

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2008-04**

Section 26.3

July 2008

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TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Attendance and Leave Items in the 2007-2011 Negotiated Agreements Between the State of New York and CSEA for Employees in the Administrative Services Unit (ASU), Institutional Services Unit (ISU) and Operational Services Unit (OSU)

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Introduction

The following material has been prepared to assist you in implementing the new or revised attendance and leave provisions contained in the 2007-2011 Agreements between the State of New York and CSEA for employees in the Administrative Services Unit (ASU), Institutional Services Unit (ISU) and Operational Services Unit (OSU). References to applicable sections of the State Attendance and Leave Manual (Manual) are included.

Questions concerning this material should be directed to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

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Effective Dates

The new or revised provisions are effective beginning January 4, 2008, the date of ratification of the Agreement, except as follows:

Workers' Compensation	July 1, 2008
Over40 Comp Time II	July 1, 2008
Productivity Enhancement Program	January 9, 2008

Subject: Vacation Use

Unit and Item: ASU, Article 10.4(b), Appendix IV

Manual Reference: 21.2

The language has been changed to provide that an employee's properly submitted written request for use of accrued vacation credits shall be answered in writing within five working days of receipt. The new language further provides that if an employee's request for use of accrued vacation credits is denied, the employee shall receive a written statement of the reasons for such denial within five working days of such denial. Reasons must be provided automatically without any further action on the employee's part.

The effect of the new language is to require that management must respond in writing to a properly submitted written vacation request from an ASU employee within five working days of receipt of that request. If the written response provided within that five working day period is a denial, the agency has an additional five working days from the date of the denial to provide the employee with a written statement of the reasons for that denial. The provision of reasons for denial must occur automatically; the employee is not required to make a request for reasons.

For example, if the agency denies a written vacation request two working days after it is submitted, the agency has five additional working days from the date of the denial (seven working days from the submission of the request) to provide reasons for the denial. If, however, the agency denies a written vacation request five working days after it is submitted, the agency has five additional working days from the date of the denial (ten working days from the submission of the request) to provide reasons for the denial.

When management exercises its right to establish a date or dates by which a request for a block of time must be submitted, the parties agreed that the time periods for response and for provision of reasons for denial for employees in the ASU are calculated from the end of the request period and not from the actual date during that period that individual requests were submitted. For example, if agency management designates the period of October 15 through October 31 as the period during which an employee who wishes to take a block of time off during the December holiday period must submit a vacation request, the time periods for response and provision of

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reasons commence as of October 31, close of business, the end of the designated request period. For example, an ASU employee who works a Monday through Friday schedule submits a vacation request for Christmas week during the agency-designated block request period of October 15 through October 31, 2008. The agency must notify the employee that the request was approved or denied by Friday, November 7, close of business. Assuming that the employee was notified of the denial of the request on Friday, November 7, the agency has until Monday, November 17, 2008 to provide reasons for the denial. For this purpose, floating holidays, such as Election Day, count as workdays but regular holidays such as Veterans' Day do not count as workdays.

The language in Appendix IV of the ASU agreement has been modified to reflect the change to Article 10.4(b).

Under the prior collective bargaining agreement, agencies were required to provide a written response to an employee's written request for use of vacation within five working days of the receipt of the vacation request. Agencies were also automatically required to provide written reasons for denial within five working days of the receipt of the vacation request.

Agencies are reminded that when reasons for denial of vacation requests must be given, these written statements of denial or cancellation need not be any more explicit than is necessary to indicate the basis therefore – it is not intended that they be so lengthy or explicit as to serve as “proof” that the denial or cancellation was absolutely necessary or essential to the proper conduct of agency business. Failure to provide the written statement of the reasons for denying an employee's request for vacation may be grieved as a contract grievance. However, the denial itself may be grieved only as a non-contract grievance.

Subject: Workers' Compensation
Unit and Item: ASU, ISU, OSU – Article 11
Manual Reference: 21.8

The language of Article 11 has been modified to provide that employees receiving Workers' Compensation payments for a period of disability found compensable by the Workers' Compensation Board that is caused by an assault occurring in the course of their employment shall be treated as though on the payroll for the length of the disability, but not to exceed twenty-four months per injury, for the sole purpose of health insurance and Employee Benefit Fund contributions normally made by the State. This provision is also applicable to employees in leave without pay status pending determination of a controverted or contested claim arising from an assault once the claim is decided in the employee's favor.

