

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE  
**ATTENDANCE AND LEAVE MANUAL**  
POLICY BULLETIN 2022-01

Section 20.3 & 21.12

January 2022

Page 1 of 2

TO: Manual Recipients  
FROM: Jessica Rowe, Director of Staffing Services  
SUBJECT: Paid Leave for Civil Air Patrol Volunteers

Legislation enacted in October 2021 (Chapter 438 Laws of 2021) amends the Civil Service Law to authorize paid leave for members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary Pilots during a declared state of emergency. The Law is attached on page 2 of this memorandum.

Specifically, Section 82-c of the Civil Service Law authorizes paid leave for this purpose for all State level public employees. Employees are not required to have Attendance Rules coverage to be granted this leave with pay. Under this provision, employees are eligible for up to 20 workdays of paid leave without charge to credits per calendar year, for either full or partial days while engaged in the actual performance of United States Air Force Auxiliary Civil Air Patrol or United States Coast Guard Auxiliary Pilot duties, including reasonable travel time to and from the site.

Eligible employees are entitled to this leave, subject to the approval of the appointing authority.

Such leave is available for volunteer activities performed during states of emergency declared by local municipal or county officials or by states of emergency declared by the Governor.

Any questions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

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§ 82-c. Civil air patrol volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of the state who are members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary Pilots shall be granted leave from work with pay to participate in emergency services during a declared state of emergency upon a written request from a unit commander and the approval of the chief administrative officer of the state agency, department or bureau for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in emergency services missions during a declared state of emergency. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

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POLICY BULLETIN 2001-04**

**Section 20.3**

**December 28, 2001**

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TO: Manual Holders  
FROM: William E. Doyle, Director of Staffing Services  
SUBJECT: Leave for Red Cross Volunteers



The Civil Service Law was amended on September 26, 2001, to add a new section, Section 82-b, which provides up to 20 workdays of paid leave without charge to leave credits per calendar year for employees who are certified by the American Red Cross as disaster volunteers to participate in specialized disaster relief operations. Requests for the services of such volunteers are made in writing by the Red Cross to the appointing authority and are subject to the approval of the appointing authority. Section 82-b was amended on November 13, 2002 to make these provisions retroactive to September 11, 2001.

There is no requirement that the employee be subject to the Attendance Rules in order to be eligible for this benefit.

Effective January 1, 2002, the special leave provisions extended to Red Cross volunteers responding to the World Trade Center emergency, which were described in the GOER memo of September 25, 2001 from John Currier to Directors of Human Resources, are no longer available. Leave granted under those special leave provisions does not count as part of the 20-day cap established under Section 82-b.

A copy of the legislation is attached.

Attachment

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Chapter 358 of the Laws of 2001 amended the Civil Service Law effective September 26, 2001 by adding a new section:

**§82-b. Emergency Service Volunteers; Paid Leave.**

Notwithstanding any other provisions of law to the contrary, public officers and employees of the State who are certified by the American Red Cross as disaster volunteers shall be granted leave from work with pay to participate in specialized disaster relief operations upon written request for such services by the American Red Cross and upon the approval of the chief administrative officer of the state agency, department or bureau for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in authorized specialized disaster relief operations. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

Effective November 13, 2001, Chapter 466 of the Laws of 2001 amended Chapter 358 to provide an effective date of September 11, 2001 for implementation of Section 82-b of the Civil Service Law.

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General Information Bulletin 94-02

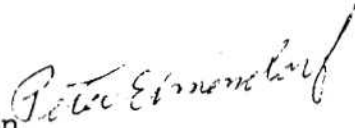
Section 20.3

December 1994

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TO: Personnel Officers

FROM: Peter Elmendorf, Director  
Personnel Services Division



SUBJECT: Leave of Absence During Declared State Emergency

Legislation enacted in July 1994 (Chapter 547, Laws of 1994) amends the Civil Service Law to authorize leave for volunteer firefighters and volunteer ambulance squad members during a state of emergency declared by the Governor. The Law is cited on page 2.

Specifically, Section 82-a of the Civil Service Law authorizes paid leave for this purpose for all State level public employees. Employees are not required to have Attendance Rules coverage to be granted this leave with pay. Under this provision, employees are eligible for paid leave without charge to credits, for either full or partial days while engaged in the actual performance of firefighter or ambulance duties, including travel to and from the site. Eligible employees are entitled to this leave, subject to the approval of the appointing authority, provided that the employee's absence does not interfere with the proper conduct of governmental functions.

Such leave is **not** available for volunteer activities performed during states of emergency declared by local municipal or county officials.

Excused tardiness pursuant to Section 20.3 of the Attendance Rules and provisions of the CSEA, PEF and DC37 agreements remains available for late arrival of employees as a result of other appropriate volunteer firefighter or ambulance duties.

Any questions on these provisions should be referred to the Department of Civil Service Employee Relations Section at (518) 457-2295.

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**§ 82-a. Authorized Absence.**

§ 82-a. Authorized Absence. 1. During the time that a state emergency exists following a declaration of such emergency pursuant to section twenty-eight of the executive law, every public officer or employee of this state may request an authorized absence from his or her duties or service as such public officer or employee while engaged in the actual performance of his or her duties as, (a) a volunteer firefighter, or (b) an enrolled member of a volunteer ambulance service pursuant to article thirty of public health law.

