reimbursed to the government.
- Active employees are in a missing status when they are determined to be missing in action, interned in a foreign country, captured by hostile forces, or detained in a foreign country against their will. Former missing employees may elect to receive payment for their forfeited leave or to have that leave restored to them. A written request for either must be filed within 90 days immediately following the termination of their missing status. If payment for forfeited leave is elected, it shall be paid at the employee's rate of basic pay in effect at the time of forfeit. If restored leave is elected, Office of Personnel Management (OPM) shall prescribe the time limit for use in each case, taking into consideration the amount of the restored leave and other relevant factors.

TIME LIMITATIONS

- **Time Limitations for Requesting the Restoration of Annual Leave**

Requests for restoration of annual leave must be submitted for approval to the Executive Officer, Office of Management, *before the end of the first quarter of the leave year following the leave year in which the annual leave was forfeited*. Under very unusual circumstances (e.g., a prolonged illness, furloughs), requests for restoration of annual leave may be submitted after the first quarter but before the end of the leave year following the leave year in which the annual leave was forfeited.

- **Time Limitations for Use of Restored Annual Leave Due to Situations Other Than an Extended Exigency**

1. Restored leave must be used by the end of the leave year of the second year from the date of restoration. For example, if leave is restored on February 11, 2005, the restored leave must be used by the end of the 2007 leave year. The restoration date is determined by:
 - a. The date the annual leave was restored in correcting an administrative error
 - b. The date fixed by management as the end of the exigency that resulted in the forfeiture of the annual leave
 - c. The date the supervisor, after considering the medical document, ascertains that the employee is able to return to duty, if the leave was forfeited because of illness or injury

2. Restored annual leave can be used at any time during the leave year. The employee must request to use restored annual leave on an OPM-71 or other leave approving documentation and specify "restored leave" to be used. ***Once the restored leave is used, it may not be changed.***

Caution: Employees and leave-approving officials should pay special attention to current year leave balances when employees use restored leave, in order to prevent placing employees in another possible forfeit of "use-or-lose" leave situations (or restored leave request situation).

- **Time Limitations for Use of Restored Annual Leave Due to an Extended Exigency**

1. The maximum time limit for use of annual leave restored due to an extended exigency is 2 years for each calendar year, or part thereof, that the exigency existed, regardless of the number of years during the exigency. For example, if the extended exigency began on October 1, 2005, and ended on November 18, 2008 (4 years), the restored leave would need to be used by the end of the 2016 leave year.
2. The provisions of paragraph 2 above regarding use of restored annual leave also apply to employees with a restored leave account due to an extended exigency.

- **An employee cannot use the approved restored leave until it appears on the Leave and Earnings Statement.**

PROCEDURES

Exigency Determination Request (Attachment A)

- The **supervisor** must request an exigency determination through the Center's Executive Officer **before cancellation** of an employee's "use-or-lose" leave. The request must be in writing with the following required information:
 1. Description of the exigency, the reason that the employee was affected by the work requirements generated by the exigency, and why the employee could not be released from duty
 2. Why leave cannot be rescheduled
 3. The reason that another employee cannot do the work
 4. Beginning and ending dates of the exigency
 5. The original leave slip (or other leave approving document) and a copy of the Administrative Time and Leave Record (HHS-564)
- The **Timekeeper** attaches the leave slip or other leave approving documentation and HHS-564 to the form, makes a copy of the request, and forwards the **original** request with supporting documentation to the appropriate program specialist/management officer.

- The **Program Specialist/Management Officer**
 1. Reviews the request and supporting documentation for accuracy and completeness and ensures that it is in compliance with Center policy.
 2. Makes a copy of the request for his or her files and forwards the *original* package to the Restored Leave Coordinator in the Office of Management.
- The **Restored Leave Coordinator**
 1. Reviews the request and supporting documentation for accuracy and completeness and ensures that it is in compliance with Center policy.
 2. Forwards the *original* package to the Center's Executive Officer for exigency determination.
- The **Executive Officer** will determine whether or not an exigency exists of such importance that the employee cannot be released from duty, and if there is any reasonable alternative to the cancellation of the employee's use-or-lose annual leave. Once a determination is made, the Executive Officer will complete the Exigency Determination Request by signing the requesting approval or disapproval. If it is determined that an exigency exists, the Executive Officer will cancel the requested leave on the OPM-71 or other leave approving document and return the request to the Restored Leave Coordinator.
- The **Restored Leave Coordinator** will forward a copy of the original request to the requesting supervisor through the appropriate program specialist/management officer. A copy will be maintained in the Office of Management.

