

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-5.1.d, the expiration date of Chapter 6, Leaves, Hours of Work and Employee Development, was extended by gubernatorial directive from May 31, 2016, to May 31, 2017. See: 48 N.J.R. 1365(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 See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 17, 18, 20 and 26; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 17, 18, 20 and 26; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapters 17 and 20.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 See, also, Historical Note and section annotations at repealed N.J.A.C. 4:4, New Jersey State Employees' Awards Committee Rules.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).

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

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 6, Leaves, Hours of Work and Employee Development, was scheduled to expire on May 31, 2016. See: 48 N.J.R. 5(a).

Cross References

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

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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.
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 inpatient 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).

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:

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.

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 (f); 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).

Amended by R.2012 d.164, effective October 1, 2012.

See: 44 N.J.R. 1751(a), 44 N.J.R. 2301(a).

Deleted (l) through (n) and Appendix A through Appendix E.

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 immediately 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

Employee was unfairly "resigned not in good standing" for job abandonment where the appointing authority failed to attempt to seek additional information from his physician or send the employee for an employer-paid examination under N.J.A.C. 4A:6-1.4(g). The employee did not "fall off of the face of the earth," but rather, remained in contact with the appointing authority and attempted to obtain the requested information in support of his leave request (adopting 2009 N.J. AGEN LEXIS 442). In re Smith, OAL Dkt. No. CSV 241-09, 2009 N.J. CSC LEXIS 1550, Civil Service Comm'n Decision (October 21, 2009).

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.

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) In accordance with P.L. 2010, c. 3, the sick leave injury (SLI) program expires for injuries or illnesses sustained by State employees pursuant to the following schedule:

1. On or after May 21, 2010 for those State employees who were not members of a collective negotiations unit on the Act's effective date of May 21, 2010;

2. On or after May 21, 2010 for those State employees who were members of a collective negotiations unit but whose collective negotiations agreement did not include a provision regarding SLI benefits as of May 21, 2010;

3. On or after July 1, 2011 for those State employees who were members of a collective negotiations unit and whose collective negotiations agreement included a provision regarding SLI benefits as of the Act's effective date, but whose agreement expires on June 30, 2011; and

4. On or after July 1, 2012 for those State employees who were members of a collective negotiations unit and whose collective negotiations agreement included a provision regarding SLI benefits as of the Act's effective date, but whose agreement expires on June 30, 2012.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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 required 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".

Amended by R.2011 d.289, effective December 5, 2011.

See: 43 N.J.R. 1933(a), 43 N.J.R. 3181(a).

Section was "Sick Leave Injury (SLI) requirements: State service".

Added new (a); and recodified former (a) through (e) as (b) through (f).

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 Civil Service Commission 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 Civil Service Commission in accordance with N.J.A.C. 4A:2-1.

(i) In all appeals, copies of all materials submitted to the Civil Service Commission 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 Civil Service Commission 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".

Amended by R.2011 d.289, effective December 5, 2011.
See: 43 N.J.R. 1933(a), 43 N.J.R. 3181(a).

Section was "Sick Leave Injury (SLI) reporting and appeal procedures: State service". In (f)5ii, (h), and (i), substituted "Civil Service Commission" for "Merit System Board"; and in (k)1, substituted "Civil Service Commission" for "Department of Personnel".

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.

1. An appointing authority may, with Department of Personnel approval, grant leaves of absence without pay to nonpermanent career service State employees for exceptional situations. Such leaves shall not exceed six biweekly pay-periods, or the equivalent, and shall not continue beyond termination of the appointment. Such leaves may be extended up to an additional six months, upon request of the appointing authority and written approval by the Department of Personnel, in cases of personal illness or disability. Leave without pay for nonpermanent employees may be terminated at any time.

2. Leave for union office for permanent and nonpermanent employees, pursuant to N.J.A.C. 4A:6-1.16, may be for periods longer than those specified in (a) and (a)1 above, as provided in the negotiated agreement.

(b) Employees in the senior executive and unclassified service may be granted leaves of absence without pay up to one year, at the discretion of the appointing authority.

(c) An appointing authority may permit an employee to return from a leave of absence without pay prior to its conclusion.

(d) Appointing authorities shall set procedures subject to review by the Department of Personnel for leave without pay.

(e) 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.1989 d.29, effective January 3, 1989.

See: 20 N.J.R. 133(a), 21 N.J.R. 19(a).

(a) Deleted text "Leave for union . . . the negotiated agreement." and added "Such leaves may . . ."; added (a)1.

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

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

Added new subsection (e).

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

Temporary leave of absence from classified position to fill unclassified position does not violate civil service rules and regulations (citing former N.J.A.C. 4:1-17.6). *Zamboni v. Stamler*, 199 N.J.Super. 378, 489 A.2d 1169 (App.Div.1985).

4A:6-1.11 Military leave

(a) For purposes of this section, a "permanent employee" shall mean:

1. In the career service, an employee who:
 - i. Has achieved permanent status in accordance with N.J.A.C. 4A:4-1.1;
 - ii. Is serving a working test period and has permanent status in another title; or
 - iii. Is serving a provisional appointment and has permanent status in another title.

2. In the unclassified or senior executive service, an employee appointed for an indefinite term.

(b) Regarding military service for members of New Jersey's Organized Militia, including the National Guard:

1. A permanent employee or a full-time, temporary employee who has served for one year or more, who is a member of the national guard or other component of the organized militia of the State of New Jersey, shall be entitled to a leave of absence with pay not to exceed 90 work days in the aggregate in any one calendar year for any period of Federal active duty, and unlimited paid leave in the case of State active duty. Active duty shall not include inactive duty training such as weekend drills. See N.J.S.A. 38A:4-4. The Adjutant General of the New Jersey Department of Military and Veterans Affairs shall determine the definition of Federal and State active duty. See N.J.A.C. 5A:2-2.1. An appointing authority may not unilaterally reschedule an employee's work time to avoid conflict with military leave. However, an appointing authority and an employee may mutually agree to reschedule an employee's work time to accommodate the employee's military leave.

(c) Regarding military service for reservists other than New Jersey National Guard members:

1. A permanent employee or a full-time, temporary employee who has served for one year or more, who is a member of the organized reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States or other affiliated organizations, including national guard units of other states, shall be entitled to a leave of absence with pay not in excess of 30 work days in the aggregate in a calendar year when he or she shall be engaged in any period of Federal active duty. Federal active duty shall not include inactive duty training such as weekend drills. See N.J.S.A. 38:23-1. An appointing authority may not unilaterally reschedule an employee's work time to avoid conflict with military leave. However, an appointing authority and an employee may mutually agree to reschedule an employee's work time to accommodate the employee's military leave.

(d) Regarding service and reemployment for all members of the military in time of war or emergency:

1. An employee in the career, senior executive or unclassified service, other than a person holding a position for a fixed term or period, who enters either Federal or State active military service in time of war or emergency, or for any period of training, or pursuant to any selective service system, shall be entitled to a leave of absence without pay for the period of such service and three months after discharge. However, if an employee is incapacitated by wound or illness at the time of discharge, such leave shall be extended until three months from recovery but in no event more than two years from date of discharge.

2. No entitlements under this section shall be granted if the separation from military service is by a dishonorable discharge. See N.J.S.A. 38:23-4.

3. For Federal reemployment rights, see 38 U.S.C. §§ 4301 et seq.

4. To the extent that a member of New Jersey's organized militia, including the New Jersey National Guard, has not exhausted 90 days of paid leave in accordance with (b) above, or a reservist has not exhausted 30 days of paid leave in accordance with (c) above, the member or reservist shall be permitted paid leave in accordance with, as applicable, (b) or (c) above, and also shall be afforded the rights of military members in accordance with (d)1 through 3 above.

(e) An employee is entitled to a leave of absence without pay for such other military duty not covered by (b), (c) or (d) above.

1. At the discretion of the employee, vacation leave, administrative leave and other accrued compensation may be used for such absences.

(f) During any leave of absence pursuant to (b) through (e) above, the employee shall continue to accrue seniority and salary increments, if applicable, in his or her title, and any leave of absence granted to the employee shall be in addition to other time off allowed such employee.

(g) For military leave regulations promulgated by the New Jersey Department of Military and Veterans' Affairs, see N.J.A.C. 5A:2.

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.2003 d.261, effective July 7, 2003.
See: 35 N.J.R. 339(a), 35 N.J.R. 2861(b).

Rewrote the section.

Amended by R.2005 d.20, effective January 3, 2005.
See: 36 N.J.R. 4200(a), 37 N.J.R. 46(a).

Rewrote the section.

Case Notes

Employee not entitled to civilian pay while on voluntary military training (citing former N.J.A.C. 4:1-17.3). *Hill v. Camden*, 190 N.J.Super. 418, 475 A.2d 567 (App.Div.1983) certification denied 96 N.J. 263, 475 A.2d 567.

Entitlement to purchase credit for time spent on military leave upheld because it was involuntary and involved active duty for training (citing former N.J.A.C. 4:1-17.9). *Abbots v. Bd. of Trustees*, 8 N.J.A.R. 102 (1984).

