

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

(a) An employee is required to report to his or her supervisor any work accident or condition claimed to have caused disability upon occurrence or discovery, and is responsible for completing a written report on the matter within five days or as soon as possible thereafter. The report shall include a statement of when, where and how the injury or illness occurred, statements of witnesses and copies of all medical reports concerning the injury or illness.

(b) The appointing authority shall review the request for SLI benefits based on the standards in N.J.A.C. 4A:6-1.6, and within 20 days of receipt of the request:

1. Grant the request, notify the employee in writing and forward its recommendation to the Department of Personnel which, upon review, shall notify the employee and appointing authority whether or not the benefits have been approved; or

2. Deny the request and advise the employee in writing of the reasons for the denial and of the right to appeal to the Merit System Board within 20 days of receipt of the determination.

(c) The appointing authority's recommendation for approval of SLI benefits must be accompanied by:

1. All personal injury reports;
2. A record of the employee's lost time;
3. A detailed explanation of the incident;
4. All pertinent physician reports; and
5. A completed "Request for Employment Disability Leave."

(d) The appointing authority may require the employee to be examined by a physician designated and compensated by the appointing authority.

(e) An employee may appeal an appointing authority denial of SLI benefits to the Merit System Board in accordance with N.J.A.C. 4A:2-1.1 et seq.

(f) An employee or appointing authority may appeal a Department of Personnel denial of SLI benefits to the Merit System Board in accordance with N.J.A.C. 4A:2-1.1 et seq.

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

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

(i) In accordance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., information obtained pursuant to this section regarding the medical condition or history of

an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

1. Such information shall be available to appropriate appointing authority and Department of Personnel representatives in connection with inquiries into the eligibility of the employee for benefits under this section;

2. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

3. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation; and

4. Government officials investigating compliance with the Americans with Disabilities Act, or any other Federal or State law prohibiting discrimination on the basis of disability or handicap, shall be provided relevant information on request.

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

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

Added new (i).

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 leaves shall be credited at the beginning of each calendar year.

3. Administrative leave may be granted and shall be recorded and tracked in hours.

(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.

(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.

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).

Cross References

Active duty leaves, see N.J.A.C. 5A:2-2.3.

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) 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 the 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.

1. During such leave of absence, the employee shall continue to accrue seniority and salary increments, if applicable, in his or her title.

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 43 U.S.C. Section 2021.

(b) An employee in the career, senior executive or unclassified service 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 days in the aggregate in any one year that he or she is required to engage in active duty or active duty for training. See N.J.A.C. 5A:2-2.3(b) for types of required duty. However, appointing authorities may reschedule an employee's work time to avoid conflict with such required duty.

1. A leave of absence with pay shall also be granted for other military duty when ordered by the Governor in case of insurrection, breach of the peace, national disaster or imminent danger to public safety.

2. Such leave of absence shall be in addition to the regular vacation allowed such employee. See N.J.S.A. 38A:4-4.

(c) A permanent employee who is a member of the organized reserves of the Army, Navy, Air Force or Marine Corps of the United States or other affiliated organizations shall be entitled to a leave of absence with pay on days on which he or she is required to engage in field training, but only that training which consists of participation in unit training field operations and is a part of the required annual tour of duty in order to be a member of that component. However, appointing authorities may reschedule an employee's work time to avoid conflict with military field training.

1. A nonpermanent employee serving for one year or longer shall be entitled to a leave of absence with pay not to exceed 30 days in the aggregate in any one year while engaged in field training. A leave of absence without pay shall be granted to a nonpermanent employee serving for less than a year while engaged in field training.

2. Such leave of absence shall be in addition to the regular vacation allowed such employee. See N.J.S.A. 38:23-1 and 38:23-1.1.

(d) An employee is entitled to a leave of absence without pay for such other national guard, state organized militia or United States reserve duty not covered by (b) or (c) above.

1. During such leave of absence, the employee shall continue to accrue seniority and salary increments, if applicable, in his or her title.

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

(e) For military leave regulations promulgated by the New Jersey Department of Defense, 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).

Cross References

Military leave, see N.J.A.C. 5A:2-2.3.

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). *Abbotts 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 established veterans organizations listed in N.J.S.A. 38:23-2 and the New Jersey Civil Service Association. 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) Every employee who is a duly authorized representative of the following organizations shall be granted a leave of absence with pay to attend the following conventions. 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. 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; N.J.S.A. 40A:14-177 and 38:23-2.

1. American Federation of Police Officers, Inc.;
2. Bronze Shield, Inc.;
3. Batons;
4. Fire Fighters Association of New Jersey;
5. Firemen's Mutual Benevolent Association Inc.;
6. Fraternal Order of Police;
7. New Jersey Association of Chiefs of Police;
8. New Jersey State Exempt Firemen's Association;
9. New Jersey State Patrolmen's Benevolent Association, Inc.;
10. Uniformed Firemen's Association;
11. Vulcan Pioneers;
12. A member organization of the New Jersey Council of Charter Members of the National Black Police Association, Inc.

(c) Any corrections officer who is a member of the Italian American Police Society of New Jersey shall be granted a leave of absence with pay to attend any State or national convention of the organization. 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. A certificate of attendance at the convention shall, upon request, be submitted by the member so attending. See N.J.S.A. 11A:6-10.

(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.

(f) The Chancellor of Higher Education, with approval of the Board of Higher Education, may prepare rules concerning leaves of absence and payment during such leaves for teachers employed in the State colleges. See N.J.S.A. 18A:64-16.

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

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.