

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

**ATTENDANCE AND LEAVE MANUAL**

ADVISORY MEMORANDUM NO. 2015-03

Section 21.1

April 2015

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Retain until December 4, 2015

TO: Manual Recipients  
FROM: Scott DeFruscio, Director of Staffing Services  
SUBJECT: Independence Day—July 4, 2015

A number of agencies have inquired about Independence Day, which falls on Saturday, July 4, 2015. We have been advised by the Governor's Office of Employee Relations that another day will **not** be designated to be observed as a holiday by State employees in lieu of July 4, 2015.

Full-time employees who are entitled to observe holidays, and for whom Saturday, July 4, is a regular day off, should be credited with compensatory time off in lieu of the holiday either as holiday compensatory time (for all units except for Security Services, Security Supervisors and Agency Police Services Units) or as an additional day of vacation (for Security Services, Security Supervisors and Agency Police Services Units).

Part-time employees who are eligible to observe holidays are entitled to observe only those holidays that fall on days when they are regularly scheduled to work or actually do work. However, eligible part-time employees in the Professional, Scientific & Technical Services, Rent Regulation Services, Administrative Services, Institutional Services, and Operational Services Units, and those designated Managerial/Confidential, who are regularly scheduled to work at least half-time, and who do not work on Saturday, July 4, but who are regularly scheduled to work on Friday, July 3, will be credited with holiday leave equivalent to the number of hours in the employee's regular Friday schedule not to exceed 7 ½ or 8 hours.

Employees required to work on Saturday, July 4, 2015, should be paid holiday pay or granted holiday compensatory time off (holiday leave), as appropriate, except that Managerial/Confidential employees at salary grade 23 and above are not eligible for holiday pay and must be granted holiday compensatory time off.

Employees required to work on a holiday which coincides with a pass day may also be entitled to overtime pay in accordance with the Budget Director's Rules.

When an eligible former reservist, who has elected holiday pay for holidays worked, is required to work on July 4, Independence Day, such employee is entitled to holiday pay pursuant to the negotiated agreement and **also** to holiday leave pursuant to Section 249 of the Military Law. If, on the other hand, such employee waived holiday pay, one day of holiday leave satisfies both the contractual entitlement and the legal entitlement.

Questions concerning the observance of Independence Day should be referred to the Attendance and Leave Unit of this Department at (518) 457-2295.

**Attachment**

Summary of Benefits Under Military Law, Section 249

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**Summary of Benefits Under Military Law, Section 249**

The following information is provided solely as a reference summary for agency convenience and does not contain any new information.

Benefits Under Section 249 of the Military Law

Section 249 of the Military Law entitles honorably discharged former reservists or former National Guard members who served during peace time to a day off with pay on or in lieu of July 4. In order to be eligible, at least one day of this reserve service must have occurred outside time of war as defined in Section 85.1(c) of the Civil Service Law.

To qualify, the reserve duty must have been active reserve duty during which the employee was required to attend drills, not inactive reserve duty where the employee was subject to being recalled but was not required to attend drills. Reservists who were honorably discharged from a period of active reserve duty and who have reenlisted for a subsequent period of reserve duty are eligible for this benefit.

There is no New York State residency requirement; an employee need not have served in a reserve or National Guard unit in New York State. There is no requirement that an employee have Attendance Rules coverage in order to be eligible for this benefit.

When an eligible former reservist who has elected holiday pay for holidays worked is required to work on July 4, Independence Day, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to law. If, on the other hand, such employee waived holiday pay, one day of holiday leave satisfies both the contractual entitlement and the legal entitlement.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for July 4 under Section 249 of the Military Law is tied to the 24-hour calendar day period on July 4 and is not capped at 7.5 or 8 hours.