4A:6-1.12 Leave for appointment by Governor

When a permanent employee or an employee in the senior executive service is appointed by the Governor to an office, the appointing authority shall grant and record a leave of absence without pay for the period of appointment, provided that the employee requests such a leave of absence prior to the appointment. Upon the expiration of the leave, the employee shall have the right to return to the former title and receive all the rights, privileges and benefits of that title as if he or she had remained in that title. See N.J.S.A. 52:14-16.2.

Amended by R.1994 d.73, effective February 7, 1994.
See: 25 N.J.R. 4824(a), 26 N.J.R. 795(b).

4A:6-1.13 Convention leave

(a) Every employee in the career, senior executive or unclassified service who is a duly authorized representative shall, upon request, be granted a leave of absence with pay for a period of up to five days in any calendar year to attend any State or national convention of any one or more of the organizations listed in N.J.S.A. 38:23-2. The five days shall include necessary travel time. Written notice from the appropriate organization indicating that the employee is a duly authorized delegate shall be submitted to the appointing authority prior to the convention. A certificate of attendance shall be submitted to the appointing authority after the convention indicating the delegate's attendance.

(b) An employee who is a duly authorized representative of the New Jersey Policemen's Benevolent Association, Inc.; the Fraternal Order of Police; the Firemen's Mutual Benevolent Association, Inc.; or the Professional Fire Fighters Association of New Jersey shall be granted a leave of absence with pay to attend a State or national convention of one or more of those organizations; provided, however, that:

1. No more than 10 percent of the employee organization's membership shall be permitted such a leave of absence with pay, except that no less than two and no more than 10 authorized representatives shall be entitled to such leave, unless more than 10 authorized representatives are permitted such leave pursuant to an agreement between the appointing authority and negotiations representatives.

2. For employee organizations as with more than 5,000 members, a maximum of 25 authorized representatives shall be entitled to such leave.

(c) The leave shall be for a period inclusive of the duration of the convention with a reasonable time allowed for travel to and from the convention, except that such leave shall be for no more than seven days. A certificate of attendance at the convention shall, upon request, be submitted by the representative so attending. See N.J.S.A. 11A:6-10 and 40A:14-177.

(d) Persons designated by the Governor shall be granted leaves of absence to attend the convention of the American Correctional Association (American Prison Association). See N.J.S.A. 30:4-178.

(e) Any full-time teaching staff member, secretary or office clerk of any local school district who applies to his or her board of education shall be granted a leave of absence with pay to attend the convention of the New Jersey Education Association. Such leave shall not exceed two days within any one calendar year. The employee must file a certificate of attendance with the board of education. The certificate must be signed by the executive secretary of the association for the employee to receive paid leave. See N.J.S.A. 18A:31-2.

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.2003 d.261, effective July 7, 2003.
See: 35 N.J.R. 339(a), 35 N.J.R. 2861(b).
Rewrote the section.

Case Notes

Sick leave injury benefits paid to public employees under the Civil Service Act constitute, like worker's compensation itself, wage-loss replacement benefits rather than remuneration for services rendered, therefore the benefits are not "wages" or "remuneration" within the meaning of the unemployment and temporary disability benefit laws. Atty.Gen.F.O.1980, No. 20.

4A:6-1.14 Education leave: State service

In State service, an appointing authority may, with Department of Personnel approval, grant an employee in the career, senior executive or unclassified service education leave with or without pay for the purpose of obtaining training that is of direct value to the State but is not available through State inservice training programs. See N.J.A.C. 4A:6-4.6 for tuition aid programs.

4A:6-1.15 Leave for athletic competition: State service

(a) Any State employee in the career, senior executive or unclassified service who qualifies as a member of the United States team for athletic competition at the world, Pan American or Olympic level, in a sport contested in either Pan American or Olympic competitions, shall be granted a

leave of absence with pay for the purpose of preparing for and engaging in the competition.

(b) Such paid leave shall be no more than 90 calendar days in one year or the combined days of the official training camp and competition, whichever is less.

4A:6-1.16 Leave for union office

An appointing authority may grant a leave of absence without pay to any employee elected or appointed as an official of the employee's union. The maximum period for such leaves shall be a subject of negotiation between the employer and union.

4A:6-1.17 Leave for elective office: local service

(a) A permanent employee in local service shall be granted a leave of absence without pay to fill elective public office for the term of the office.

1. The employee shall be entitled to return to his or her permanent title within six years from the date the leave begins, provided that a written request to return is submitted to the appointing authority before the leave expires. If the term of the elective office exceeds six years, the employee's name shall be placed on a special reemployment list at the expiration of the six years.

i. If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.

(d) In State service, a leave recipient must receive at least five sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program. A leave donor shall donate only whole sick days or whole vacation days and may not donate more than 30 such days to any one recipient.

1. A leave recipient shall receive no more than 260 sick days or vacation days, and shall not receive any such days on a retroactive basis.

2. A leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.

3. A leave donor shall not revoke the leave donation.

4. If a leave donor is not in the same department or autonomous agency as the leave recipient, appropriate arrangements shall be made between the affected appointing authorities to verify donor eligibility and adjust leave records. However, the posting requirement set forth in (c)2 above is limited to the recipient's appointing authority.

(e) While using donated leave time in State service, the leave recipient shall accrue sick leave and vacation leave and be entitled to retain such leave upon his or her return to work.

1. Any unused, donated leave shall be returned to the leave donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave days results in less than one day per donor to be returned, that leave time shall not be returned.

2. Upon retirement, the leave recipient shall not be granted supplemental compensation on retirement for any unused sick days which he or she had received through the leave donation program.

(f) A State employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee.

(g) In local service, an appointing authority may establish a donated leave program which shall be consistent with the provisions of (a) through (f) above, with approval of the Commissioner.

1. The appointing authority shall submit to the Commissioner a donated leave program proposal no later than 30 days before the planned implementation of the program. The proposal shall include a summary of consultations with affected negotiations representatives concerning the pro-

gram and name the donated leave program administrator for the appointing authority.

2. The appointing authority shall not implement a donated leave program unless the program has been approved by the Commissioner.

3. The appointing authority shall retain all records concerning implementation of an approved donated leave program subject to Department of Personnel audit.

4. The appointing authority may suspend or terminate the donated leave program at any time upon 30 days written notice of such suspension or termination to the Commissioner, all affected employees and labor negotiations representatives.

New Rule, R.1993 d.47, effective January 19, 1993.

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

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

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

Added eligibility for employees with family members suffering from a catastrophic health condition, provided for leave donors not in the same department as leave recipients, and authorized donated leave programs for local service.

Administrative correction.

See: 28 N.J.R. 4577(a).

Amended by R.2001 d.26, effective January 16, 2001.

See: 32 N.J.R. 3515(b), 33 N.J.R. 253(b).

Rewrote the section.

Amended by R.2005 d.66, effective February 22, 2005.

See: 36 N.J.R. 4567(a), 37 N.J.R. 587(a).

In (b)1 and 2, added i and ii.

Petition for Rulemaking: Donated Leave Program.

See: 39 N.J.R. 2153(a).

Petition for Rulemaking: Donated Leave Program.

See: 42 N.J.R. 87(a).

Amended by R.2010 d.125, effective June 21, 2010.

See: 42 N.J.R. 12(a), 42 N.J.R. 1166(a).

In the introductory paragraph of (d), substituted "30" for "10"; and in (d)1, substituted "260" for "180".

4A:6-1.23 Voluntary furlough program

(a) The purpose of a voluntary furlough program is to lessen the need for reductions in force by allowing employees in the career, senior executive or unclassified services to take up to 30 days off from work without pay in a calendar year, with accrual of leave time, anniversary dates and seniority treated as if the employee is in pay status.

(b) In local service, an appointing authority may establish a voluntary furlough program which may differ in detail but which shall be consistent with the purpose of these rules, with approval of the Commissioner.

1. The appointing authority shall submit to the Commissioner, through the appropriate regional office, a voluntary furlough program proposal no later than 30 days before the planned implementation of the program. The proposal shall specify departments to be affected, employees or titles to be affected, include a summary of consultations with affected negotiations representatives concerning the program and name the voluntary furlough program administrator for the appointing authority.

2. The appointing authority shall not implement a voluntary furlough program unless the program has been approved by the Commissioner.

3. The appointing authority shall retain all records concerning implementation of an approved voluntary furlough program subject to Department of Personnel audit.

4. The appointing authority may suspend or terminate the voluntary furlough program at any time upon 30 days written notice of such suspension or termination to the Commissioner, all affected employees and labor negotiations representatives.

(c) An employee who wishes to participate in the program shall request, in writing, approval for such participation from the appointing authority.

1. The employee shall not be permitted to take the voluntary furlough until the employee has received approval by the appointing authority.

2. The manner in which the employee proposes to use the voluntary furlough shall be contained in the request, may be the equivalent of no more than 30 work days in a calendar year, and may consist of one or more of the following:

- i. Shorter work days;
- ii. Intermittent days off; or
- iii. Consecutive days off.

