

i. When there is a change in the calendar year in which the years of service requirement is met, due to an employee's leave without pay, the employee shall be liable for any increased vacation leave that was not earned.

4. Vacation leave credits shall not accrue after an employee has resigned or retired although his or her name is being retained on the payroll until exhaustion of vacation or other compensatory leave.

(b) From initial employment up to the end of the first calendar year, annual paid vacation leave for full-time local employees shall be at least the amounts specified in (a)1 and (a)2 above. Thereafter their vacation leave shall be at least:

1. From the beginning of the first full calendar year of employment and up to 10 years of continuous service, 12 working days;

2. After 10 years of service and up to 20 years of continuous service, 15 working days; and

3. After 20 years of continuous service, 20 working days.

(c) Continuous service, for purposes of this section, shall mean employment for the same jurisdiction, or, if the requirements of N.J.A.C. 4A:4-7.1A are met, employment for different jurisdictions (except as provided in (d) below), without actual interruption due to resignation, retirement or removal.

1. An employee who has been appointed from a special reemployment list shall be credited with any continuous service prior to the layoff in addition to continuous service subsequent to reemployment.

2. Periods of employment before and after a suspension or leave without pay shall be considered continuous service. However, the period of time on a suspension or leave without pay, except for military leave, furlough extension leave and voluntary furlough, shall not be included in calculating years of continuous service.

3. An unclassified State employee, who is reappointed following a layoff under the provisions of a collective negotiations agreement, shall be credited with service prior to the layoff and shall continue to accrue service upon reappointment.

(d) Continuous service, for purposes of this section, shall not mean employment for different jurisdictions in the case of an intergovernmental transfer pursuant to N.J.A.C. 4A:4-7.1A of a firefighter, or where a law enforcement officer, including a sheriff's officer and a county correction officer, has waived all accumulated seniority rights.

(e) Part-time and 10-month employees shall be entitled to a proportionate amount of paid vacation leave. See N.J.A.C. 4A:3-3.8(f) for paid vacation leave to which State employees in intermittent titles are entitled.

(f) In State service, vacation leave may be granted and shall be recorded and tracked in hours.

(g) Appointing authorities may establish procedures for the scheduling of vacation leave. Vacation leave not used in a calendar year because of business necessity shall be used during the next succeeding year only and shall be scheduled to avoid loss of leave, provided, however, that:

1. In State service, vacation leave not taken by an employee in the career, unclassified or senior executive service in a given year because of duties directly related to a state of emergency declared by the Governor shall accumulate until, pursuant to a plan established by the employee's appointing authority and approved by the Commissioner of Personnel, the leave is used or the employee is compensated for that leave;

2. In State service, vacation leave not taken by an employee in the career, unclassified or senior executive service who is called to active duty in response to the continuing global war on terrorism, armed conflict with Iraq, or other areas of heightened tension throughout the world, including the defense of the Homeland Security of the United States, shall accumulate until, pursuant to a plan established by the employee's appointing authority and approved by the Commissioner of Personnel, the leave is used or the employee is compensated for that leave; and

3. In local service, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the employee's appointing authority and approved by the Commissioner of Personnel, the leave is used or the employee is compensated for that leave.

(h) An employee who leaves State government service or service with a local jurisdiction shall be paid for unused earned vacation leave, even if the employee has received an intergovernmental transfer in accordance with N.J.A.C. 4A:4-7.1A.

(i) An employee who exhausts all paid vacation leave in any one year shall not be credited with additional paid vacation leave until the beginning of the next calendar year. See N.J.A.C. 4A:6-1.5(b)2 for State service.

(j) Upon the death of an employee, unused vacation leave shall be paid to the employee's estate.

(k) See N.J.A.C. 4A:6-1.22 for the donated leave program.

