

<p><b>U.S. DEPARTMENT OF EDUCATION</b></p> <p><b>PERSONNEL MANUAL INSTRUCTION</b></p>	<p><b>PMI:</b> <u>630-2</u></p> <p><b>Date:</b> <u>May 13, 1991</u></p> <p><b>APPROVED:</b>  <i>Marsha Scialdo</i>  for Director of Personnel  7/02</p>
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- \* Includes Amendment (Inst. #1) dated March 25, 1991
- \* Includes Changes on Page 9 dated February 1, 1996
- \* Includes Changes on Page 12 dated April 20, 1998

SUBJECT: ANNUAL LEAVE

I. AUTHORITY

- A. Chapter 63, title 5, United States Code (USC), provides the basic statute governing the Federal leave system.
- B. Federal Personnel Manual (FPM) chapter 630,S4 and FPM Supplement 990-2, book 630, S4 provide the Office of Personnel Management (OPM) guidelines governing annual leave administration.

II. POLICY

- A. It is the policy of the Education Department (ED) that the taking of annual leave is a benefit of the employee, subject to the right of management to fix the time at which leave may be taken with due regard for workload demands (39 Comptroller General 611).
- B. Annual leave shall be earned, charged, and granted in accordance with chapter 63, title 5, USC, OPM regulations, decisions of the Comptroller General, Departmental policies and this Instruction.
- C. In all instances an SF-71, "Application for Leave", must be completed and signed by an employee prior to the leave period or immediately upon the employee's return from unscheduled and/or emergency leave.

III. APPLICABILITY

- A. This Instruction applies to all ED employees (except as noted below in paragraph III B) at headquarters and in regional and field locations who are on full-time or part-time tours of duty.

- B. The following employees listed below are specifically excluded from the provisions of this Instruction (See FPM 630, S2 for a comprehensive list of excluded employees).
1. Part-time or intermittent employees who do not have a regular tour of duty prescribed in advance on one or more workdays during each administrative work week.
  2. Presidential appointees whose rate of basic pay is higher than the maximum rate under the General Schedule. Career SES members who have Presidential/Senate appointments may elect to retain any of all of their SES benefits including coverage under the leave system. See Title 5 U.S.C. Section 3391.

IV. DEFINITIONS

- A. Accrued Leave – Leave earned by an employee during the current leave year that is unused at any given time in that leave year.
- B. Accumulated Leave – Unused leave remaining to the credit of an employee at the beginning of the leave year. This includes the carryover balance from the previous year, plus accrued leave, plus unused restored annual maintained in a separate account. Employees in the SES may accumulate annual leave with no limitation on accumulation. See FPM letter 630-27 dated 1/9/81.
- C. Annual Leave – An absence from duty with pay requested by an employee for vacation, personal reasons, or emergency and chargeable against annual leave credits.
- D. Exigencies of the Public Business – An emergency situation calling for immediate action or attention which occurs when the normal operations of the Department are interrupted by events beyond the control of management or employees (See FPM Supplement 990-2, Book 610, S3-2 and Book 630, S11-6).
- E. Leave Year – The period beginning with the first day of the first complete pay period in the calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.
- F. Restored Annual Leave - Leave forfeited due to administrative error, exigency of the public business, or sickness of the employee, but subsequently restored to the employee (or former employee) under the provisions of 5 U.S.C. 6304 and 5 C.F.R. 630.305-630.308 (See also FPM Letter 630-22, 2-2-74). Restoration of leave earned by a

member of the SES while serving in the SES is not required since these employees may accumulate annual leave with no limitation.

V. RESPONSIBILITIES

- A. Specific responsibilities for all concerned parties are defined in ED PMI 630-1, paragraph V.
- B. Administrative Responsibility
  - 1. When an employee's absence will unduly interfere with the work of the Department, the leave approving officer may prescribe when annual leave is to be taken; refuse to grant annual leave; or revoke annual leave that has been granted and recall employees to duty. The leave approving officer should exercise this authority sparingly and only when clearly necessary to protect the interest of ED.
  - 2. Annual leave will be charged only up an employee's request. An employee may, however, be placed on annual leave without request when the immediate supervisor determines that an employee is not ready, willing, and able to perform the duties, and action has not been started to separate or suspend the employee. An employee may not be placed on annual leave without request when such leave would amount to a suspension. The appropriate Servicing Personnel Office should be contacted before placing an employee on annual leave when the employee has not requested it.