2. Requests for such authorized absence shall be approved by the appropriate supervisor to the extent that such absence would not interfere with proper conduct of governmental functions.

3. As used in this section, the term public officer or employee shall not include officers or employees of municipalities or other political subdivisions of the state.

4. The entire period of the authorized absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee is otherwise entitled to, and such authorized absence shall include travel both to and from such duties performed in his or her capacity as a volunteer.

5. As used in this section, the term agency shall mean any department, board, bureau, commission, division, office, council, committee or office of the state, a public benefit corporation or public authority at least one of whose members is appointed by the governor.

# NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

## ATTENDANCE AND LEAVE MANUAL

### Attendance Tardiness

Section 20.3

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#### Purpose

The purpose of this Section is to authorize the appointing authority to establish an agency tardiness penalty schedule, subject to approval of the Department of Civil Service, and to identify those circumstances where the appointing authority may excuse tardiness. Tardiness is defined as arrival to work after the beginning of the working hours or return to work after the expiration of the time designated for lunch without prior approval.

#### Eligibility

All employees subject to the Attendance Rules are subject to these provisions. However, employees exempt from keeping detailed records of attendance are not subject to agency tardiness penalty schedules established pursuant to this Rule.

#### Tardiness Penalty Schedules

The appointing authority shall establish rules concerning tardiness penalties and submit them to the Department of Civil Service for approval. (Tardiness penalty schedules may not be adopted or modified without a labor management agreement with appropriate employee union representatives. The request to the Department of Civil Service for approval of the tardiness penalty schedule must affirm that this has occurred.)

Once an agency adopts a tardiness penalty schedule, the agency is compelled to treat tardiness in accordance with that schedule. However, in cases of habitual and/or excessive tardiness, agencies are free to pursue disciplinary action pursuant to Section 75 of the Civil Service Law or discipline provisions of the negotiated agreements.

Employees should be familiar with agency tardiness penalty schedules. They should also be advised of the amount of tardiness deemed "excessive" by the agency and therefore subject to disciplinary action. Tardiness may also have a negative impact on the employee's performance rating.

Generally, employees exempt from keeping a detailed record of hours worked are exempt from agency tardiness penalty schedules.

Related  
Contract  
Provisions

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Penalties

Deductions from leave credits in accordance with tardiness penalty schedules should be made from overtime compensatory time and vacation followed by personal leave and holiday leave credits, in that order, thereby requiring the employee to first liquidate those accruals for which a lump sum payment would be made upon separation from State service.

Penalties may include double deductions from credits for excessive tardiness.

An employee who has no leave credits to which he/she may charge tardiness penalties should be placed on leave without pay for the actual work time lost. Leave without pay deductions for tardiness must be computed at straight time and not in accordance with any "double time" tardiness penalty schedule.

Excused Tardiness

The appointing authority may excuse tardiness without charge to credits when uncontrollable conditions affect the arrival time of a group of employees.

There is no limit to the amount of tardiness an appointing authority may excuse; however, full day absences are not to be excused without charge to credits.

The tardiness of volunteer fire fighters caused by fire fighting duties may be excused by the appointing authority. In such cases the appointing authority may require the employee to submit satisfactory evidence that the lateness was due to such fire fighting duties. Absences, as opposed to tardiness, necessitated by fire fighting activities are properly charged to holiday leave, personal leave, then overtime compensatory time or vacation, in that order.

Related  
Contract  
Provisions

Sec. 21.6,  
C-2

C-1

Sec. 21.6,  
C-2



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### Attendance Tardiness Excused Tardiness

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#### Negotiating Units:

Administrative Services Unit Article 10.14  
Institutional Services Unit Article 10.14  
Operational Services Unit Article 10.13  
Professional, Scientific and Technical  
Services Unit Article 12.14  
Rent Regulation Services Unit Article 12.13  
(Seasonal employees in the three CSEA Units)  
(Seasonal employees in the PS&T Unit)

#### Effect:

The subject contract items authorize appointing authorities to excuse tardiness due to direct emergency duties of volunteer fire fighters, volunteer ambulance squad members, enrolled civil defense volunteers, and enrolled civil air patrol volunteers as indicated below:

<u>Unit Name</u>	<u>Covered Groups</u>
Administrative Services Unit	Volunteer fire fighters and volunteer ambulance squad members
Institutional Services Unit and Operational Services Unit	Volunteer fire fighters, volunteer ambulance squad members and enrolled civil defense volunteers
Professional, Scientific and Technical Services Unit and Rent Regulation Services Unit	Volunteer fire fighters, volunteer ambulance squad members, enrolled civil defense and civil air patrol volunteers

The appointing authority shall excuse a reasonable amount of tardiness if caused by participation in appropriate voluntary emergency activities, subject to whatever evidence of such participation may be deemed necessary by the appointing authority. Absences (other than tardiness) or early departures related to such voluntary civic activities must, in all cases, be charged to leave credits and cannot be excused. Such early departures require advance approval.

For employees in Security Services and Security Supervisors Units, reasonable tardiness caused by direct emergency duties of volunteer fire fighters may be excused by the appointing authority subject to submission of satisfactory evidence of participation in accordance with Section 20.3 of the Attendance Rules.