3. An appointing authority may deny an employee the opportunity to participate in the program if it determines that such participation would be detrimental to the public health, safety or welfare or would result in increased costs to the appointing authority due to increased overtime, the need to appoint additional employees or the loss to that appointing authority of anticipated revenue.

4. An employee shall not be permitted to use a voluntary furlough for any of the following purposes:

- i. As sick leave;
- ii. As a leave without pay due to disability; or
- iii. To seek or engage in alternate employment.

5. When an employee uses voluntary furlough or furlough extension leave for a purpose covered by the New Jersey Family Leave Act (FLA) or the Federal Family and Medical Leave Act (FMLA) and the employee is eligible for coverage under the FLA or FMLA, the voluntary furlough or furlough extension leave shall be recorded as FLA leave, FMLA leave, or both, as appropriate.

(d) An employee who wishes to extend a voluntary furlough beyond 30 days may request up to 60 days' furlough extension leave without pay. This furlough extension leave shall be taken in blocks of 10 work days, which need not be consecutive.

1. During furlough extension leave, accrual of leave time, anniversary dates and seniority shall be treated as if the employee is in pay status. The employee may continue health benefits by paying the full premium amount (employer's and employee's share) for the furlough extension's days in accordance with the regulations of the State Health Benefits Commission.

2. Furlough extension leave may be used for education or family care needs only.

3. Requests for furlough extension leave are subject to the approval of the appointing authority and the Department of Personnel.

(e) An employee on a voluntary furlough or furlough extension leave shall continue to accrue leave time as if the employee is in pay status. See N.J.A.C. 4A:6-1.2 (vacation leave), 4A:6-1.3 (sick leave) and 4A:6-1.5 (vacation and sick leave adjustments).

(f) In State service, the anniversary date of an employee on a voluntary furlough or furlough extension leave shall be unaffected by the employee's participation in the program. See N.J.A.C. 4A:3-4.6.

(g) The seniority of an employee on a voluntary furlough or furlough extension leave shall be unaffected by the employee's participation in the program. See N.J.A.C. 4A:4-2.15 (seniority in rating of examinations) and N.J.A.C. 4A:8-2.4 (seniority in layoffs).

(h) An employee serving in a working test period who is participating in the program shall have the working test period extended for the period of time equal to the voluntary furlough or furlough extension leave. See N.J.A.C. 4A:4-5.

(i) In State service, an employee on a voluntary furlough or furlough extension leave on the day before a holiday shall receive pay for the holiday as long as he or she is in pay status during the pay period in which the holiday falls. See N.J.A.C. 4A:6-2.4.

(j) See N.J.A.C. 17:9-4.2, 8.3 and 9.1 for State health benefits coverage during a voluntary furlough.

(k) Once an employee has used the equivalent of 30 days for a voluntary furlough and the equivalent of 60 days for a furlough extension leave in a calendar year, the employee shall not be permitted to take a leave without pay unless it is approved by the appointing authority in accordance with N.J.A.C. 4A:6-1.10.

1. For any leave without pay approved by the appointing authority in accordance with N.J.A.C. 4A:6-1.10 after the employee has taken a voluntary furlough and furlough extension leave, the rules on leave time, anniversary dates and seniority with respect to leaves without pay shall apply. See N.J.A.C. 4A:6-1.2 (vacation leave), 1.3 (sick leave), 1.5 (vacation and sick leave adjustments); 4A:3-4.6 (anniversary dates); and 4A:4-2.15 (seniority in rating of examinations) and 4A:8-2.4 (seniority in layoffs).

New Rule, by R.1995 d.12, effective January 3, 1995.
See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).
Petition for Rulemaking.
See: 34 N.J.R. 1742(a).
Petition for Rulemaking.
See: 35 N.J.R. 276(a).
Petition for Rulemaking.
See: 41 N.J.R. 2500(a), 2726(a).
Petition for Rulemaking.
See: 42 N.J.R. 1626(a), 1627(a).

4A:6-1.24 School volunteer leave

(a) State employees in the career, senior executive or unclassified service shall be granted leave with pay, up to a maximum of 20 hours per calendar year, to volunteer in an academically beneficial school activity.

1. In local service, an appointing authority may establish a school volunteer leave program.

(b) An academically beneficial school activity, for purposes of this section, includes, but is not limited to, helping a teacher in the classroom, as well as the following activities held at the schools: reading to children; tutoring; assisting

students with homework; mentoring; serving as a guest speaker; advising students on careers; or assisting with extra curricular or coaching activities.

1. School volunteer leave is not intended to be used for such activities as parent teacher conferences back-to-school nights, field trips or attending class performances.

2. Activities may take place at any New Jersey public, private or parochial school, through grade 12.

3. The volunteer program shall be approved by the local board of education or, in the case of a private or parochial school, the appropriate administrative authority for that school.

4. The State employee need not be a parent of a child in the school in which the volunteer activity is being performed. However, employee participation in the volunteer program shall be subject to approval by the school principal or designee.

(c) State appointing authorities shall establish procedures for school volunteer leave, subject to the following:

1. Holiday pay shall be paid at the end of a bi-weekly pay period and shall be calculated by dividing the number of hours the employee was in regular pay status in that pay period by the number of hours which a full-time employee would work during that pay period, and then multiplying that amount by the number of holiday hours for that pay period.

2. An intermittent employee who has resigned, been removed or been laid off prior to the last day of the pay period shall not receive holiday pay for that pay period.

(c) When an authorized State holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. When an authorized holiday falls on a Sunday, the following Monday shall be observed as the holiday.

(d) Employees who are in pay status on the day immediately before an authorized holiday shall receive pay for the holiday. An employee on a voluntary furlough or a furlough extension leave on the day before a holiday shall receive pay for the holiday as long as the employee is in pay status during the pay period in which the holiday falls.

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

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

In (a): raised text and created new (b), with paragraphs 1. and 2. Recodified old (b)-(c) as new (c)-(d), with no change in text.

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

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

4A:6-2.5 Inclement weather or emergency conditions: State service

(a) The Governor or his or her designee, in consultation with the Office of Emergency Management, shall determine whether a period of inclement weather or other adverse situation requires the curtailment of State operations and services and whether emergency procedures need be implemented.

1. This determination shall include whether the curtailment shall be Statewide, regional, specific to one or more facilities, or limited in some other manner.

2. The Office of Emergency Management shall notify all State departments and agencies, and appropriate media outlets, when the curtailment of State operations and services and/or an Essential Employee Attendance Plan are to be implemented.

(b) For purposes of this section, the following definitions shall apply:

1. "Essential Employee Attendance Plan" shall mean that portion of a department or agency's procedures for operating during a period of inclement weather or other adverse situation that explains the responsibilities, requirements and expectations of essential attendance employees in the event that the Governor determines that a period of inclement weather or other adverse situation requires the curtailment of State operations or services.

2. "Inclement weather or other adverse situation" shall mean an actual or imminent change in the weather or an actual or imminent change in other conditions or circumstances that is serious enough to disrupt all or a portion of the functions of State government.

(c) Each State department and agency shall annually review its criteria for the designation of essential attendance employees and, based on these criteria, update its roster of such employees. Employees so designated shall be notified no later than October 31 of each year of this designation and shall at that time be provided with a copy of the department or agency's Essential Employee Attendance Plan. The Plan shall include the responsibilities, requirements and expectations of such employees in the event that a period of inclement weather or other adverse situation requires the curtailment of State operations or services.

1. Each State department and agency shall provide the Department of Personnel and affected union representatives with its updated roster of essential attendance employees no later than November 15 of each year. The Department of Personnel shall make this information available to the Office of Emergency Management.

(d) An essential attendance employee who is required to work in accordance with an Essential Employee Attendance Plan shall be compensated at the regular rate of pay for such work. See N.J.A.C. 4A:3-5 for overtime compensation for work performed by non-exempt employees in excess of the regular workweek.

Repeal and New Rule, R.1997 d.412, effective October 6, 1997.

See: 29 N.J.R. 2733(a), 29 N.J.R. 4279(c).

Section was "Inclement weather or emergency conditions: State service".

4A:6-2.6 Flexitime programs: State service

(a) Appointing authorities may establish flexitime programs to accommodate operational and/or employee needs, and shall provide for:

1. Core time, which is the period of time during which all employees must be present;

2. Flexible time, which is the period of time before and after the core time in which the employees may choose, subject to appointing authority approval, time of arrival and departure;

3. A meal period which may be flexible in duration and scheduling.

(b) An appointing authority may limit participation in a flexitime program to selected groups of job titles, work units and/or work locations to accommodate operational needs.

(c) Department of Personnel assigned workweeks for affected titles, for example, 35 or 40 hours, shall be retained.

(d) Establishment, modification or termination of a flexitime program shall not become effective without the approval of the Commissioner. Requests for these actions shall 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 requested action to operational and employee needs;
2. Statement of impact on services to the public or agency clientele;
3. Details of the core time, flexible time and meal periods;
4. Groups of job titles, work units and/or work locations to be covered by the program;
5. Procedures governing employee participation in the program;
6. Approval procedures for individual flexitime schedules and changes;
7. Provisions for giving employees at least two weeks notice of termination of the program;
8. Monitoring and evaluation procedures; and
9. Name, address and telephone number of the program administrator.

