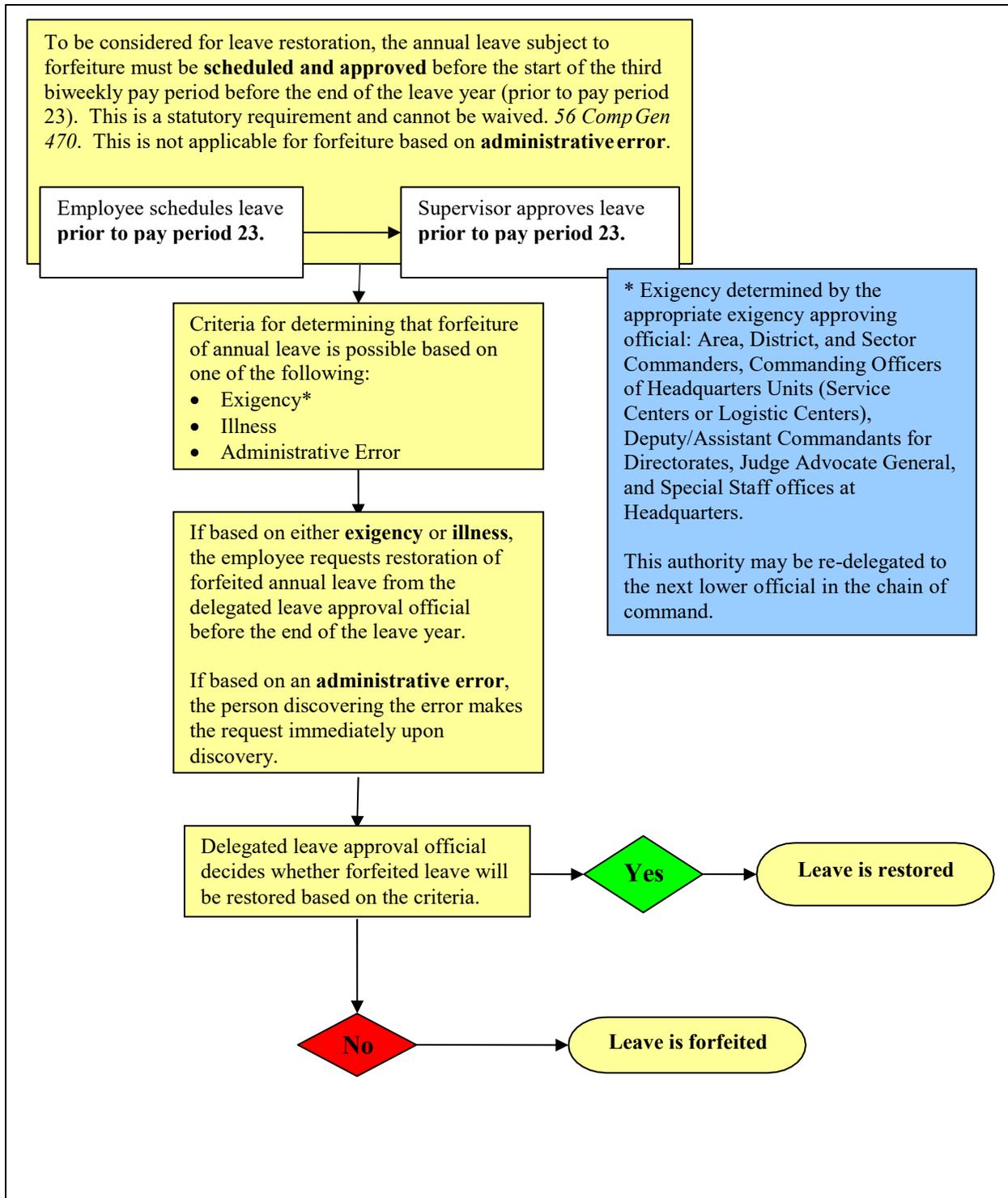




Office of Civilian Human Resources CG-12

Forfeited Annual Leave Restoration Process



Coast Guard Policy Guidance

This provides information that further explains the forfeited annual leave restoration process. An employee is limited in the amount of annual leave that may be carried over from one leave year to the next to, in most cases, **240 hours**. The leave earned over the maximum carryover limit is generally referred to as "use or lose" leave. With a few exceptions (outlined below), earned hours above the carryover limit not used before the end of the leave year are lost or "forfeited".