(l) In State service, full-time 12-month and 10-month employees in the career, senior executive and unclassified services who have utilized up to 10 mandatory furlough days in 2009 and 2010 shall be credited with up to seven additional working days of paid vacation leave, regardless of years of service, as follows:

1. On July 1, 2009, all employees shall be credited with one paid leave day.

2. An employee shall earn one additional paid leave day for every two mandatory furlough days utilized, up to a maximum of five paid leave days earned for 10 mandatory furlough days utilized.

3. On June 30, 2010, all employees shall be credited with one additional paid leave day.

4. By July 1, 2010, all employees who utilized a total of 10 mandatory furlough days shall be credited with a total of seven paid leave days.

i. Employees who began State service after July 1, 2009 or who were in unpaid status for one or more pay periods between July 1, 2009 and June 30, 2010 and therefore utilized a prorated number of mandatory furlough days shall be credited with a prorated number of paid leave days in accordance with the schedules in N.J.A.C. 4A:6-1.2 Appendix A, incorporated herein by reference, for 10-month employees and N.J.A.C. 4A:6-1.2 Appendix B, incorporated herein by reference, for 12-month employees.

ii. Part-time employees who utilized a prorated number of mandatory furlough days shall be credited with a prorated number of paid leave days in accordance with the schedule in N.J.A.C. 4A:6-1.2 Appendix C, incorporated herein by reference, except that if a part-time employee meets the criteria in (a) above, the schedule in N.J.A.C. 4A:6-1.2 Appendix C shall be used in conjunction with the schedules in N.J.A.C. 4A:6-1.2 Appendices A or B, as applicable.

5. These additional paid leave days may be used beginning July 1, 2010 through June 30, 2011, subject to operational needs. Approval for the use and scheduling of these days shall not be unreasonably denied. If not taken in a given year because of business demands, these days shall accumulate and be granted during the next succeeding year only. In no case shall any such additional paid leave be carried beyond June 30, 2012.

6. An employee who leaves State government service shall be paid for unused earned paid leave.

7. Upon the death of an employee, unused paid leave shall be paid to the employee's estate.

8. The paid leave days granted under this subsection do not correlate with years of service and shall, therefore, be tracked separately from the vacation leave accumulated under (a)(2) above.

(m) Notwithstanding subsection (l) above, in State service, full-time 12-month and 10-month employees of the nine State

colleges and universities, with the exception of managers and those employees represented by the American Federation of Teachers who have utilized up to seven mandatory furlough days in 2009 and 2010, shall be credited with up to three additional working days of paid vacation leave, regardless of years of service, as follows:

1. An employee shall earn one paid leave day for every two mandatory furlough days utilized, up to a maximum of three paid leave days earned for seven mandatory furlough days utilized.

2. By July 1, 2010, all employees who utilized a total of seven mandatory furlough days shall be credited with a total of three paid leave days.

i. Employees who began State service after July 1, 2009 or who were in unpaid status for one or more pay periods between July 1, 2009 and June 30, 2010, and therefore utilized a prorated number of mandatory furlough days shall be credited with a **prorated number** of paid leave days in accordance with the schedules in N.J.A.C. 4A:6-1.2 Appendix D, incorporated herein by reference, for 10-month employees, and N.J.A.C. 4A:6-1.2 Appendix E, incorporated herein by reference, for 12-month employees.

ii. Part-time employees who utilized a prorated number of mandatory furlough days shall have their paid leave days adjusted in proportion to the number of mandatory furlough days utilized.

3. These additional paid leave days may be used beginning July 1, 2010 through June 30, 2011, subject to operational needs. Approval for the use and scheduling of these days shall not be unreasonably denied. If not taken in a given year because of business demands, these days shall accumulate and be granted during the next succeeding year only. In no case shall any such additional paid leave be carried beyond June 30, 2012.

4. An employee who leaves State government service shall be paid for unused earned paid leave.

5. Upon the death of an employee, unused paid leave shall be paid to the employee's estate.

6. The paid leave days granted under this subsection do not correlate with years of service and shall, therefore, be tracked separately from the vacation leave accumulated under a(2) above.

