

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**  
**ICE Policy System**

<b>DISTRIBUTION:</b>	<b>ICE</b>
<b>DIRECTIVE NO.:</b>	<b>1-4.0</b>
<b>ISSUE DATE:</b>	<b>October 30, 2007</b>
<b>EFFECTIVE DATE:</b>	<b>October 30, 2007</b>
<b>REVIEW DATE:</b>	<b>October 30, 2010</b>
<b>SUPERSEDES:</b>	<b>See Section 3 Below.</b>

**DIRECTIVE TITLE: CREDITABLE SERVICE FOR ANNUAL LEAVE ACCRUAL**

1. **PURPOSE and SCOPE.** This Directive establishes the U.S. Immigration and Customs Enforcement (ICE) policy and procedures regarding credit for non-Federal and active duty uniformed service that otherwise would not be creditable for determining an employee's annual leave accrual rate. It supports and complies with the provision of the Federal Workforce Flexibility Act of 2004 which provides an agency with the authority to grant a newly appointed or reappointed employee credit for prior work experience that otherwise would not be creditable for the purpose of determining the employee's annual leave accrual rate. This authority is a recruitment incentive to be used to place well-qualified employees in difficult-to-fill positions. This Directive applies only to a newly appointed employee or an employee who is reappointed following a break in service of at least 90 calendar days from the date of his or her last period of Federal civilian employment. An employee must have received his or her first Federal appointment, or must have returned to Federal service after a break in service of at least 90 calendar days, on or after April 28, 2005.
2. **AUTHORITIES/REFERENCES.**
  - 2.1. Federal Workforce Flexibility Act, § 202(a), title 5 United States Code (U.S.C.) § 6303 (2004).
  - 2.2. Title 5 Code of Federal Regulations Part 630.205(c).
  - 2.3. Department of Homeland Security Chief Human Capital Officer Memorandum dated February 17, 2006, Subject: Annual Leave Enhancements.
  - 2.4. U.S. Office of Personnel Management Guide to Processing Personnel Actions, Chapter 6, Creditable Service for Leave Accrual.
3. **SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive is the originating and establishing Directive for ICE policy on crediting non-Federal and active duty uniformed service for determining an employee's annual leave accrual rate.
4. **BACKGROUND.** The Federal Workforce Flexibility Act, § 202(a) amended 5 U.S.C. § 6303 provides that a newly appointed or reappointed employee may receive service credit

for prior non-Federal service or active duty uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. The Agency head or designee must determine that the skills and experience the employee possesses were acquired through performance in a non-Federal or active duty uniformed service position having duties which directly relate to the position to which he or she is being appointed and that are necessary to achieve an important agency mission or performance goal.

## 5. DEFINITIONS.

**5.1. Annual Leave.** An employee may use annual leave for vacations, rest and relaxation, and personal business or emergencies. An employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken. An employee will receive a lump-sum payment for accumulated and accrued annual leave when he or she separates from Federal service or enters on active duty in the armed forces and elects to receive a lump-sum payment.

**5.2. Annual Leave Accrual Rates:** See the following chart.

<b>Employee Type</b>	<i>Less than 3 years of service</i>	<i>3 years but less than 15 years of service</i>	<i>15 or more years of service</i>
<b>Full-time employees</b>	½ day (4 hours) for each pay period	¾ day (6 hours) for each pay period, except 1¼ day (10 hours) in last pay period	1 day (8 hours) for each pay period
<b>Part-time employees</b>	1 hour of annual leave for each 20 hours in a pay status	1 hour of annual leave for each 13 hours in a pay status	1 hour of annual leave for each 10 hours in a pay status
<b>Uncommon tours of duty</b>	Multiply 4 hours times average # of hours per biweekly pay period <b>divided by 80</b> = biweekly accrual rate.	Multiply 6 hours times average # of hours per biweekly pay period <b>divided by 80</b> = biweekly accrual rate.	Multiply 8 hours times average # of hours per biweekly pay period <b>divided by 80</b> = biweekly accrual rate.

**5.3. The Principal Field Officers (PFOs)** of the ICE Operational Program Offices are the Office of Investigations Special Agents in Charge (SACs); Office of Professional Responsibility SACs; Office of International Affairs Attachés; Detention and Removal Operations (DRO) Field Office Directors (FODs); Federal Protective Service Regional Directors (RDs); Office of Intelligence Field Intelligence Unit Directors (FIUs); Office of the Principal Legal Advisor (OPLA) Offices of the Chief Counsel; and other officials as designated in writing by the ICE Assistant Secretary.

