

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

Authority

N.J.S.A. 11A:2-6(d), 11A:6-1 through 11A:6-29, 11A:6-31, 18A:31-2, 30:4-178, 34:11B-1 et seq., 38:23-1, 38:23-2, 38:23-3, 38A:4-4, 40A:14-177, 52:14-26.2; Executive Order No. 12 (1990); 42 U.S.C. §§ 12101 et seq., 29 U.S.C. §§ 2601 et seq. and 29 C.F.R. 825.

Source and Effective Date

R.1998 d.57 and 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).

Executive Order No. 66(1978) Expiration Date

Chapter 6, Leaves, Hours of Work and Employee Development, expires on December 19, 2002.

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 See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 17, 18, 20 and 26; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 17, 18, 20 and 26; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapters 17 and 20.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 See, also, Historical Note and section annotations at repealed N.J.A.C. 4:4, New Jersey State Employees' Awards Committee Rules.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 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: Source and Effective Date. See, also, section annotations.

Cross References

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. LEAVES OF ABSENCE

- 4A:6-1.1 General provisions
- 4A:6-1.2 Vacation leave
- 4A:6-1.3 Sick leave
- 4A:6-1.4 Sick leave procedures: State service
- 4A:6-1.5 Vacation, administrative and sick leave adjustments: State service
- 4A:6-1.6 Sick Leave Injury (SLI) requirements: State service
- 4A:6-1.7 Sick Leave Injury (SLI) reporting and appeal procedures: State service
- 4A:6-1.8 Pregnancy-disability and child care leave: State service
- 4A:6-1.9 Administrative leave: State service
- 4A:6-1.10 Leave without pay: State service
- 4A:6-1.11 Military leave
- 4A:6-1.12 Leave for appointment by Governor
- 4A:6-1.13 Convention leave

- 4A:6-1.14 Education leave: State service
- 4A:6-1.15 Leave for athletic competition: State service
- 4A:6-1.16 Leave for union office
- 4A:6-1.17 Leave for elective office: local service
- 4A:6-1.18 Leave for emergency civilian duty: State service
- 4A:6-1.19 Leave for jury duty: State service
- 4A:6-1.20 Leave to appear as a witness: State service
- 4A:6-1.21 Family leave
- 4A:6-1.21A State family leave
- 4A:6-1.21B Federal family and medical leave
- 4A:6-1.22 Donated leave program
- 4A:6-1.23 Voluntary furlough program
- 4A:6-1.24 School volunteer leave

APPENDIX

SUBCHAPTER 2. HOURS OF WORK

- 4A:6-2.1 General provisions
- 4A:6-2.2 Fixed workweek (35, 40, 3E or 4E) job titles: State service
- 4A:6-2.2A Law enforcement work schedule (4L): State service
- 4A:6-2.3 Non-limited (NL, NE or N4) job titles: State service
- 4A:6-2.4 Holidays: State service
- 4A:6-2.5 Inclement weather or emergency conditions: State service
- 4A:6-2.6 Flexitime programs: State service
- 4A:6-2.7 Alternative workweek programs: State service
- 4A:6-2.8 Adjusted hours of operation: State service

SUBCHAPTER 3. SUPPLEMENTAL COMPENSATION ON RETIREMENT

- 4A:6-3.1 Eligibility: State service
- 4A:6-3.2 Break in service: State service
- 4A:6-3.3 Computation of payment: State service
- 4A:6-3.4 SCOR procedures: State service
- 4A:6-3.5 SCOR: Intergovernmental transfers

SUBCHAPTER 4. HUMAN RESOURCE DEVELOPMENT: TRAINING, EDUCATION, CAREER DEVELOPMENT AND EMPLOYEE ASSISTANCE PROGRAMS

- 4A:6-4.1 General provisions
- 4A:6-4.2 Department of Personnel functions: State service
- 4A:6-4.3 Training and Education Programs: State service
- 4A:6-4.4 Certified Public Manager Program: State service
- 4A:6-4.5 Career Development Programs: State service
- 4A:6-4.6 Tuition aid program: State service
- 4A:6-4.7 (Reserved)
- 4A:6-4.8 Employee interchange program
- 4A:6-4.9 Internship programs: State service
- 4A:6-4.10 Employee Advisory Service: State service

SUBCHAPTER 5. PERFORMANCE EVALUATION

- 4A:6-5.1 General provisions
- 4A:6-5.2 PAR procedure: State service
- 4A:6-5.3 PAR use and review: State service

SUBCHAPTER 6. AWARDS PROGRAM

- 4A:6-6.1 General provisions
- 4A:6-6.2 New Jersey Employee Awards Committee: State service
- 4A:6-6.3 Records: State service
- 4A:6-6.4 Commendation awards: State service
- 4A:6-6.5 Suggestion Award Program standards: State service
- 4A:6-6.6 Suggestion Award Program procedures: State service
- 4A:6-6.7 Suggestion Award Program types and amounts of awards: State service
- 4A:6-6.8 Service Recognition Program: State service
- 4A:6-6.9 Departmental awards programs: State service
- 4A:6-6.10 Appeals: State service

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).