(e) An appointing authority may authorize a complete or partial temporary suspension of the flexitime program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Commissioner a fully detailed justification and specify the duration of the suspension.

(f) Appointing authorities should consult with affected negotiations representatives concerning flexitime programs before implementation.

(g) A description of an appointing authority's flexitime program shall be made available to employees upon request.

(h) Overtime compensation for employees in flexitime programs shall be regulated in the same manner as for all other employees.

4A:6-2.7 Alternative workweek programs: State service

(a) Appointing authorities may establish alternative workweek programs, such as a four day workweek, to accommodate operational and/or employee needs.

(b) A program may be developed for year-round use or for a specific portion of a year.

(c) An appointing authority may limit participation in an alternative workweek program to selected groups of job titles, work units and/or work locations to accommodate operational needs.

(d) Department of Personnel assigned workweeks for affected titles, for example, 35 or 40 hours, shall be retained.

(e) Appointing authorities shall develop, subject to Department of Personnel approval, appropriate sick, vacation and administrative leave schedules for employees participating in an alternative workweek program.

(f) Since employees in an alternative workweek program have a longer or shorter workday than employees on a five day workweek schedule, a time differential exists on holidays. This differential shall be equalized in a manner determined by the appointing authority. If a holiday occurs on an employee's regular day off, he or she shall be granted an additional day off consistent with operational needs.

(g) Establishment, modification or termination of an alternative workweek program shall not become effective without the approval of the Commissioner. Requests for these actions must be submitted at least 30 days in advance of the proposed effective date to the Department of Personnel and shall include the same items listed in N.J.A.C. 4A:6-2.6(d).

(h) An appointing authority may authorize a complete or partial temporary suspension of the alternative workweek program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Commissioner a fully detailed justification and specify the duration of the suspension.

(i) Appointing authorities should consult with affected negotiations representatives concerning alternative workweek programs before implementation.

(j) A description of an appointing authority's alternative workweek program shall be made available to employees upon request.

(k) Overtime compensation for employees in alternative workweek programs shall be regulated in the same manner as for all other employees, except as specified in N.J.A.C. 4A:3-5.3.

Amended by R.1997 d.8, effective January 6, 1997.

See: 28 N.J.R. 4295(b), 29 N.J.R. 123(b).

In (e), inserted reference to Department of Personnel approval; deleted (e)1 and (e)2, relating to four day workweek employees; and, in (k), added reference to exception.

4A:6-2.8 Adjusted hours of operation: State service

(a) Appointing authorities may adjust established hours of daily or shift operations to accommodate operational and/or employee needs.

(b) Department of Personnel assigned workweeks, for affected titles, for example, 35 or 40 hours, shall be retained.

(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.

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, 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.

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, where applicable, before and after the return.

(c) The sending jurisdiction shall not pay SCOR to any law enforcement officer, including a sheriff's officer and a county correction officer, approved for an intergovernmental transfer, and shall certify to the receiving jurisdiction and the Department of Personnel that no SCOR was paid.

New Rule, R.2001 d.420, effective November 19, 2001.

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

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

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

In (b), inserted ", where applicable,"; and added (c).

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.

(b) In State Service, the Commissioner shall establish training and education, performance evaluation and assistance programs for employees. The Commissioner shall also review and approve career development programs for employees. These responsibilities may be delegated to agencies other than the Department of Personnel only by written order of the Commissioner.

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

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

Revised (b). Subchapter 4 title also revised to reflect textual changes.

4A:6-4.2 Department of Personnel functions: State service

(a) The Commissioner shall administer a Human Resource Development Institute (HRDI or the Institute) which is responsible for the following functions:

1. Planning, development, and delivery of all training and education programs for State employees, except for programs exempted by Executive Order No. 12(1990) or by the Commissioner of Personnel through a written delegation order. The Institute shall also be responsible for the planning, development, and delivery of all evaluation (see, for example, N.J.A.C. 4A:6-4.5) and assistance programs (see, for example, N.J.A.C. 4A:6-4.3 and 4.6) for State employees.

i. Delivery of training and education programs, evaluation programs and assistance programs shall be provided by pre-approved vendors or consultants. If no pre-approved vendor or consultant is available to deliver a specific program, the Institute shall negotiate the most cost-effective contract with an outside vendor or consultant to deliver the program. Under limited circumstances, Institute staff shall deliver training.

2. Review and approval of all career development programs for State employees.

3. Management of all ancillary operations, quality control efforts, facilities, and administrative support that are allocated to State Government training programs.

4. Coordination of State service programs for employees seeking agency, career, or location changes and for employees affected by job displacement.

(b) In cooperation with State agencies, the Human Resource Development Institute shall assess State government Human Resource Development (HRD) needs and develop training and education plans and programs for each agency and for the State government as a whole. The Institute shall deliver or, consistent with (a)li above, arrange the delivery of these programs as appropriate.

1. Neither agency employees nor outside vendors or consultants may develop or deliver training and education programs that the Institute is capable of developing or delivering, as provided in (a)li above, without the prior written approval of the Institute director. If the Institute is not capable of developing or delivering, as provided in (a)li above, a program of instruction that an agency needs, the institute director may authorize the agency to assign employees temporarily to develop or deliver the program, or to hire a pre-approved vendor or consultant for the same purpose. The Institute staff shall supervise and direct the delivery of any such program.

2. No State agency except the Institute may employ or retain any person whose primary duty is staff training or human resource development, except as specifically permitted by Executive Order No. 12(1990) or by the Com-

missioner of Personnel through a written delegation order.

(c) The Institute shall establish guidelines and procedures for career development programs, help State agencies develop these programs, and review and approve career development plans and programs.

(d) The Institute shall evaluate the results and effects of all State government HRD programs based on the following criteria:

1. Contribution to State government-wide goals and objectives.

2. Response to legitimate State government HRD needs.

3. Allocation of resources to areas of greatest need.

4. Achievement of desired changes in employee knowledge, skills, attitudes, and performance.

(e) The Institute shall maintain a comprehensive system to record the training and education experiences of its clients, including all State government employees.

(f) Each State agency may designate a customer liaison to the Institute, whose responsibilities, which shall be in addition to his or her other job assignments in the agency, shall be the following:

1. Review and approve the designation of members of the agency to participate in HRD programs, subject to eligibility criteria established by the Institute.

2. Assist the Institute in setting HRD priorities related to the agency's mission and goals.

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

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

Deleted existing text and inserted new.

Amended by R.2000 d.86, effective March 6, 2000.

See: 31 N.J.R. 3883(a), 32 N.J.R. 795(a).

Rewrote (a); and in (b), inserted references to (a)li throughout, inserted a reference to outside vendors in the first sentence and inserted a reference to pre-approved vendors in the second sentence in 1, and substituted "through a written delegation order" for "in writing" at the end of 2.

4A:6-4.3 Training and Education Programs: State Service

(a) State Government training and education programs include, but are not limited to, the following:

1. Employee orientation programs;
2. Agency specific technical and topical programs;
3. Programs mandated by State and Federal statutes;
4. Health and safety programs;
5. General training programs;
6. Computer and information systems training;
7. Basic literacy and remedial programs;

8. Clerical and support programs;
9. Apprenticeship programs;
10. Supervisory and management training; and
11. Executive training and development.

Amended by R.1993 d.47, effective January 19, 1993.
See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).
Revised section.

4A:6-4.4 Certified Public Manager Program: State service

(a) The Human Resource Development Institute shall develop and administer the Certified Public Manager Program (CPM) for supervisors and managers. The program shall meet criteria established by the National Certified Public Managers Consortium. The Commissioner of Personnel shall be Chief Administrative Officer of the program. The Director of the HRDI shall be the Program Director.

(b) The Program shall consist of progressive levels of instruction delivered jointly by the Institute and an institution of higher education selected by the Department of Personnel.

(c) For that part of the program for managerial training, the employee shall be responsible for 25 percent of the cost and the department or agency for 75 percent of the cost, provided however that the HRDI Director may set a different cost allocation depending upon the fiscal condition of the department or agency. If a different cost allocation is set, HRDI shall notify affected departments or agencies prior to soliciting nominations for employee participants.

Repealed, recodified and amended by R.1993 d.47, effective January 19, 1993.

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

Section was "Human Resource Development Committee; State Service"; new section recodified from 4.7 with revisions to text.

Amended by R.1996 d.214, effective May 6, 1996.

See: 27 N.J.R. 4049(b), 28 N.J.R. 2374(a).

In (b) eliminated restriction to Rutgers.

Amended by R.1996 d.472, effective October 7, 1996.

See: 28 N.J.R. 3210(a), 28 N.J.R. 4424(a).

Deleted provision for appointment of a CPM policy board.

4A:6-4.5 Career Development Programs: State service

(a) Departments or agencies may, with the written approval of the HRDI Director and consistent with their goals, workforce planning and technological changes, implement programs that prepare employees to move to new assignments or career opportunities.

1. A department or agency shall seek written approval from the Institute Director for a program referred to in (a) above by submitting a written plan. This plan shall include the program's goals, objectives, target population, projected outcome and evaluation criteria for the program's success.