(n) Subsection (m) above shall not apply to employees of the nine State colleges and universities who utilized up to 10, rather than up to seven, mandatory furlough days. Such employees shall be subject to the provisions of subsection (l) above.

**APPENDIX A**  
**10-Month Employee Proration Chart**

**EMPLOYED (ACTIVE STATUS) ALL OF FY2010; NOT IN PAY STATUS ALL OF FY2010**

10 Month  
Employees

**NEW HIRES AND SEPARATIONS DURING FY2010**

				Active on both 7/1 & 6/30	Active on both 7/1 & 6/30	Active on both 7/1 & 6/30		Active on neither 7/1 nor 6/30	Active on either 7/1 only or 6/30 only	Active on either 7/1 only or 6/30 only	Active on either 7/1 only or 6/30 only
# of pay periods in pay status	SDF day obligation	Rounded SDF day obligation	Rounded PLB days	Bookend days accrued	Bookend hours accrued*	Bookend hours accrued*		Bookend days accrued	Bookend days accrued	Bookend hours accrued*	Bookend hours accrued*
					35 hr wk	40 hr wk				35 hr wk	40 hr wk
22	10.00	10	5.0	2.00	14.00	16.00		0.0	1.00	7.00	8.00
21	9.55	10	5.0	1.91	13.50	15.50		0.0	0.96	6.50	7.50
20	9.09	9	4.5	1.82	13.00	15.00		0.0	0.91	6.50	7.50
19	8.64	9	4.5	1.73	12.00	14.00		0.0	0.87	6.00	7.00
18	8.18	8	4.0	1.64	11.50	13.00		0.0	0.82	6.00	6.50
17	7.73	8	4.0	1.55	11.00	12.50		0.0	0.78	5.50	6.00
16	7.27	7	3.5	1.45	10.00	11.50		0.0	0.75	5.00	6.00
15	6.82	7	3.5	1.36	9.50	10.50		0.0	0.68	5.00	5.50
14	6.36	6	3.0	1.27	9.00	10.00		0.0	0.64	4.50	5.00
13	5.91	6	3.0	1.18	8.50	9.50		0.0	0.59	4.00	4.50
12	5.45	5	2.5	1.09	7.50	8.50		0.0	0.55	4.00	4.50
11	5.00	5	2.5	1.00	7.00	8.00		0.0	0.50	3.50	4.00
10	4.55	5	2.5	0.91	6.50	7.50		0.0	0.46	3.00	3.50
9	4.09	4	2.0	0.82	5.50	6.50		0.0	0.41	3.00	3.50
8	3.64	4	2.0	0.73	5.00	6.00		0.0	0.37	2.50	3.00
7	3.18	3	1.5	0.64	4.50	5.00		0.0	0.32	2.00	2.50
6	2.73	3	1.5	0.55	4.00	4.50		0.0	0.28	2.00	2.00
5	2.27	2	1.0	0.45	3.00	3.50		0.0	0.23	1.50	2.00
4	1.82	2	1.0	0.36	2.50	3.00		0.0	0.18	1.50	1.50
3	1.36	1	0.5	0.27	2.00	2.00		0.0	0.14	1.00	1.00
2	0.91	1	0.5	0.18	1.50	1.50		0.0	0.09	0.50	0.50
1	0.45	0	0.0	0.09	0.50	0.50		0.0	0.05	0.50	0.50
* rounded to nearest half hour:		.75 or above rounded up to full hour									
		.26 to .74 rounded to half hour									
		.01 to .25 rounded down to full hour									