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 in the case of the intergovernmental transfer of a police officer and firefighter), without actual interruption due to resignation, retirement or removal.

CHAPTER 8 LAYOFFS

Authority

N.J.S.A. 11A:2-6(d), 11A:2-11(h), 11A:4-7, 11A:4-9,
11A:4-12, 11A:6-28, 11A:8-1 through 11A:8-4.

Source and Effective Date

R.2000 d.12, effective December 9, 1999.
See: 31 N.J.R. 2827(a), 32 N.J.R. 39(a).

Executive Order No. 66(1978) Expiration Date

Chapter 8, Layoffs, expires on January 3, 2003.

Chapter Historical Note

Chapter 8, Layoffs, was adopted as R.1990 d.49, effective January 16, 1990. See: 21 N.J.R. 3340(a), 22 N.J.R. 169(a).

Pursuant to Executive Order No. 66(1978), Chapter 8, Layoffs, was readopted as R.1995 d.55, effective December 30, 1994. See: 26 N.J.R. 3518(a), 27 N.J.R. 482(a).

Pursuant to Executive Order No. 66(1978), Chapter 8, Layoffs, was readopted as R.1995 d.251, effective April 21, 1995. See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Pursuant to Executive Order No. 66(1978), Chapter 8, Layoffs, was readopted as R.2000 d.12, effective December 9, 1999. See: Source and Effective Date. See, also, section annotations.

Cross References

Applicability of this chapter to SES members and positions, see N.J.A.C. 4A:3-2.3 and N.J.A.C. 4A:3-2.9.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PROCEDURES

- 4A:8-1.1 General
- 4A:8-1.2 Alternatives to layoff
- 4A:8-1.3 Pre-layoff actions
- 4A:8-1.4 Review by Department of Personnel
- 4A:8-1.5 Layoff units and job locations
- 4A:8-1.6 Layoff notice

SUBCHAPTER 2. EMPLOYEE LAYOFF RIGHTS

- 4A:8-2.1 Types of layoff rights
- 4A:8-2.2 Exercise of lateral and demotional rights
- 4A:8-2.3 Exercise of special reemployment rights
- 4A:8-2.4 Seniority and merit points
- 4A:8-2.5 Reassignments
- 4A:8-2.6 Appeals

SUBCHAPTER 1. PROCEDURES

4A:8-1.1 General

(a) An appointing authority may institute layoff actions for economy, efficiency or other related reasons.

1. Demotions for economy, efficiency or other related reasons shall be considered layoff actions and shall be subject to the requirements of this chapter.

(b) The Commissioner or authorized representative of the Department of Personnel shall determine seniority and merit points (see N.J.A.C. 4A:8-2.4), and shall designate lateral, demotional and special reemployment rights for all career service titles prior to the effective date of the layoff and have such information provided to affected parties.

(c) The following provisions in this chapter shall not apply to veterans and disabled veterans: a layoff unit smaller than a department (see N.J.A.C. 4A:8-1.4) and time limitations on special reemployment rights (see N.J.A.C. 4A:8-2.3). Merit points (see N.J.A.C. 4A:8-2.4) shall not be used for veterans and disabled veterans in a layoff except when merit points provide a greater advantage to the veteran or disabled veteran than does seniority as compared to a non-veteran. The layoff rights of veterans and disabled veterans are more fully set forth in the provisions cited above.

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Amended by R.2000 d.12, effective January 3, 2000.

See: 31 N.J.R. 2827(a), 32 N.J.R. 39(a).

In (b), substituted "and merit points (see N.J.A.C. 4A:8-2.4), and shall" for "and" following "seniority"; and added (c).

Case Notes

Negotiations with union concerning Department of Environmental Protection's reduction of employees' workweek were preempted by statute and regulations that created comprehensive demotional layoff scheme. *State v. Communications Workers of America, AFL-CIO*, 285 N.J.Super. 541, 667 A.2d 1070 (A.D.1995), certification denied.

