

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 1050.2: Home Leave for Personnel Posted Abroad

Issue Date: April 21, 2020

Superseded: ICE Directive 1050.1, *Home Leave for Personnel Posted to Attaché Offices in Foreign Countries* (August 29, 2016)

Federal Enterprise Architecture Number: 306-112-002a

1. **Purpose/Background.** The purpose of this Directive is to establish U.S. Immigration and Customs Enforcement (ICE) policy on the accrual and approval of home leave for eligible ICE employees posted abroad, as well as funding home leave travel.¹ Home leave is a period of approved absence with pay earned by eligible employees posted abroad. Accrual of home leave is an entitlement governed by statute and regulation; however, ICE has discretion in granting home leave and funding home leave travel.² This Directive does not apply to bargaining unit employees (BUEs) and therefore imparts no change in existing practice for BUEs.
2. **Policy.** Accrual of home leave is authorized by statute and regulation for eligible employees. Use of home leave and payment for travel associated with home leave is granted at the discretion of the Directorate or Program Office. ICE Directorates and Program Offices may develop implementation guidance and requirements specific to their Directorate or Program Office, subject to this Directive.
 - 2.1. **Home Leave Accrual.** Accrual of home leave begins when an eligible employee arrives at a post abroad.³ Home leave accrual ends when the employee departs from the post abroad for separation or to return to a post in the United States, or on the date of separation from duty when separated abroad. The term “abroad” refers to a duty station outside the United States or in a U.S. Commonwealth, Territory, or Possession (CTP) if the U.S. CTP is not the employee’s place of residence.⁴ Employees posted to duty stations in the United States may not accrue home leave. Residents of a U.S. CTP whose duty station is in the same U.S. CTP where they were locally hired are not eligible to accrue home leave. Balances of accrued home leave will not be paid out to the employee upon separation from ICE or upon retirement. Home leave balances are transferable if the employee transfers to another federal agency.

¹ This Directive does not impact U.S. Department of Homeland Security (DHS) or ICE procedures or practices governing foreign tours of duty, including foreign tour renewal agreements.

² See Title 5, United States Code (U.S.C.) § 6305; Title 5 Code of Federal Regulations (C.F.R.) §§ 630.601 - 630.607.

³ Employees recruited from one CTP for assignment in a different CTP will have their entry on duty date in the new CTP serve as the date from which home leave accrues.

⁴ An employee physically residing in a CTP where he or she is employed is generally not eligible for home leave even if the employee’s legal residence is elsewhere, in accordance with 5 U.S.C. § 6304(b).

For each 12 months of service abroad, an employee accrues home leave at the following rate, provided the conditions of eligibility are met:⁵

1) 15 days:

- a) An employee who accepts an appointment to, or occupies, a position for which the agency has prescribed the requirement that the incumbent accept assignments anywhere in the world as the needs of the agency dictate;
- b) An employee who is serving with a U.S. mission to a public international organization; or
- c) An employee who is serving at a post for which payment of a foreign or non-foreign (but not a tropical) differential of 20 percent or more is authorized by law or regulation.

2) 10 days:

- a) An employee not included in paragraph (1) (a), (b), or (c) of this section who is serving at a post for which payment of a foreign or territorial (but not a tropical) differential of at least 10 percent, but less than 20 percent, is authorized by law or regulation.

3) Five (5) days:

- a) An employee not included in paragraph (1) (a), (b), or (c), or paragraph (2) of this section.

4) Zero (0) days:

- a) An employee included under (1) (a) through (3) of this section whose civilian service abroad is interrupted by a tour of duty in the Armed Forces of the United States, for the duration of such tour.

2.2 Granting Home Leave. Headquarters Responsible Officials (HROs) may approve or deny requests to use home leave in their discretion, subject to this Directive and with consideration for mission needs, resources, and the best interests of the Agency.

ICE, in its discretion, may approve the use of accrued home leave for eligible employees only. The employee is required to complete 24 months of continuous service abroad before the use of accrued home leave may be granted. Home leave may be granted only during an employee's posting abroad, or within a reasonable period after completion of such posting when it is contemplated that the employee will return to service abroad immediately or on completion of an assignment in the United States. Home leave may be

⁵ See 5 U.S.C. § 6305; 5 C.F.R. §§ 630.604 – 630.605.

granted only if the eligible employee has achieved a “meets expectations” or above on his or her last annual rating of record; the employee cannot be serving on a performance improvement plan.

Eligible employees posted to offices in foreign countries may be granted home leave only after they have completed their initial foreign tour and a request for an extension of the initial tour is approved. Rest and Recuperation travel is subject to U.S. Department of State guidance and cannot be combined with home leave travel.