This new provision is applicable to disabling incidents due to assault occurring on or after July 1, 2008. For disabling incidents due to assault occurring prior to July 1, 2008, the period for which

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an employee is treated as though on the payroll for the purposes of health insurance and Employee Benefit Fund contributions normally made by the State remains capped at 12 months.

For purpose of accruing seniority, continuous service, and accrual of vacation, sick leave and personal leave, employees subject to the new provision continue to be treated as though on the payroll for up to 12 months per injury. Similarly, such employees continue to be treated as though on the payroll for up to 12 months per injury for the purposes of retirement credit and contributions made by the State and/or the employee.

The provisions of Article 11 applicable to injuries other than those resulting from assault incurred in the course of employment remain unchanged.

Subject: Medical Documentation

**Unit and Item: ASU, ISU, OSU – Appendix IV, Attendance and Leave, Side Letter
Manual Reference: 21.3**

The description of satisfactory medical documentation contained in the Sick Leave section of the CSEA Attendance and Leave Appendices has been modified. The new provision states that a brief medical diagnosis will not be required unless the employee has been absent from work due to illness or injury for more than 30 consecutive calendar days. The side letter on medical documentation confirms this “30-day requirement” and clarifies the circumstances under which the requirement applies.

This 30-day restriction on requiring a brief diagnosis applies to medical documentation requested by the agency in connection with absences for personal sick leave and non-occupational illness. It applies to such absences regardless of whether they are charged to sick leave credits or to other credits used as sick leave as well as to absences on sick leave at half-pay and sick leave without pay. It applies to return to work examinations pursuant to Section 21.3 of the Attendance Rules and Articles 10.17 (ASU, OSU) and 10.19 (ISU) of the State/CSEA Agreements. See *Applicability* below for a more detailed discussion.

The new provision applies only to the content of required medical documentation. It has no impact on the frequency with which medical documentation can be requested under the Attendance Rules and negotiated agreements. While employees in these units may not be routinely required to submit medical certificates for sick leave absences of four workdays or less, agencies continue to have the right to require medical certificates of employees who are absent for four days or less whenever such requirement is reasonable under the circumstances. Examples of circumstances where such requests are reasonable include situations when there is reason to believe the employee is not incapacitated from the performance of the duties of the position, when the employee has consistently abused leave privileges or when the employee fails or refuses to explain the absence in question. Furthermore, agencies continue to have the ability

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in certain situations to place an employee on notice that medical documentation will be required for every future absence during a specified time period. See Section 21.3, pages C-14-15, of the Manual for a discussion of frequency of medical documentation.

Under the new provision, agencies continue to be entitled to request a brief diagnosis as part of required medical documentation once the absence exceeds 30 consecutive calendar days.

For absences for personal illness and non-occupational injury covered by the new provision, the 30-day restriction applies only to the diagnosis portion of the medical documentation. Other parts of the description of satisfactory medical documentation contained in the Sick Leave section of the CSEA Attendance and Leave Appendices remain unchanged. For example, satisfactory medical documentation specifies the inclusive dates of disability covered by the doctor's note and date or dates of treatment during the period covered, contains a certification that the employee is disabled from the performance of his or her job duties, specifies the anticipated date of return to work and is signed by an appropriate medical practitioner. See Section 21.3, pages 3-4 of the Manual for a list of appropriate medical practitioners.

The language regarding brevity applies only to the medical diagnosis portion of the discussion of satisfactory medical documentation. The criteria set forth in the Sick Leave section of the CSEA Attendance and Leave Appendices represent minimal standards in order for documentation to be deemed acceptable, and thus represent a floor, not a ceiling. Agencies continue to have the right to request such information as is deemed appropriate and necessary to support authorization for an absence, use of leave benefits, and fitness to return to work from such absence. However, agency policies must comply with this 30-day restriction on requiring a brief diagnosis.

The restriction on the circumstances under which an employer may request a diagnosis applies solely to a requirement imposed by the agency for the employee to provide a diagnosis. No violation has occurred if the agency comes into possession of that information because, for example, it has been voluntarily provided by a health care provider or a carrier.

