

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.

(g) An employee who leaves State government service or service with a local jurisdiction shall be paid for unused earned vacation leave.

(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).

#### 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.

(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).

#### 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).

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).