

**CHAPTER 6  
LEAVES, HOURS OF WORK AND  
EMPLOYEE DEVELOPMENT**

**Authority**

N.J.S.A. 11A:2-6(d), 11A:6-1 through 11A:6-28, 11A:6-29, 11A:6-31, 18A:31-2, 30:4-178, 34:11B-1 et seq., 38:23-2, 38A:1-1, 38A:4-4, 40A:14-177, and 52:14-26.2; P.L. 2001, c. 351; Executive Order No. 12 (1990) and Executive Order No. 88 (2003); 10 U.S.C. §10101, 29 U.S.C. §§2601 et seq., 38 U.S.C. §§4301 et seq. and 42 U.S.C. §§12101 et seq.; and 29 CFR 825.

**Source and Effective Date**

R.2009 d.9, effective December 3, 2008.  
See: 40 N.J.R. 2624(a), 41 N.J.R. 123(b).

**Chapter Expiration Date**

Chapter 6, Leaves, Hours of Work and Employee Development, expires on December 3, 2013.

**Chapter Historical Note**

Chapter 6, Leaves, Hours of Work and Employee Development, Subchapters 1 through 5, was adopted as R.1988 d.13, effective January 4, 1988. See: 19 N.J.R. 1764(a), 20 N.J.R. 54(a). See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 17, 18, 20 and 26; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 17, 18, 20 and 26; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapters 17 and 20. Subchapter 6, Awards Program, was adopted as R.1988 d.11, effective January 4, 1988. See: 19 N.J.R. 1774(a), 20 N.J.R. 67(a). See, also, Historical Note and section annotations at repealed N.J.A.C. 4:4, New Jersey State Employees' Awards Committee Rules.

Pursuant to Executive Order No. 66(1978), Chapter 6, Leaves, Hours of Work and Employee Development, was readopted as R.1993 d.47, effective December 22, 1992. See 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Pursuant to Executive Order No. 66(1978), Subchapters 1 through 5 were readopted as R.1998 d.57, effective December 19, 1997; and Subchapter 6, Awards Program, was readopted as R.1998 d.58, effective December 19, 1997. See: 29 N.J.R. 4364(a), 30 N.J.R. 384(a), 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

Subchapter 6, Awards Program, was readopted as R.2003 d.241, effective May 22, 2003. See: 35 N.J.R. 344(a), 35 N.J.R. 2637(b).

Chapter 6, Leaves, Hours of Work and Employee Development, Subchapters 1 through 5, were readopted as R.2003 d.261, effective June 9, 2003. See: 35 N.J.R. 339(a), 35 N.J.R. 2861(b).

Chapter 6, Leaves, Hours of Work and Employee Development, Subchapters 1 through 5, were readopted as R.2009 d.9, effective December 3, 2008. See: Source and Effective Date. See, also, section annotations.

Subchapter 6, Awards Program, was readopted as R.2009 d.10, effective December 3, 2008. See: 40 N.J.R. 3776(a), 41 N.J.R. 126(a).

Petition for Rulemaking. See: 42 N.J.R. 821(a).

**Cross References**

Applicability of this chapter to SES members, see N.J.A.C. 4A:3-2.6.

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

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

In (a)1: added "and family leave" with N.J.A.C. citation.

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

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

**Case Notes**

Merit System Board does not have jurisdiction to review an unclassified employee's entitlement to vacation leave. In re Hearn, OAL Dkt. No. CSV 04991-05, Final Decision (October 10, 2007).

**4A:6-1.2 Vacation leave**

(a) Full-time State employees in the career service shall be entitled to annual paid vacation leave, credited at the beginning of each calendar year in anticipation of continued employment, based on their years of continuous State full-time or part-time service in the career, senior executive or unclassified service. See (c) below for definition of continuous service.

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 receive one working day for each month of service. Thereafter, employees shall receive paid vacation leave as follows:

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

ii. After five years of continuous service and up to 12 years of continuous service, 15 working days;

iii. After 12 years of continuous service and up to 20 years of continuous service, 20 working days;

iv. Over 20 years of continuous service, 25 working days.

3. An increase in vacation leave shall be granted at the beginning of the calendar year in which the years of service requirement will be met.

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:

## SUBCHAPTER 1. LEAVES OF ABSENCE

**4A:6-1.1 General provisions**

(a) In local service, appointing authorities shall establish types of leaves and procedures for leaves of absence.

1. Pursuant to this subchapter, employees in local service shall also be entitled to vacation leave (N.J.A.C. 4A:6-1.2(b) through (h)); sick leave (N.J.A.C. 4A:6-1.3(a) through (h)); military leave (N.J.A.C. 4A:6-1.11); gubernatorial appointment leave (N.J.A.C. 4A:6-1.12); convention leave (N.J.A.C. 4A:6-1.13); elective office leave (N.J.A.C. 4A:6-1.17); family leave under State law (N.J.A.C. 4A:6-1.21A); and Federal family and medical leave (N.J.A.C. 4A:6-1.21B).

2. An appointing authority may grant permanent employees a leave of absence without pay for a period not to exceed one year. A leave may be extended beyond one year for exceptional circumstances upon request of the appointing authority and written approval of the Department of Personnel.

3. An appointing authority may grant unpaid union leave pursuant to N.J.A.C. 4A:6-1.16.

4. Vacation and sick leaves for police officers and firefighters are established by local ordinance. See N.J.S.A. 40A:14-7 and 40A:14-118.

(b) In State service, this subchapter shall apply to career service employees, unless otherwise indicated. Temporary employees (see N.J.S.A. 11A:4-13c.) are not entitled to the leaves or benefits in this subchapter.

(c) Records of all employee leaves of absence and types of leave shall be maintained by State and local appointing authorities and reported to the Department of Personnel for the official State record in the prescribed manner and form.

(d) A leave of absence shall not disqualify an applicant for a promotional examination.

(e) Where leave procedures are not set by this subchapter, appointing authorities shall establish such procedures subject to applicable negotiations requirements.

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(e) 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.

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).

#### 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, 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).

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,