

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, 18A:31-2, 30:4-178, 34:11B-1 et seq., 38:23-1, 38:23-2, 38:23-4, 38A:4-4, 40A:14-177, 52:14-26.2, Executive Order No. 12(1990), 29 U.S.C. 201 et seq., 42 U.S.C. 12101 et seq.

Source and Effective Date

R.1993 d.47, effective December 22, 1992.
See: 24 N.J.R. 3590(a), 25 N.J.R. 293(a).

Executive Order No. 66(1978) Expiration Date

Chapter 6, Leaves, Hours of Work and Employee Development, expires on December 22, 1997.

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 See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 17, 18, 20 and 26; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 17, 18, 20 and 26; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapters 17 and 20.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 See, also, Historical Note and section annotations at repealed N.J.A.C. 4:4, New Jersey State Employees' Awards Committee Rules.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

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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).

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 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.

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 while he or she is employed by an appointing authority which tracks and grants sick leave in hours, the employee's sick leave entitlement shall be recalculated in the following manner:

1. The number of hours of 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, 1989, she had accumulated 245 sick leave hours from prior years and was credited with 105 sick leave hours for the 1989 (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 1989 (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).

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

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

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

1. An employee who can return to work on a part-time basis shall be compensated for the hours actually

worked and receive SLI benefits for the hours missed due to the disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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.