VI. DELEGATIONS OF AUTHORITY

- A. Specific delegations of authority are described in ED PMI 630-1, paragraph VI.
- B. Limitations of Authority to Approve Employees to whom this Instruction applies may not approve their own annual leave request or excused absence.

VII. ACCRUAL AND USE OF ANNUAL LEAVE

- A. Rate of Earning Annual Leave. Depending on the length of creditable combined civilian and military service, which is determined by the Personnel Office, employees (with the exception of those employed intermittently) earn annual leave as shown here:

<u>Creditable Service</u>	<u>Full-time Employees</u>	<u>Week</u>	<u>*Part-time Employees Scheduled in Advance to Work at Least One Day of Each Administrative Work</u>
Less than 3 years	4 hours per pay period	1 hour per 20 in pay status	
3 through 14 years	6 hours per pay period (except for last full bi-weekly pay period of leave year, accrual is 10 hours)	1 hour per 13 hours in pay status	
15 years or more	8 hours per pay period	1 hour per 10 hours in pay status	

\*Part-time employees do not earn leave for any hours in pay status in excess of 40 hours per administrative work week.

B. Accrual Reductions

1. For every 80 hours in non-pay status (such as LWOP or AWOL) an employee's annual leave credit is reduced by the amount of leave the employee normally earns during the pay period.
2. When an employee has one or more breaks in service during the leave year, all hours in a non-pay status for each period of service shall be added together to determine if the employee's leave credits should be reduced.

C. Accrual For Less Than a Full Bi-weekly Pay Period

If employment is continuous, but an employee's service is interrupted by a non-leave earning period, the employee may be credited with leave on a pro rata basis for that fraction of a pay period during when he/she was in a leave earning status. This situation occurs for example, when an employee is carried in LWOP status while in receipt of disability compensation from the Office Worker's

Compensation Program or when an employee's tour of duty changes from full-time to intermittent.

D. Substitution of Annual Leave For Sick Leave

1. Annual leave may be substituted for sick leave for illness for which the employee has sick leave to his or her credit only if the employee requests it at the time the leave occurs. Annual leave may not be substituted retroactively for regular sick leave except to liquidate an employee's indebtedness for advance sick leave.
2. Sick leave requests must be made before the leave would have been forfeited at the end of the leave year. Any part of a period of illness which cannot be covered by sick leave to the employee's credit or advanced sick leave will be charged to annual leave, if available, unless the employee elects to apply for leave without pay.

E. Advancing Annual Leave

1. Annual leave is credited at the beginning of the pay period in which earned and available for use during or after that pay period. This credit is not considered an "advance" unless the employee is separated before the end of the pay period.
2. An employee may be granted advanced annual leave up to the amount earned by the end of the designated appointment or the end of the leave year, whichever is sooner. If an employee granted such an advance takes leave without pay later which reduces the annual leave accrual, the leave account may be overdrawn at the end of the leave year. In such cases the immediate supervisor may authorize a carry over to the next leave year. This is to be done, however, only when the salary equivalent of leave indebtedness carried over does not exceed the amount of the employee's unpaid compensation or deductions for retirement if the employee should separate before earning back the leave.

F. Limitations on Accumulation of Annual Leave

1. The maximum amount of annual leave an employee may accumulate and carry forward one year into a succeeding year may not exceed 240 hours (30 days).
  - a. An exception is where an employee has accumulated annual leave in excess of 240 hours (30 days) at the end of the 1952 leave year and has not reduced or liquidated such accumulation; that amount shall be carried over into succeeding years until used. Any leave earned in the current leave year, which may not be carried

forward to the new leave year because of the above restrictions, must be used before the new leave year or be forfeited unless restoring of the annual leave is approved in compliance with governing regulations.