### APPENDIX B 12-Month Employee Proration Chart

**EMPLOYED (ACTIVE STATUS) ALL OF FY2010; NOT IN PAY STATUS ALL OF FY2010**

12 month  
employees

**NEW HIRES AND SEPARATIONS DURING FY2010**

				Active on both 7/1 & 6/30	Active on both 7/1 & 6/30	Active on both 7/1 & 6/30	Active on neither 7/1 nor 6/30	Active on either 7/1 only or 6/30 only	Active on either 7/1 only or 6/30 only	Active on either 7/1 only or 6/30 only
# of pay periods in pay status	SDF day obligation	Rounded SDF day obligation	Rounded PLB days	Bookend days accrued	Bookend hours accrued*	Bookend hours accrued*	Bookend days accrued	Bookend days accrued	Bookend hours accrued*	Bookend hours accrued*
					35 hr wk	40 hr wk			35 hr wk	40 hr wk
26	10.00	10	5.0	2.00	14.00	16.00	0.0	1.00	7.00	8.00
25	9.62	10	5.0	1.92	13.50	15.50	0.0	0.96	6.50	7.50
24	9.23	9	4.5	1.85	13.00	15.00	0.0	0.92	6.50	7.50
23	8.85	9	4.5	1.77	12.50	14.00	0.0	0.88	6.00	7.00
22	8.46	8	4.0	1.69	12.00	13.00	0.0	0.85	6.00	7.00
21	8.08	8	4.0	1.62	11.50	13.00	0.0	0.81	5.50	6.50
20	7.69	8	4.0	1.54	11.00	12.50	0.0	0.77	5.50	6.00
19	7.31	7	3.5	1.46	10.00	11.50	0.0	0.73	5.00	6.00
18	6.92	7	3.5	1.38	9.50	11.00	0.0	0.69	5.00	5.50
17	6.54	7	3.5	1.31	9.00	10.50	0.0	0.65	4.50	5.00
16	6.15	6	3.0	1.23	8.50	10.00	0.0	0.62	4.50	5.00
15	5.77	6	3.0	1.15	8.00	9.00	0.0	0.58	4.00	4.50
14	5.38	5	2.5	1.08	7.50	8.50	0.0	0.54	4.00	4.50
13	5.00	5	2.5	1.00	7.00	8.00	0.0	0.50	3.50	4.00
12	4.62	5	2.5	0.92	6.50	7.50	0.0	0.46	3.00	3.50
11	4.23	4	2.0	0.85	6.00	7.00	0.0	0.42	3.00	3.50
10	3.85	4	2.0	0.77	5.50	6.00	0.0	0.38	2.50	3.00
9	3.46	3	1.5	0.69	5.00	5.50	0.0	0.35	2.50	3.00
8	3.08	3	1.5	0.62	4.50	5.00	0.0	0.31	2.00	2.50
7	2.69	3	1.5	0.54	4.00	4.50	0.0	0.27	2.00	2.00
6	2.31	2	1.0	0.46	3.00	3.50	0.0	0.23	1.50	2.00
5	1.92	2	1.0	0.38	2.50	3.00	0.0	0.19	1.50	1.50
4	1.54	2	1.0	0.31	2.00	2.50	0.0	0.15	1.00	1.00
3	1.15	1	0.5	0.23	1.50	2.00	0.0	0.12	1.00	1.00
2	0.77	1	0.5	0.15	1.00	1.00	0.0	0.08	0.50	0.50
1	0.38	0	0.0	0.08	0.50	0.50	0.0	0.04	0.50	0.50

\* rounded to nearest half hour: .75 or above rounded up to full hour  
 .26 to .74 rounded to half hour  
 .01 to .25 rounded down to full hour