The determination as to whether medical documentation is satisfactory rests with the appointing authority and is not grievable.

Applicability

The 30-day restriction on medical diagnosis applies to medical documentation requested by the agency in connection with absences for personal sick leave and non-occupational illness, regardless of whether such absences are charged to sick leave credits or to other credits used as sick leave or are sick leave at half-pay or sick leave without pay. The 30-day restriction applies to return to work examinations pursuant to Section 21.3 of the Attendance Rules and Articles 10.17 (ASU, OSU) and 10.19 (ISU) of the State/CSEA Agreements.

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The 30-day restriction on diagnosis does not apply to absences designated as FMLA leave. The FMLA has its own restrictions on the type of medical information that can be required. Accordingly, for absences covered under the FMLA, agencies should continue to request information contained in the USDOL FMLA Certification of Health Care Provider Form. That form does not require a diagnosis but authorizes the request of information such as what part of the FMLA definition an employee qualifies under, a description of the medical facts the health care provider relied on in making that determination, estimated number and nature of treatments, anticipated duration and frequency of episodes of incapacity, etc.

The 30-day restriction on diagnosis does not apply to absences under Section 72 of the Civil Service Law. Agencies should continue to follow established procedures for absences under that section.

The 30-day restriction on diagnosis does not apply to medical documentation in support of requests for reasonable accommodation under the Americans with Disabilities Act or the New York State Human Rights Law.

The 30-day restriction on diagnosis does not apply to absences under Section 71 of the Civil Service Law or to absences covered by the Workers' Compensation Law and Article 11 of the CSEA Agreements. Both the appointing authority and the State Insurance Fund continue to be able to request whatever information is deemed necessary, including information concerning the employee's medical diagnosis, in administering workers' compensation benefits authorized by law, rule and contract provisions. For example, agencies continue to be able to request medical diagnosis on the Estimated Physical Capabilities Form for New York State Employees in connection with an employee's request for light duty.

However, when a case is controverted, the employee is no longer deemed to be on workers' compensation leave and the 30-day restriction on medical diagnosis is applicable until such time as the controversion is resolved in the employee's favor.

Subject: Leave Donation Program

Unit and Item: ASU, ISU, OSU – Appendix X, Leave Donation

Manual Reference: Appendix H, Leave Donation Program

Provisions pertaining to leave donation across agency lines by other than family members, which were pilot provisions under the 2003-2007 CSEA Leave Donation Program are now permanent. All other program provisions remain unchanged.

At the present time, the ability to donate across agency lines to other than family members has been made a permanent part of the program for CSEA, RRSU, PS&T, PSNU and M/C employees. Therefore employees in the CSEA units may continue to exchange leave donations

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across agency lines with other CSEA unit employees, with employees in the RRSU, PS&T and PSNU units, and with those designated M/C, regardless of whether the donor and recipient are family members.

For employees in SSU, SSpu and ALES, the entire Leave Donation Program has been temporarily extended until March 31, 2009. While these extensions of the Leave Donation Program for the security units are in place, employees in the CSEA units may continue to exchange leave donations with employees in these units, including donations across agency lines, regardless of family relationship.

Detailed Leave Donation Program Guidelines will be issued following the conclusion of the negotiation process. Until those updated guidelines are issued, agencies should refer to Policy Bulletin 2004-02 dated August 2004 and to Policy Bulletin 2001-02 dated March 23, 2001.

Subject: Over40 Comp Time

Unit and Item: ASU, ISU, OSU – Side Letter

Manual Reference: 23.1, 23.3

The agreements create a new Over40 Comp Time program, the Over40 Comp Time II Pilot Program, effective July 1, 2008. The program years under the Over40 Comp Time II Pilot Program will run from July 1, 2008 through June 30, 2009, July 1, 2009 through June 30, 2010 and July 1, 2010 through June 30, 2011. Actual dates may vary slightly to coincide with payroll periods. The 2008-2009 program year will run from June 26, 2008 through June 24, 2009 (Administration payroll) and from June 19, 2008 through June 17, 2009 (Institution payroll).

Employees may enroll in the program each year for a one-year period during each of the three years of the pilot. The enrollment period for the 2008-2009 Program Year ran from Thursday, June 5, 2008 through Wednesday, June 18, 2008.

