


NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
ATTENDANCE AND LEAVE MANUAL
ADVISORY MEMORANDUM NO. 2002-06

21.2 Vacation

December 2002

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TO: Manual Holders
FROM:  William Doyle, Director, Staffing Services
SUBJECT: Extension of Emergency Vacation Provisions

In accordance with the Memoranda of Understanding reached between the State and CSEA, PEF, DC 37, NYSCOPBA and Council 82, eligibility for Emergency Vacation has been extended for employees who perform military service related to the events of September 11, 2001 during the 26 pay periods immediately following the pay period that includes October 1, 2002. The Civil Service Commission is amending the Attendance Rules for Managerial/Confidential (M/C) employees to provide the same benefit for M/C employees. This memorandum sets forth guidelines for application of these new provisions.

Eligibility

These provisions apply to employees in the Administrative Services, Institutional Services, Operational Services, Professional Scientific and Technical Services, Rent Regulation Services, Security Services and Security Supervisors Units, as well as to those designated M/C.

Employees are eligible for extended coverage if, due to the events of September 11, 2001, they:

- a. are, or continue to be, federally activated or activated by the Governor for military duty and perform such service at any time during the 26 pay periods immediately following the pay period that includes October 1, 2002; and
- b. are identified by the appointing authority as performing such military duty for a period of time, which prevents the employee from liquidating vacation credits over 40 days prior to the date on which they would be forfeited.

Employees who do **not** perform qualifying military service after the end of the pay period that includes October 1, 2002 are not eligible for this extension. Such employees who were eligible to earn Emergency Vacation leave under the terms of the previous Memoranda of Understanding (MOU) described in Policy Bulletin 2001-03, Emergency Vacation Provisions, continue to be governed by those provisions.

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Benefit Description

Beginning with the pay period immediately following the pay period that includes October 1, 2002 eligible employees who have vacation credits in excess of the 40-day maximum shall record such time in a separate category called Emergency Vacation.

All vacation credits earned by eligible employees through the last day of the pay period that includes October 1, 2003 will be added to their Emergency Vacation balance whenever their accrued vacation credits exceed the 40-day maximum.

Regardless of the year(s) in which Emergency Vacation is earned, the Emergency Vacation category will have a maximum cap of fifty (50) days.

So long as employees remain eligible, all vacation credits charged through the last day of the pay period that includes October 1, 2003 will first be charged against the Emergency Vacation category until those credits are exhausted and then against regular vacation. Beginning in the pay period following October 1, 2003, the category charged will be at the employee's option.

Effective as of the pay period following the pay period which includes October 1, 2003 eligible employees will resume earning regular vacation. At that point, contract provisions regarding vacation credit maximum will apply to regular vacation.

For employees eligible for Emergency Vacation under this extension, all Emergency Vacation can be carried through September 30, 2004, including Emergency Vacation earned under previous Memoranda of Understanding.

This benefit will also apply to eligible employees who first exceed contract vacation maximums at any point during the 26 pay periods immediately following the pay period that includes October 1, 2002.

Eligible employees who are determined by the appointing authority to be no longer eligible to earn Emergency Vacation, and who are so notified, shall be permitted to maintain and charge any existing Emergency Vacation balances as agreed to herein, but shall not be allowed to add any additional vacation credits to their Emergency Vacation balances.

For employees in the Administrative Services, Institutional Services, Operational Services, Professional Scientific and Technical Services, Rent Regulation Services Units as well

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as for those designated M/C there shall be no threshold requirement that a leave request must either be made or denied before an employee becomes eligible to participate in this program.

Employees in the Security Services and Security Supervisors Units continue to be subject to contractual provisions (Article 14.2 (e)) requiring denials of a vacation request while at or approaching the vacation maximum in order to exceed the 40-day vacation maximum each time they reach that maximum. (Refer to Attendance and Leave Manual Section 21.2 for detailed guidelines on those contractual provisions.) Eligible employees in those units covered by this extension who are on ordered military duty in connection with the events of September 11, 2001 who did not have the opportunity to have a vacation request denied shall be treated as though a request for vacation had been denied in accordance with Article 14. 1 (e) of the Security Services and Security Supervisors Agreements.

All eligible employees continue to be subject to contractual provisions that limit the vacation lump sum payment upon separation to a maximum of 30 days. This is a combined maximum of regular vacation and Emergency Vacation. For example, an employee who has a regular vacation balance of 30 days will not be paid for any Emergency Vacation at time of separation, while an employee whose regular vacation balance at time of separation is 20 days may also be paid for up to 10 days of Emergency Vacation. In no event may employees receive payment for more than 30 days of vacation at time of separation.