**APPENDIX C**  
**Proration Chart for Part-Time Employees**

	UNPAID FURLOUGH HOURS REQUIRED IN FY2010	PAID LEAVE BANK DAYS ACCRUED			UNPAID FURLOUGH HOURS REQUIRED IN FY2010	PAID LEAVE BANK DAYS ACCRUED
P/T	HOURS IN	HOURS IN			HOURS IN	HOURS IN
PERCENTAGE	WORKWEEK	WORKWEEK			WORKWEEK	WORKWEEK
	OF TITLE	OF TITLE			OF TITLE	OF TITLE
	35	35			40	40
10	7	0.50			8	0.50
15	11	0.75			12	0.75
20	14	1.00			16	1.00
25	18	1.25			20	1.25
30	21	1.50			24	1.50
35	25	1.75			28	1.75
40	28	2.00			32	2.00
45	32	2.25			36	2.25
50	35	2.50			40	2.50
55	39	2.75			44	2.75
60	42	3.00			48	3.00
65	46	3.25			52	3.25
70	49	3.50			56	3.50
75	53	3.75			60	3.75
80	56	4.00			64	4.00
85	60	4.25			68	4.25
90	63	4.50			72	4.50
95	67	4.75			76	4.75

**APPENDIX D****10-Month State College and University Employee Proration Chart****Employed all of FY 2010 but not in Pay Status all of FY 2010**

# of pay periods in pay status	SDF Day Obligation	Rounded SDF Day Obligation	Rounded PLB Days
22	6.00	6	3.0
21	5.73	6	3.0
20	5.45	5	2.5
19	5.18	5	2.5
18	4.91	5	2.5
17	4.64	5	2.5
16	4.36	4	2.0
15	4.09	4	2.0
14	3.82	4	2.0
13	3.55	4	2.0
12	3.27	3	1.5
11	3.00	3	1.5
10	2.73	3	1.5
9	2.45	2	1.0
8	2.18	2	1.0

# of pay periods in pay status	SDF Day Obligation	Rounded SDF Day Obligation	Rounded PLB Days
7	1.91	2	1.0
6	1.64	2	1.0
5	1.36	1	0.5
4	1.09	1	0.5
3	0.82	1	0.5
2	0.55	1	0.5
1	0.23	0	0.0

**APPENDIX E****12-Month State College and University Employee Proration Chart****Employed all of FY 2010 but not in Pay Status all of FY 2010**

# of pay periods in pay status	SDF day obligation	Rounded SDF day obligation	Rounded PLB days
26	6.00	6	3.0
25	5.77	6	3.0
24	5.54	6	3.0

# of pay periods in pay status	SDF day obligation	Rounded SDF day obligation	Rounded PLB days
23	5.31	5	2.5
22	5.08	5	2.5
21	4.85	5	2.5
20	4.62	5	2.5
19	4.38	4	2.0
18	4.15	4	2.0
17	3.92	4	2.0
16	3.69	4	2.0
15	3.46	3	1.5
14	3.23	3	1.5
13	3.00	3	1.5
12	2.77	3	1.5
11	2.54	3	1.5
10	2.31	2	1.0
9	2.08	2	1.0
8	1.85	2	1.0
7	1.62	2	1.0
6	1.38	1	0.5
5	1.15	1	0.5
4	0.92	1	0.5
3	0.69	1	0.5
2	0.46	0	0.0
1	0.23	0	0.0

Amended by R.1990 d.48, effective January 16, 1990.  
See: 21 N.J.R. 3337(a), 22 N.J.R. 166(b).

In (d): revised text to include citation to N.J.A.C. 4A:3-3.8(e).  
Amended by R.1993 d.47, effective January 19, 1993.  
See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Redesignated existing (e)-(h) as (f)-(i); added new (e).  
Amended by R.1994 d.73, effective February 7, 1994.

See: 25 N.J.R. 4824(a), 26 N.J.R. 795(b).

Amended by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Amended by R.1996 d.368, effective August 5, 1996.

See: 28 N.J.R. 2107(a), 28 N.J.R. 3781(a).

Amended by R.2001 d.420, effective November 19, 2001.

See: 33 N.J.R. 2567(a), 33 N.J.R. 3895(b).

In (c), rewrote the introductory paragraph: rewrote (g).

Amended by R.2005 d.19, effective January 3, 2005.

See: 36 N.J.R. 4199(a), 37 N.J.R. 45(b).

Rewrote (f).