Eligible employees posted to a U.S. CTP may be granted home leave only during the first five years after their entry on duty date at the U.S. CTP duty location, in the discretion of the HRO.

Home leave may only be used in the United States, or in a U.S. CTP. Home leave may not be granted for use in the employee’s duty post. Home leave grants may not exceed one week for each four months of service abroad. Home leave may be granted in combination with other forms of leave of absence, such as annual leave.

2.3 Funding Home Leave Travel. When an eligible employee is granted use of home leave and funding for travel is requested and approved, ICE will provide payment or reimbursement of travel expenses, including travel costs for immediate family members if approved, to the employee’s place of residence at the time of appointment abroad. Payment or reimbursement of travel expenses is subject to Directorate or Program Office discretion, based on mission needs, resources, and the best interests of the agency. Provided that travel funding is available and approved by the HRO, eligible employees and their immediate family members may utilize the cost construction method to travel to an alternate destination other than their place of residence at the time of appointment abroad that does not exceed the lowest economical cost utilizing a designated Government Travel Agency. HROs must adjudicate travel funding requests for eligible employees within their Directorate or Program Office.⁶

Approval for funding of home leave travel is subject to the employee serving an additional 12 months abroad.⁷ If the employee fails to serve the 12 additional months at a duty location abroad, any home leave travel expense reimbursement which he or she receives is recoverable as debts due to the United States and must be repaid.⁸

3. Definitions. The following definitions apply for the purposes of this Directive only.

⁶ Directorates and Program offices have discretion to fund transportation, lodging, and/or per diem for an employee and their immediate family members.

⁷ See 5 U.S.C. § 5728 and 41 C.F.R. §§ 302-3.209 – 302-3.228. Also see related forms that employees posted to offices in foreign countries and employees posted to U.S. CTPs must use when requesting home leave and associated funding for travel.

⁸ If ICE determines that it is in the Agency’s interest to reassign the employee to a new duty station less than 12 months after granting home leave, ICE may waive the refund of home leave.

- 3.1. Abroad.**⁹ A duty station outside of the United States, or in a U.S. CTP if the U.S. CTP is not the employee's place of residence.
- 3.2. Eligible Employees.** ICE employees posted abroad whose place of residence is in the United States and who meet the statutory requirements for the accumulation of a maximum of 45 days (360 hours) of annual leave.¹⁰ This includes ICE employees who are serving in a CTP, provided the CTP where he or she serves is not his or her place of residence.¹¹
- 3.3. Headquarters Responsible Officials (HROs).** Executive Associate Directors (EADs) of Enforcement and Removal Operations, Homeland Security Investigations (HSI), and Management and Administration (M&A); the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility; and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, Chief of Staff, or EAD for M&A.
- 3.4. Immediate Family.** Any of the following named members of the employee's household at the time he/she reports for duty at the new permanent duty station or performs other authorized travel involving family members:
- (1) Spouse or domestic partner;
 - (2) Dependent children¹² of the employee, of the employee's spouse, or of the employee's domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support;
 - (3) Dependent parents (including step and legally adoptive parents) of the employee, of the employee's spouse, or of the employee's domestic partner; and
 - (4) Dependent brothers and sisters (including step and legally adoptive brothers and sisters) of the employee, of the employee's spouse, or of the employee's domestic partner, who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support.¹³
- 3.5. Place of Residence.** For purposes of determining eligibility to accrue home leave, place of residence means documented physical residence at the time of initial appointment abroad. For purposes of funding home leave travel, place of residence means current documented permanent address. Place of residence is evidenced by the mailing address listed on the employee's official personnel forms; the state to which the employee pays income and/or personal property taxes; and/or any other written documentation establishing a documented place of residence.¹⁴

⁹ See 5 C.F.R. § 630.601.

¹⁰ See 5 U.S.C. § 6304(b).

¹¹ This includes employees who are not normally residents of the area concerned and who are discharged from the armed forces to accept Federal civilian employment.

¹² The term "children" shall include natural offspring; stepchildren; adopted children; grandchildren, legal minor wards or other dependent children who are under legal guardianship of the employee, of the employee's spouse, or of the domestic partner; and an unborn child(ren) born and moved after the employee's effective date of transfer.

¹³ See 41 C.F.R. § 300-3.1.

¹⁴ ICE retains the discretion to assess employees' place of residence at any time to ensure that employees are eligible to accrue home leave or are eligible for travel expense payments or reimbursement pursuant to statute, regulation,

3.6. United States. The 50 States and the District of Columbia.

3.7. U.S. Commonwealth, Territory, and Possession (CTP). American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

4. Responsibilities.

4.1. HROs, or their designees, are responsible for:¹⁵

- 1) Ensuring compliance with the provisions of this Directive within their Directorate or Program Office;
- 2) Adjudicating requests to grant use of home leave and fund home leave travel for employees posted abroad;
- 3) Assessing employees' place of residence during the adjudication process of home leave and funding requests; and
- 4) Developing implementation guidance and program requirements specific to their Directorate or Program Office, as needed, subject to this Directive.

