

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
POLICY BULLETIN NO. 2012-02**

Sections 21.12 & 26.3

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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 2012–2013 for these units reduces employee compensation by 1.538% for each payroll period starting with payroll number 25 for employees on the Institution Lag payroll calendar (paid on April 5, 2012), and with payroll number 26 for employees on the Administration Lag payroll calendar (paid on April 11, 2012) and will last 26 biweekly pay periods. Deficit Reduction Leave (DRL) will be available for employee use on April 1, 2012 for employees on both the Institution Lag payroll calendar and the Administration Lag payroll calendar. The DRP for Fiscal Year 2012–2013 provides for:

- Four days of DRL in Fiscal Year 2012–2013 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 2012–2013.
- The State will ensure that each employee who requests to do so 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 who are represented by CSEA will be subject to this DRP regardless of coverage under the Attendance Rules, except for those CSEA-represented employees who have an hourly rate of less than \$7.36 in the 2012–13 SFY.

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Earning Deficit Reduction Leave (DRL)

Full-time Annual-Salaried Employees

Full-time annual-salaried employees are credited with four days of DRL, based on their basic workweek of either 37.5 or 40 hours on April 1, 2012 and allowed to begin charging DRL on that date, subject to supervisory approval. For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 30 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 32 hours of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with four prorated days of DRL, based on their employment percentage on April 1, 2012.

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 15 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 16 hours of DRL.

As stated earlier, employees on the payroll on April 1, 2012 are credited on that date with their full allotment of DRL (four days, prorated for part-time employees). 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. 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 8, 2012 for employees on the Institution Lag payroll and after March 15, 2012 for employees on the Administration Lag payroll.

The table below specifies the DRL hours earned by CSEA-represented employees for the duration of this DRP. The hours earned by an employee depends on the pay periods in the employee's work year and the hours in the employee's biweekly work week.

Pay Basis	Biweekly PP Hours	2012-13 SFY DRL Factor	
		DRL Factor	Duration
26pp	75	1.15 Hrs / Pay Period	26 PP's
26pp	80	1.23 Hrs / Pay Period	26 PP's

Employees entering the CSEA Units after March 8, 2012 for employees on the Institution Lag payroll and March 15, 2012 for employees on the Administration Lag payroll

To determine the amount of DRL to be credited to an employee who becomes subject to the CSEA DRP after the start of the 2012-2013 DRP, the agency should make the following calculation (rounded down to the nearest quarter-hour):

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

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For example, a half-time employee (50% payroll percentage) who is hired 6 weeks (3 pay periods) after the start of the DRP with an 80 hour biweekly pay period would be entitled to DRL credit as follows:

$$((1.23) \times (23) \times (.5)) = 14.00 \text{ Hours of DRL (rounded down from 14.15)}$$

Extra Time Worked

Both full and 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 work week) 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 from the table above (in this case, 1.23 hour 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.

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 32 hours of DRL on April 1, 2012. If the employee worked 16 hours of extra service in two pay periods during the 2012–13 SFY (20% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (in this case 1.23 hours per pay period) by 0.2 to prorate for a 20% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .25 hours of DRL (rounded down from .49 hours).

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 provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP for SFY 2012-2013. This pro-rated amount should be based on an individual's schedule during the remainder of SFY 2012–2013. For example, an agency that has employed an hourly employee for approximately 20 hours per week (where a 40 workweek is used) and plans on continuing such employee at 20 hours per week for the entire Fiscal Year, should credit such employee with 16

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hours of DRL on April 1, 2012. This is based on 26 pay periods of the 2012–13 SFY DRL Factor of .615 hours per pay period (full-time rate prorated for 50% work schedule). 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 quarter-hour.

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 also subject to the DRP and therefore are entitled to DRL for the 2012-2013 DRP period. 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

If an employee wishes to use DRL credits, such credits should be used prior to April 1, 2013. DRL credits may not be carried over beyond March 31, 2013. The vacation credit balance of an employee may not exceed 40 days on April 1, 2013.

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.

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.

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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 CSEA 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, holiday leave, floating holiday leave, overtime non-compensatory time 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):

$(\text{DRL hours charged}) - ((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of 2012-13 SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage}))$

For example, a full-time employee (1 FTE) (80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2012-13 SFY leaves State service after charging all 4 DRL days (32 DRL hours) will have other accruals offset based on the following calculation:

$(32.00 \text{ hours}) - ((1.23) \times (10) \times (1)) = (32.00 \text{ hours}) - (12.30 \text{ hours}) = 19.7 \text{ hours (rounded down to 19.5 hours) to be offset by charges to other leave accruals}$

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 a CSEA unit for a position in another bargaining unit not represented by CSEA. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter hour):

$((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of 2012-13 SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage}))$

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 a CSEA unit.

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For example, a full-time employee (80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2012–13 SFY changes to another bargaining unit after charging 1 DRL day (8 DRL hours). An agency would make the following calculations: will have other accruals offset based on the following calculation:

DRL earned: $((1.23) \times (10) \times (1)) = 12.30$ hours of earned DRL

DRL Retained / Offset: $(12.30 \text{ hours of earned DRL}) - (8 \text{ hours of charged DRL}) = 4.30$ hours of DRL
(rounded down to 4.25 hours) retained by the employee until March 31, 2013.

NOTE: Earned and unused DRL retained by an employee who leaves a CSEA unit prior to March 31, 2013 will expire after March 31, 2013.

Movement From one Bargaining Unit to a different Bargaining Unit also subject to a DRP

Movement between bargaining units subject to a DRP will require an adjustment to the amount of DRP an employee is credited with. Agencies should contact the Attendance and Leave Unit for guidance in adjusting DRL amounts. Employees retain only the amount of DRL that has been earned prior to the movement to a different bargaining unit.

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.

Sick Leave at Half-Pay

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

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Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with four 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 quarter-hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the 2012-2013 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.

Military Leave

Annual-salaried employees on military leave on April 1, 2012 will be credited with four days of DRL. 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 April 1, 2013. Similarly, questions regarding excess DRL should be directed to the Attendance & Leave Unit.

Annual-salaried employees who go on military leave following April 1, 2012 will need to have their DRL credit computed as described above based on the applicable biweekly DRL rate. Questions about this should be directed to the Attendance & Leave Unit.

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When crediting DRL, in these instances, agencies should round down to the nearest quarter-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 & Leave Unit of this Department at 518-457-2295.