Amended by R.2007 d.358, effective November 19, 2007.

See: 39 N.J.R. 2680(a), 39 N.J.R. 4923(b).

In the introductory paragraph of (c), substituted "as provided in (d) below" for "in the case of the intergovernmental transfer of a police officer and firefighter"; added new (d); and recodified former (d) through (j) as (e) through (k).

Amended by R.2010 d.219, effective October 18, 2010.

See: 42 N.J.R. 1116(a), 42 N.J.R. 2400(b).

In (e), updated the N.J.A.C. reference; added (l); and added Appendices A through C.

Amended by R.2011 d.075, effective March 7, 2011.

See: 42 N.J.R. 1940(a), 43 N.J.R. 615(a).

Added (m), (n), Appendix D and Appendix E.

Notice of Rule Invalidation.

See: 44 N.J.R. 1611(a).

Validity of 4A:6-1.2(l) affected by decision of the Superior Court of New Jersey, Appellate Division, in *Communications Workers of America, AFL-CIO, et al. v. New Jersey Civil Service Commission*, Docket No. A-1110-10T3 (January 18, 2012).

#### Case Notes

State Department of Personnel regulations did not relate to school district employees. *City Ass'n of Sup'rs and Adm'rs v. State Operated School Dist. of City of Newark*, 709 A.2d 1328, 311 N.J.Super. 300 (N.J.Super. 1998).

Reinstated county correction officer was not entitled to recover unpaid accrued vacation time because, pursuant to N.J.A.C. 4A:6-1.2, vacation leave not taken in a given year could only be carried over to the following year; it could not be accrued and carried over from year to year. In re *Martin*, OAL Dkt. No. CSV 6599-03 (CSV 8656-98 On Remand), 2005 N.J. AGEN LEXIS 1211, Final Decision (July 13, 2005).

#### 4A:6-1.3 Sick leave

(a) Full-time State employees shall be entitled to annual paid sick leave as set forth in (a)1 and 2 below. Full-time local employees shall be entitled to a minimum of annual paid sick leave as follows:

1. New employees shall only receive one working day for the initial month of employment if they begin work on the 1st through the 8th day of the calendar month, and one-



half working day if they begin on the 9th through the 23rd day of the month.

2. After the initial month of employment and up to the end of the first calendar year, employees shall be credited with one working day for each month of service. Thereafter, at the beginning of each calendar year in anticipation of continued employment, employees shall be credited with 15 working days.

(b) Part-time and 10-month employees shall be entitled to a proportionate amount of paid sick leave. See N.J.A.C. 4A:3-3.8(e) for paid sick leave to which State employees in intermittent titles are entitled.

(c) Paid sick days shall not accrue during a leave of absence without pay or suspension but shall continue to accrue during a voluntary furlough or furlough extension leave.

(d) Sick leave credits shall not accrue after an employee has resigned or retired although his or her name is being retained on the payroll until exhaustion of vacation or other compensatory leave.

(e) An employee who exhausts all paid sick days in any one year shall not be credited with additional paid sick leave until the beginning of the next calendar year.

(f) Unused sick leave shall accumulate from year to year without limit, whether or not it was accrued prior to an intergovernmental transfer in accordance with N.J.A.C. 4A:4-7.1A, provided, however, that:

1. In the case of an intergovernmental transfer, the sick leave of a firefighter, or a law enforcement officer, including a sheriff's officer and a county correction officer, who has waived all accumulated sick leave, shall accrue from the effective date of the transfer.

(g) Sick leave may be used by employees who are unable to work because of:

1. Personal illness or injury (see N.J.A.C. 4A:6-21B for Federal family and medical leave);

2. Exposure to contagious disease (see N.J.A.C. 4A:6-1.21B for Federal family and medical leave);

3. Care, for a reasonable period of time, of a seriously ill member of the employee's immediate family (see N.J.A.C. 4A:1-1.3 for definition of immediate family, see N.J.A.C. 4A:6-1.21A for family leave under State law and see N.J.A.C. 4A:6-1.21B for Federal family and medical leave); or

4. Death in the employee's immediate family, for a reasonable period of time.

(h) Sick leave may be used by an employee with a disability for absences related to the acquisition or use of an aid for the disability when the aid is necessary to function on the job. In such cases, reasonable proof may be required by the appointing authority.