Comparison of Over40 Comp Time I and Over40 Comp Time II

The primary differences between the Over40 Comp Time II Program and the previous Over40 Comp Time program that was available under the 2003-2007 negotiated agreement (Over40 Comp Time I) are as follows:

- Over40 Comp Time II is a single program available to employees represented by DC 37 and PEF as well as to employees represented by CSEA, while Over40 Comp Time I was available only to employees represented by CSEA. Employees who enroll in Over40 Comp Time II continue to be enrolled for the remainder of that program year even if they move to an overtime eligible position in another participating bargaining unit.

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- The maximum number of hours of Over40 Comp Time II which an employee can accumulate is 240 hours, an increase from the 120 hour maximum under the previous program. This 240 hour maximum includes any unused credits carried forward from the previous Over40 Comp Time program available under the 2003-2007 Agreement.
- Employees who elect to participate in Over40 Comp Time II are no longer entitled to charge Over40 Comp Time as a leave accrual. Credits are banked until the employee becomes eligible for a lump sum payment or elects to participate in the annual cash out described below.
- Employees with Over40 Comp Time II credits on their time record may cash out up to 120 hours of accrued Over40 Comp Time II once per year during the pilot program period payable in the closest payroll period to December 1st at the rate of pay earned at the time of that liquidation. Employees are not required to be currently enrolled in a program year in order to participate in the annual cash out for that program year, provided they have accrued Over40 Comp Time II credits on their time record.
- Employees who participated in any year of the Over40 Comp Time I Program under the 2003-2007 Agreements and who presently have accrued Over40 Comp Time credits from that program standing to their credit and who elect to participate in the Over40 Comp Time II Program are entitled to charge those previous program credits as leave accruals only until the date they begin participating in the Over40 Comp Time II Program. Upon commencement of participation in Over40 Comp Time II, such unused credits are carried forward under the terms of the Over40 Comp Time II Program and are merged with Over40 Comp Time credits earned under the new program into a single leave category, subject to a combined maximum of 240 hours and are administered under the terms of the Over40 Comp Time II Program.
- Employees who participated in any year of the Over40 Comp Time I Program under the 2003-2007 Agreements and who presently have accrued Over40 Comp Time credits from that program standing to their credit and who do not elect to participate in the Over40 Comp Time II Program, are entitled to retain and use that previously accrued Over40 Comp Time as a leave accrual under the terms of the Over40 Comp Time I Program until those credits are exhausted or the employee becomes eligible for a lump sum payment.
- At any given point in time, an employee may have either Over40 Comp Time I credits or Over40 Comp Time II credits on his/her time record but will not have both categories of credits at the same time. Once an employee participates in Over40 Comp Time II, he/she is governed by the provisions of that program, even if he/she declines to participate in subsequent years of that program.

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Over40 Comp Time II

Eligibility

To be eligible to enroll in Over40 Comp Time II, an employee must be employed in 1) an overtime eligible position allocated to salary grades 22 and below or in a position otherwise eligible to earn overtime and 2) in a bargaining unit represented by CSEA, DC 37 or PEF.

Enrollment

Each year of the Over40 Comp Time II program there will be an annual enrollment period prior to the start of that program year. The enrollment period for the 2008-2009 program year ran from Thursday, June 5, 2008 through Wednesday, June 18, 2008. In subsequent years, the enrollment period will run from April 1 through May 15 of each year. Enrollment materials, including a program description, will be distributed by GOER prior to that time.

Enrollment continues in effect for the remainder of the program year even if employees move to a different agency, so long as the movement is to an overtime eligible position represented by CSEA, PEF or DC 37. Participation in the program ends upon appointment to an overtime ineligible position and/or to a position in a bargaining unit not represented by CSEA, PEF or DC 37.

Accrual Maximum

Over40 Comp Time II is earned at the rate of 1.5 hours for every hour of overtime worked by enrolled employees in excess of 40 hours in a workweek until the 240 hour maximum is reached. (For firefighters in the Division of Military and Naval Affairs, hours in excess of 106 hours in a biweekly pay period will qualify for Over40 Comp Time.)