(b) Programs in support of career development include, but are not limited to, the following: tuition assistance (N.J.A.C. 4A:6-4.6), employee interchanges (N.J.A.C. 4A:6-4.8), and internships (N.J.A.C. 4A:6-4.9).

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

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

Deleted (a); redesignated (b)-(c) as (a)-(b) with revisions.

Amended by R.2000 d.86, effective March 6, 2000.

See: 31 N.J.R. 3883(a), 32 N.J.R. 795(a).

In (a), substituted a reference to written approval for a reference to approval in the introductory paragraph, and added 1.

4A:6-4.6 Tuition aid program: State service

(a) Each State department or agency, subject to available appropriations, shall establish a tuition aid program, available to eligible employees to complete undergraduate, graduate, technical or supplemental coursework at an accredited educational institution which relate to current or planned job responsibilities.

(b) The tuition aid program may be submitted for approval as part of the HRD plan (see N.J.A.C. 4A:6-4.3) or as a separate plan for approval by the Department of Personnel and shall include:

1. Employee eligibility criteria and acceptable grades and course completion for reimbursement;
2. Amount of funds allocated for tuition aid;
3. Name of the individual charged with administering the program;
4. Amount and form of reimbursement; and
5. Procedures for notifying employees of approval or disapproval.

(c) Any amendment to the plan must be submitted for approval at least one month prior to implementation.

(d) No employee shall receive tuition aid per semester in an amount that exceeds the cost of six credits at a New Jersey State College or Rutgers, the State University, whichever is higher.

(e) Reimbursement shall be made upon evidence of satisfactory completion of the courses as determined by the department or agency.

(f) Notice, eligibility and application procedures for tuition aid shall be posted throughout the department or agency.

(g) Each State department or agency shall also submit semi-annual reports to the Department of Personnel in such form and detail and according to such time schedule as the Department shall prescribe and include:

1. Names and titles of all employees receiving tuition aid;
2. Amount of aid received by each employee;

3. Equal employment and affirmative action data;
4. Information relating to the course and educational institution; and
5. Other information as may be requested by the Commissioner.

4A:6-4.7 (Reserved)

Repealed and Recodified to 4A:6-4.4 by R.1993 d.47, effective January 19, 1993.

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

Section was "Certified Public Manager Program: State service."

4A:6-4.8 Employee interchange program

(a) The Commissioner may approve an Employee Interchange Program that is intended to improve the management of government through shared experience, communication and learning among public, private and academic organizations. See N.J.S.A. 52:14-6.10 et seq. and N.J.S.A. 11A:2-11j.

(b) An appointing authority is authorized to participate, either as a sending or receiving agency, in an interchange program with any federal, State or local governmental or private sector entity.

(c) An interchange program shall provide that:

1. The length of any interchange shall not be more than 12 months or less than two months. The Commis-

sioner may approve an assignment of less than two months in emergency situations. The Commissioner may extend an interchange for up to an additional six months to complete work in progress.

2. The participating employee shall remain an employee of the sending agency from which he or she shall receive salary and all benefits.

i. A receiving agency may reimburse the employee for travel expenses.

ii. The sending agency may receive reimbursement from the receiving agency for the salary and benefits of the employee. Such reimbursement shall be determined by agreement between the sending and receiving agencies. The agencies may also agree to provide housing or relocation assistance for the employee.

3. No interchange may be initiated without written consent of the participating employee.

4. A participating employee shall remain in the employ of the sending agency for a period of at least one year after the end of the interchange.

(d) An employee may not be assigned to an interchange program for more than 12 months in any 36-month period, unless the length of the interchange is extended by the Commissioner pursuant to (c)1 above.

(e) An employee interchange may be terminated by either the receiving or sending agency by giving 30 days written notice to the other agency, the employee and the Department of Personnel.

(f) The New Jersey Conflict of Interest Law (N.J.S.A. 52:13D-12 et seq.) shall be applicable to all participating State employees and to Federal, local or private sector employees serving with a State agency.

4A:6-4.9 Internship programs: State service

(a) Internship programs include:

1. Programs limited to full time students of participating accredited institutions of higher education who are performing services for a State department or agency directly related to their course of study;
2. Fellowships in managerial assignments to selected individuals based on established educational and career achievements; and
3. Educational or apprenticeship programs for State employees intended for career change or advancement or due to job displacement.

(b) A proposed internship program must be submitted in writing to the Commissioner by the agency head and include a detailed description of the program, its benefits, program participants, program costs and relevant data. The Commissioner may request additional information and may approve, disapprove or modify the request.

4A:6-4.10 Employee Advisory Service: State service

(a) The Department of Personnel shall establish an Employee Advisory Service (EAS) to assist State employees in achieving and maintaining the highest level of job performance of which they are capable. EAS shall provide access to counseling, rehabilitative and/or community services for a State employee who:

1. Has received an annual performance rating at the lowest level. See N.J.A.C. 4A:6-5.1 et seq.
2. Has received a performance rating which is below the mid-point on the multi-level scale and an improvement plan has not been effective;
3. Is experiencing personal problems which affect job performance; or
4. Has a family member who is experiencing personal problems which affect the employee's job performance.

(b) Employees may voluntarily contact EAS or may be referred to EAS by the appointing authority. If the employee consents, he or she may be referred by a union or association representative. An employee should be referred to EAS as soon as problems are manifested which may affect job performance.

(c) Except as conditioned below or where there is an overriding health or safety need, all EAS information regarding an employee is confidential.

1. An employee may authorize in writing the release of all or part of such information.
2. In appointing authority referrals, the appointing authority may be informed:
 - i. Whether an individual has been accepted for a program;
 - ii. Whether or not an employee has kept his or her appointments;
 - iii. The dates and times of future appointments with either EAS or an outside agency; and
 - iv. The estimated amount of time needed to complete the program if reasonably ascertainable.

(d) Appointments for appointing authority referred employees shall be scheduled through the personnel office.

1. An employee shall be given time off with pay for the intake and evaluation visits. For other situations and visits, arrangements shall be set by the employee and appointing authority, which may include use of available sick or other leave.

2. When an appointing authority referred employee fails to keep a scheduled appointment or does not accept a referral from EAS, the appointing authority shall be notified of the matter by EAS.

(e) EAS shall monitor the progress of all employees. To maintain active client status, an employee must follow the prescribed EAS program.

(f) An appointing authority that is informed that an employee is receiving services through EAS, shall consult with the supervisor of the EAS program prior to seeking removal of the employee.

(g) State health or other benefit programs may be utilized where applicable.

SUBCHAPTER 5. PERFORMANCE EVALUATION

4A:6-5.1 General provisions

(a) In local service, an appointing authority may establish an employee performance evaluation program. A performance evaluation system must be reviewed and approved by the Chairperson of the Civil Service Commission or designee in order to be used in promotions or layoff.

(b) In State service, a Performance Assessment Review (PAR) program shall apply to all employees in the career

service, and those in unclassified titles as designated by particular departments or agencies.

1. While not mandated, departments and agencies are encouraged to include all unclassified titles in the PAR program.

2. The PAR program shall use standardized forms and rating scales for different performance appraisal models to be designated by the Chairperson of the Civil Service Commission or designee and, except as provided in (d) below, a three-level rating scale to include the following ratings:

- i. Exceptional;
- ii. Successful; and
- iii. Unsatisfactory.

3. Each agency shall establish standardized rating cycles with a duration of one year. Within a particular standardized rating cycle, employees shall be rated at the same time, twice a year, with the interim and final ratings being six months apart.

(c) Each appointing authority shall maintain an employee's PAR evaluations in his or her personnel records and shall submit reports to an appropriate representative of the Civil Service Commission on all final PAR ratings of its employees in a form prescribed by the Chairperson or designee.

(d) The Chairperson of the Civil Service Commission or designee may modify the PAR program based on specific employee or agency needs and implement for State appointing authorities, unless precluded by a collective negotiations agreement, a five-level rating scale to include the following ratings:

1. Five – Exceptional Performance;
2. Four – Commendable Performance;
3. Three – Successful Performance;
4. Two – Needs Improvement/Development; and
5. One – Unsatisfactory Performance.

Amended by R.1993 d.47, effective January 19, 1993.
See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Revised (b).

Amended by R.2000 d.11, effective January 3, 2000.
See: 31 N.J.R. 2824(a), 32 N.J.R. 35(a).

In (b), rewrote 2, and added 3.

Amended by R.2014 d.045, effective March 17, 2014.
See: 45 N.J.R. 525(a), 46 N.J.R. 497(a).

In (a), substituted "Chairperson of the Civil Service Commission or designee" for "Department of Personnel"; rewrote the introductory paragraph of (b)2 and (c) and (d); and in (b)2ii, substituted "Successful" for "Commendable".

Case Notes

Criteria for employee evaluations; managerial prerogative. *State v. State Supervisory Employees Association*, 78 N.J. 54, 393 A.2d 233 (1978).

Employee failed to prove any act of discrimination. *Chaudhry v. DEPE*, 93 N.J.A.R.2d (CSV) 635.

