



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

August 7, 2023

PERSONNEL BULLETIN NO: 23-09

SUBJECT: Scheduling of Annual Leave by Employees Determined Necessary to Respond to Certain National Emergencies

1. Purpose.

This Personnel Bulletin (PB) establishes the updated Department of the Interior's (Department) Bureaus/Offices guidelines to follow for restoring annual leave to eligible employees who would otherwise forfeit use or lose annual leave because of their work to support the nation during a national emergency. This policy replaces PB 20-11.

2. Authorities.

- A. Title 5 of the United States Code (U.S.C.), Chapter 63
- B. Part 630 of Title 5 Code of Federal Regulations (CFR)
- C. Public Law 118-3, Joint Resolution
- D. OPM's March 14, 2023, revised interim regulation in the Federal Register about ongoing exigencies in 5 CFR part 630.310
- E. Administrative Procedure Act (APA) and the Civil Service Reform Act (CSRA)'s parallel rulemaking provision allowing OPM to forego standard notice and comment procedures, and the standard 30-day delayed effective date, in certain circumstances

3. Coverage.

This policy will be followed when the Director of the U.S. Office of Personnel Management (OPM) deems future national emergencies to be an exigency of the public business for the purpose of restoring annual leave forfeited under 5 U.S.C. § 6304(d)(1)(B).

4. Definitions.

- A. Annual Leave. Annual leave is paid time off that an employee accrues in accordance with 5 USC § 6303 and Part 630 of 5 CFR. An employee may use annual leave for vacations, rest and relaxation, and personal business or emergencies. An employee has a right to request annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken.
- B. Use or Lose Annual Leave. "Use or lose" annual leave is the amount of accrued annual leave that is in excess of the employee's maximum annual leave limitation for carry-over into the next leave year. Employees must "use" their excess annual leave by the end of a leave year, or they will "lose" (forfeit) their unused leave.

- C. Essential Employees. For the purposes of this PB, the term essential employee means those employees who must report for work to perform services essential to the response to a national emergency as defined in the Primary Mission Essential Functions in the DOI Continuity of Operations Plan.
- D. Extended Exigency. An extended exigency means an exigency of such significance as to:
- (1) Threaten the national security, safety, or welfare;
 - (2) Last more than 3 calendar years;
 - (3) Affect a segment of an agency or occupational class; and
 - (4) Preclude subsequent use of both restored and accrued annual leave within the time limit specified in 5 CFR 630.306.
- E. Maximum Annual Leave. For most employees, the maximum annual leave that may be carried into the next leave year is 30 days (240 hours). Employees stationed overseas may carry over 45 days (360 hours) of annual leave. Members of the Senior Executive Service, Senior- Level, and Scientific and Professional employees may carry over 90 days (720 hours) of annual leave. Generally, an agency may restore annual leave that was forfeited due to an exigency of the public business or sickness of the employee 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, this is in late November or early December.
- F. National Emergency. A major disaster or emergency, as declared by the President, that results in severe, adverse effects for a substantial number of individuals (e.g., loss of life or property, serious injury, or mental illness resulting from a direct threat to life or health).

5. Responsibilities.

- A. Office of Human Capital. The Director, Office of Human Capital,¹ (The Deputy Chief Human Capital Officer) is delegated all program and management authority necessary to carry out the functions of the position as described in 112 DM 15; all administrative authorities described in 212 DM 1.1B, subject to the limitations; and any Personnel Management Authority described in 205 DM 8, subject to the limitations. The Office of Human Capital (OHC) will be responsible for:
- (1) Serving as the liaison between the Department and OPM;
 - (2) Notifying the Department's Bureaus/Offices through their Servicing Human Resources Offices (SHROs) of any declared National Emergencies and their termination dates.

¹ See delegation 212 DM 15

- (a) Declarations. When notified that the Director of OPM deems a specific national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601, et seq.) to be an exigency of the public business for the purpose of restoring forfeited annual leave under 5 U.S.C. 6304(d)(1)(B), the Office Human Capital will notify SHROs in writing of any required implementing procedures for communication/coordination with their Bureaus/Office.
- (b) Termination Date. When notified that the Director of OPM deems the national emergency to no longer be an exigency of the public business for purposes of forfeited annual leave authority, the Office of Human Capital will notify SHROs in writing of any required closeout procedures for communication/coordination with their Bureaus/Office. It is noted that the determination of this date must occur on the date one of the following events occurs, whichever is earliest:
 - (i) When the President declares an end to the national emergency;
 - (ii) When the Director of OPM deems the national emergency to no longer be an exigency of the public business for the purposes of this leave restoration authority;
 - (iii) When the Director, Office of Human Capital, (Deputy Chief Human Capital Officer) determines and sets a specific date as the termination date of the exigency of the public business within DOI in accordance with 5 CFR 630.310(f)(2)(iv);
 - (iv) On the day that is 12 months after the national emergency has been declared, or any extension provided by the Director, Office of Human Capital (Deputy Chief Human Capital Officer) for an additional 12 months; unless the OPM Director approves a time-limited waiver beyond the Director, Office of Human Capital, (Deputy Chief Human Capital), extension based on a critical agency need for the services of the covered employees;
 - (v) When an employee whose services were determined to be essential during the national emergency moves to a position not involving services determined by the agency to be essential to the response to the national emergency.
- (3) In accordance with 5 CFR 630.310 (h) (3); OHC will provide written decisions on Bureau/Office requests for exemptions for the remainder of the leave year, when coverage under the ongoing exigency terminates.
- (4) OHC will route exemption requests beyond 12 months to the Director of OPM as described in 5 CFR 630.310 (h) (4).