Restored Leave Request (Attachment B)

- The **employee**, or any level of management in the employee's organization below the approving official, must complete the required form, Attachment B, to request the restoration of forfeited annual leave. The request must be in writing and must include the following information:
 1. Date of employee request
 2. Employee name and Social Security number
 3. Employee timekeeper number
 4. Number of hours of annual leave to be restored
 5. Justification for the request
- Additional documentation, as listed below, which supports the justification is also required and must be attached to the request.
 1. A request for restoration of forfeited annual leave **due to administrative error** must include:
 - a. A copy of the Application for Leave (OPM-71) or other leave approving documents identifying the date of the employee's leave request, dates and amount of annual leave

- scheduled, date of approval, and signature of the leave approving official (see Attachment C)
- b. A copy of the requesting employee's leave and earnings statement for the last pay period of the leave year
 - c. A copy of the requesting employee's Administrative Time and Leave Record (HHS-564) for the leave year
 - d. A detailed description and the date(s) of the events that caused the error, and official supporting statements attesting to the events
 - e. The amount of leave forfeited as a result of the error
2. A request for restoration of forfeited annual leave *due to an exigency of public business* must include:
- a. A copy of the OPM-71 or other approved documents identifying the date of the employee's leave request, dates and amount of annual leave scheduled, date of approval, and signature of the leave approving official. The OPM-71 will be signed and dated by the Executive Officer when the leave is canceled (see Attachment C)
 - b. A copy of the requesting employee's leave and earnings statement for the last pay period of the leave year
 - c. A copy of the requesting employee's Administrative Time and Leave Record (HHS-564) for the leave year
 - d. A signed copy of the Exigency Determination (see Procedures for the supervisor)
 - e. If the exigency ended before the end of the leave year, efforts made, if any, to reschedule the canceled annual leave, including:
 - The date that canceled leave was rescheduled
 - The date(s) on which the leave was rescheduled for use and the amount of leave that was rescheduled
 - The reason all of the canceled leave was not rescheduled or used
3. A request for restoration of forfeited annual leave *due to illness or injury* must include:
- a. A copy of the OPM-71 or other approved documents identifying the date of the employee's leave request, dates and amount of annual leave scheduled, date of approval, and signature of the leave approving official
 - b. A copy of the requesting employee's leave and earnings statement for the last pay period of the leave year

- c. A copy of the requesting employee's Administrative Time and Leave Record (HHS-564) for the leave year
 - d. The beginning date of the illness or injury and the date the employee would be recovered and able to return to duty (include a copy of the medical certificate)
 - e. The type of leave taken and the number of hours charged
 - f. If the illness or injury terminated before the end of the leave year, efforts made, if any, to reschedule the canceled annual leave, including:
 - The date the canceled leave was rescheduled
 - The date(s) on which the leave was rescheduled for use and the amount of leave that was rescheduled
 - The reason all of the canceled leave was not rescheduled or used.
 - g. If an exigency precluded the rescheduling and use of the canceled annual leave following the illness or injury, the claim must also include a description of the exigency and why the employee could not be released from duty, why leave could not be rescheduled, and the beginning and ending dates of the exigency
 - h. Any other factors pertaining to the individual situation that supports the action taken
- The **Timekeeper** attaches the leave slip, the administrative time and leave record, and the leave and earnings statement of the last pay period of the leave year to the form, makes a copy of the request, and, forwards the *original* request with supporting documentation to the appropriate Program Specialist/Management Officer.
 - The **Program Specialist/Management Officer**
 1. Reviews the request and supporting documentation for accuracy and completeness and ensures that it is in compliance with Center policy.
 2. Makes a copy of the request for his or her files and forwards the *original* package to the Restored Leave Coordinator in the Office of Management, through the employee's immediate supervisor for concurrence.
 - The **Supervisor** signs the request as the requesting official if submitting the request on behalf of the employee. If the request is submitted by the employee, the supervisor will co-sign.
 - The **Restored Leave Coordinator** reviews the request and supporting documentation for accuracy and completeness, ensures that it is in compliance with Center policy, and forwards the request to the Executive Officer.
 - The **Executive Officer** approves or disapproves the request based on its merits and forwards the *original* approved or disapproved request to the Restored Leave Coordinator.

