

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE  
ATTENDANCE AND LEAVE MANUAL  
POLICY BULLETIN NO. 2012-04**

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: Security Supervisors Units (BU-61/BU-91)

### **Introduction**

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2009–2016 Agreement between the State of New York and Council 82 for employees in the Security Supervisors Units with a bargaining unit designation of either 61 or 91 (BU-61/BU-91), as they relate to the Deficit Reduction Plan (DRP) and Deficit Reduction Leave (DRL). All employees who are members of BU-61/BU-91 on or after May 3, 2012 and before March 15, 2013 for employees on the Administration Lag payroll calendar or before March 8, 2013 for employees on the Institution Lag payroll calendar are subject to the provisions of this program, regardless of Attendance Rules coverage.

Specifically:

- Employees who were members of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 before March 15, 2012 for employees on the Administration Lag payroll calendar or before March 8, 2012 for employees on the Institution Lag payroll calendar shall be credited with 9 days of DRL.
- Employees who were members of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on or after March 15, 2012 for employees on the Administration Lag payroll calendar or on or after March 8, 2012 for employees on the Institution Lag payroll calendar shall be credited with 4 days of DRL.
- Employees who first join BU-61/BU-91 on or after August 16, 2012 and prior to March 14, 2013 for employees on the Administration Lag payroll calendar or on or after August 9, 2012 and prior to March 7, 2013 for employees on the Institution Lag payroll calendar shall be credited with DRL prorated to reflect the number of pay periods between date of membership and March 31, 2013.
- Employees who work less than full-time or on a per diem basis, or who perform extra time or extra service, will receive the appropriate 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 June 30, 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.

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**DEFICIT REDUCTION PLAN  
ATTENDANCE AND LEAVE GUIDELINES**

**Eligibility**

All employees who are represented by Council 82 (BU-61/BU-91) will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, Council 82 (BU-61/BU-91)-represented employees who have an hourly rate of less than \$7.39 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY (only applies to employees who joined Council 82 before March 15, 2012 for employees on the Administration Lag payroll calendar or employees hired before March 8, 2012 for employees on the Institution Lag payroll calendar); employees represented by Council 82 (BU-61/BU-91) 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 DRL pursuant to the chart below as of May 3, 2012 and are allowed to begin charging DRL on May 3, 2012, subject to supervisory approval. Note that, in addition to the eligibility requirements established below for Group 1 and Group 2, employees must have also been a member of Council 82 on May 3, 2012 to be members of such groups.

**Council 82 BU 61/BU 91 DRL Groups**

|  | <b>Group 1</b>                      | <b>Group 2</b>                       | <b>Group 3</b>  |
|--|-------------------------------------|--------------------------------------|---|
| Institution Lag                        | Joined Council 82 before<br>3/8/12  | Joined Council 82<br>3/8/12-8/8/12   | Joined Council 82 8/9/12-<br>3/6/13   |
| Administration Lag                     | Joined Council 82 before<br>3/15/12 | Joined Council 82<br>3/15/12-8/15/12 | Joined Council 82 8/16/12-<br>3/13/13   |
| Hours Credited<br>(40 hour workweek)   | 72                                  | 32                                   | (1.23 hours) x (pay periods<br>employee will be part of<br>Council 82 by 3/6/13 or<br>3/13/13 [depending on<br>employee's payroll cycle]) |
| Hours Credited<br>(37.5 hour workweek) | 67.5                                | 30                                   | (1.15 hours) x (pay periods<br>employee will be part of<br>Council 82 by 3/6/13 or<br>3/13/13 [depending on<br>employee's payroll cycle]) |

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with prorated days of DRL, based on their employment percentage on May 3, 2012, or based on their date of entry into BU-61/BU-91 if such membership occurs after May 3, 2012, and based on the chart above.

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For example, a part-time annual-salaried employee hired on January 1, 2012 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.

Employees entering BU-61/BU-91 on or after August 16, 2012 (Administration Lag) or on or after August 9, 2012 (Institution Lag)

For employees hired between August 16, 2012 and March 13, 2013 (Administration Lag) or between August 9, 2012 and March 6, 2013 (Institution Lag), the Agency should make the following calculation (rounded down to the nearest quarter-hour) to determine the amount of DRL to be issued to such employees:

40 hour workweek employees:  $((1.23) \times (\text{Remaining Pay Periods in DRP that employee is expected to participate in}) \times (\text{Employee's FTE equivalent}))$

37.5 hour workweek employees:  $((1.15) \times (\text{Remaining Pay Periods in DRP that employee is expected to participate in}) \times (\text{Employee's FTE equivalent}))$

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 who was a member of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on March 1, 2012 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 (rounded down from 1.845 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:** Agencies will have to provide additional DRL for extra time worked on all days which have been or will be paid within the 2011-12 and 2012-13 SFYs. The biweekly DRL values for SFY 2011-12 that should be used in this calculation is 1.54 hours per pay period for employees with 40 hour workweeks or 1.44 hours per pay period for employees with 37.5 hour workweeks.

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.

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For example, a full-time annual-salaried employee who was a member of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on November 1, 2010 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-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

**NOTE:** Agencies will have to provide additional DRL for extra service worked on all days which have been or will be paid within the 2011-12 and 2012-13 SFYs. The biweekly DRL values for SFY 2011-12 that should be used in this calculation is 1.54 hours per pay period for employees with 40 hour workweeks or 1.44 hours per pay period for employees with 37.5 hour workweeks.

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

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

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**

If an employee wishes to use any or all DRL credits, such credits must be used prior to July 1, 2013. DRL credits may not be carried over beyond June 30, 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.

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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 State service for any reason during the DRP period will forfeit all earned and unused DRL credits. There is no lump sum payment for earned and unused days of DRL.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the BU-61/BU-91 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 either the employee's compensation or 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. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who leave State employment or are no longer subject to the BU-61/BU-91 DRP.

### **Movement to a Different Bargaining Unit**

Agencies might have to adjust the DRL credited to an employee who leaves BU-61/BU-91 for a position in another bargaining unit. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees moving from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP.

**NOTE:** Earned and unused DRL retained by an employee who leaves BU-61/BU-91 prior to June 30, 2013 will expire on June 30, 2013.

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**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 June 30, 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 June 30, 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 the applicable amount of DRL based on the employee's date of hire, 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**

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.

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**Military Leave**

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out, or who go out, on Military leave for any part of 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.