4A:6-5.2 PAR procedure: State service

(a) An employee and his or her supervisor shall jointly develop a job performance plan consisting of work assignments together with measurable performance standards. The employee shall be provided with a copy of the performance plan once established. If an employee disagrees with the established performance plan, he or she may note such disagreement.

(b) At the end of six months and at the end of one year, the employee and the supervisor shall review the employee's performance. The supervisor shall designate an interim performance rating at the end of six months and a final rating at the end of one year.

1. When there is a change either in job assignment or supervisor during the evaluation period, the old performance plan shall be closed out. The employee's performance during the portion of the rating period under the old performance plan shall be rated and a new performance plan shall be prepared. The final rating shall be a proration of all ratings received during the review period.

2. When there is a change in job title during the evaluation period, the former supervisor shall assign a final rating for the former performance plan and title. A performance plan for the new title shall be developed.

3. When appropriate, performance improvement plans shall be set at each review.

4. The employee shall be entitled to a copy of the rating.

(c) When a rating below the Commendable level is received, a performance conference shall be conducted after three months or such shorter period of time as determined by the supervisor.

(d) A performance plan for each rating period shall be established within a reasonable time after completion of the previous rating period. New employees shall receive a performance plan within a reasonable time after appointment.

1. The supervisor shall prepare a job performance plan prior to the commencement of the working test period which shall identify the job assignment, include the essential criteria for successful job performance, and emphasize training and development.

(e) A supervisor's own PAR shall provide that the supervisor shall complete the PAR of his or her subordinates. A supervisor who fails to timely complete the final ratings of his or her subordinates, or who is responsible for another employee's failure to timely complete a final PAR rating, shall receive a rating of Unsatisfactory, and may be subject to discipline.

(f) The Department of Personnel may require additional reports, information or audits of an agency's PAR program.

(g) A complaint that an entire agency or unit is in violation of this subchapter shall be presented to the PAR coordinator within the personnel office for the subject department. The PAR coordinator shall, within 30 days, investigate the complaint, respond in writing to the individual(s) presenting the complaint and implement remedial action as appropriate. If the individual(s) is (are) dissatisfied with the response of the PAR coordinator, or if no action has been taken within 30 days of the complaint, the individual(s) may appeal the matter to the PAR Program Coordinator, Department of Personnel.

(h) Complaints concerning an individual's final PAR rating or performance standards shall be addressed through procedures set forth in N.J.A.C. 4A:6-5.3(b) through (d).

Amended by R.1993 d.47, effective January 19, 1993.
See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Revised (b)-(e); redesignated (e) as (f); added new (g).

Amended by R.2000 d.11, effective January 3, 2000.

See: 31 N.J.R. 2824(a), 32 N.J.R. 35(a).

Rewrote the section.

4A:6-5.3 PAR use and review: State service

(a) In both a three-level and a five-level PAR rating scale, an employee receiving an annual PAR rating below the Successful level shall be denied an anniversary date increment.

1. An appointing authority may request an anniversary date increment for an employee who was denied an increment because of receiving an Unsatisfactory rating in a three-level or a five-level rating scale, but whose performance has subsequently improved. If approved by the Chairperson of the Civil Service Commission or designee, such increment shall not be effective until a pay period beginning at least 90 days after the employee's anniversary date. In the case of a five-level rating scale, if an employee who had received a rating of Two – Needs Improvement/Development demonstrates an improved performance within 90 days following the rating, the increment shall be restored to the employee retroactively.

2. An employee who receives an annual rating below the Successful level in a three-level rating scale or an annual rating of One – Unsatisfactory Performance in a five-level rating scale should be referred by the appointing authority to the Employee Advisory Service. See N.J.A.C. 4A:6-4.10.

(b) Employees who are not represented by a collective negotiations unit or who are so represented but whose contract does not specify an appeal procedure, may appeal performance standards or a final PAR rating of Unsatisfactory in a three-level rating scale or a final PAR rating of One – Unsatisfactory or Two – Needs Improvement/Development in a five-level rating scale through noncontractual grievance procedures. See N.J.A.C. 4A:2-3.1. In addition to the grievance procedure requirements, all appeals shall be accompanied by a copy of the PAR evaluation.

(c) Employees who are represented by a collective negotiations unit may, where the contract so provides, file an appeal utilizing the procedures set forth in (d) below, regarding the following PAR ratings and issues:

1. In the case of a three-level rating scale, a final PAR rating of Unsatisfactory, or, where specifically provided in the contract, a final PAR rating of Successful;

2. In the case of a five-level PAR rating scale, a final PAR rating of One – Unsatisfactory Performance or Two – Needs Improvement/Development; and

3. Performance standards, regardless of the number of levels in the rating scale.

(d) The following are the procedures that shall be utilized where the requirements of (c) above are met:

1. Step One grievance procedures shall be conducted as set forth in N.J.A.C. 4A:2-3.4.

2. A grievant may appeal a Step One grievance decision to the PAR Joint Union Management Panel within 10 calendar days of receipt of the written decision at Step One, or a lack of timely response by the appointing authority. The appeal shall be accompanied by material presented at Step One and any written records or decisions from Step One.

i. The Joint Union Management Panel shall consist of one individual selected by the appointing authority, one individual selected by the affected negotiations representative and one neutral individual jointly selected by the appointing authority and the affected negotiations representative.

ii. The panel shall meet, provided there are at least four Second Step appeals to be heard. The panel shall meet one additional day each month for every four additional appeals to be heard. When in any month there is no meeting because there are fewer than four appeals to be heard, there shall be a meeting the following month, so long as there are any cases to be heard.

iii. The appointing authority and union panel members shall discuss each appeal on the agenda and, with the assistance of the neutral panel member, attempt to jointly resolve the appeal.

iv. If the appointing authority and union cannot come to a joint resolution, the appeal shall be heard by the full panel. At any Second Step appeal hearing, the employee may be represented by a union steward, local union officer, and/or local union staff representative.

v. The parties may call witnesses and present evidence at the Second Step appeal hearing. However, each hearing shall conclude within approximately four hours. The neutral panel member shall control the admission of testimony and evidence to ensure adherence to this time frame.

vi. The panel shall issue a written decision within 10 days of the hearing. Each panel member shall have one vote.

3. Appeals from decisions of the Joint Union Management Panel may be made to the Civil Service Commission in accordance with N.J.A.C. 4A:2-3.7(b).

(e) An employee may appeal the final departmental decision to the Civil Service Commission within 20 days of receipt of the decision.

1. The appeal shall be in writing and include a copy of the written departmental decision and the basis for the appeal.

2. The employee shall have the burden of proof to establish that the actions of the supervisor in assigning the rating were arbitrary, unreasonable, or induced by improper motives.

3. The Commission shall render a final administrative decision upon the written record or such other proceeding as it deems appropriate. See N.J.A.C. 4A:2-1.1.

(f) A rating of Unsatisfactory in a three-level rating scale or a rating of One – Unsatisfactory Performance in a five-level rating scale shall constitute evidence of incompetency, inefficiency, or failure to perform duties. In a disciplinary action, an employee may challenge the basis of any rating that is an issue in the proceeding.

(g) Performance ratings may be used as a factor in promotion (see N.J.A.C. 4A:4-2.15) and layoff (see N.J.A.C. 4A:8-2.2(d)5 and 2.4(h)).

Administrative change to (g).

See: 23 N.J.R. 1410(a).

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

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

Revised text.

Amended by R.2000 d.11, effective January 3, 2000.

See: 31 N.J.R. 2824(a), 32 N.J.R. 35(a).

Rewrote the section.

Amended by R.2003 d.261, effective July 7, 2003.

See: 35 N.J.R. 339(a), 35 N.J.R. 2861(b).

In (f), amended the N.J.A.C. reference following "layoff".

Amended by R.2014 d.045, effective March 17, 2014.

See: 45 N.J.R. 525(a), 46 N.J.R. 497(a).

Rewrote the section.

Case Notes

Statute providing for salary of judges of compensation controlled over regulation of salary adjustment committee. Matter of Boyan, 246

N.J.Super. 300, 587 A.2d 640 (A.D.1991), certification granted 126 N.J. 342, 598 A.2d 898, reversed 127 N.J. 266, 604 A.2d 98.

SUBCHAPTER 6. AWARDS PROGRAM

4A:6-6.1 General provisions

(a) In local service, appointing authorities may establish and administer awards programs.

(b) In State service, the following types of award programs are established:

1. Awards for Commendation;
2. Awards for Suggestions;
3. Service Recognition;
4. Other awards programs as the New Jersey Employee Awards Committee may establish; and
5. Department or agency awards programs approved by the New Jersey Employee Awards Committee.

(c) The awards program applies to all employees in the executive branch of State government, whether in the career, senior executive or unclassified service, including autonomous agencies within executive departments; applicable employees in the Judiciary; and all employees in the Office of Legislative Services.

Amended by R.1998 d.58, effective January 20, 1998.

See: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.2 New Jersey Employee Awards Committee: State service

(a) The New Jersey Employee Awards Committee (Committee) shall be established in the Department of Personnel under the supervision of the Commissioner. The Committee shall consist of seven persons, each of whom shall be employed in a different department in the Executive Branch.

