



**DEPARTMENT OF DEFENSE**  
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE  
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FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Mr. Daniel J. Hester

SUBJECT: Revised Interim Regulations on Scheduling Annual Leave by Employees  
Determined Necessary to Respond to Certain National Emergencies

AUDIENCE: Appropriated Fund and Nonappropriated Fund Personnel

ACTION: Disseminate to Department of Defense (DoD) Human Resources Practitioners and  
Hiring Managers

REFERENCES:

- a. U.S. Office of Personnel Management (OPM) Memorandum, "Revised Interim Regulations on Scheduling of Annual Leave by Employees Determined Necessary to Respond to Certain National Emergencies," dated March 14, 2023, <https://www.chcoc.gov/content/revised-interim-regulations-scheduling-annual-leave-employees-determined-necessary-respond>
- b. OPM Guidance "Information on Applying Restored Annual Leave Regulations in 5 CFR 630.310 in Connection with the Termination of the COVID-19 National Emergency," dated May 11, 2023 (attached)
- c. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Scheduling of Annual Leave by Employees Performing Services Determined to be Essential for the Response to Certain National Emergencies," dated October 28, 2020, [https://www.dcpas.osd.mil/sites/default/files/Emergency%20Preparedness%20annual\\_leave\\_restoration.pdf](https://www.dcpas.osd.mil/sites/default/files/Emergency%20Preparedness%20annual_leave_restoration.pdf)
- d. DoD Instruction (DoDI) 1400.25, Volume 630, "DoD Civilian Personnel Management System: Leave," May 8, 2015, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/140025/1400.25-V630.pdf>

BACKGROUND/INTENT: OPM issued reference (a) announcing revised interim regulations regarding the restoration of annual leave for employees who are essential to respond to certain national emergencies, such as the National Emergency Concerning the Novel Coronavirus Disease (COVID-19). To simplify the rules, the revised interim regulations automatically extended the COVID-19 national emergency exigency that had been initially set to end on March 13, 2023, to continue through the date that the President ended the COVID-19 national emergency, on April 10, 2023. Reference (b) is a supplemental OPM notification that provides general information about how to apply the recent interim regulations in connection with the ending of the national emergency.

The updated regulation permits an agency to authorize an extension, known as an "ongoing exigency," for employees who continue to perform work in connection with COVID-19 and its aftermath. Additionally, the updates provide for special treatment of restored annual leave

resulting from an agency-authorized ongoing exigency that is directly related to, and immediately follows the termination of, the national emergency. The updated regulations expand an agency's authority to exempt employees from the advance annual leave scheduling requirement in the leave year that a national emergency was terminated.

DoD issued the memorandum at reference (c) to implement OPM's interim regulations (August 10, 2020) on 5 CFR 630.310 streamlining the process for restoration of annual leave for employees determined to be essential for the response to certain national emergencies.

In accordance with reference (c) and the DoDI at reference (d), DoD Component Heads hold the authority to delegate, to the lowest practicable level, responsibility for administering 5 CFR 630.310. These delegations remain valid and as such, the DoD Components may implement the revised interim regulations and utilize the additional flexibilities as they determine necessary.

POINT OF CONTACT: Ms. Rosemary M. Meriwether, Associate Director, Employment and Compensation Policy, 571-232-3947, [rosemary.m.meriwether.civ@mail.mil](mailto:rosemary.m.meriwether.civ@mail.mil).

Attachment:

As stated

**U.S. Office of Personnel Management  
Pay and Leave  
May 11, 2023**

**Information on Applying Restored Annual Leave Regulations in 5 CFR 630.310  
in Connection with the Termination of the COVID-19 National Emergency**

OPM's Pay and Leave office has received questions from agencies about the effect of the termination of the COVID-19 national emergency on application of OPM's regulations on restored annual leave in [5 CFR 630.310](#), which were originally issued on [August 10, 2020](#) and amended on [March 14, 2023](#). Based on those agency inquiries, we decided it would be helpful to share the general information below.

On April 10, 2023, President Biden signed [Public Law 118-3](#), which ended the COVID-19 national emergency. (Click [here](#) for general information about the bill enacted as Public Law 118-3.) When the President signed the bill into law, he acted to end the national emergency as described in OPM's restored annual leave regulations at 5 CFR 630.310(f)(2)(i). That action triggered application of OPM's March 14, 2023, regulation about ongoing exigencies in § 630.310(h).

The White House provided [notice](#) in February that it anticipated terminating the COVID-19 national emergency on May 11, 2023; however, with the subsequent enactment of Public Law 118-3, the emergency officially ended on April 10, 2023. Any references to the anticipated termination date of May 11 in the supplementary information of the March 14 OPM regulation on restored leave should be understood to now refer to April 10.

The March 14, 2023, OPM regulation added 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.

This means that, if an agency established a COVID-19 national emergency **exigency** for certain employees and had approved the maximum extension through March 13, 2023 (due to the limit of two 12-month extensions—see 5 CFR 630.310(f)(2)(iv)), that extension would be further extended through the date the President ends the national emergency. Based on the signing of Public Law 118-3, that date was April 10, 2023.

An agency may need to take additional action in connection with the termination of the COVID-19 national emergency on April 10, 2023, as follows:

- If an agency had no employees whose coverage under a COVID-19 national emergency exigency ended on April 10, 2023, no new agency action would be required.
- If the agency had employees whose coverage under a COVID-19 national emergency exigency ended on April 10, 2023, and does not determine that those employees are covered by an ongoing exigency as described in § 630.310(h), the agency would need to consolidate all restored annual leave accounts at that time, as required by § 630.310(e) and determine the applicable time limit for using the consolidated restored annual leave under § 630.310(d). (See table at the end of this document.) Under § 630.310(g), an agency may exempt such employees from the requirement to schedule annual leave in advance (as normally required under § 630.308(a)) for this leave year (2023).

- If the agency had employees whose coverage under a COVID-19 national emergency exigency ended on April 10, 2023, and determines those employees are covered by an ongoing exigency as described in § 630.310(h), the agency must apply the provisions in § 630.310(h). For the entire period during which the ongoing exigency is in effect, the employee will not be subject to (1) time limits on usage of any restored leave to the employee’s credit and (2) the advance scheduling requirements in § 630.308(a). When the ongoing exigency ends, all restored leave to the employee’s credit will be consolidated at that time and made subject to a single time limit, as provided in § 630.310(h)(2). (Note: Under § 630.310(h)(4), an ongoing exigency will automatically expire after 12 months unless the agency requests, and the OPM Director approves, a time-limited waiver based on a critical agency need for the services of the covered employees.)

If the national emergency exigency ended on 4-10-2023, the date that is 2 years after that date is 4-10-25. That date is in the leave year (LY) 2025, which will begin on 1-12-2025 and end on 1-10-2026. (See [Leave Year Beginning and Ending Dates fact sheet](#).) Thus, if the employee’s excess balance is 416 hours or less, the “use by” date would be the end of LY 2025, 1-10-2026. See table below:

“Use by” dates for full-time employees whose coverage under a § 630.310 national emergency exigency ended during the period 1-12-2023 through 1-10-2024*	
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)

\* 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.