Reduction in plumbing subcode official's work hours and compensation was motivated only by budgetary concerns and was done in good faith and did not violate Uniform Construction Code Act. *Voges v. Borough of Tinton Falls*, 268 N.J.Super. 279, 633 A.2d 566 (A.D.1993), certification denied 135 N.J. 466, 640 A.2d 848.

Statute which permitted lay off of permanent public employee superseded statute providing that an injured public employee receiving workers' compensation benefits was to continue on the payroll. *Novak v. Camden County Health Services Center Bd. of Managers*, 255 N.J.Super. 93, 604 A.2d 649 (A.D.1992).

Authority to regulate causes of removal and suspension. *State v. Local 195, IFPTE*, 179 N.J.Super. 146, 430 A.2d 966 (App.Div.1981), certification denied, 89 N.J. 433, 446 A.2d 158.

Employee improperly removed after suspension for same infraction. *Newark v. Copeland*, 171 N.J.Super. 571, 410 A.2d 274 (App.Div.1980).

Dismissal of veterans protected by Veteran's Tenure Act in non-civil service county. *Cooper v. Imbriani*, 122 N.J.Super. 469, 300 A.2d 863 (App.Div.1973), affirmed, 63 N.J. 535, 310 A.2d 457 (1973).

Politically motivated layoffs reversed, while layoff due to reasons of economy upheld. *In re City of Orange Layoffs Appeal*, 97 N.J.A.R.2d (CSV) 639.

Layoff of clerk typist due to economy affirmed. *DiMarco v. Borough of Highlands, Department of Building and Grounds*, 97 N.J.A.R.2d (CSV) 599.

Demotion in good faith if position not necessary for agency's operation. *Henry, Kennedy and Wise v. Cape May County*, 97 N.J.A.R.2d (CSV) 147.

Municipality's decision to lay off and replace public employees with private contractors was done in good faith where private contractor's savings were rationally related to legitimate governmental purpose. *Conklin and Ollearo v. Township of Milford*, 96 N.J.A.R.2d (CSV) 755.

Decision to lay off and demote Division of Developmental Disabilities employees was made in good faith for reasons of economy. *Orsati, et al. v. Department of Human Services*, 96 N.J.A.R.2d (CSV) 743.

Department of Human Services acted in good faith when it imposed department-wide layoffs and demotions of its employees. *Cable, et al. v. Department of Human Services, Central Office*, 96 N.J.A.R.2d (CSV) 713.

Layoffs and demotions of Division of Family Development employees was done in good faith for reasons of economy. *Ambrass, et al. v. Department of Human Services*, 96 N.J.A.R.2d (CSV) 696.

Employee layoff determinations which were made in good faith for economic and efficiency reasons were upheld. In the Matter of the Layoffs of *Guzman, et al.*, 96 N.J.A.R.2d (CSV) 625.

Department of Human Services 1992 layoffs were not motivated by bad faith. In the Matter of *Donna Marrinan, et al.*, 96 N.J.A.R.2d (CSV) 557.

Department of Human Services acted in good faith when laying off employees due to reduction in its salary account for fiscal 1993. *Cully, et al. v. Department of Human Services*, 96 N.J.A.R.2d (CSV) 547.

Department of Human Services 1992 layoffs were not motivated by bad faith. *Barker, et al. v. Department of Human Services*, 96 N.J.A.R.2d (CSV) 539.

City's bona fide reduction of budget deficit supported large-scale layoffs. In the Matter of the City of Newark Layoffs, 96 N.J.A.R.2d (CSV) 361.

Good-faith layoff action supported by cut in federal salary funding and diminished need for position. *Billings v. City of Perth Amboy*, 96 N.J.A.R.2d (CSV) 314.

City's otherwise well-motivated layoff decision was not undermined by particularized ill will. *Peters v. City of Orange*, 96 N.J.A.R.2d (CSV) 227.

Government employer demonstrated good faith in lay-off action by showing necessity for reasons of economy. *Stagliano v. Camden County*, 96 N.J.A.R.2d (CSV) 215.

Administrative analyst's layoff in good faith when taken pursuant to departmental reorganization plan. *Bowring v. State Department of the Public Advocate*, 96 N.J.A.R.2d (CSV) 44.

Failure to show bad faith or discrimination defeats state agency personnel specialist's challenge to removal pursuant to reduction in force. *Bhanja v. Department of Personnel*, 96 N.J.A.R.2d (CSV) 41.