1. Committee members shall be appointed by the Governor upon nomination by the Commissioner, for staggered terms of three years or until a successor is appointed. If a vacancy on the Committee occurs by reason other than expiration of term, the vacancy shall be filled for the unexpired term. No member shall serve more than two consecutive full terms.

2. Members of the Committee shall serve without compensation but shall be reimbursed for their actual and necessary expenses.

3. The Committee shall meet and organize as soon as practicable after the annual appointment of new members and select a Chairperson from among its members. The Committee shall hold a regular meeting at least once each month unless there is no business to conduct or the Executive Secretary (Secretary) determines that agenda items are so routine that they may be held over to the next meeting. Special meetings may be held at the call of the Chairperson.

4. The Secretary shall submit monthly reports to the Commissioner concerning operations of the Awards Program, which shall include data on activity level, processing time, and program benefits to the State. This data will also be furnished to each agency's chief executive officer. The Secretary shall submit an annual report of the Committee's activities to the Governor through the Commissioner.

5. The administrative work of the Committee shall be performed by the Secretary and other necessary staff designated by the Commissioner.

(b) Departmental committees shall be established in each agency operating under the Awards Program, under the supervision and direction of the Committee. Divisional and institutional award subcommittees may be established within agencies, but the responsibility for the agencies' activities will remain with the departmental committees.

1. The departmental committees shall include at least three members appointed by the agency's chief executive officer for a term of one year, effective each May 18. Departmental committee members shall be employees who are responsible for evaluation and analysis of the agency's programs. The chairperson of the departmental committee shall be an individual who has direct access to the chief executive officer. When necessary, the services of a departmental committee member or other departmental employee with expertise in cost-benefit analyses shall be made available to the departmental committee.

2. Departmental committees shall meet at least monthly unless there is no business to conduct and shall establish procedures for the processing of awards within their agencies, in accordance with the rules in this subchapter and with the approval of the Committee.

3. Departmental committees shall be responsible for objectively and impartially investigating and evaluating each proposed suggestion or award nomination furnished to them by the Committee and returning a timely and documented recommendation to the staff of the Committee.

4. Departmental committees shall be responsible for suitable ceremonies for the presentation of awards to their employees and shall use available means, as the Committee may propose, to promote employee participation in the awards program.

5. Departmental committees shall report their activities to the Committee through their chairpersons.

Amended by R.1998 d.58, effective January 20, 1998.
See: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.3 Records: State service

(a) The Committee shall maintain the following records:

1. Official copies of the minutes of all meetings and all other official actions which are public information.

2. Copies of all suggestions, as defined in N.J.A.C. 4A:6-6.5, received by the Committee, along with supporting documents and recommendations from departmental committees.

(b) The departmental committees shall maintain the following records:

1. Official copies of the minutes of all meetings and all other official actions which are public information.

2. Copies of each suggestion, as defined in N.J.A.C. 4A:6-6.5, which is referred by the Committee, with supporting documentation and the recommendation of the departmental committee.

3. Records of all transactions and supportive documentation for Option No. 2 suggestions as defined in N.J.A.C. 4A:6-6.6.

(c) Records shall be retained after the final action by the Committee in accordance with each department's record retention schedule. See N.J.A.C. 15:3-2.1 et seq.

4A:6-6.4 Commendation awards: State service

(a) Commendation Awards shall be established in, but not limited to, the following four categories:

1. Heroism Awards may be made to employees who perform acts of bravery or personal sacrifice of a life threatening nature above and beyond the duties and responsibilities of the employee's position and which reflect credit upon the State of New Jersey, whether or not the act was performed during working hours.

2. Exceptional Service Awards may be made to employees for outstanding acts of public service above and beyond the duties and responsibilities of the employee's position which shall include, but not be limited to, appropriate responses to a crisis or emergency situation and which reflect credit upon the State of New Jersey, whether or not the act was performed during working hours.

3. Professional Achievement Awards may be made to employees in recognition of meritorious or distinguished accomplishments which need not fall entirely within the scope of normal duties. An award may be made to an employee who has:

- i. Initiated and successfully established new and outstanding methods, practices, plans or designs in such fields as, but not limited to, administration, engineering, law, medicine or environmental sciences;
- ii. Achieved honors from professional societies, educational institutions or recognized groups for outstanding performance in his or her field; or
- iii. Provided key assistance to the recipient of an award.

4. Community Service Awards may be made to employees who have made outstanding contributions to the communities in which they live or to the State as a whole through organizational activities outside the workplace.

(b) Employee commendation awards may be made to an employee or a group of employees.

(c) A nomination for an employee commendation award may be submitted by an employee or by any other individual to the Committee along with supporting information.

1. Nominations in the heroism category must be submitted within one year of the specified act.

2. Upon receipt, the nomination will be reviewed by the Secretary and a letter of acknowledgement sent to the nominator. Copies of the nomination shall then be forwarded to the appropriate departmental committee(s) for investigation and recommendation.

3. The departmental committee shall make a thorough investigation of the nomination and thereafter, by majority vote, recommend approval or disapproval. If the recommendation is for disapproval, the nomination shall be returned to the Secretary with an explanation of the reasons for disapproval, along with any supporting documents. If the departmental committee recommendation is for approval, the nomination with recommendations and supporting documentation shall be forwarded to the department's chief executive officer for endorsement. The nomination, with recommendations and supporting documents, shall then be returned to the Secretary.

4. The Committee shall consider the nomination and the departmental committee's recommendation and decide whether or not an award should be made and the type of award. The Secretary shall advise the nominator, in writing, of the action of the Committee. Presentation ceremonies shall be arranged by the Secretary.

Amended by R.1998 d.58, effective January 20, 1998.
Sec: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

Case Notes

Causal relationship between suggestion and implementation of practice required, based on statute and pre-Code rules (citing former N.J.A.C. 4:4-4.3). In Re: Application of Lodge, 155 N.J. Super. 488, 382 A.2d 1159 (App.Div.1978) certification denied 76 N.J. 234, 386 A.2d 859 (1978).

4A:6-6.5 Suggestion Award Program standards: State service

(a) A suggestion is a written proposal from an individual or a group of individuals (team) which will produce notable economy or improvement in an operation of State government or one which will improve service to the public, employee safety or employee welfare.

(b) To be considered for a suggestion award, the following requirements must be met:

1. The suggestion must be original, or propose a new application of an old idea;

2. The suggestion must be implemented or ordered implemented by a State agency; and

3. There must be a causal relationship between the suggestion and implementation of the improvement.

(c) The following suggestions are not eligible for an award:

1. A suggestion which represents a part of an employee's duties and which the employee has the authority to change or the responsibility to bring to the attention of his or her supervisor;

2. A suggestion by an employee whose primary duty is research and planning unless the suggestion concerns a matter which is clearly unrelated to the employee's assignment or primary duty;

3. A suggestion which was initially disapproved, unless the idea is implemented as a result of the suggestion within two years from notice of disapproval and is subsequently approved by the Committee;

4. A suggestion which is received by the Committee more than six months (excluding necessary trial period) after it has been placed in use;

5. A suggestion concerning routine maintenance of buildings, equipment or grounds, which should be normally reported. Where sustained complaints have not resulted in correction, the Committee may consider such a suggestion for an award;

6. A suggestion involving new structures, equipment, materials and procedures during the initial period of trial, experiment or development, the length of which is considered reasonable by the Committee;

7. A suggestion which simply involves instituting or raising fees or taxes levied by the State;

8. A suggestion to transfer programs or activities from one level of government to another, unless the transfer of the program or activity effectuates a savings or improvement of services;

9. A suggestion to recoup owed funds from another agency or political subdivision of the state;

10. Any idea or improvement which no State agency is authorized to perform, or which requires legislative or regulatory changes or the enforcement of a law or regulation;

11. A suggestion which involves the use of known technologies or methodologies similar to those already utilized in other areas of the Department or State government; or

12. A suggestion for which staff salary is calculated as savings, without proof that staff is performing a specific work assignment unrelated to the suggestion.

(d) All persons employed in State government at the time of submission are eligible, except members of the Committee or a departmental committee, the Secretary, or the staff of the Awards program.

Amended by R.1998 d.58, effective January 20, 1998.
Sec: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.6 Suggestion Award Program procedures: State service

(a) Suggestions shall be submitted on a form prescribed by the Committee, which shall include:

1. A brief statement describing the present condition, method or practice, and where it exists.

2. A specific statement of what is suggested and how it can be accomplished. Sketches, charts, samples and additional data may be included.

3. A concise statement of the benefits which will accrue and the name of the organization or organizations which will benefit.

4. The name, home mailing address, social security number, title of present position, salary range, and department and division of the suggester.

(b) Suggestions may be submitted through one of two options at the discretion of the suggester:

1. Option 1 suggestions are suggestions sent to the Committee, which then refers them to the appropriate departmental committee(s).

2. Option 2 suggestions are sent to the Committee to ensure that the suggestion is recorded as the suggester's property. Thereafter, the suggester directly works with supervisory personnel and the departmental committee to develop and refine the suggestion.