B. Servicing Human Resources Offices (SHROs). SHROs will be responsible for:

- (1) Serving as an advisor and assisting their Bureaus/Offices with all national exigencies leave restoration notifications, requests, and closeouts.
- (2) When requested, assisting Bureaus/Offices with analyzing factors that should be considered when determining who is essential in line with the criteria located in Appendix A.
- (3) Coordinating with the payroll center to assist the Bureaus/Office with leave restoration requests/closeouts and other needed transactions;
 - (a) When the ongoing exigency ends, Bureaus/Offices in consultation with their SHROs will promptly ensure that all restored annual leave under 5 U.S.C. 6304(d) to the employee's credit is consolidated and made subject to a single time limit that is determined under the rules in paragraph (d) of 5 CFR § 630.310, see Appendix B for examples.
- (4) Ensuring the maintenance of records for Bureau/Office case management purposes;
 - (a) Bureaus/Offices and SHROs are required to abide by all Privacy Act and privacy laws and regulations, as well as retention policies; and remind managers of the same responsibility.
- (5) Coordinating and advising the employees' supervisors and timekeepers on time Coding, and assisting Bureau/Office Directors to ensure essential employees do not schedule annual leave according to the normal procedures described in 5 CFR § 630.308(a).
- (6) Consulting with the OHC Work/Life Benefits Coordinator when there is a policy and/or accountability concern.

C. Bureau/Office Directors. Many of the responsibilities of the Secretary of the Interior have been delegated to the Bureau/Office Directors. The Bureau Directors will be accountable for carrying out the following responsibilities for employees in the Bureaus/Offices under their purview.

In consultation with their SHROs, Bureau Directors/Office are responsible for:

- (1) Identification. Once notified through their SHRO a national emergency is an exigency of the public business for purposes of annual leave restoration forfeited under 5 U.S.C. § 6304(d)(1)(B), Bureau/Office Directors will be required to identify any essential employees covered under this annual leave restoration authority who are performing services that are essential in responding to the national emergency. They must notify those individuals in writing of this

determination and its application to them.² Factors that should be considered when determining which employees are essential is in Appendix A.

- (a) As time passes, the services of fewer employees may be required in response to the national emergency. Therefore, the exigency of the public business may end as a whole or for a segment of those initially identified. The Bureau/Office Directors, in their sole and exclusive discretion, determine that the employee's or group of employees' services are no longer essential to the response to the national emergency or that such employees can once again adhere to the normal leave requesting procedures.
 - (2) Exemptions. Bureau/Office Directors may submit exemptions from the advance scheduling requirements for leave restoration for an employee previously determined to be necessary to respond to the national emergency only when the employee is covered by the ongoing exigency without a break in time as described in 5 CFR 630.310(h)(1).
 - (a) Requests for exemptions should be routed through your SHRO to the Director of the Office of Human Capital (Deputy Chief Human Capital Officer), no later than one work week after the third biweekly pay period prior to the end of the leave year, when the emergency use-or-lose, annual leave was supposed to have been scheduled.
 - (3) Monitoring. Bureau Office Directors will ensure essential employees do not schedule annual leave according to the normal procedures described in 5 CFR § 630.308(a) while covered by the regulations in this PB.
 - (4) Coordinating with the Payroll Office. When the ongoing exigency ends, Bureaus/Offices in consultation with their SHROs, will ensure that all restored annual leave under 5 U.S.C. 6304(d) to the employee's credit is consolidated and made subject to a single time limit that is determined under the rules in paragraph (d) of 5 CFR § 630.310, see Appendix B of this PB for examples.
- D. Coordination with the Office of Emergency Management (OEM). The Office of the Human Capital Officer will continually consult with OEM on the reduction or changes to response postures to the national emergency OHC will solicit guidance from OEM who is charged with continually monitoring the emergency event through data collection and information management and provide consultation and support to the Bureaus/Offices.
- E. Essential Employees. Those employees determined as essential employees for the purposes of this PB will identify the use-or-lose annual leave that they are unable to use due to the emergency. Once the employees are no longer deemed essential employees and the restoration of leave is complete, the employee will use the restored leave within the specified timeframe or risk permanent forfeiture.

² Per 5 CFR 630.310(b)(1)(11)(2) An essential employee determination for this purpose may not be made by an official whose leave would be affected by the determination.