- The **Restored Leave Coordinator** forwards the original approved request to the Agency's Payroll Liaison Office. Three copies of the approved request are forwarded to the appropriate program specialist/management officer for distribution to the requesting employee, timekeeper, and office files. The Restored Leave Coordinator then forwards the original disapproval to the program specialist/management officer for filing in the timekeeper's files.
- The **Program Specialist/Management Officer** notifies the employee of the approval or disapproval by forwarding a copy of the signed request to the employee and the employee's timekeeper for their files.
- The **FDA Payroll Liaison Office** restores the forfeited annual leave to the account of the employee, which will show up on the Leave and Earnings Statement (LES).
- The **Timekeeper**
 1. Reviews the LES (a copy given by the employee) to verify that the restored leave balance is established. If the Restored leave balance does not show on the employee's LES within two pay periods after the "Date Restored," the program specialist/management officer will notify the Payroll Liaison Office.
 2. When the restored leave appears on the LES, establishes a restored leave balance in EASE. In the Leave Balances screen, the timekeeper must select the time limits button, enter the amount of hours and expiration date, and select save. When the employee uses the restored leave, the amount use must be entered in the "Restored Annual LV" category in the timecard screen.
 3. Records the restored annual leave usage by the employee in EASE to maintain a balance. The employee's supervisor is responsible for ensuring that the timekeeper charges approved annual leave and restored annual leave accordingly.
 4. Retains all restored annual leave documents with supporting papers on file for 6 years plus the current year.

AUTHORITY

The Center Executive Officer, Office of Management, is delegated the authority to determine conditions that permit restoration of annual leave and to approve or disapprove restored annual leave. This authority may not be redelegated.

EFFECTIVE DATE

This MAPP is effective upon date of publication.

Attachment A

MEMORANDUM

Department of Health and Human Services
Public Health Service
Food and Drug Administration
Center for Drug Evaluation and Research

DATE: (Current Date)
FROM: (Employee's Supervisor)
SUBJECT: Request for an Exigency Determination
TO: Director
Office of Management, CDER
THROUGH: (Employee's Supervisor)

Employee's Name:

Number of Hours of Use or Lose That Will be Lost:

Justification: (Complete description of the nature of exigency and why employee could not be released from duty, why leave could not be rescheduled, the reason another employee cannot do the work, and the beginning and ending dates of the exigency.)

(Requestor's Signature) (Date)

Executive Officer, CDER (Date) Approved_____ Disapproved_____

ATTACHMENTS: Leave Slip (OPM-71 or other leave approving documentation)
Administrative Time and Leave Record (HHS-564)

Attachment B

REQUEST FOR RESTORATION OF ANNUAL LEAVE

TO: Director, Office of Management, CDER

Date: _____

- Employee name
- Social Security number
- Center/Office and phone number
- Timekeeper number
- Leave year of forfeited leave
- Number of hours to be restored

MANDATORY REQUIREMENTS (both requirements must be met):

- Employee requested leave, in writing, before the beginning of the third pay period prior to the end of the leave year; and
- Employee and supervisor attempted to reschedule canceled leave but appropriate alternative dates were not available (e.g., not enough time left in the leave year to reschedule, additional priority projects prevented rescheduling)

BASIS FOR RESTORATION (check one - see next page):

- Administrative Error (Examples include: supervisor did not act on leave request in a timely manner; supervisor canceled approved leave before appropriate official had declared that an exigency existed; leave balance on pay slip was incorrect)
- Exigency of Public Business (Examples include priority projects(s) required timely completion; unavoidable and/or unplanned leave of other staff required employee to be present in order to carry out Agency mission. See next page for information that must accompany a request based on Exigency of Public Business.)
- Employee Illness (Employee became ill and was unable to use or reschedule the leave.)

DATE

SIGNATURE/TITLE OF REQUESTING OFFICIAL (see reverse side)

DATE

CO-SIGNATURE, IF APPLICABLE
(signatures indicates that all requirements for restoration of leave are met)

APPROVED

DISAPPROVED

SIGNATURE/TITLE OF APPROVING OFFICIAL

DATE

DATE OF RESTORATION: _____

Forward copies of approved request to employee's supervisor, timekeeper, and Payroll Liaison Office at HFA-722

THE TIMEKEEPER MUST MAINTAIN THE FOLLOWING SUPPORTING DOCUMENTS FOR 6 YEARS: COPIES OF EMPLOYEE'S APPROVED LEAVE REQUESTS ADMINISTRATIVE LEAVE RECORD INDICATING WHEN LEAVE WAS TAKEN LAST EARNINGS AND LEAVE STATEMENT OF THE LEAVE YEAR SHOWING NUMBER OF HOURS OF LEAVE LOST COPY OF SIGNED RESTORATION APPROVAL

USE-OR-LOSE ANNUAL LEAVE FDA CIVILIAN EMPLOYEES ONLY

In most cases the maximum amount of annual leave an employee may carry over from year to year is 240 hours for non-SESers and 720 hours for SESers. A small number of employees may have larger personal leave ceilings based on service in other leave systems or overseas service.

Annual leave in excess of an employee's carryover balance is generally referred to as "use-or-lose" leave and must be used by the end of the leave year in which it is earned or it is lost (forfeited). There are a few circumstances in which forfeited annual leave may be restored.

RESTORATION OF ANNUAL LEAVE

Employees must request use of leave, in writing, before the start of the 3rd biweekly pay period prior to the end of the leave year. If so requested, but later denied or canceled by the leave approving official, and one of the following conditions exists, and rescheduling of the canceled leave is impossible, the annual leave must be restored.