- 5.4. The **Principal Headquarters Officers (PHOs)** are the Assistant Secretary, Deputy Assistant Secretaries, Program Office Directors, the Principal Legal Advisor, Deputy Directors, Assistant Directors, and Deputy Assistant Directors.
- 5.5. **Uniformed service positions** include those in the following:
- 1) United States (U.S.) Army, Navy, Marine Corps, Air Force, or Coast Guard.;
  - 2) U.S. Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve;
  - 3) U.S. Army National Guard or Air National Guard;
  - 4) U.S. Public Health Service Commissioned Corps of the Public Health Service; or
  - 5) Any other category of persons designated by the President in time of war or emergency.
- 5.6. **Creditable Service.** In general, any service for which credit is allowed for the purpose of determining annual leave accrual rates. For purposes of this Directive, the work experience must be directly related to the duties of the position.
6. **POLICY.** ICE will grant a newly appointed or reappointed employee credit for prior work experience that otherwise would not be creditable for the purpose of determining the employee's annual leave accrual rate. This authority will be used to place well-qualified employees in difficult-to-fill positions.
7. **RESPONSIBILITIES.**
- 7.1. **Under delegation from the Assistant Secretary, ICE, the Deputy Assistant Secretaries for Operations and Management** are responsible for approval or disapproval of recommendations for additional annual leave accrual rates for programs under their direction. The respective Deputy Assistant Secretary may delegate this authority to the Director, Office of Human Capital.
- 7.2. **Principal Headquarters Officers and Principal Field Officers** are responsible for recommending service credit under this program based on the guidance contained in this Directive.
- 7.3. **Selectees** must provide their prospective supervisor with written documentation of their non-Federal or uniformed service work experience.
- 7.4. **The Director, Office of Human Capital (OHC)** is responsible for reviewing requests for service credit and determining the appropriate leave rate based on analysis of the employee's documented service record. The Director, OHC, recommends approval or

disapproval to the Assistant Secretary of requests for service credit. If designated, the Director, OHC, approves or disapproves requests for service credit.

- 7.5. Servicing Human Resources Specialists** will provide selecting officials with a copy of the justification and documentation for each grant of credit. Additionally, the servicing Human Resources Specialist will file the documentation for the grant of credit in the employee's official personnel folder or e-OPF upon the employee's entrance on duty.

## **8. PROCEDURES.**

- 8.1. Coverage.** This Directive applies to permanent Competitive or Excepted Service appointments of:

- 1) A newly appointed employee with skills and experience essential to the position that were acquired through performance in a non-Federal position having duties that directly relate to the position to which the individual will be appointed;
- 2) A retired member of the uniformed service with skills and experience essential to the position that were acquired through performance in the uniformed service that directly relate to the position to which the individual will be appointed; or
- 3) A former Federal employee with skills and experience essential to the position that were acquired through performance in a non-Federal position or in the uniformed service and having duties that directly relate to the position to which the individual will be appointed following a break in service of 90 calendar days from the date of his or her last period of civilian Federal employment.

This Directive does not apply to former non-retired active duty members coming to civilian employment. Such candidates are entitled to full credit for the time spent on active duty. A retired service member is generally entitled to service credit equivalent to the time spent on active duty while engaged in a campaign or expedition (i.e., combat operations). This Directive allows such candidates service credit as described in paragraph (2) above. This credit may exceed that for which the applicant may be eligible based on active duty service.

This Directive does not apply to current Federal employees hired before April 28, 2005. It does not apply to re-employment of annuitants.

- 8.2.** This authority may be used for appointments meeting the above criteria regardless of series or grade.
- 8.3.** The grant of service credit to an employee is discretionary and shall be determined on a case-by-case basis by the Assistant Secretary, or designee, prior to the effective date of appointment. In no case will the service credited to an employee exceed the actual amount of prior non-Federal or active duty uniformed service which the employee performed.



**8.4.** Non-Federal service or otherwise non-creditable active duty uniformed service is creditable only for the purposes of determining an employee's annual leave accrual rate.

**8.5. Effective Date for Receiving Credit for Non-Federal or Uniformed Service.**

- 1) Credit for non-Federal experience or otherwise non-creditable active duty uniformed service work experience is granted to the employee upon the effective date of his or her initial appointment or reappointment after a break in service of 90 calendar days and remains creditable for annual leave accrual purposes thereafter unless the employee fails to complete one full year of continuous service with ICE.
- 2) Upon completion of one full year of continuous service with ICE, the employee's non-Federal or otherwise non-creditable active duty uniformed service work experience is permanently credited for the purpose of his or her annual leave accrual rate for the duration of the employee's career. As such, the following provisions regarding separation or transfer after one year of continuous service will apply:
  - a) Any annual leave accrued or accumulated by an employee as a result of receiving credit for service under this authority will be transferred as part of the annual leave balance to the new employing agency if the employee is transferring to a position to which annual leave may be transferred.
  - b) The agency will make a lump sum payment for any unused annual leave if the employee is separating from Federal service or moving to a position to which annual leave cannot be transferred.

**8.6.** The granting of service credit for annual leave accrual affects only the SCD-Leave. It has no effect on any other service computation dates, e.g., retirement.

**8.7.** Selecting officials or prospective supervisors wishing to request additional service credit for a prospective new hire must prepare and submit a memorandum through their respective PFO or PHO to the Director, OHC. The supervisor will coordinate with OHC to prepare the request. Each request must include:

- 1) A completed "ICE Creditable Service for Annual Leave Accrual" form signed by the PHO, PFO, or designee.
- 2) A description of internal and external recruiting efforts and how the candidate was ranked.
- 3) Written documentation outlining work experience that is directly related to the duties of the position. This documentation may be a resume, SF-171, an OF-612, or other written documentation. The servicing Human Resources Specialist shall verify the information provided by the employee. The selectee must provide written

documentation from the military services to receive credit for active duty uniformed service.