Once the 240 hour maximum is reached, employees participating in Over40 Comp Time II receive cash compensation for overtime worked from that point forward until such time as their balance is reduced below 240 hours, at which point they resume being credited with Over40 Comp Time II for overtime worked. For example, in September, a participating employee reaches the 240 hour maximum and is no longer eligible to be credited with Over40 Comp Time II. Subsequently, during the annual cash out election period, the employee files an election form to liquidate 120 hours of Over40 Comp Time II which is payable in December. The 120 hours the employee elected to liquidate are deducted from his time record as of the date the election form is received in the Personnel Office. Effective as of the date the employee's Over40 Comp Time II balance is reduced below 240 hours, the employee is again credited with Over40 Comp Time for overtime worked.

The 240 hour maximum includes unused Over40 Comp Time credits earned under the 2003-2007 Over40 Comp Time I program standing to the employee's credit at the time he/she enrolls in the Over40 Comp Time II program. Those credits are carried forward on the employee's time record in the Over40 Comp Time II category merged with credits actually earned under the

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Over40 Comp Time II program into a single leave category and are henceforth subject to the provisions of the Over40 Comp Time II program.

Unavailability for Use as a Leave Accrual

Over40 Comp Time II credits (including credits earned under the 2003-2007 Over40 Comp Time I Program carried forward by employees who enroll in Over40 Comp Time II) are not available for use as leave credits and, therefore, an employee who has exhausted his/her other credits has exhausted all available credits to be eligible for sick leave at half-pay or leave donations, even though he/she continues to have a balance of Over40 Comp Time II credits on his/her time record.

Annual Cash Out

There will be an annual cash out election period in October of each year of the pilot program for employees with Over40 Comp Time II credits on their time record who may elect to liquidate up to 120 hours of Over40 Comp Time II credits for a cash payment payable in the closest payroll period to December 1st at the rate of pay earned at the time of liquidation. Appropriate election forms will be distributed prior to the start of the annual election period. In 2008, the election period will run from Monday, October 6, 2008 through Wednesday, October 29, 2008.

Employees who have accrued Over40 Comp Time II credits on their time records do not have to be currently enrolled in a program year in order to participate in the annual cash out. This is true regardless of whether the employee is eligible to enroll but elects not to do so or is currently employed in an overtime ineligible position and/or in a bargaining unit not represented by CSEA, PEF or DC 37.

If the pilot program is not extended beyond its scheduled expiration in June 2011, there will be a final opportunity in October 2011 to elect to cash out up to 120 hours of Over40 Comp Time II payable in December 2011.

Retention of Credits and Lump Sum Payment

Accrued Over40 Comp Time II has no expiration date. Employees are entitled to retain these credits until they are liquidated during the annual cash out period or until the employee becomes eligible for a lump sum payment.

As is the case with overtime compensatory time earned for hours between 37.5 and 40, employees are entitled to a lump sum payment for accrued and unused Over40 Comp Time II credits upon movement to the unclassified service, movement under a reciprocal agreement, movement to an institution teacher position, movement to a classified service position in another agency or upon separation from State service for any reason. The lump sum value of Over40 Comp Time II credits is the rate of pay earned at the time of liquidation but in no event shall it be less than FLSA requirements.

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Over40 Comp Time II credits, like regular overtime compensatory time credits, are carried forward when employees move between classified service positions in the same agency, including movement between facilities and institutions within such agencies as State University of New York, the Departments of Correctional Services and Health, and the Offices of Mental Health, Mental Retardation and Developmental Disabilities, and Children and Family Services. This occurs even if the new position in the same agency is overtime ineligible and/or in a non-participating bargaining unit.

Over40 Comp Time I

Accrual Maximum

Employees who previously participated in the Over40 Comp Time I program under the 2003-2007 Agreement who do not enroll in the Over40 Comp Time II program, retain unused credits earned under the previous program, subject to the 120 hour maximum applicable to that program, but are ineligible to earn additional credits unless and until they enroll in the Over40 Comp Time II program. Unused credits should be retained on the employee's time card in a separate leave category, Over40 Comp Time I.