(c) The Committee and the departmental committees shall utilize the following procedures in processing suggestions:

1. For Option 1, the departmental committee shall make, within 90 days of receipt of the suggestion from the Committee, an evaluation and a recommendation to the Committee.

2. For Option 2, the departmental committee shall make arrangements with the suggester and appropriate supervisory personnel to develop and refine the suggestion. This departmental committee shall, within a reasonable time, make an evaluation and recommendation to the Committee.

3. The Secretary shall make the initial review of all proposed award recommendations from the departmental committees. When the recommendation from the departmental committee is for disapproval, the Secretary shall, from the evidence presented, determine if the disapproval should be upheld. When the recommendation is for approval and the recommended amount of the award is \$500.00 or less, the Secretary may authorize the award.

4. The Committee shall review evaluations from departmental committees when the recommendation is for approval and the recommended amount of the award is more than \$500.00. Following review, the Committee shall either accept, reject or modify the recommendation.

5. If the Committee determines that it is necessary to use outside consultants in the development or evaluation of a suggestion, the costs may be offset against any award, in coordination with the affected Agency.

6. The Secretary or the Committee, as the case may be, may request further information of the departmental committee, and may return the recommendation to the departmental committee for further deliberations, prior to any formal action taken by the Secretary or Committee concerning the recommendation.

7. The Secretary shall notify the suggester of the disposition of the suggestion within 60 days of receipt of the departmental committee's recommendation, and whether there will be a trial period and the length of such period. Sec N.J.A.C. 4A:6-6.10 for appeals.

(d) After approval of a suggestion award, the Secretary shall notify the affected agency to issue a check, less appropriate payroll deductions, to be drawn from the agency's operating budget, for the payment of awards within 60 days of notification.

1. Except when the Committee elects to arrange a special ceremony in conjunction with the departmental committee, a confirming letter will be sent to the Secretary that the check was presented.

2. Awards involving vacation options under N.J.A.C. 4A:6-6.7(a)2 will be arranged by the employee's Personnel Officer on a case by case basis.

Amended by R.1998 d.58, effective January 20, 1998.
 See: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.7 Suggestion Award Program types and amounts of awards: State service

(a) Awards for suggestions shall be in cash or additional paid vacation time-off in lieu of cash under certain circumstances.

1. Cash awards shall be no less than \$50.00 nor more than \$10,000 for each approved suggestion.
2. The suggester may select a time-off option of up to two days in lieu of a cash award which shall be based on the daily rate of pay of the suggester.

(b) When a suggestion is adopted primarily because it will result or has resulted in saving money, the amount of the award shall be 10 percent of the net annual savings in the first year of operation, to be paid after the first year of implementation, up to the \$10,000 maximum. The Committee has the authority to waive the one year timeframe, when savings have been verified prior to the end of the first year of implementation, or as deemed appropriate by the Committee. Under exceptional conditions, the Committee may select a typical year or may average several years to determine an award.

(c) When a suggestion is adopted primarily upon the basis of improvements in such areas as safety, health, welfare and morale, or it is otherwise not possible to determine monetary savings, the departmental committee shall provide the necessary documentation, which shall include the recommended amount of the award based on the following factors:

1. Effectiveness of solution offered by suggesters;
2. Seriousness of present problem in terms of money or other factors;
3. Extent of problem;
4. Probability of problem actually happening; and
5. Ingenuity of the solution.

(d) A suggester shall receive the full amount of the award when the suggestion is implemented. Where implementation is not complete but specific steps have been taken, a partial award may be approved at the Committee's discretion. It shall be the responsibility of the departmental committee to inform the Secretary when a suggestion has been placed into operation. Disputes regarding the date of implementation shall be resolved by the Committee.

(e) A cash or other award shall be in addition to the regular compensation of the recipient. The acceptance of such award shall constitute an agreement that the use of the suggestion by the State or its subdivisions or independent authorities shall not form the basis of a further claim of any

additional award, compensation or payment by the employee, his or her heirs, or assignees.

(f) Persons who leave State service after having submitted a suggestion are still eligible for an award. In the case of death, the award shall be paid to the suggester's estate.

(g) Departmental awards consisting of plaques may be presented to the department or autonomous agency with the best record of employee participation during the fiscal year for the:

1. Highest number of suggestions approved per one hundred employees.
2. Highest dollar savings to the State realized through implementation of suggestions from their employees.

(h) Special awards consisting of plaques may be presented to suggesters whose accumulated awards total \$10,000 or result in savings to the State of \$100,000. In addition, the suggesters become members of an Advisory Board to the Committee. The Advisory Board may be called upon to comment and make recommendations on policy and program promotion.

(i) State "Suggester of the Year" may be selected by the Committee from among the successful submissions of the previous fiscal year and will be suitably recognized as determined by the Committee. The selection from nominations submitted by the Secretary will be based on:

1. Importance of the suggestion on a State and national level;
2. Savings and/or other benefits;
3. Public relations aspects and compatibility of the selection with the character and goals of the program.

(j) Departmental "Suggester of the Year" may be nominated by each department or autonomous agency. The nomination shall be made by the departmental committee with approval of the chief executive officer. The nomination must be approved by the Committee which will designate a uniform award and arrange for its procurement and presentation. Standards in selecting the nomination will be:

1. The suggestion(s) must have been approved during the previous fiscal year;
2. The suggestion(s) must be of importance or value to the agency;
3. The suggester must be an employee of the agency as of the date nominated.

Amended by R.1998 d.58, effective January 20, 1998.
 See: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.8 Service Recognition Program: State service

(a) Recognition for length of service shall be given to all employees upon completion of each five years of employment.

1. Service shall include employment in the career, senior executive or unclassified service in either a regular, provisional, temporary or part-time capacity (part-time service shall be prorated).

2. Years of employment shall be determined in the same manner used to compute annual vacation leave. See N.J.A.C. 4A:6-1.2.

3. Any dispute or question regarding eligible service shall be referred to the Committee for resolution.

4. It shall be the responsibility of each agency to determine the employees eligible for length of service recognition.

(b) Retirement awards shall be given at the time of retirement to all those who have retired from any pension system administered by the State, regardless of the amount of service time. Only one retirement award will be presented to any employee.

1. Any dispute or question regarding eligible service shall be referred to the Committee for resolution.

2. It shall be the responsibility of each agency to determine the employees eligible for retirement awards.

(c) Each department shall review personnel records prior to the close of the fiscal year to determine employees who will be eligible for length of service and/or retirement recognition. Presentation ceremonies shall be the responsibility of each department and shall be conducted at least on a yearly basis.

(d) Length of service and retirement recognition may consist of letters of commendation, certificates, citations, plaques, medals, gift items, or such other awards as the Committee shall determine.

Amended by R.1998 d.58, effective January 20, 1998.
See: 29 N.J.R. 4590(a), 30 N.J.R. 384(b).

4A:6-6.9 Departmental awards programs: State service

(a) All State departments and agencies are encouraged to establish and maintain programs for recognition of their own employees for, but not limited to:

1. Attendance;
2. Safety;
3. Productivity;
4. Customer service; and
5. Employee of the year, employee of the month, or similar programs.

(b) Proposals for departmental programs shall be submitted to the Committee, which may approve, disapprove or modify the proposals. Proposals shall describe in detail the categories of awards, eligibility standards, procedures and types and amounts of awards to be given selected employees. Approval shall generally be for a specific duration, after which time the department or agency may seek approval for continuing the programs.

4A:6-6.10 Appeals: State service

(a) Any appeals to the Committee which involve matters under this subchapter, including denial of a suggestion award by a departmental committee, shall be filed with the Secretary.

1. All appeals shall be in writing, signed by the person appealing (appellant) or his or her representative and must include the reason for the appeal and the specific relief requested.

2. Unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation or action being appealed.

3. The appellant must provide any additional information that is requested, and failure to provide such information may result in dismissal of the appeal.

4. Except where a hearing is required by law or these rules, or where the Committee finds that a material and controlling dispute of fact exists that can only be resolved by a hearing (see N.J.A.C. 1:1-1.1 et seq. for OAL hearing procedures), an appeal will be reviewed on a written record.

5. A party in an appeal may be represented by an attorney, authorized union representative or authorized appointing authority representative. See N.J.A.C. 1:1-5.4 for contested case representation at the Office of Administrative Law.

(b) The Committee may reopen a final decision if new evidence and/or a new argument is presented which, if accepted, would change the outcome. Before reopening is considered, the appellant must satisfy the Committee that it was impossible to present these matters during the original appeal.

(c) If a suggestion is disapproved, and within a two-year period from notice of disapproval appears to have been subsequently implemented, the suggester may appeal the original determination. See N.J.A.C. 4A:6-6.5(c)3.

(d) The Committee shall render the final administrative decision, which shall not be subject to further appeal to the Commissioner or the Merit System Board.

(e) When an agency recommends disapproval of a suggestion award on the basis of absence of causal relationship between the suggestion and implementation, the burden of

proof in an appeal shall be on the agency. In all other appeals, the burden of proof shall be on the appellant.