4.2. The **Chief Human Capital Officer** is responsible for maintaining accurate records of the hours of home leave accrued by and granted to employees.

4.3. ICE Supervisors are responsible for reviewing requests by employees for home leave and travel funding and forwarding those requests through their chain of command for adjudication.

4.4. ICE Employees are responsible for:

- 1) Submitting required documentation for home leave and travel funding requests to their supervisor; and
- 2) Complying with the provisions of this Directive.

5. Procedures/Requirements.

5.1. Home Leave Requests.

and DHS and ICE policies, procedures, and practices. The factors listed in the place of residence definition are not all inclusive. Place of residence determinations are made on a case-by-case basis, based on the totality of the circumstances.

¹⁵ HROs may designate authority to approve or deny home leave grant requests. However, funding requests and place of residence assessments must be adjudicated by the HRO or at the Headquarters Senior Executive Service (SES) level only.

- 1) Employees posted abroad must submit a home leave request in webTA[®].¹⁶
- 2) Employees assigned to offices in foreign countries must complete the “Foreign Tour Renewal Agreement” (ICE Form 73-051) to submit to their supervisor for adjudication through their chain of command. Once the employee receives approval of his or her foreign tour renewal, he or she must submit the “Request for Tour Renewal Travel and Home Leave” (ICE Form 73-052) within 30 calendar days to his or her supervisor for adjudication through his or her chain of command.
- 3) Employees assigned to a U.S. CTP must complete the “Home Leave and Related Travel Request for Personnel Assigned to a U.S. Commonwealth, Territory, or Possession” (ICE Form 73-058) to submit to their supervisor for adjudication through their chain of command.
- 4) During the adjudication process of home leave and travel funding requests, the employee’s place of residence will be assessed.
- 5) Employees will be notified by their supervisor when home leave and travel funding requests have been adjudicated and will be provided with a written explanation for any denials.

6. Recordkeeping.

- 1) The “Foreign Tour Renewal Agreement” (ICE Form 73-051) will be maintained by the Office of Human Capital in the Official Personnel Folder (OPF). These records will be retained until superseded or obsolete, or upon separation or transfer of the employee, whichever is earlier, in accordance with General Records Schedule 2.2, item 041.
- 2) The “Request for Tour Renewal Travel and Home Leave” (ICE Form 73-052) will be maintained by the HSI International Resource and Financial Management Unit; Finance, Acquisition, and Asset Management Division 1; Mission Support. These records will be retained for six years after final payment or cancellation in accordance with General Records Schedule 1.1, item 010.
- 3) The “Home Leave and Related Travel Request for Personnel Assigned to a U.S. Commonwealth, Territory, or Possession” (ICE Form 73-058) will be maintained in the employee’s local personnel file by the appropriate field office official in the Supervisors’ Personnel Files. These records will be reviewed annually and destroyed when superseded. Any remaining documents will be destroyed one year after the employee’s separation or transfer in accordance with General Record Schedule 2.2, item 080.

¹⁶ Home leave may be requested by submitting the “Request for Leave or Approved Absence” (OPM Form SF-71) in the event that an employee does not have access to webTA.[®]

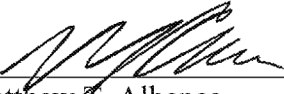
7. Authorities/References.

- 7.1. 5 U.S.C. § 6305, *Home Leave; leave for Chiefs of Mission; leave for crews of vessels* (2018).
- 7.2. 5 U.S.C. § 6304, *Annual leave; accumulation* (2018).
- 7.3. Title 5, Code of Federal Regulations (C.F.R.) §§ 630.601 – 630.607, *Home Leave* (2018).
- 7.4. 5 U.S.C. § 5728, *Travel and transportation expenses; vacation leave* (2018).
- 7.5. 41 C.F.R. §§ 302-3.209 – 302-3.228, *Overseas Tour Renewal Agreement and Prior Return of Immediate Family Members* (2018).

8. Attachments.

- 8.1. ICE Form 73-051, “Foreign Tour Renewal Agreement.”
- 8.2. ICE Form 73-052, “Request for Tour Renewal Travel and Home Leave.”
- 8.3. ICE Form 73-058, “Home Leave and Related Travel Request for Personnel Assigned to a U.S. Commonwealth, Territory, or Possession.”

9. No Private Right. This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



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