

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

ATTENDANCE AND LEAVE MANUAL

ADVISORY MEMORANDUM NO. 2011-04

Section 21.1

November 2011

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TO: Manual Holders
FROM: Blaine Ryan-Lynch, Director Staffing Services Division
SUBJECT: Christmas Day 2011 and New Year's Day 2012 Holiday Observance

Christmas Day, December 25, 2011 and New Year's Day, January 1, 2012, fall on Sunday this fiscal year and under the provisions of the General Construction Law are observed as legal holidays in New York State on Monday, December 26, 2011 and Monday, January 2, 2012, respectively. However, contract provisions for certain bargaining units provide that when Christmas Day and New Year's Day fall on Sunday, employees for whom that day is a regularly scheduled work day will observe the holiday on Sunday instead of Monday.

Holiday compensation provisions for certain bargaining units authorize holiday compensation (holiday pay or holiday leave) for work on the Christmas Day holiday at the time and one-half rate when the date of observance of that holiday is December 25. The Christmas time and one-half rate does not apply when the Christmas Day holiday is observed on December 26.

Because different provisions apply to different bargaining units, the following discussion is organized by bargaining unit.

Rent Regulation Services Unit, Managerial/Confidential Employees

Date of Holiday

For employees in the Rent Regulation Services Unit and those designated Management/Confidential (M/C), the Christmas Day holiday will be Monday, December 26, 2011 and the New Year's Day holiday will be Monday, January 2, 2012.

Employees in the Rent Regulation Services Unit and those designated M/C are not subject to contract or rule provisions authorizing either a Sunday or Monday observance date for the Christmas Day and New Year's Day holidays when these holidays fall on Sunday. Absent such special provisions, the General Construction Law governs and the holidays are observed on Monday.

Rate of Holiday Compensation

Holiday compensation (holiday pay or holiday leave) for work on December 26 and January 2 is at the straight time rate. Such employees will not receive any holiday pay or holiday leave for time worked on December 25 and January 1.

Although M/C employees are eligible for holiday compensation (holiday pay or holiday leave) at the time and one-half rate for work on Christmas Day, that provision only applies when Christmas Day is observed on the actual holiday, December 25. Therefore, it does not apply to the 2011 Christmas Day holiday which is observed on Monday, December 26.

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Administrative Services Unit, Institutional Services Unit, Operational Services Unit, Professional, Scientific and Technical Services Unit, Security Services Unit, Security Supervisors Unit, Agency Law Enforcement Services Unit

Date of Holiday

For employees in these units, the day designated as the Christmas and New Year's holiday **depends upon the employee's regular work schedule on Sunday, December 25 and Sunday, January 1**. For purposes of this discussion, a "regularly scheduled workday" means that the employee is normally scheduled to work on that day as part of his/her basic 37.5 or 40 hour workweek. It does not mean a day that is scheduled as the employee's pass day on which the employee is scheduled or directed to work on an overtime basis.

For employees in these units for whom Sunday is a regularly scheduled pass day, the Christmas Day holiday will be Monday, December 26, 2011, and the New Year's Day holiday will be Monday, January 2, 2012.

For employees in these units for whom Sunday is a regularly scheduled workday, the Christmas Day holiday will be Sunday, December 25, 2011 and the New Year's Day holiday will be Sunday, January 1, 2012.

Rate of Holiday Compensation

ASU, ISU, OSU, PS&T

Employees in these units for whom the holiday is December 25 and who are required to work on that day are eligible to receive holiday compensation (holiday pay or holiday leave) at the time and one-half rate.

Employees in these units for whom December 26 is the Christmas holiday and who are required to work on that day are eligible to receive holiday compensation (holiday pay or holiday leave) at the straight time rate.

Since there is no provision for payment of holiday compensation (holiday pay or holiday leave) at the time and one-half rate for work on New Year's Day, employees who receive holiday pay for work on either a January 1 or a January 2 New Year's Day holiday will receive such pay at the straight time holiday rate.

SSU, SSpU, ALES

Employees in these units are not covered by Christmas time and one-half rate holiday compensation provisions. Therefore, holiday compensation (holiday pay or holiday leave added to vacation) for work on the Christmas Day and the New Year's Day holidays is at the straight time rate, regardless of the date of the holiday.