(i) See N.J.A.C. 4A:6-1.22 for the donated leave program.

Amended by R.1990 d.48, effective January 16, 1990.

See: 21 N.J.R. 3337(a), 22 N.J.R. 166(b).

In (b): revised text to include citation to N.J.A.C. 4A:3-3.8(e).

Amended by R.1990 d.387, effective August 6, 1990.

See: 22 N.J.R. 1300(b), 22 N.J.R. 2263(a).

In (g)3: added family leave N.J.A.C. citation.

Amended by R.1993 d.47, effective January 19, 1993.

See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Added new (i).

Amended by R.1994 d.72, effective February 7, 1994.

See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

Amended by R.1994 d.620, effective December 19, 1994.

See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b).

Amended by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Amended by R.1996 d.368, effective August 5, 1996.

See: 28 N.J.R. 2107(a), 28 N.J.R. 3781(a).

Amended by R.2001 d.420, effective November 19, 2001.

See: 33 N.J.R. 2567(a), 33 N.J.R. 3895(b).

Rewrote (f).

Amended by R.2007 d.358, effective November 19, 2007.

See: 39 N.J.R. 2680(a), 39 N.J.R. 4923(b).

In the introductory paragraph of (f), substituted "provided, however, that:" for "except that the sick leave of a police officer or a firefighter who receives an intergovernmental transfer shall accrue from the effective date of the transfer.;" and added (f)1.

#### Case Notes

Portion of court reporters' unused sick time which accrued during time they were paid by counties was subject to reimbursement upon retirement. *Matter of Wargo*, 229 N.J.Super. 284, 551 A.2d 205 (A.D.1988).

ALJ erred in dismissing a charge that an employee feigned sickness and abused sick leave because, although no municipal or State policy on sick leave was presented, N.J.A.C. 4A:6-1.3(g) governed the use of sick leave for Civil Service employees and provided that sick leave could be used by employees who were unable to work because of personal illness or injury, exposure to contagious disease, care of a seriously ill member of the employee's immediate family, or death in the employee's immediate family. The employee admitted that his leave was not due to sickness, but rather, he wanted to meet a contractor at his house (adopting in part and rejecting in part 2009 N.J. AGEN LEXIS 112). In re Glenn, OAL Dkt. No. CSV 5072-07, 2009 N.J. AGEN LEXIS 988, Final Decision (March 11, 2009).

Restoration of teacher's sick leave due to harassment by principal affirmed. *Dorfman v. Board of Education of the Township of Neptune*, Monmouth County, 97 N.J.A.R.2d (EDU) 512.

Cessation of continued sick leave injury benefits was proper. *Shaub v. North Princeton Developmental Center*, 94 N.J.A.R.2d (CSV) 521.

Aggravation of preexisting back condition was not compensable where it was reasonably foreseeable. *Gilmartin v. Division of State Police*, 93 N.J.A.R.2d (CSV) 288.

#### 4A:6-1.4 Sick leave procedures: State service

(a) The provisions in this section are applicable to State service.

(b) An employee whose work schedule is other than a 24-hour or shift coverage shall, by the scheduled reporting time, notify a contact person designated by the agency of any absence due to illness.

(c) An employee whose work unit requires 24-hour or shift coverage shall, at least one hour before the scheduled starting

time, notify the designated contact person of any absence due to illness. In case of sudden illness or emergency, exceptions may be granted by the designated contact person.

