

**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**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 6, Leaves, Hours of Work and Employee Development, expires on December 3, 2015. See: 43 N.J.R. 1203(a).

**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 See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 17, 18, 20 and 26; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 17, 18, 20 and 26; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapters 17 and 20.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 See, also, Historical Note and section annotations at repealed N.J.A.C. 4:4, New Jersey State Employees' Awards Committee Rules.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), 1746(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.1994 d.620, effective December 19, 1994.  
See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b).

**Case Notes**

Removal of a senior correction officer following his arrest and conviction for driving while intoxicated was proper because there was no requirement that the officer be provided with leave for 90 days of incarceration, even if the incarceration was due to the officer's alcoholism disability; the officer was properly charged with chronic or excessive absenteeism and job abandonment, especially in light of the fact that the officer had been granted previous leaves of absence in order to attend in-patient drug treatment (adopting in part and rejecting in part 2007 N.J. AGEN LEXIS 114). In re Greenfield, OAL Dkt. No. CSV 4473-05, 2007 N.J. AGEN LEXIS 1127, Final Decision (May 23, 2007), aff'd per curiam, No. A-0713-07T1, 2009 N.J. Super. Unpub. LEXIS 148 (App.Div. February 19, 2009).

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).

N.J.A.C. 4A:6-1.1 does not prohibit an appointing authority from granting a non-permanent employee a leave of absence for a period up to one year, and employees in their working test period can be granted leaves of absence. In re Mortimer, OAL Dkt. No. CSV 6378-05, 2006 N.J. AGEN LEXIS 543, Merit System Board Decision (April 26, 2006).

## 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.

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.

**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.

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

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.

1. An employee shall reimburse the appointing authority for paid working days used in excess of his or her prorated and accumulated entitlements.

2. An employee who returns to work from a leave of absence shall not be credited with paid vacation or sick leave until the amount of leave used in excess of the prorated entitlement has been reimbursed.

(c) In State service, intermittent days off without pay other than voluntary furlough or furlough extension days shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits. When intermittent days off without pay other than voluntary furlough or furlough extension days equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement. Union leave days pursuant to a negotiated agreement shall not be included in such calculations.

(d) An employee shall not be reimbursed for accumulated sick leave when leaving State service except for separations on retirement as provided in N.J.A.C. 4A:6-3.

(e) When an employee is transferred in State service, the employee's former appointing authority shall provide the new State appointing authority with a record of an employee's unused vacation, administrative and sick leave.

(f) In State service, when an employee's workweek changes, the employee's vacation, administrative and sick leave entitlements shall be recalculated in the following manner:

1. The number of hours of vacation, administrative and sick leave for the former workweek shall be converted into days by dividing by the number of hours in the former workweek workday; and

2. This number of days shall be converted into hours for the new workweek by multiplying by the number of hours in the new workweek workday.

EXAMPLE: Mary Smith is in a 35 hour workweek title. On January 1 of the current year, she had accumulated 245 sick leave hours from prior years and was credited with 105 sick leave hours for the current year (15 days x 7 hours), or a total of 350 sick leave hours. Effective May 1, she is appointed to a title with a 40 hour workweek. Her new sick leave entitlement is computed by dividing 350 by seven, the number of hours in a 35 hour workweek workday, to yield the result of 50 days of sick leave. The 50 days are then multiplied by eight, the number of hours in a 40 hour workweek workday. Thus, Mary Smith's converted sick leave hours are 400.

EXAMPLE: Thomas Brown is in a 40 hour workweek title. On January 1, he had accumulated 230 sick leave hours from prior years and was credited with 120 sick leave hours for the current year (15 days x 8 hours), or a total of 350 sick leave hours. Effective May 1, he is appointed to a title with a 35 hour workweek. His new sick leave entitlement is computed by dividing 350 by

eight, the number of hours in a 40 hour workweek workday, to yield the result of 43.75 days of sick leave. The 43.75 days are then multiplied by seven, the number of hours in a 35 hour workweek workday. Thus, Thomas Brown's converted sick leave hours are 306 (43.75 x 7 = 306.25, rounded to 306).

(g) In State service, an employee whose status changes from part time to full time, or from full time to part time, shall receive sick leave benefits as follows:

1. If an employee's status changes from part time to full time, the amount of proportional sick leave which the employee has earned as a part time employee is added to the amount of sick leave with which he or she is credited for the remainder of the year as a full time employee.

2. If an employee's status changes from full time to part time, the amount of sick leave which he or she has earned as a full time employee is added to the amount of proportional sick leave with which the employee is credited for the remainder of the year as a part time employee.