Availability for Use as a Leave Accrual

For employees who do not elect to participate in the new Over40 Comp Time II program, accrued Over40 Comp Time I remains available for use as a leave accrual and therefore must be exhausted before an employee can be granted sick leave at half-pay or become eligible for leave donations. Eligibility to use Over40 Comp Time I credits as a leave accrual ceases if and when the employee commences participation in the Over40 Comp Time II program, at which point Over40 Comp Time I credits are carried forward and become part of the Over40 Comp Time II balance subject to the provisions of that program. For example, an employee who begins participating in Over40 Comp Time II during the 2008-2009 program year, can use previously accrued Over40 Comp Time I until the date participation in Over40 Comp Time II begins in 2008. An employee who does not begin participating in the Over40 Comp Time II program until the 2009-2010 program year can continue to use previously accrued Over40 Comp Time I until participation in Over40 Comp Time II begins in 2009.

Ineligibility for Annual Cash Out

Credits in the Over40 Comp Time I category cannot be cashed out during the annual election to liquidate Over40 Comp Time II credits in December of each year, unless the employee elects to participate in the Over40 Comp Time II program during the annual enrollment period and such credits are carried forward as Over40 Comp Time II credits.

Retention of Credits and Lump Sum Payment

Accrued Over40 Comp Time I credits have no expiration date. Employees are entitled to retain these credits until they are exhausted or until the employee becomes eligible for a lump sum payment.

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As is the case with overtime compensatory time earned for hours between 37.5 and 40, employees are entitled to a lump sum payment for accrued and unused Over40 Comp Time I credits upon movement to the unclassified service, movement under a reciprocal agreement, movement to an institution teacher position, movement to a classified service position in another agency or upon separation from State service for any reason. The lump sum value of Over40 Comp Time I credits is the rate of pay earned at the time of liquidation but in no event shall it be less than FLSA requirements.

Over40 Comp Time I credits, like regular overtime compensatory time credits, are carried forward when employees move between classified service positions in the same agency, including movement between facilities and institutions within such agencies as State University of New York, the Departments of Correctional Services and Health, and the Offices of Mental Health, Mental Retardation and Developmental Disabilities, and Children and Family Services.

Subject: Seasonal Leave Credits

Unit and Item: ASU, ISU, OSU – Appendix III

Manual Reference: Appendix E, Seasonal Employment

Section C(2) of the Seasonal Appendix has been revised to permit seasonal leave credits earned under that section to be carried forward beyond the point they would otherwise expire when a seasonal employee receives a permanent appointment in the same agency. Specifically, seasonal employees who meet the eligibility criteria set forth in Section C to be credited with seasonal leave credits under that section and who subsequently receive a **permanent appointment** in the **same agency** are entitled to retain those seasonal leave credits for a period of one year from the date of that permanent appointment.

For purposes of this provision, appointment within the same agency includes appointments between facilities of the same agency (for example, between facilities within the Department of Correctional Services, between SUNY campuses, etc.) Appointment within the same agency also applies to appointments between regions within an agency such as the Office of Parks, Recreation and Historic Preservation, the Department of Environmental Conservation or the Department of Transportation.

Under Section C(2) of the Seasonal Appendix, seasonal leave credits are credited to eligible employees at the start of each fiscal year and expire at the end of that fiscal year. However, under the new benefit, if a seasonal employee described in Section C(2) receives a permanent appointment in the same agency, the employee is entitled to retain unused seasonal leave credits for a period of one year from the date of the permanent appointment. For example, if an eligible seasonal employee was credited with seasonal leave effective April 1, 2007 and on March 5, 2008 receives a permanent appointment in the same agency, the employee is entitled to carry such unused seasonal credits beyond the point they would otherwise expire (March 31, 2008) for

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a period of one year from the date of the permanent appointment (through March 4, 2009 in this example). Any seasonal leave credits still standing to the employee's credit as of March 4, 2009 close of business would lapse.

Previously, seasonal leave credits expired March 31 of each fiscal year without exception and could not be carried forward upon appointment to a non-seasonal position.

Credits carried forward are to be retained in a separate category on the employee's time record and are available for use, subject to prior approval, for absences for personal reasons and for unscheduled absences due to illness subject to applicable provisions on medical documentation. However, such credits are not available for use in connection with the Productivity Enhancement Program. Furthermore, seasonal leave credits carried forward do not have a cash-out or retirement value, if the employee separates from service prior to exhausting such credits.