- 4) An explanation of why the position is difficult to fill and how the use of the authority is necessary to achieve an important agency mission or performance goal. The determination that the position is hard to fill should be based on demonstrated recruiting factors such as (but not limited to):

- a) Inadequate numbers of qualified applicants in the local commuting area;
- b) High turnover and low retention rates;
- c) Minimal results from repeated advertisements (vacancy announcements);
- d) Documentation of inadequate numbers of qualified applicants;
- e) Low acceptance rates; and/or
- f) High turnover in similar positions.

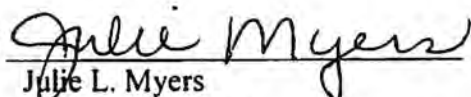
- 8.8. The Director OHC will forward an approved request to the Assistant Secretary for a final decision unless that authority has been delegated to the Director OHC.
- 8.9. Upon approval of the request, the servicing Human Resources Specialist will calculate the additional service credit to be granted and will provide a copy of the justification and documentation to the supervisor. A copy of the documentation will also be provided to the employee and filed in the employee's official personnel folder (or e-OPF) upon entrance of the employee on duty.
- 8.10. The additional service credit will be granted to the employee upon the effective date of his or her initial appointment or reappointment after a 90-day break in service.
- 8.11. If the employee separates from ICE or transfers to another Federal agency prior to completing one full year of continuous service, the employee is not entitled to retain the additional service credit. ICE must subtract the additional service credit from the employee's total creditable service, and a new service computation date for leave must be established before the employee separates or transfers to the new agency.
- 8.12. Any annual leave accrued by an employee as a result of the additional service credit belongs to the employee, even if he or she fails to complete one full year of continuous service with ICE. ICE must transfer the annual leave balance to the new employing agency if the employee is transferring to a position to which annual leave may be transferred, or provide a lump-sum payment for unused leave if the employee is separating from Federal service or moving to a new position to which annual leave cannot be transferred.

8.13. Once an employee completes one full year of continuous service with ICE, the period of service for which he or she was granted additional service credit for his or her non-Federal or active duty uniformed service work experience is permanently creditable for the purpose of determining his or her annual leave accrual rate for the duration of the employee's career.

9. **ATTACHMENT.** ICE Creditable Service for Annual Leave Accrual Form.

10. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

Approved



Julie L. Myers  
Assistant Secretary  
U.S. Immigration and Customs Enforcement

## U.S. Immigration and Customs Enforcement Creditable Service for Annual Leave Accrual

Applicant's Name:	Program Office and Component:	Position Title, Series and Grade:	Date of Hire:
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Brief Description of the Position:

Authority: Section (202) a of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 20, 2004) amends 5 U.S.C. 6303 to provide an employee who is covered by the Federal annual and sick leave program established under chapter 63 of title 5 U.S.C. to receive credit for prior non-Federal work experience or experience in a uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. An employee may receive credit if the non-Federal experience is essential to the new position and was obtained in a position having duties that directly relate to the duties of the ICE position to which the employee is being appointed and if it is determined by the agency that the use of this authority is necessary in order to achieve an important agency mission or performance goal.

***The following non-Federal experience or otherwise non-creditable uniform experience is directly related to the duties of the position. This request is being submitted for consideration for an adjustment to the annual leave accrual rate.***

Applicant's signature		Date		Recommending PHO's or PFO's Signature		Date
Employer:	Title:	From (Month, Yr):	To (Month, Yr):	Description of Related Duties:	Creditable Service Completed by HR	
					Yrs:      Mo:	
					Yrs:      Mo:	



<b>Employer:</b>	<b>Title:</b>	<b>From (Month, Yr):</b>	<b>To (Month, Yr):</b>	<b>Description of Related Duties:</b>	<b>Creditable Service Completed by HR</b>
					Yrs:      Mo:
<b>Employer:</b>	<b>Title:</b>	<b>From (Month, Yr):</b>	<b>To (Month, Yr):</b>	<b>Description of Related Duties:</b>	<b>Creditable Service Completed by HR</b>
					Yrs:      Mo:
<b>Employer:</b>	<b>Title:</b>	<b>From (Month, Yr):</b>	<b>To (Month, Yr):</b>	<b>Description of Related Duties:</b>	<b>Creditable Service Completed by HR</b>
					Yrs:      Mo:

**Agency Certification:**

I certify that the information on this form accurately reflects verified information contained in the application records in the custody of this agency and that the non-federal service reflected is creditable in determining the employee's annual leave accrual rate.

Total Recommended Leave Accrual Service:    Years:      Months:     

\_\_\_\_\_  
Human Resources Specialist

\_\_\_\_\_  
Date

**Agency Decision:**

☐ Approved

☐ Not Approved

\_\_\_\_\_  
Director, Office of Human Capital

\_\_\_\_\_  
Date