- b. The other exception to the 30 day limitation pertains to employees serving outside of the United States who may accumulate 45 days of annual leave. (See FPM Chapter 630-3, 3-5.)
2. Employees serving on appointments in the Senior Executive Service Program or Presidential/Senate appointees who elect to retain SES benefits may accumulate unlimited annual leave while serving in the appointment. When an individual moves from the Senior Executive Service to a position outside the Service any annual leave which he or she has accumulated in excess of the limitations mentioned above shall remain to the employee's credit until used.

G. Restoration After Appeal

When an employee is restored to an agency as a result of an appeal, the agency must re-establish the employee's leave account as it was at the time of separation.

H. Retroactive Substitution

Annual leave may not normally be substituted for sick leave on a retroactive basis except for the purpose of liquidating advanced sick leave (31Comp. Gen. 524; 37 ibid 439; 38 ibid 354).

I. Lump Sum Payments And Refunds

1. Employees who separate from Federal service are entitled to payment in a lump sum for accumulated and accrued annual leave. However, if re-employed prior to expiration of the period of time covered by the payment, the employee must refund an amount equal to that covering the period from the date of re-employment to the expiration of the period covered by the lump sum payment.
2. Exceptions are covered in FPM Chapter 550, Subchapter 2.

VIII. RESTORED ANNUAL LEAVE

- A. As a general rule, leave in excess of 240 hours (30 days) (except when an employee had accumulated annual leave in excess of 240 hours at the end of 1952 leave year or served overseas, and has not reduced or liquidated such accumulation), is forfeited if not used by the end of the leave year. Exceptions are made to this rule under the following conditions:

1. When use of scheduled annual leave is prevented by illness or injury, provided the annual leave was approved in writing before the start of the third bi-weekly pay period prior to the end of the leave year, and its use could not be rescheduled between the time of termination of the illness and the end of the leave year, either because of an exigency or the date of termination of the illness occurred too late in the leave year to permit rescheduling of the leave;
2. When annual leave is scheduled (approved) in writing in advance (before the start of the third bi-weekly pay period prior to the end of the leave year) but its use is denied because of exigencies (situations calling for immediate action or attention) of the public business.
3. To correct an administrative error.

B. Authority To Make “Exigency” Determinations

1. Before annual leave may be restored the determination must be made that an exigency of major significance exists and, therefore, annual leave may not be used by employees to avoid forfeiture. That determination must be made by the agency head or someone designated by the agency head to do so. The designated official may not be more than two organizational levels below the agency head at the central headquarters level, or more than one organizational level below the head of major regional offices.
2. Except where made by the Secretary, the determination may not be made by any official in the unit affected by the exigency or by any official whose leave would be affected by the decision.
3. In the ED Headquarters the authority is delegated to \*Senior Officers. The Heads of Regional or field organizations may also be delegated this authority by the Secretary.

C. Procedures For Requesting Restoration of Leave

1. Requests for restoration of annual leave may be initiated by the employee or by any level of management in the employee’s organizational line below the approving official. \*The information required in such requests must follow the format outlined in Attachment I and must include the following:
  - a. A request for restoration of leave lost because of administrative error must include a description of the events which caused the error, the date(s) of the events, the amount of leave forfeited as a result of the error(s) and supporting official’s statement attesting to the events in question and the amount of forfeited leave.

- b. A request for restoration of leave lost because of an exigency of the public business must include a copy of the SF-71 (Application for Leave) or other approval documents showing the calendar dates and amount of scheduled annual leave, the date of approval, and signature of approving official, and state the nature of the exigency, whether there was any alternative to the cancellation of leave, the reasons why the employee who forfeited leave was affected by the work requirement generated by the exigency, and the efforts made, if any, to reschedule the cancelled leave including:
    - the calendar date the cancelled leave was rescheduled for use; and
    - the date(s) during which the leave was rescheduled for use and the amount of leave that was rescheduled for use.
  - c. A request for restoration of leave lost because of sickness must include a copy of the SF-71 or other approval document showing the calendar dates and amount of scheduled annual leave, the date of approval, and signature of approving official, the beginning and ending dates of the sickness which interfered with the use of scheduled annual leave, and the efforts made, if any, to reschedule the forfeited leave including:
    - the calendar date the forfeited leave was rescheduled for use; and
    - the date(s) during which the leave was rescheduled for use and the amount of leave that was rescheduled for use.
2. If an exigency precluded the rescheduling and use of annual leave following the sickness, the claim must include the information required in paragraph 1c above. The approving official will review each individual case on its merits and will return disapproved requests through organization channels through which received.

