TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2016 Agreements between the State of New York and the Civil Service Employees Association (CSEA) for employees in the Administrative Services Unit (ASU), Institutional Services Unit (ISU), Operational Services Unit (OSU), and Division of Military and Naval Affairs (DMNA) Unit as they relate to the Deficit Reduction Plan (DRP). All employees in these bargaining units are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP for Fiscal Year 2011–2012 for these units reduces employee compensation by 3.333% for each payroll period starting with payroll number 10 for employees on the Institution Lag payroll calendar (paid on September 8, 2011), and with payroll number 11 for employees on the Administration Lag payroll calendar (paid on September 14, 2011) and will last 15 biweekly pay periods. Deficit Reduction Leave (DRL) will be available for employee use on September 8, 2011 for employees on the Institution Lag payroll calendar and September 15, 2011 for employees on the Administration Lag payroll calendar. The DRP for Fiscal Year 2011–2012 provides for:

- Five days of DRL in Fiscal Year 2011–2012 for full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL for Fiscal Year 2011–2012.
- The State will ensure that each employee will be able to use their entire allotment of DRL. Days off are at employee election but are subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees represented by CSEA for employees in the ASU, ISU, OSU, and DMNA Units will be subject to the DRP regardless of coverage under the Attendance Rules.

Earning Deficit Reduction Leave (DRL)

Full-time Annual-Salaried Employees
Full-time annual-salaried employees are credited with five days of DRL, based on their basic workweek of either 37.5 or 40 hours at the start of the DRP. Employees will be entitled to take DRL commencing on September 8, 2011 for employees on the Institution Lag payroll calendar and commencing on September 15, 2011 for employees on the Administration Lag payroll calendar.

For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 37.5 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 40 hours of DRL.

Part-Time Annual-Salaried Employees
Part-time annual-salaried employees are credited with five prorated days of DRL, based on their employment percentage at the start of the DRP.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 18.75 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 20 hours of DRL.

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee’s basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly pay period) to work full-time during three biweekly pay periods. This employee would have already been credited with 20 hours of DRL. To determine the additional DRL that needs to be credited, an agency would divide the original DRL credit (20) by 15 (total number of pay periods in the DRP) to arrive at 1.333 hours per pay period. For purposes of this calculation only, this individual is seen as earning 1.333 hours of DRL per pay period. Since this individual worked double their normal schedule for three pay periods, you would multiply 1.333 by 3 to arrive at a total of 4 hours of additional DRL credit. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL during the Fiscal Year so that they have an opportunity to use the DRL during this Fiscal Year.

Employees Engaged in Extra Service
Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 40 hours of DRL. To determine the additional DRL that needs to be credited for extra service, an agency would divide the original DRL credit (40) by 15 (total number of pay periods in the DRP) to arrive at 2.666 hours per pay period. If the employee worked 8 hours of extra service in one pay period (1/10 of additional time), the

employee would be credited with 2.666/10, or .266 hours of additional DRL. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

<u>New Employees</u>
Employees who join the bargaining unit after the commencement of the DRP shall be credited with the appropriate proportionate amount of DRL that corresponds to the number of pay periods left in the DRP for Fiscal Year 2011–2012. For example, a full-time 40 hour per workweek employee who is hired with only 12 pay periods remaining in the fiscal year, shall be credited with 32 hours (12/15 equals 80%) of DRL for use in Fiscal Year 2011–2012, because reductions in compensation will occur over only 12 pay periods under the DRP. Such leave shall be credited as soon as practicable.

<u>Annual-Salaried Employee Changes In Employment Percentage</u>
Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

<u>Hourly Employees</u>
Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP. This pro-rated amount should be based on an individual's schedule during the first five months of Fiscal Year 2011–2012 and an agency's schedule for such employee for the rest of the Fiscal Year. For example, an agency who employed an hourly employee for approximately 20 hours per week (where a 40 workweek is used) during the first five months of State Fiscal Year 2011–12 and plans on continuing such employee at 20 hours per week, should credit such employee with 20 hours of DRL at the beginning of the DRP. If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

<u>Voluntary Reduction in Work Schedule (VRWS) Employees</u>
Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

VRWS credits earned each pay period will not be affected by the DRP.

<u>Per Diem Employees</u>
Per diem employees are also subject to the DRP and therefore are entitled to DRL once the DRP begins. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

All DRL credits must be used prior to the end of the Fiscal Year 2011–2012 in which they were credited. DRL credits may not be carried over. For the Fiscal Year **2011–12 only**, the vacation credit balance of an employee may not exceed 45 days on April 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in 1/4 hour units.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from service for any reason during the DRP period will forfeit all unused DRL credits.

For employees that are separated from service for any reason during the DRP period who have used DRL credits for which the state has not been able to reduce compensation under the DRP, the State will recoup any monies unable to be reduced by deductions from the employee’s cash-out of vacation accruals, or deductions to the employee’s deferral cash-out. To the extent that vacation accruals and the deferral cash-out are insufficient to fund the value of the DRL used, the State may utilize any other legal remedies available to recoup the value of the DRL used.

There is no lump sum payment for unused days of DRL.

Movement from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP

Agencies will have to adjust the DRL credited to an employee who separates from one of the CSEA units for a position in another unit that is not subject to the DRP. The employee's adjusted DRL will be proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP. Such employee shall be permitted to retain any unused DRL and use such DRL while in a different bargaining unit subject to the rules and restrictions for employees in the new unit. All DRL credits must be used prior to the end of the Fiscal Year in which they were credited.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Overtime

Time charged to DRL counts as time worked for purposes of determining entitlement to overtime.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with five days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Income Protection Plan

Employees on Short Term Disability (STD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees on Long Term Disability (LTD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees who go on STD/LTD after the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee’s compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers’ Compensation Programs, at the start of the DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee’s compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers’ compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers’ Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee’s compensation has been reduced under the DRP.

DRL charged during a period of workers’ compensation leave for which the State has received a “Credit New York State” issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period to which those credits correspond.

Military Leave

Annual-salaried employees on military leave at the start of the DRP will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on military leave following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance and Leave Unit of this Department at 518-457-2295.