Except as described above, provisions of the Attendance Rules and negotiated agreements regarding accrual, transfer and use of vacation credits apply to Emergency Vacation.

The provisions of the Memoranda of Understanding are not grievable.

Questions concerning information in this Bulletin may be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

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POLICY BULLETIN NO. 2001-03

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TO: Manual Holders
FROM: William Doyle, Director, Staffing Services
SUBJECT: Emergency Vacation Provisions



In accordance with the Memoranda of Agreement reached between the State and CSEA, PEF, DC 37, NYSCOPBA and Council 82, certain employees have been granted temporary relief from contractual limits on vacation maximums. The Civil Service Commission has amended the M/C Attendance Rules to provide the same benefit for M/C employees. This memorandum sets forth guidelines for application of these new provisions.

Eligibility

The provisions apply to employees in the Administrative Services, Institutional Services, Operational Services, Division of Military and Naval Affairs, Professional Scientific and Technical Services, Rent Regulation Services, Security Services and Security Supervisors Units, as well as to those designated M/C.

Employees are eligible if, due to the events of September 11, they meet the following criteria:

They are performing work in duty status that is directly related to activities associated with the State's response to the World Trade Center disaster; or they have vacation canceled or denied by the agency; or they are on approved paid leave to serve as an emergency volunteer; or they are federally activated or activated by the Governor for military duty

and

they are identified by the appointing authority as having performed such activity for a period of time which prevented liquidation of vacation credits over 40 days prior to the date on which such credits are normally forfeited.

Employees in the Security Services and Security Supervisors Units continue to be subject to contractual provisions (Article 14.1(e)) requiring denial of a vacation request while at or approaching the vacation maximum in order to exceed the 40-day vacation maximum each time they reach that maximum. (Refer to Attendance and Leave Manual Section 21.2 for detailed guidelines on those contractual provisions.) Pursuant to the MOAs, eligible employees in those units on ordered military duty in connection with the events of September 11, 2001 and those on approved leave to serve as emergency volunteers who did not have the opportunity to have a vacation request denied shall be treated as though a request for vacation had been denied in accordance with Article 14.1(e) of the Security Services and Security Supervisors Agreements.

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Effective Dates

These MOAs apply to vacation that otherwise would have been forfeited on the following dates:

SSU, SspU	-October 1, 2001
M/C	-January 1, 2002
PS&T, DC 37, ASU, ISU, OSU, DMNA	-April 1, 2002

Benefit Description

When eligible employees exceed the 40-day vacation maximum, the requirement that credits in excess of the 40-day vacation maximum must be exhausted prior to the dates above is temporarily waived. Instead, the following provisions apply.

On April 1, 2002 (October 1, 2001 for SSU and SSpU, January 1, 2002 for M/C employees), vacation credits in excess of 40 days earned by an eligible employee that otherwise would have been forfeited will be recorded and retained in a separate leave category, "Emergency Vacation". Emergency Vacation shall have a separate maximum cap of 50 days.

An employee who first exceeds the 40-day regular vacation maximum after April 1, 2002 (October 1, 2001 for SSU and SspU, January 1, 2002 for M/C employees) through the last day of the payroll period which includes October 1, 2002, will become subject to these provisions at the point he/she exceeds the vacation maximum.

During the period April 1, 2002 (October 1, 2001 for SSU and SspU, January 1, 2002 for M/C employees) through the last day of the payroll period which includes October 1, 2002, vacation credits earned by an employee subject to these provisions will be recorded as Emergency Vacation, provided his/her regular vacation balance does not drop below 40 days.

During this period, all vacation absences must first be charged against Emergency Vacation until those credits are exhausted. When Emergency Vacation credits are exhausted, absences will be charged against regular vacation.

An employee who exhausts Emergency Vacation credits and drops below the 40-day regular vacation maximum resumes earning regular vacation. If the 40-day regular vacation maximum is again reached within the designated period, the employee again becomes eligible to earn Emergency Vacation during this period.

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After the last day of the pay period that includes October 1, 2002, employees will no longer be eligible to earn Emergency Vacation. However, Emergency Vacation credits may be carried until October 1, 2003, at which time any such unused credits will be cancelled.

Commencing with the first day of the payroll period following the payroll period that includes October 1, 2002, employees are no longer required to liquidate Emergency Vacation before charging absences to regular vacation. Employees may charge a vacation absence to Emergency Vacation and/or regular vacation, at their option.