EXAMPLE: John Jones works two days a week. Therefore, he is employed for 40 percent of the workweek. As a part time, 40 percent employee, his yearly sick leave is calculated by taking 40 percent of 15 sick leave days; thus, John is credited with six sick leave days on January 1. On pay period 14, John becomes a full time employee. As of that time, he already has earned three sick leave days as a part time, 40 percent employee. As a full time employee for the remainder of the year, John is credited with 7.5 sick days. These are added to the three sick leave days which he earned during the first half of the year, so that he will have a total of 10.5 sick days for the year. Any accumulated sick days which John earned in previous years as a part time, 40 percent employee are added to the 10.5 sick days to which John will be entitled this year.

Amended by R.1989 d.570, effective November 6, 1989.  
See: 21 N.J.R. 2429(a), 21 N.J.R. 3451(a).

Added new (f) and (g) regarding calculation of vacation and sick leave when an employee's workweek changes.

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.1999 d.346, effective October 4, 1999.

See: 31 N.J.R. 1553(a), 31 N.J.R. 2877(a).

In the caption, inserted "administrative", in (f), twice inserted "vacation, administrative and", and in the examples under (f), substituted references to the "current year" for references to the year 1989.

#### 4A:6-1.6 Sick Leave Injury (SLI) requirements: State service

(a) The provisions concerning sick leave injury (SLI) benefits in this subchapter apply to full and part-time State employees in the career, senior executive and unclassified services. SLI benefits for employees in intermittent titles will be based on the expected length of service.

(b) An employee who is disabled due to a work-related injury or illness shall be granted a leave of absence with pay.

1. An employee who can return to work on a part-time basis shall be compensated for the hours actually worked and receive SLI benefits for the hours missed due to the disability.

2. SLI benefits shall be reduced by the amount of any temporary disability payments under N.J.S.A. 34:15-12 (Workers' Compensation) or N.J.S.A. 43:21-25 et seq. (Temporary Disability Benefits Law).

3. Benefits are limited to a period beginning on the initial date of the injury or illness and ending one year from that date.

i. Benefits shall not be paid for any absence from work occurring more than one year from the initial date of the injury or illness, even if the aggregate period of disability does not exceed one year.

ii. In cases of disorders as set forth in (c)4 below, the one year period shall begin with the first date of disability from work.

4. An employee receiving SLI benefits may also be entitled to medical leave under Federal law. See N.J.A.C. 4A:6-1.21B.

5. A holiday authorized by law or Executive Order shall be considered a day off with pay as provided in N.J.A.C. 4A:6-2.4 during a period in which an employee is receiving SLI benefits, and such day or days shall not be recorded as SLI.

(c) The disability must be due to an injury or illness resulting from the employment.

1. Injuries or illnesses which would not have occurred but for a specific work-related accident or condition of employment are compensable.

2. Preexisting illnesses, diseases and conditions aggravated by a work-related accident or condition of employment are not compensable when such aggravation was reasonably foreseeable.

3. Illnesses which are generally not caused by a specific work-related accident or condition of employment are not compensable except when the claim is supported by medical documentation that clearly establishes that the illness was caused by a work related accident or condition of employment.

4. Progressive, degenerative or repetitive motion disorders, such as asbestosis or carpal tunnel syndrome, are compensable only when the claim is supported by medical documentation clearly establishing that the disorder would not have occurred but for the performance of specific work duties.

5. Psychological or psychiatric illness is not compensable, except when such illness can be traced to a specific work-related accident or occurrence which traumatized the employee thereby causing the illness, and the claim is supported by medical documentation.

6. An injury or illness is not compensable when the appointing authority has established that the employee has been grossly negligent, including those injuries or illnesses arising from impairment due to alcohol or drug abuse.

(d) Any accident resulting in injury for which the employee seeks compensation must occur on the work premises.

1. Work premises are the physical area of operation of the appointing authority, including buildings, grounds and parking facilities provided by the State.

2. An injury occurring off the work premises is compensable only when the employee is engaged in authorized work activity or travel between work stations.

(e) For the injury to be compensable, it must occur during normal work hours or approved overtime.

1. Injuries which occur during normal commutation between home and the work station or home and a field assignment are not compensable.

2. Injuries which occur during lunch or break periods are not compensable. However, employees who are re-

quired by the appointing authority to remain at a particular job location during lunch and/or work-break shall not be precluded from receiving SLI benefits.

Amended by R.1992 d.413, effective October 19, 1992.  
See: 24 N.J.R. 2108(a), 24 N.J.R. 3720(a).

Added new (c)4; redesignated existing (c)4-5 as (c)5-6.  
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.1994 d.620, effective December 19, 1994.  
See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b).

Amended by R.2009 d.9, effective January 5, 2009.  
See: 40 N.J.R. 2624(a), 41 N.J.R. 123(b).

Added (b)5; and in (c)3, deleted the comma following "employment", substituted "that the illness was caused by a" for "the injury or illness is", and inserted "accident or condition of employment".