6. National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak Deadline.

- A. On March 14, 2023, OPM revised its regulation, adding a new paragraph (i) in § 630.310, which reads as follows: (i) Notwithstanding paragraph (f)(2)(iv), an agency extension granted through March 13, 2023, under that paragraph for an exigency established under this section based on the COVID–19 national emergency declared on March 13, 2020, must be deemed to continue through the date that the President ends that national emergency, which was April 10, 2023 based on the signing of Public Law 118-3. This meant that, any essential employee previously notified and granted a twelve-month extension due to the COVID-19 exigency under PB 20-11, was then extended to March 13, 2023, under OPM’s revised regulation, and then to April 10, 2023, when the President signed Public Law 118-3 ending the COVID-19 national emergency.
- B. It has been determined that the exigency date for Department employees previously notified as essential due to the COVID-19 exigency, will end in line with the President’s signature of Public Law 118-3 on April 10, 2023.
- C. Bureau Directors must consolidate all restored annual leave accounts in consultation with their SHROs within one pay period, as required by § 630.310(e) of the CFR, making this leave subject to a single time limit, as provided in § 30.310(h)(2) of the CFR.

In accordance with Appendix B:

- (1) This time limit is 2 years after 4-10-23 for employees with excess annual leave of 416 hours or less. That date is in the leave year (LY) 2025, which will begin on 1-12-2025 and end on 1-10-2026. The Department Bureau/Office will extend the expiration date by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof.
- (2) Based on OPM’s Leave Year Beginning and Ending Dates fact sheet³ the Deadline to Schedule "Use or Lose" Annual Leave covered under the COVID-19 national emergency is November 29, 2025, for those employees with excess annual leave of 416 hours or less.

7. Future National Emergencies. The procedures outlined in this policy will be used to address scheduling leave for essential employees in future national emergencies deemed to be an exigency of the public business by the Director of OPM.

8. Labor Management Obligations. Bureaus/Offices are reminded to fulfill their labor-management obligations, as appropriate, in implementing the requirements set forth in this PB.

³ <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-year-beginning-and-ending-dates/>

9. Inquiries. Any Department employee seeking further information concerning this policy may contact their SHRO for additional assistance. SHROs may contact the Department's Office of Human Capital concerning questions related to this policy.

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Deputy Chief Human Capital Officer

Appendix A

Factors to Consider when determining if an Employee is an Essential Employee for the purposes of PB 23-09

[OPM](#) has instructed Federal Agencies that the head of an agency or their designee should identify and notify emergency personnel on an annual basis that they are emergency employees. Depending on the emergency, an agency may designate additional groups of employees who may be required to report for or remain at work.

Department Bureaus/Offices and SHROS are strongly encouraged to consult with their Emergency Management office when determining whether an employee is an essential employee for the purposes of this PB.

A critical question to be asked while determining if an employee is essential is, “Are the essential functions of the position determined to be critical activities to be carried out during the national emergency?”

Appendix B

Setting the Use by Date for Consolidated Restored Annual Leave Accounts

Upon termination of the COVID-19 national emergency, the SHRO in coordination with the Bureau/Office Director, must combine all restored annual leave accounts and set the “use by” date for the annual leave in the consolidated restored annual leave account.

The regulations found in 5 CFR 630.310 use a tiered approach to determine the deadline by which an employee must use the restored annual leave. This tiered approach to the use of restored annual leave means that employees with larger amounts of restored annual leave are provided a longer period to use the restored leave.

- Full-time employees must schedule, and use restored annual leave of 416 hours or less by the end of the leave year in progress, 2 years after the date fixed by the agency head (or designee) as the termination date of the national emergency exigency (or a related ongoing exigency). This period is extended by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof.
- Part-time employees must schedule, and use restored annual leave in an amount equal to or less than 20 percent of the number of hours in the employee’s scheduled annual tour of duty by the end of the leave year in progress 2 years after the date fixed by the agency head (or designee) as the termination date of the national emergency exigency (or a related ongoing exigency). This period is extended by 1 leave year for each additional number of hours of excess annual leave, or any 2-2 portion thereof, equal to 10 percent of the number of hours in the employee’s scheduled annual tour of duty.
- The regulations contain special conversion rules for employees on an uncommon tour of duty. (See note to 5 CFR 630.310(d)(1).)

COVID-19 National Emergency Exigency Use by Dates

The table below establishes “Use by” dates for employees whose annual leave was restored in 2022. The dates apply to those full-time employees whose coverage under a §630.310 national emergency exigency ended during the period 1-12-2023 through 1-10-2024. This date range is based on dates for which the 2-year anniversary will fall in LY 2025, which begins on 1-12-2025 and ends on 1-10-2026.

Balance of excess hours	“Use by” date
1-416	End of LY 2025 (Jan. 10, 2026)
417-624	End of LY 2026 (Jan. 9, 2027)
625-832	End of LY 2027 (Jan. 8, 2028)
833-1040	End of LY 2028 (Jan. 6, 2029)