Each employee should ensure that his/her leave is scheduled for use throughout the leave year in order to avoid forfeiture. However, 5 U.S.C. 6304(d)(1)) allows an employee who will forfeit annual leave due to an **exigency of the public business, illness, or administrative error** to have that leave restored for future use. The intent of this regulation is to preserve employee benefits in the event of severe and unforeseen demands. It is **not** intended to provide an excuse for improper scheduling, planning or utilization of leave by employees or supervisors.

Reasons for restoration of forfeited annual leave

1. Exigency of public business:

- Annual leave subject to forfeiture due to an exigency of public business may be restored. An exigency is a work situation that makes urgent demands or requires immediate aid or action. It need not imply a single, isolated incident or emergency and is not to be equated to the demands of a normally heavy workload. However, even with the best planning and scheduling of annual leave throughout the year, crises or other unforeseen operational demands may occur and be of such importance as to preclude the use of previously scheduled leave by some employees.
- These exigencies must occur at such a time and be of such duration as to make it impossible to reschedule the annual leave (previously approved for use) before the end of the leave year.
- Restoring leave based on an exigency of public business requires a two step process. First, the exigency must be determined by the Exigency Approving Official. Next, a Delegated Leave Approval Official must determine whether the forfeited leave will be restored.

Exigency Approving Official:

- The determination that an exigency is of major importance (and therefore annual leave may not be used by an employee to avoid forfeiture) should be made by Area, District, and Sector Commanders, Commanding Officers of Headquarters Units (Service Centers or Logistic Centers), Deputy/Assistant Commandants for Directorates, Judge Advocate General, and Special Staff offices at Headquarters.
- This authority may be re-delegated to the next lower official in the chain of command.

Delegated Leave Approval Official:

- Once the exigency determination has been made, the individual authorized to approve advanced sick leave or extended leave without pay (personnel officer, managerial level or alternative approval source) will make a decision as to whether or not forfeited annual leave will be restored.
- The individual authorized to approve advanced sick leave or extended LWOP may also be delegated authority to approve restoration of annual leave forfeited due to illness or administrative error.

2. Illness:

- If annual leave is scheduled and approved, and the employee becomes ill, is injured or is affected by any other medical condition for which sick leave would be used, thereby preventing the use of the approved annual leave, the leave may qualify for restoration.
- To qualify, the period of absence due to illness would have to occur so late in the leave year, or be of such duration, that the annual leave could not be rescheduled and used in time to avoid forfeiture.
 - Note: Annual leave may not be substituted for sick leave previously granted where the substitution is made solely to avoid the forfeiture of annual leave. *31 Comptroller General 524 and 38 Comptroller General 354.*

3. Administrative Error:

- Annual leave forfeited because of an administrative error may be restored to an employee's account.
- If the person who is entitled to restoration due to administrative error is no longer employed in the Federal service, the restored leave is subject to credit by lump-sum payment if a claim is filed within 3 years immediately following the date of discovery of the error.

Time Limitations

For scheduling leave:

- In order to be considered for restoration, the annual leave must have been **scheduled AND approved (in writing or electronically) before the start of the third biweekly pay period prior to the end of the leave year** (before pay period 23, generally mid- to late- November each year). **This does not apply to forfeiture based on administrative error.**
 - A reminder notice of these requirements is issued via ANCHR and provided to all Command Staff Advisors and HR Specialist no later than 10 November of each year.
- The requirement that the leave be scheduled and approved for use in advance is a statutory requirement that may not be waived or modified even where extenuating circumstances exist.

For requesting restoration:

- In most cases, request for restoration of forfeited leave due to **exigency** or **illness** should be submitted to the delegated leave-approving authority *before* the end of the leave year in which the leave was forfeited. However, in extreme cases, requests may be accepted no later than 60 days *after* the end of the leave year in which forfeited. Requests received after that date, in the absence of the extenuating circumstances, will not be considered. **This does not apply to forfeiture based on administrative error.** Requests for restoration based on administrative error must be submitted immediately upon discovery.

For use of restored leave:

- **Exigency:**
 - Must be used **no later than the end of the leave year ending two years** after the date determined by management as the **termination date of the exigency** that resulted in the forfeiture.

- **Illness:**
 - Must be used **no later than the end of the leave year ending two years** after the date the employee is determined to be **recovered and able to return to duty**.
- **Administrative Error:**
 - Must be used **no later than the end of the leave year ending two years** after the date the **forfeited leave was restored** to the employee's account.

Separate Leave account

- Annual leave restored will be maintained in a separate leave account, and does not increase or change an employee's normal maximum permissible annual leave accumulation amount (generally 240 hours).