#### Law Review and Journal Commentaries

Sick Leave Benefits. Judith Nallin, 133 N.J.L.J. No. 8, 50 (1993).

#### Case Notes

Merit System Board acted within its statutory mandate in making policy determination to limit sick-leave injury benefits to one year from date of disability and did not abuse its discretion in applying such policy to employee who suffered from carpal tunnel syndrome. Matter of Musick, 143 N.J. 206, 670 A.2d 11 (1996).

Long hiatus between stages of treatment which extends its entire course beyond one year maximum will not cause loss of benefits where it is the result of medical necessity. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

The initial date of the injury or illness referred to date disability began. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Initial report filed by state employee did not begin running of one-year time limitation for second surgery on right wrist for same condition. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Eligibility requirement for sick leave injury benefits could be met without specific work-related accident. Matter of Dykas, 261 N.J.Super. 626, 619 A.2d 660 (A.D.1993).

Sick leave—injury off work premises not covered (citing former N.J.A.C. 4:1-17.9). Appleby v. Civil Service Comm'n., 190 N.J.Super. 249, 463 A.2d 346 (App.Div.1983).

Injury suffered off employment premises during lunch hour was not compensable under sick leave statute or regulation (citing former N.J.A.C. 4:1-17.9). Morreale v. State Civil Service Comm'n., 166 N.J.Super. 536, 400 A.2d 126 (App.Div.1979), certification denied 81 N.J. 275, 405 A.2d 819.

Employee entitled to sick leave injury benefits for psychological injury arising from telephone call she received in response to filing sex discrimination action against employer. Leeds v. New Jersey State Prison, 96 N.J.A.R.2d (CSV) 326.

Sick leave injury benefits were not available for injury sustained outside of work. Wills v. Department of Community Affairs, 95 N.J.A.R.2d (CSV) 506.

Prison nurse was not entitled to sick leave benefits absent evidence of sufficient preponderance to establish that alleged injury was work related. White v. Riverfront State Prison, 95 N.J.A.R.2d (CSV) 384.

Equipment operator entitled to sick leave-injury benefits. Heggan v. Department of Transportation, 92 N.J.A.R.2d (CSV) 680.

Sick leave injury benefits for wrist pain. Bokor v. New Jersey Department of Human Services, 92 N.J.A.R.2d (CSV) 643.

#### 4A:6-1.7 Sick Leave Injury (SLI) reporting and appeal procedures: State service

(a) Each appointing authority shall appoint one or more SLI coordinators, as necessary, whose responsibility shall be to ensure that SLI benefits are administered in a consistent manner in accordance with N.J.A.C. 4A:6-1.6 and this section.

(b) Immediately upon occurrence or discovery, the employee shall report to his or her supervisor or supervisor's designee any work accident or condition of employment claimed to have caused disability.

(c) Within 24 hours of learning of the accident or condition of employment claimed to have caused disability, the employee's supervisor or supervisor's designee shall contact the appointing authority's human resources office (HR Office) to report the accident or condition.

(d) Within five days following occurrence or discovery, the employee shall complete and have the supervisor or supervisor's designee sign a RM-2 form reporting the accident or condition, upon which the employee shall submit the form to the HR Office.

(e) Immediately upon receipt, the HR Office shall forward a hard copy of the completed and signed RM-2 form to the Division of Risk Management, Department of the Treasury.

1. The HR Office staff shall enter information into the Risk Management Information System (RMIS) regarding the employee's SLI claim.

2. A State nurse designated by the appointing authority, or other appropriate staff, shall determine whether the employee must be referred to a physician designated and compensated by the appointing authority (authorized physician).

i. A State nurse or other appropriate staff shall enter this determination into RMIS.

(f) The SLI Coordinator shall:

1. Ensure that the employee provides a report from an authorized physician including, at minimum, verification that the physician provided treatment to the employee, a description of the nature of the disability, and an opinion regarding whether the disability is work related or the result of a preexisting condition;

2. Review the RM-2 to determine whether the employee has included all required information and documentation;

3. Decide whether further investigation of the claim is warranted;

4. Evaluate the employee's eligibility for SLI benefits in accordance with the standards set forth in N.J.A.C. 4A:6-1.6; and

5. In a written determination within 20 days of receipt by the HR Office of the employee's RM-2 form, grant or deny the SLI claim.

i. If the SLI coordinator grants SLI benefits, HR Office staff shall update the RMIS entry with information regarding the employee's additional absences from work due to SLI benefits. The HR Office shall also enter the SLI information into the Personnel Management Information System and the appointing authority's timekeeping system.

ii. If the SLI coordinator denies SLI benefits, the written determination shall advise the employee of his or her right to appeal to the Merit System Board within 20 days of receipt of the determination in accordance with N.J.A.C. 4A:2-1. The SLI coordinator shall also notify the Division of Risk Management of this determination.