Notification to Employees

It is recommended that employees in the ASU, ISU, OSU, PS&T, SSU, SSpU and ALES units be notified as far in advance as possible about which holiday observance date applies to each of them (December 25 or December 26 and January 1 or January 2 respectively). Once that determination is made, an employee's entitlements to holiday benefits are determined in the same manner as they would be for any other holiday. The key is to remember that each employee is entitled to only **one** day as a Christmas holiday and **one** day as a New Year's holiday.

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In the case of shift operations, holiday shifts must be designated for all four possible observance dates.

After the date of the employee's holiday has been established based on the regular work schedule, the attached chart may be useful in determining the actual holiday benefit entitlement for employees in these units. Please note the assumptions listed at the top of the chart; the chart is designed to cover the "typical" situations which may arise and does not cover every possible circumstance which may occur.

Additional Clarification***Full-Time Employees*** (ASU, ISU, OSU, PS&T, SSU, SSpU and ALES units)

A full-time employee in these units will observe these holidays on Sunday if those Sundays are part of his/her basic 37.5 or 40 hour workweek schedule for the weeks in which these holidays fall. Full-time employees scheduled or directed to work on those Sundays on an overtime basis outside the basic 37.5 or 40 hours workweek observe these holidays on Monday, not Sunday.

An employee in these units who does not normally have Sunday as a scheduled workday within his or her basic 37.5 or 40 hour workweek, but whose basic work schedule has been officially changed for the weeks in which the Christmas and New Year's holidays fall so that those Sundays are part of the employee's basic 37.5 or 40 hour workweek will observe those holidays on Sundays. This is true even if the employee is not normally scheduled to work on Sundays.

Part-Time Employees (ASU, ISU, OSU, PS&T, SSU, SSpU, and ALES units)

Part-time employees eligible to observe holidays are entitled to observe those holidays that fall on days they are regularly scheduled to work *or actually do work*, up to a maximum of 7.5 or 8 hours.

When part-time employees are directed to work hours in addition to their normal schedule within the 37.5 or 40 hour basic workweek of their position, such time becomes part of their scheduled hours for the week, even if it had not been scheduled in advance. If they are directed to work on a pass day, it ceases to be a pass day for them and instead becomes a regular workday so long as they are within the 37.5 or 40 hour workweek of the position. For example, if a part-time employee who does not normally work on Sunday is directed to work on a Sunday, that day becomes a regular workday for the employee so long as the employee is within the 37.5 or 40 hour basic workweek.

When a part-time employee in these units is directed to work on Sunday, December 25, within the 37.5 or 40 hour basic workweek of the position, that day becomes the employee's Christmas holiday, even if the employee is not normally scheduled to work on Sundays. The employee's holiday benefit is based on the number of hours he/she is scheduled or directed to work on that day up to a maximum of 7.5 or 8 hours of work.

In such cases, if Monday, December 26, is also a scheduled workday for the part-time employee who worked on Sunday, Monday is no longer the employee's Christmas holiday. If the employee had intended to be off on Monday, December 26, he/she is no longer entitled to be absent on that day without charge to credits. The employee would either have to charge the absence to leave credits or work on that date. If the employee works

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on that day, the employee receives only straight time pay and is no longer eligible for holiday compensation. The same principle applies to Monday, January 2.

Accordingly, administrative agencies that plan to be closed on Monday, December 26, or Monday, January 2, should take steps to ensure that part-time employees for whom Monday is a scheduled work day are not directed to work on Sunday, December 25, or Sunday, January 1, within their 37.5 or 40 hour basic workweek.

Sunday, December 25, and Sunday, January 1, are not holidays for any employees, full-time or part-time, who are directed to work on those days in overtime status (beyond their 37.5 or 40 hour basic workweek).

Further Information

It should be noted that the last time these holidays fell on Sunday was Christmas Day 2005 and New Year's Day 2006. The relevant contract provisions for those holidays were set forth in Manual Advisory Memo 05-04 and Advisory Memo 05-05, Christmas Day 2005 and New Years' day 2006 Holiday Observance, dated August 2005 and November 2005, respectively. For further background information on these contract provisions, agencies may also refer to the following memos:

