

(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 in the case of the intergovernmental transfer of a police officer and firefighter), 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) 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(e) for paid vacation leave to which State employees in intermittent titles are entitled.

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

(f) 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.

(g) 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.

(h) 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.

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

(j) 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 (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).

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).

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, 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.

(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).

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).

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;

(c) Except for emergency situations of limited duration, adjustments in hours of daily or shift operation shall not become effective without the approval of the Commissioner. Requests for these actions should be submitted at least 30 days in advance of the proposed effective date to the Department of Personnel and shall include:

1. Justification which relates the change to operational and employee needs;
2. Statement of impact on services to the public or agency clientele, employees and the community, that is, traffic flow;
3. Details of adjustments;
4. Work locations and approximate number of employees affected;
5. Provisions for giving employees at least two weeks written notice of adjustments; and
6. Name, address and telephone number of the program administrator.

(d) Appointing authorities should consult with affected negotiations representatives regarding adjustments in hours of daily or shift operations before implementation.

or who have been granted sick leave under the standards set forth in (a)2 above.

(b) Employees in the categories in (a) above shall be eligible for SCOR upon separation from employment based on retirement from a pension system administered by the State of New Jersey.

1. Employees removed for cause after an opportunity for a hearing, who retire in lieu of removal, or who retire under circumstances which would warrant removal, shall not be eligible for SCOR. However, the Commissioner may allow SCOR in such cases where removal was based on a medical disability or where the Commission finds sufficient mitigating circumstances to warrant supplemental compensation.

2. Employees who retire as a result of accidental or ordinary disability, and who meet all other applicable rules, shall be eligible for SCOR.

3. Employees of the University of Medicine and Dentistry of New Jersey who are members of the Newark Employees' Retirement System, and who meet all other applicable rules, shall be eligible for SCOR.

4. Employees who elect deferred retirement, or whose separation from employment is not based on retirement, shall not be eligible for SCOR.

5. Faculty members of the State Colleges; Rutgers, the State University; the New Jersey Institute of Technology; and the University of Medicine and Dentistry of New Jersey who have served in an administrative capacity may be eligible for SCOR based on the time served in that administrative capacity only. Such employees, if deemed eligible, shall be entitled to payment based on sick leave and salary earned while serving in an administrative title.

SUBCHAPTER 3. SUPPLEMENTAL COMPENSATION ON RETIREMENT

4A:6-3.1 Eligibility: State service

(a) The following employees shall be eligible for supplemental compensation on retirement ("SCOR"):

1. State employees in the career service and employees in the senior executive service with underlying permanent career service status;
2. State employees in job titles in the senior executive service without permanent career service status and in the unclassified service who have been granted sick leave under the following standards:
 - i. All employees in that job title are granted sick leave days in the same number and manner as set forth for State career service employees in N.J.A.C. 4A:6-1.3;
 - ii. Sick leave for all employees in that job title is used, reported, and subject to verification in the same manner required for State career service employees in N.J.A.C. 4A:6-1.4 and 1.5.

3. Employees of Rutgers, the State University; the New Jersey Institute of Technology; and the University of Medicine and Dentistry of New Jersey, who perform services similar to those performed by employees of the New Jersey State Colleges who are in the career service,

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).

4A:6-3.2 Break in service: State service

(a) Employees who incur a break in service due to resignation, retirement or removal shall have sick leave computed for SCOR purposes only from the date of return to employment.

1. Employees who have retired and received the maximum SCOR payment shall not be eligible for further supplemental compensation.

2. Employees who have retired and received less than the maximum SCOR payment shall be eligible for an amount no greater than the difference between the payment received and the maximum payment upon reentering State employment and again retiring from State service.

(b) Employees who incur a break in service due to layoff shall be credited for SCOR purposes with sick leave accrued both before separation and after return to employment.

4A:6-3.3 Computation of payment: State service

(a) SCOR shall be computed at the rate of one-half the employee's daily rate of pay for each day of earned and unused accumulated sick leave at the effective date of retirement. The daily rate of pay shall be based upon the average annual compensation received during the last full year of active employment prior to the effective date of retirement.

1. Overtime pay or other supplemental pay shall be excluded from the computation.

2. Periods of leaves of absence without pay shall be excluded from the computation.

(b) If an employee changes from 12 month to 10 month employment during the last year of employment, the average annual compensation must be weighted accordingly.

(c) Ten month employees who have received sick leave without proration shall have their unused accumulated sick leave reduced by one-sixth for purposes of calculating SCOR.

(d) The maximum amount of SCOR for any employee shall be \$15,000.

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).

4A:6-3.4 SCOR procedures: State service

(a) An employee may file an application form DPF-279, within one year of the effective date of retirement, requesting supplemental compensation after receiving a copy of the official notice of retirement approval issued by the appropriate pension board or authority.

(b) The appointing authority shall not process the SCOR application form until it has received the employer's copy of the notice of the retirement approval. If the appointing authority has not received the employer's copy of the notice of retirement approval, it shall, within 45 days after receipt of the employee's application form DPF-279, notify the employee accordingly.

(c) After receipt of the notice of retirement approval and SCOR application, the appointing authority shall forward to the Department of Personnel within 45 days:

1. A personnel action request certifying the number of days of earned and unused accumulated sick leave and the amount of SCOR to be paid;

2. A copy of the notice of retirement approval; and
3. Completed application form DPF-279.

(d) The Department of Personnel shall review the request to ensure that eligibility criteria as set forth in N.J.A.C. 4A:6-3.1 have been met.

1. If eligibility criteria have been met, the request shall be approved.

2. If eligibility criteria have not been met, the request shall be disapproved and the employee shall be provided written notice of the reasons for disapproval and the right to appeal to the Commissioner.

(e) Following approval of the SCOR application, payment shall be made by the appointing authority in accordance with established payroll procedures. The appointing authority shall be responsible for withholding payment should the employee cancel the retirement.

(f) In the event of an employee's death after the effective date of retirement but before payment of SCOR is made, payment shall be made to the employee's estate.

(g) Payment of SCOR shall in no way affect any pension or retirement benefits for which a retired employee is eligible under any other program.

4A:6-3.5 SCOR: Intergovernmental transfers

(a) If an employee receives an intergovernmental transfer pursuant to N.J.A.C. 4A:4-7.1A, sick leave carried to the receiving jurisdiction, where applicable, shall be included in the computation of any SCOR payments made by the receiving jurisdiction.

1. The SCOR payment of a retiring employee shall be made in accordance with the receiving jurisdiction's policy (for example, in State service, in accordance with N.J.A.C. 4A:6-3.3).

(b) If an employee later returns to the sending jurisdiction, the employee shall have sick leave computed for SCOR purposes based on sick leave accumulated before and after the return.

New Rule, R.2001 d.420, effective November 19, 2001.
See: 33 N.J.R. 2567(a), 33 N.J.R. 3895(b).

SUBCHAPTER 4. HUMAN RESOURCE DEVELOPMENT: TRAINING, EDUCATION, CAREER DEVELOPMENT AND EMPLOYEE ASSISTANCE PROGRAMS

4A:6-4.1 General provisions

(a) In local service, appointing authorities may implement Human Resource Development (HRD) programs and may, subject to the terms and approval of the Commissioner, participate in programs set forth in this subchapter.