(d) An appointing authority may require proof of illness or injury when there is a reason to believe that an employee is abusing sick leave; an employee has been absent on sick leave for five or more consecutive work days; or an employee has been absent on sick leave for an aggregate of more than 15 days in a 12-month period.

(e) When an illness is of a chronic or recurring nature causing occasional absences of one day or less, one proof of illness shall be required for every six month period. The proof of illness must specify the nature of the illness and that it is likely to cause periodic absences from employment.

(f) In case of sick leave due to exposure to a contagious disease, a death in the employee's immediate family or to care for a seriously ill member of the employee's immediate family, reasonable proof may be required.

(g) An appointing authority may require an employee to be examined by a physician designated and compensated by the appointing authority as a condition of the employee's continuation of sick leave or return to work.

1. Such an examination shall establish whether the employee is capable of performing his or her work duties and whether return to employment would jeopardize the health of the employee or that of other employees.

2. The appointing authority shall set the date of the examination to assure that it does not cause undue delay in the employee's return to work.

(h) Failure to follow sick leave notification and verification procedures may result in a denial of sick leave for that specific absence, be considered an abuse of sick leave and/or constitute cause for disciplinary action.

(i) An appointing authority shall provide the Department of Personnel with a record of an employee's unused sick leave when the employee separates from State service. The Department of Personnel shall provide an appointing authority with a record of an employee's unused sick leave if an employee is reemployed. Upon reemployment, an employee is entitled to utilize any unused sick leave from the previous period of employment. Such unused leave carried over shall be used before any leave accrued after reemployment. However, such unused leave carried over shall not be counted for purposes of Supplemental Compensation on Retirement. See N.J.A.C. 4A:6-3.2.

(j) In accordance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., information obtained pursuant to this section regarding the medical condition or history of an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

1. Such information shall be available to appropriate appointing authority representatives in connection with inquiries into the ability of an employee to perform job-related functions;

2. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

3. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation; and

4. Government officials investigating compliance with the Americans with Disabilities Act, or any other Federal or State law prohibiting discrimination on the basis of disability or handicap, shall be provided relevant information on request.

Amended by R.1993 d.47, effective January 19, 1993.

See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Added new (j).

Petition for Rulemaking.

See: 32 N.J.R. 1871(a), 32 N.J.R. 2957(a).

#### Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 73) adopted, which found that an employer, faced with conduct that it believes may signal that an employee might have psychiatric issues that affect his performance and might pose risks for the employee and other staff and potentially the public, may require that such an employee, having been suspended for such conduct, first see a psychiatrist and obtain clearance regarding his fitness before the employee is allowed to return to work. In re Reid, OAL Dkt. No. CSV 08828-07 and CSV 02844-08 (Consolidated), 2009 N.J. AGEN LEXIS 897, Final Decision (August 5, 2009).

County clerk was properly sent for psychiatric evaluations because N.J.A.C. 4A:6-1.4(g), which provides that an appointing authority may require an employee to be examined by a physician designated and compensated by the appointing authority as a condition of the employee's continuation of sick leave or return to work, could be applied to a local government (adopting in part and rejecting in part 2007 N.J. AGEN LEXIS 574). In re Wilson, OAL Dkt. No. CSV 9640-04, 2007 N.J. AGEN LEXIS 1180, Final Decision (October 10, 2007), aff'd per curiam, No. A-1291-07T1, 2009 N.J. Super. Unpub. LEXIS 1055 (App.Div. May 5, 2009).

#### 4A:6-1.5 Vacation, administrative and sick leave adjustments: State service

(a) Employees in State service are liable for vacation and sick leave days taken in excess of their entitlements.

(b) An employee who leaves State service or goes on a leave of absence without pay before the end of the calendar year shall have his or her leave prorated based on time earned, except that the leave of an employee on a voluntary furlough or furlough extension leave shall not be affected. An employee who is on the payroll for greater than 23 days shall earn a full month's allowance, and earn one-half month's allowance if he or she is on the payroll from the 9th through the 23rd day of the month.