Also commencing with the payroll period following the payroll period that includes October 1, 2002, vacation earned will again be recorded as regular vacation. The contractual provisions on vacation maximums remain applicable to regular vacation.

Therefore, eligible employees in the PS&T, DC37, ASU, ISU, OSU and DMNA Units must liquidate regular vacation in excess of 40 days prior to April 1, 2003 (January 1, 2003 for M/C employees) or it will be forfeited.

Eligible employees in the SSU and SspU will forfeit regular vacation in excess of 40 days as of the first day of the payroll period following the payroll period which includes October 1, 2002, unless they have a vacation request denied while at or approaching the vacation maximum in which case they can exceed the regular vacation maximum until October 1, 2003 or the point at which they use vacation time and drop below the 40-day maximum, whichever occurs first. No employee in these units can carry more than 40 days of regular vacation beyond October 1, 2003.

During the period these special provisions are in effect, employees who no longer meet the eligibility requirements (for example, because of a change in assignment or because the agency determines that they are no longer precluded from taking vacation) may retain previously accrued Emergency Vacation until October 1, 2003, although they are no longer eligible to earn Emergency Vacation.

All eligible employees continue to be subject to contractual provisions that limit the vacation lump sum payment upon separation to a maximum of 30 days. This is a combined maximum of regular vacation and Emergency Vacation, as well as any Special Vacation earned in connection with Y2K. For example, an employee who has a regular vacation balance of 30 days will not be paid for any Emergency Vacation at time of separation, while an employee whose regular vacation balance at time of separation is 20 days may also be paid for up to 10 days of Emergency Vacation. In no event may employees receive payment for more than 30 days of vacation at time of separation.

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Except as described above, provisions of the Attendance Rules and negotiated agreements regarding accrual, transfer and use of vacation credits apply to Emergency Vacation.

The provisions of the Memoranda of Agreement are not grievable.

Questions concerning information in this Bulletin may be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

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POLICY BULLETIN NO. 99-02

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November 15, 1999

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TO: Attendance and Leave Manual Recipients

FROM: Commissioner George C. Sinnott *GC*

SUBJECT: Year 2000 (Y2K) Compliance Issues – Vacation Accruals for Managerial/
Confidential Employees

DATE: November 15, 1999

Effective November 12, 1999, a new paragraph (3) was added to subdivision (e) of section 28-1.2 of the Attendance Rules (4 NYCRR §28-1.2 (e) (3)), to provide an exception to the current limitation on the accumulation of vacation credits for Managerial/Confidential (M/C) employees designated by their appointing authority as performing work directly related to and essential for Year 2000 (Y2K) compliance efforts. This amendment provides a similar benefit to that provided for eligible CSEA and PEF employees. (See Policy Bulletin No. 99-01, dated March 25, 1999). This memorandum sets forth guidelines for application of this new provision.

Eligibility

The provisions apply to Managerial/Confidential employees who are performing work directly related to and essential for Y2K compliance. Such employees generally will be working in positions contained in Budget Bulletin G-1027, Attachment A, dated April 7, 1998. However, inclusion of a title in that list does not mean that an employee serving in that title is automatically eligible to participate. Employees serving in such titles must be designated by their appointing authority as performing work directly related to and essential for Y2K compliance to be eligible. Further, eligibility is not limited to employees serving in titles listed in Budget Bulletin G-1027; agencies have the discretion to extend eligibility to employees serving in titles not included in such list whose duties are directly related to and essential for Y2K compliance.

Effective Date

Eligible employees will be covered by this amendment beginning January 1, 2000.

Benefit Description

Section 28-1.2 provides that vacation credits may be accumulated without limitation, provided they do not exceed 40 days as of the first day of the calendar year. The rule, as amended, provides a temporary exception to this limitation for designated M/C employees who exceed the current 40-day vacation maximum. Instead, the following provisions apply.

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On January 1, 2000, vacation credits in excess of 40 days earned by an eligible employee that otherwise would have been forfeited will be recorded and retained in a separate leave category, "Special Vacation." Special Vacation shall have a separate maximum cap of 50 days.

An employee, who earns in excess of the 40-day regular vacation maximum after January 1, 2000, but prior to the fourteenth pay period in FY 2000-01, will become subject to these provisions at the point he/she exceeds the vacation maximum.

During the period from January 1, 2000 through the last day of the thirteenth pay period in FY 2000-01, vacation credits earned by an employee subject to these provisions will be recorded as Special Vacation, provided his/her regular vacation balance does not drop below 40 days.