1. An ADMINISTRATIVE ERROR occurred. Examples include:
 - Employee's leave request was submitted appropriately but not acted on in a timely manner.
 - Exigency determination was not made before the employee's leave was canceled.
 - Leave balance on pay statement was incorrect.
2. An EXIGENCY OF PUBLIC BUSINESS existed:
 - Exigencies are determined by the Director, Office of Management, CDER, and are situations of such importance that the work of the office, and consequently the work of the Agency, would be negatively affected if the employee were unavailable to perform his or her duties.
 - A copy of the signed exigency determination must be attached to a request for restoration of leave based on an exigency of public business and must include:
 - Description of the exigency and the reason the employee could not be released from duty
 - Why leave could not be rescheduled
 - The reason that another employee could not do the work
 - Beginning and ending dates of the exigency
3. An ILLNESS occurred:
 - Employee became ill before and/or during the time when leave was scheduled and leave could not be re-scheduled.

An employee or his or her supervisor may initiate a request for restoration of annual leave. If the employee is the requestor, the supervisor must co-sign the request certifying that all requirements for restoration of annual leave have been met and documentation is being maintained by the timekeeper.

LIMITATIONS: Approving officials may not exercise this authority if they are in the immediate organizational unit affected by the exigency or if their leave would be affected by their decision.

Attachment C

REQUEST FOR LEAVE OR APPROVED ABSENCE

1. NAME (Last, First, Middle Initial) Doe, Jane		2. EMPLOYEE OR SOCIAL SECURITY NUMBER 111-22-3333			
3. ORGANIZATION FDA/CDER/OM/DMS					
4. TYPE OF LEAVE/ABSENCE (Check appropriate box(es) below)	DATE From To	TIME From To	TOTAL HOURS	5. FAMILY AND MEDICAL LEAVE	
<input checked="" type="checkbox"/> Accrued Annual Leave	12/16	12/20	8:00	4:30	If annual leave, sick leave, or leave without pay will be used under the Family and Medical Leave Act of 1993, please provide the following information: <input type="checkbox"/> I hereby invoke my entitlement of Family and Medical Leave for: <input type="checkbox"/> Birth/Adoption/Foster Care <input type="checkbox"/> Serious Health Condition of Spouse, Son, Daughter, or Parent <input type="checkbox"/> Serious Health Condition of Self Contact your supervisor and/or your personnel office to obtain additional information about our entitlements and responsibilities under the Family and Medical Leave Act of 1993.
<input type="checkbox"/> Restored Annual Leave					
<input type="checkbox"/> Advance Annual Leave					
<input type="checkbox"/> Accrued Sick Leave					
<input type="checkbox"/> Advance Sick Leave					
Purpose: <input type="checkbox"/> Medical/dental/optical examination of requesting employee <input type="checkbox"/> Other <input type="checkbox"/> Care of family member/bereavement, including medical/dental/optical examination of family member					
<input type="checkbox"/> Compensatory Time Off					
<input type="checkbox"/> Other Paid Absence (Specify in Remarks)					
<input type="checkbox"/> Leave Without Pay					
6. REMARKS:					
7. CERTIFICATION: I hereby request leave/approved absence from duty as indicated above and certify that much leave/absence is requested for the purpose(s) indicated. I understand that I must comply with my employing agency's procedures for requesting leave/approved absence (and provide additional documentation, including medical certification, if required) and that falsification of information on this form may be grounds for disciplinary action, including removal.					
EMPLOYEE SIGNATURE JANE DOE		DATE 11/1/00			
8. OFFICIAL ACTION ON REQUEST: <input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED EXECUTIVE OFFICER 11/4/00 (If disapproved, give reason. If annual leave, initiate action to reschedule.)					
SIGNATURE JUDY SMITH		DATE 11/1/00			
PRIVACY ACT STATEMENT Section 6311 of title 5, United States Code, authorizes collection of this information. The primary use of this information is by management and your payroll office to approve and record your use of leave. Additional disclosures of the information may be: To the Department of Labor when processing a claim for compensations regarding a job connected injury or illness; to a State unemployment compensation office regarding a claim; to Federal Life Insurance or Health Benefits carries regarding a claim; to a Federal, State, or local law enforcement agency when you agency becomes aware of a violation or possible violation of civil or criminal law; to a Federal agency when conducting an investigation for employment or security reasons; to the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of leave administration; or to the General Services Administration in connection with its responsibilities for records management. Where the employee identification number is your Social Security Number, collection of this information is authorized by Executive Order 9397. Furnishing the information on this form, including your Social Security Number, is voluntary, but failure to do so may result in disapproval of this request. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide with an additional statement reflecting those purposes.					