

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 1 of 7

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

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2015 Agreement between the State of New York and the Police Benevolent Association of New York State, Inc. (PBANYS) for employees in the Agency Police Services Unit (APSU), formerly known as Agency Law Enforcement Services (ALES) Unit, as they relate to the Deficit Reduction Plan (DRP). All employees who are members of this bargaining unit between January 31, 2012 and March 31, 2013 are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP reduces employee compensation by the equivalent of 1.923% of 26 pay periods of compensation, to be withheld from employees' retroactive checks paid in the 2011-2012 State Fiscal Year (SFY) upon their issuance, and 1.538% for all paychecks which are paid in the 2012–2013 SFY. The 2012–2013 SFY compensation reductions will commence with the paycheck issued April 11, 2012 for employees on the Administration Lag payroll calendar. Deficit Reduction Leave (DRL) will be available for APSU employee use effective January 31, 2012. Specifically:

- Nine days of DRL will be credited to 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. Employees whose retroactive check paid in the 2011-2012 SFY is insufficient to cover the equivalent of 1.923% of annual compensation reductions will also receive a pro-rata share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, 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 who are represented by PBANYS will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, PBANYS-represented employees who have an hourly rate of less

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 2 of 7

than \$7.39 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY; employees represented by PBANYS who have an hourly rate of less than \$7.36 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning DRL

Full-Time Annual-Salaried Employees

Full-time annual-salaried employees are credited with nine days (72 hours) of DRL upon ratification and allowed to begin charging DRL on that date (January 31, 2012), subject to supervisory approval. However, agencies must verify that an employee’s retroactive check will be reduced by the full value of 1.923% of 26 pay periods of compensation. If an employee’s check will not be reduced by that amount, such employee shall be credited with the portion of the five (5) DRL days that are equivalent to the reduction in the retroactive check. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees. Such employee shall receive a full credit of the additional four (4) days of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with nine prorated days of DRL, based on their employment percentage on the date the contract is ratified (January 31, 2012).

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL at the start of the program.

As stated earlier, employees on the payroll on the date of ratification are credited on that date with their full allotment of DRL (nine days, prorated for part-time employees and for those whose retroactive check does not fully cover the value of the five (5) days). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program in the 2012-2013 State Fiscal Year. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after March 15, 2012.

The table below specifies the DRL hours earned by PBANYS-represented employees for the DRP. The hours earned by an employee depends on the pay periods in the employee's work year; the hours in the employee's biweekly work week, and the SFY in question.

Pay Basis	Biweekly PP Hours	2011-12 SFY DRL		2012-13 SFY DRL Factor	
		DRL Factor	Duration	DRL Factor	Duration
26PP	80	5 Days (prorated based on employee’s payroll percentage)	4 PP’s	1.23 Hrs / Pay Period	26 PP’s

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees hired just before January 31, 2012.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 3 of 7

Employees entering the APSU on or after January 31, 2012

For employees who become members of the APSU between January 31, 2012 and March 31, 2012, agencies must contact the Attendance and Leave unit to determine the proper pro-rated amount of the five (5) days of DRL that an employee is to be credited with. In addition to this pro-rated amount, an employee is entitled to an immediate credit of four (4) days of DRL on the date of hire.

For employees hired on or after March 15, 2012, to determine the amount of DRL to be credited to such employee, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

$$((1.23) \times (\text{Remaining Pay Periods within the 2012-13 SFY Factor Duration}) \times (\text{Employee's FTE equivalent}))$$

Extra Time Worked

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 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 period) to work full-time (100%) during three biweekly pay periods during the 2012-13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value (1.23 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours. 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.

NOTE: Only for purposes of crediting extra time worked and extra service between January 31, 2012 and March 14, 2012, the biweekly DRL value shall be 1.54 hours per pay period. There shall be no crediting of additional DRL for extra time worked or extra service performed before January 31, 2012.

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. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 72 hours of DRL upon ratification. If the employee worked 20 hours of extra service for two pay periods during the 2012-13 SFY (25% of a full-time schedule), multiply the appropriate 2012-13 DRL Factor (1.23 hours per pay period) by 0.25 to prorate for a 25% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 4 of 7

hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

NOTE: Only for purposes of crediting extra time worked and extra service between January 31, 2012 and March 14, 2012, the biweekly DRL value shall be 1.54 hours per pay period. There shall be no crediting of additional DRL for extra time worked or extra service performed before January 31, 2012.

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for hourly employees.

Voluntary Reduction in Work Schedule (VRWS) Employees

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 quarter-hour.

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

Per Diem Employees

Per diem employees are subject to the DRP and therefore are entitled to 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 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. The vacation credit balance of an employee may not exceed 45 days on October 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 quarter-hour increments.

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.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 5 of 7

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 State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the APSU DRP, for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee's vacation and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour).

$$\begin{aligned} & (\text{Charged DRL}) - (5 \text{ days (prorated if necessary)}) + ((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of } 2012-13 \\ & \text{SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage})) \\ & \quad = \text{Amount to be reduced from other leave accruals} \end{aligned}$$

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 leaves the APSU for a position in another bargaining unit. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter-hour):

$$\begin{aligned} & (5 \text{ days (prorated if necessary)}) + ((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of } 2012-13 \text{ SFY Factor} \\ & \text{Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage})) \end{aligned}$$

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 6 of 7

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see "*Separations*" section for calculation) prior to leaving the APSU. Agencies may need to modify the above calculation for additional DRL earned for extra time worked and extra service.

NOTE: Earned and unused DRL retained by an employee who leaves the APSU prior to March 31, 2013 will expire on March 31, 2013.

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; however, such leave will expire on March 31, 2013.

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; however, such leave will expire on March 31, 2013.

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.

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 nine 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.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-01**

Sections 21.12 & 26.3

February 2012

Page 7 of 7

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Military leave at the start of or during the DRP.

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 & Leave Unit of this Department at 518-457-2295.