Evidence failed to establish bad faith cause of action in connection with layoffs and demotions in question. *Chepiga v. Mental Health and Hospitals*, 95 N.J.A.R.2d (CSV) 630.

Demotion of personnel assistants pursuant to reorganization of district under newly formed state operated school system was not in bad faith. *Dowling v. State Operated School District*, 95 N.J.A.R.2d (CSV) 603.

Demotions for reasons of economy were not arbitrary even though employees performed same tasks in lower positions. *Sowa v. Commerce and Economic Development*, 95 N.J.A.R.2d (CSV) 589.

Termination of handicapped offset machine operator was not discriminatory, but was in good faith for reasons of economy and efficiency. *Hansell v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 575.

Layoff of messenger by county clerk's office was in good faith when messenger's functions were performed by a fax machine and other employees. *Barnes v. Camden County*, 95 N.J.A.R.2d (CSV) 471.

Proof was lacking that reassignment of public defender office investigator was made in bad faith. *Jacobson v. New Jersey Public Defender*, 95 N.J.A.R.2d (CSV) 342.

Elimination of five water repairer positions to enable two electronic repairmen positions was in good faith for reasons of economy and efficiency. *Caggiano v. Township of Sparta*, 95 N.J.A.R.2d (CSV) 211.

Animosity towards public employee by others did not preclude layoff for economic reasons when those others had no role in layoff. *Matter of State Department of Corrections 1992 Layoffs*, 95 N.J.A.R.2d (CSV) 63.

Layoffs and demotions made in good faith. In the Matter of State Dept. Of Corrections 1992 Employee Layoffs, 95 N.J.A.R.2d (CSV) 63.

Employees failed to prove that layoffs and demotions were made in bad faith. In the Matter of the State Dept. Of Health 1993 F.Y. Layoffs, 95 N.J.A.R.2d (CSV) 45.

Reasonable, logical, and good faith efforts to accommodate budgetary reductions meant that layoffs were made in good faith for economic reasons. *Matter of State Department of Health 1993 Layoffs*, 95 N.J.A.R.2d (CSV) 45.

Layoffs of public employees were not motivated by bad faith, but by economic considerations and were justified. *Edwards v. Department of Community Affairs*, 95 N.J.A.R.2d (CSV) 29.

Act of councilmen in eliminating public employee's position was not for reasons of animosity, but was for reasons of economy and was justified. *De Prima v. Department of Administration and Finance*, 95 N.J.A.R.2d (CSV) 20.

Layoff of Director of Planning was in good faith in effort to achieve government economy. *DePrima v. Department of Administration and Finance*, 95 N.J.A.R.2d (CSV) 20.

Layoffs of pharmacists were made in good faith. *Gordon v. Department of Military and Veterans' Affairs*, 95 N.J.A.R.2d (CSV) 6.

Layoffs of the pharmacists pursuant to decision of departments to use contractors for pharmaceutical substances rather than in-house pharmacists were justified for economic reasons. *Gordon v. Department of Military and Veterans Affairs*, 95 N.J.A.R.2d (CSV) 6.

Layoff of employee was proper. *Adewusi v. Atlantic County Department of Administration*, 95 N.J.A.R.2d (CSV) 5.

Layoff of landscape artist from county land office for reasons of efficiency and economy was not unjustified. *Adewusi v. Atlantic County*, 95 N.J.A.R.2d (CSV) 3.

Bad faith in eliminating jobs; proof. *Privitera v. Treasury Department*, 94 N.J.A.R.2d (CSV) 693.

Proof that layoff was instituted for reason other than economy, efficiency or other related reason. *Meybohm v. Treasury Department*, 94 N.J.A.R.2d (CSV) 665.

No bad faith was established; jobs abolished. In the Matter of the Essex County Layoffs, 94 N.J.A.R.2d (CSV) 601.

Township acted for reasons of efficiency and economy when it laid off employees. *Aiello v. Township of Brick*, 93 N.J.A.R.2d (CSV) 719.

Layoff of long-time employee was not in bad faith. *Acchitelli v. Department of Environmental Protection and Energy*, 93 N.J.A.R.2d (CSV) 716.

Employees failed to prove that township acted in bad faith in laying them off. *Winslow Township Police Department Communications Operators v. Winslow Township*, 93 N.J.A.R.2d (CSV) 713.

County department acted for reasons of economy and efficiency in layoff. *LaMorte v. Ocean County Department of Consumer Protection*, 93 N.J.A.R.2d (CSV) 669.