Memo	Date	Subject
OER Memo 88-06	July 22, 1988	1988-1991 Institutional Services Unit Agreement
OER Memo 88-07	July 22, 1988	1988-1991 Operational Services Unit Agreement
OER Memo	October 6, 1988	1988-1991 State/PEF Agreement Article 12, Attendance and Leave
Attendance & Leave Manual Policy Bulletin 88-01	November 14, 1988	Christmas Day 1988 and New Year's Day Holiday Observance
Attendance & Leave Manual Policy Bulletin 89-01	March 1, 1989	1988-1991 Negotiated Agreements: Administrative Services, Institutional Services, Operational Services, Professional, Scientific and Technical Services, Rent Regulation Services, Security Services and Security Supervisors Units
OER Memo	February 9, 2001	Implementation of Negotiated Agreement 1999-2003 with NYSCOPBA
Attendance & Leave Manual Policy Bulletin 2002-01	January 22, 2002	Attendance and Leave Items in 1999-2003 Negotiated Agreements with NYSCOPBA and Council 82

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Memo	Date	Subject
Attendance & Leave Manual Policy Bulletin 2004-02	August 2004	Attendance and Leave Items 2003-2007 Negotiated Agreements Administrative Services Unit (ASU), Institutional Services Unit (ISU), Operational Services Unit (OSU)
Attendance & Leave Manual Policy Bulletin 2004-04	November 2004	Attendance and Leave Items in the 2003-2007 Negotiated Agreement with PEF
Attendance & Leave Manual Advisory Memo 2004-05	November 2004	Summary of recent changes in Holiday Leave Benefits
Attendance & Leave Manual Advisory Memo 2005-04	August 2005	Christmas Day 2005 and New Year's Day 2006 Holiday Observance
Attendance & Leave Manual Advisory Memo 2005-05	November 2005	Christmas Day 2005 and New Year's Day 2006—Additional Clarification

Questions and requests for background memos should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

HOLIDAY BENEFIT

FOR EMPLOYEES IN ADMINISTRATIVE, INSTITUTIONAL, OPERATIONAL, PROFESSIONAL, SCIENTIFIC & TECHNICAL SERVICES UNITS, SECURITY SERVICES, SECURITY SUPERVISORS, AND AGENCY LAW ENFORCEMENT SERVICES UNITS

FOR CHRISTMAS DAY 2011 AND NEW YEAR'S DAY 2012

Directions: Locate employee's regular work schedule in left hand column.
Read across to determine employee's Christmas Day and New Year's Day holiday and the holiday entitlement based on employee's status on those days.

Assumptions: 1. Employees are full time, annual salaried.
2. Employees work only those hours which correspond to their normal work shift on a pass day or a regularly scheduled workday.

EMPLOYEE'S REGULAR WORK SCHEDULE	EMPLOYEE'S CHRISTMAS/NEW YEAR'S HOLIDAY	STATUS: EMPLOYEE IS OFF SUNDAY AND MONDAY	STATUS: EMPLOYEE WORKS SUNDAY, OFF MONDAY	STATUS: EMPLOYEE IS OFF SUNDAY, WORKS MONDAY	STATUS: EMPLOYEE WORKS SUNDAY AND MONDAY
SUNDAY-WORKDAY MONDAY-PASS DAY	Sunday 12/25 Sunday 1/1	Sunday-holiday observance Monday-regular pass day	Sunday-holiday pay * or leave* Monday-regular pass day	Sunday-holiday observance Monday-overtime	Sunday-holiday pay* or leave* Monday-overtime
SUNDAY-WORKDAY MONDAY-WORKDAY	Sunday 12/25 Sunday 1/1	Sunday-holiday observance Monday-charged to credits	Sunday-holiday pay* or leave* Monday-charged to credits	Sunday-holiday observance Monday-regular workday	Sunday-holiday pay* or leave* Monday-regular workday
SUNDAY-PASS DAY MONDAY-WORKDAY	Monday 12/26 Monday 1/2	Sunday-regular pass day Monday-holiday observance	Sunday-overtime Monday-holiday observance	Sunday-regular pass day Monday-holiday pay or leave	Sunday-overtime Monday-holiday pay or leave
SUNDAY-PASS DAY MONDAY-PASS DAY	Monday 12/26 Monday 1/2	Sunday-regular pass day Monday-earns holiday leave	Sunday-overtime Monday-earns holiday leave	Sunday-regular pass day Monday-holiday pay or leave plus overtime	Sunday-overtime Monday-holiday pay or leave plus overtime

*Holiday Pay or Holiday Leave for December 25 at the Christmas time and one-half rate is only for employees in Administrative, Institutional, Operational, and Professional, Scientific and Technical Services Units.

Holiday Pay or Holiday Leave at the Christmas time and one-half rate is not available to Security Services, Security Supervisors and Agency Law Enforcement Services Units.