The ability of eligible employees to carry unused seasonal leave credits forward does not in any way reduce or diminish entitlement to leave benefits under the Attendance Rules. For example, if an employee who has unused seasonal leave credits receives a permanent appointment to a full time annual salaried position in the same agency, the employee is entitled to carry those unused seasonal leave credits forward and, in addition, has all the leave benefits that flow from appointment to an annual salaried position – immediate coverage under the Attendance Rules, immediate eligibility to accrue sick leave and to be credited with 5 days of personal leave, as well as eligibility to be credited with vacation after the completion of 13 cumulative biweekly pay periods of service on a qualifying schedule. Periods of service in the seasonal position, if on a qualifying schedule, may count toward completion of that 13 cumulative biweekly pay period requirement. See Section 26.1 pages 7-9 of the Manual for a discussion of movement from an hourly paid position (including a seasonal position) to an annual salaried position.

This provision applies to appointments to permanent positions in the same agency that occur on or after January 4, 2008.

Subject: Productivity Enhancement Program
Unit and Item: ASU, ISU, OSU – Appendix XI
Manual Reference: 26.3

The Productivity Enhancement Program (PEP) allows eligible employees to exchange previously accrued annual leave (vacation) and/or personal leave in return for a credit to be applied toward their employee share NYSHIP premiums on a biweekly basis.

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In order to enroll an employee must:

- Be a classified or unclassified service employee in the Executive branch in a title below Salary Grade 18 or equated to a position below Salary Grade 18;
- Be an employee covered by the 2007-2011 New York State/CSEA collective bargaining agreement;
- Have a minimum combined balance of annual and personal leave of at least 8 days after making the forfeiture; and
- Be a NYSHIP enrollee (contract holder) in either the Empire Plan or an HMO at the time of enrollment.

The program will be available for calendar years 2008, 2009, 2010 and 2011. Eligible employees may elect to participate in any of the four years of this program. Full time employees who enroll in the program will forfeit three days of accrued annual or personal leave standing to their credit at time of enrollment in each year of participation. In 2008 and 2009, the value of such credits will be \$450 per year to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks during the program year. In 2010 and 2011, the value of such credit will be \$500 per year to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks during the program year. The program is available to eligible part-time employees on a prorated basis.

The enrollment period for participation in the 2008 PEP year commenced January 9, 2008 and ended February 11, 2008. A detailed program description is contained in Policy Bulletin 2007-01, Implementation of the Productivity Enhancement Program for 2008 for Managerial/Confidential, CSEA Represented and DC 37 Represented Employees, dated December 2007.

This is a pilot program that will sunset December 31, 2011 unless extended by mutual agreement of the parties.

Subject: Sick Leave Accumulation

Unit and Item: ASU, ISU, OSU – Side Letter

Manual Reference: 21.3

This new side letter reflects the agreement of the parties that the issue of sick leave accumulation to be used for the payment of health insurance in retirement and the adequacy of the current 200 day cap shall be reviewed and discussed in Statewide Labor/Management.

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Subject: Hold on Shift, Pass Day and Work Location Assignment

Unit and Item: ASU, ISU, OSU – Side Letter

Manual Reference: 26.3

This new side letter confirms that the parties agree that it is appropriate for local labor/management committees to discuss an increase in the three-month period provided in the cited contract articles (ASU Article 10.18, ISU Article 10.21, OSU Article 50.4). Any local labor/management agreement reached which modifies the three-month time period shall provide that such agreement may be terminated upon notice provided by either party. In the event that such labor/management agreement is terminated, the contract articles shall apply.

The contract provisions remain unchanged and continue to provide that an employee's shift, pass day and work location assignment, as applicable, shall be held for three months when an employee is on an authorized absence due to an on the job injury or for maternity purposes or for extended illness including sick leave at half-pay. However that hold does not apply where rebidding occurs while leave is in effect or where the employee's shift, pass day or work location assignment would have otherwise terminated, e.g. change in seasonal shift, closure of building or facility, etc.

Subject: Liquidation of Vacation Credits

Unit and Item: ASU, ISU, OSU – Side Letter

Manual Reference: Section 21.2

This is a renewal of a side letter from the 2003-2007 Agreements. The side letter requires that the following reminder be included in this contract implementation memo:

Agencies are encouraged, where possible subject to operating needs, to permit employees to liquidate accumulated vacation credits in excess of 30 days prior to separation.

The 30-day limit on vacation lump sum payment upon separation from service remains unchanged.