(g) The Division of Risk Management shall be responsible for ensuring that appointing authorities comply with N.J.A.C. 4A:6-1.6 and this section. If the Division of Risk Management finds that an appointing authority is not in compliance with N.J.A.C. 4A:6-1.6 and this section, the Division may review the SLI coordinator's SLI determination and, if warranted, modify or reverse the determination.

(h) An employee may appeal an appointing authority denial of SLI benefits to the Merit System Board in accordance with N.J.A.C. 4A:2-1.

(i) In all appeals, copies of all materials submitted to the Merit System Board shall be provided to all other parties.

(j) The burden of proof is on the appellant to establish entitlement to SLI benefits by a preponderance of the evidence.

(k) 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 and Department of Personnel representatives in connection with inquiries into the eligibility of the employee for benefits under this section;

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 (i).

Amended by R.2009 d.9, effective January 5, 2009.

See: 40 N.J.R. 2624(a), 41 N.J.R. 123(b).

Deleted former (a) through (d); added new (a) through (g); recodified former (e) through (i) as (h) through (k); in (h), updated the N.J.A.C. reference; and in (k), inserted "§§".

Amended by R.2010 d.124, effective June 21, 2010.

See: 42 N.J.R. 11(a), 42 N.J.R. 1165(a).

In the introductory paragraph of (f)5, inserted "within 20 days of receipt by the HR Office of the employee's RM-2 form".

#### Case Notes

Delay in filing accidental injury form; sick leave injury benefits. O'Brien v. Hunterdon Developmental Center, 94 N.J.A.R.2d (CSV) 617.

#### 4A:6-1.8 Pregnancy-disability and child care leave: State service

(a) A State employee in the career, senior executive or unclassified service who requests leave with or without pay for reason of disability due to pregnancy shall be granted leave under the same terms and conditions as those applicable to such employees for sick leave or leave without pay. The appointing authority may request acceptable medical evidence that the employee is unable to perform her work because of disability due to pregnancy. For medical leave under Federal law, see N.J.A.C. 4A:6-1.21B.

1. An employee may use accrued sick, vacation or administrative leave for pregnancy-disability purposes but shall not be required to exhaust accrued leave before taking a leave without pay.

2. An employee must exhaust all accrued sick leave to be eligible for New Jersey Temporary Disability Insurance.

(b) Child care leave may be granted to State employees under the same terms and conditions as all other leaves without pay. See N.J.A.C. 4A:6-1.10. For family leave under State law, see N.J.A.C. 4A:6-1.21A. For Federal family and medical leave, see N.J.A.C. 4A:6-1.21B.

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

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

In (b); added family leave N.J.A.C. citation.

Administrative Correction to (b).

See: 22 N.J.R. 2682(a).

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

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

#### 4A:6-1.9 Administrative leave: State service

(a) Full-time State employees in the career and senior executive service and those employees of Rutgers, the State University, 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 shall be granted three days of administrative leave in each calendar year for personal business, including emergencies and religious observances.

1. Priority in granting such leave requests shall be:

- i. Emergencies;
- ii. Religious holidays;
- iii. Personal matters.

2. Employees hired during the calendar year shall be granted one-half day of administrative leave for each full calendar month of employment up to a maximum of three days' leave for the remainder of the calendar year. Thereafter, administrative leave shall be credited at the beginning of each calendar year.

3. Administrative leave may be granted and shall be recorded and tracked in hours. See N.J.A.C. 4A:6-1.5(f) for adjustments in the administrative leave entitlement when an employee's workweek changes.

(b) Unclassified employees may be granted up to three days of administrative leave in each calendar year, at the discretion of the appointing authority.

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

(d) Use of administrative leave must be approved by the appointing authority and cannot be unreasonably denied.

(e) Administrative leave that is not used during the calendar year shall be forfeited. An employee who leaves

State service shall not be required to reimburse the State for days already used.

1. An employee leaving State service due to an inter-governmental transfer pursuant to N.J.A.C. 4A:4-7.1A shall not receive compensation based on any unused administrative leave, nor shall the administrative leave be transferrable.

(f) Administrative leave may be taken in conjunction with other types of paid leave.

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

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

In (c): 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).

Revised (a)3.

Amended by R.1999 d.346, effective October 4, 1999.

See: 31 N.J.R. 1553(a), 31 N.J.R. 2877(a).

In (a)3., added the second sentence.

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

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

In (e), added 1.

#### **4A:6-1.10 Leave without pay: State service**

(a) In State service, an appointing authority may, with Department of Personnel approval, grant leaves of absence without pay to permanent employees for a period not to exceed one year unless otherwise provided by statute. A leave may be extended beyond one year for exceptional situations upon request by the appointing authority and written approval by the Department of Personnel.