He/she will forward a copy of the approval document showing the number of hours to be restored, date of restoration and his/her signature to the Department's payroll office. The original of the approval document and supporting papers will be retained until the restored leave has been used or upon expiration of the time limit for use of leave or separation.
  3. The payroll office will restore annual leave to a separate leave account where it will be available for use in accordance with the provisions of Office of Personnel Management regulations.



4. In the case of separation, if the restored leave is included in a lump sum payment, the payroll office will retain a copy of the approval document for the time required for the financial transaction.

D. Time Limits For Use of Restored Leave

1. The maximum time limit for use of restored leave, except for employees in a missing status, is the end of the leave year in which the two year anniversary date of restoration occurs.
2. The anniversary date is counted from:
  - a. The date the annual leave was restored is correcting an administrative error;
  - b. The date fixed by management as the termination of the exigency that resulted in the forfeiture of the annual leave; and
  - c. The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.
  - d. Example:

Date Leave Restored  
Leave

Time Limit for Use of Restored

September 11, 1990

End of 1992 leave year

- \*3. Annual leave of employees with restored unused leave must be charged first against their current year leave accruals if the leave balance is or will exceed 240 hours by the end of the leave year. However, in those instances where the restored leave will be forfeited at the end of that leave year, the restored leave must be used first since it cannot be restored again if it is forfeited.

Employees are responsible for recording whether approved leave is charged to annual leave or restored leave on their time and attendance forms. Leave approving officials are responsible for ensuring that approved annual leave is charged appropriately.

E. Lump Sum Payment for Restored Annual Leave

Employees who are separated are paid a lump sum for all unused accumulated annual leave at the time of separation. Unused restored leave is to be included in the lump sum payment.

VIII. GENERAL REQUIREMENT

All actions taken under this Instruction shall be exercised in accordance with applicable statutory, regulatory, policy, procedural, and program requirements, including any applicable collective bargaining agreements.

INFORMATION TO BE INCLUDED IN REQUEST FOR RESTORATION OF ANNUAL LEAVE

Part 1 (To be completed by employee)

\_\_\_\_\_  
Employee's Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Timekeeper Number

\_\_\_\_\_  
Number of hours of annual leave requested  
to be restored

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Part II (To be completed by the employee's leave approving official)

Justification:

If restoration is recommended because of exigency of public service, the following information must be provided by the leave approving official.

- The nature of the exigency – describe
- Date of decision that an exigency existed
- Beginning date of exigency
- Ending date of exigency
- Date on which leave was scheduled and approved. (Include copy of SF-71, Application for Leave, or other approval document showing calendar dates and amount of leave scheduled, date of approval and signature of leave approving official.)

\_\_\_\_\_  
Signature of leave approving official

\_\_\_\_\_  
Title of leave approving official

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Part III (To be completed by authorized approving official)

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date annual leave restored \_\_\_\_\_

\_\_\_\_\_  
Signature of approving official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of approving official

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**TABLE OF CHANGES**

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Page 12:

Section VIII:

Paragraph D.3, first sentence, delete and substitute:

Annual leave of employees with restored unused leave must be charged first against their current year leave accruals if the leave balance is or will exceed 240 hours by the end of the leave year. However, in those instances where the restored leave will be forfeited at the end of that leave year, the restored leave may be used first since it cannot be restored again if it is forfeited.

Reason: To ensure that employees' restored leave is not placed in jeopardy of forfeiture by an exigency of the public business.

See attached annotated PMI 630-2.

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**TABLE OF CHANGES**

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Page 9:

Section VIII:

Paragraph B.3, first sentence, delete and substitute:

**In the ED Headquarters, the authority is delegated to Senior Officers.**

Paragraph C.1 – second sentence, delete.

Reason: To delegate to Senior officers authority formerly held by the Assistant Secretary for Management to serve as Approving Official for restoration of annual leave.

This action is in response to Low Hanging Apple #77 as approved by the Executive Management Committee.

See attached annotated PMI 630-2.