During this period, all vacation absences must first be charged against Special Vacation, until those credits are exhausted. When Special Vacation credits are exhausted, absences will be charged against regular vacation.

An employee who exhausts Special Vacation credits and drops below the 40-day regular vacation maximum resumes earning regular vacation. If the 40-day regular vacation maximum is again reached within the designated time period, the employee again becomes eligible to earn Special Vacation.

After the last day of the thirteenth pay period in FY 2000-01, employees will no longer be eligible to earn Special Vacation. However, Special Vacation credits may be carried until January 1, 2002, at which time any such unused credits will be canceled.

There is one exception to the restriction that Special Vacation cannot be earned after the thirteenth pay period in FY 2000-01. Employees whose vacation anniversary date falls on or after the first day of the fourteenth pay period in FY 2000-01 and prior to January 1, 2001, shall have vacation bonus days or additional vacation credit earned on their anniversary date added to Special Vacation rather than to regular vacation, subject to the 50-day maximum on Special Vacation, regardless of their regular vacation balance.

Commencing with the fourteenth pay period in 2000-01, employees are no longer required to liquidate Special Vacation before charging absences to regular vacation. Employees may charge a vacation absence to Special Vacation and/or regular vacation, at their option.

Also commencing with the fourteenth pay period in FY 2000-01, vacation earned will again be retained as regular vacation, except for vacation bonus days or additional vacation credit earned on vacation anniversary dates that fall after the beginning of the fourteenth pay period in FY 2000-01 but prior to January 1, 2001, as described above. The 40-day limitation

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on vacation maximums remains applicable to regular vacation. Therefore, employees must liquidate regular vacation in excess of 40 days prior to January 1, 2001 or it will be forfeited.

During the period these special provisions are in effect, employees who no longer meet the eligibility requirements for coverage under these provisions (for example, because of a transfer, promotion or new appointment to a position not deemed essential for Y2K compliance, or because of a change in assignment in their current position) may retain previously accrued Special Vacation until January 1, 2002, although they are no longer eligible to earn Special Vacation.

Employees continue to be subject to provisions that limit the vacation lump sum payment upon separation to a maximum of 30 days. This is a combined maximum of regular vacation and Special Vacation. For example, an employee who has a regular vacation balance of 30 days will not be paid for any Special Vacation at time of separation, while an employee whose regular vacation balance at time of separation is 20 days may be also be paid for up to 10 days of Special Vacation. In no event may employees receive payment for more than 30 days of vacation at time of separation.

Except as described above, provisions of the Attendance Rules regarding accrual, transfer and use of vacation credits apply to Special Vacation. As described above, during the period January 1, 2000 through the thirteenth pay period in FY 2000-01, employees subject to these provisions are required to use available Special Vacation first for absences chargeable to vacation credits.

Questions concerning information in this Bulletin may be directed to the Attendance and Leave Unit of this Department at (518) 457-2295. A copy of the amendment is attached.

Attachment

RESOLVED, That subject to the approval of the Governor, subdivision (e) of section 28-1.2 of Title Four of the New York compilation of Codes, Rules and Regulations (Attendance Rules) is hereby amended to read as follows:

(e) (1) Except as provided in paragraph (3) of this subdivision, [V] vacation credits earned as provided herein may be accumulated without limitation, provided they do not exceed 40 days as of the first day of any calendar year.

(2) The appointing authority shall notify employees, in writing, of the total amount of their unliquidated vacation credits when such credits total the equivalent of 35 working days.

(3) Employees designated by the appointing authority as performing work related to and essential for Year 2000 compliance efforts, shall be eligible to earn special vacation credits as follows:

(i) Eligible employees who have vacation credits in excess of 40 days on January 1, 2000, shall be eligible to retain such excess credits as special vacation. Additionally, all vacation credits which an eligible employee earns from January 1, 2000 through the end of the thirteenth pay period in fiscal year 2000-2001, shall be retained as special vacation, whenever such employee's vacation credits exceed 40 days.

(ii) Any absences during the period from January 1, 2000 through the end of the thirteenth pay period in fiscal year 2000-2001 which would be charged to vacation shall be charged against special vacation first, until such credits are exhausted.

(iii) Bonus days and additional vacation credit granted on vacation anniversary dates that occur between the first day of the

fourteenth pay period in fiscal year 2000-2001 and December 31, 2000, shall be credited as special vacation.

(iv) Special vacation may not be accumulated in excess of 50 days and all special vacation accumulated and unused on January 1, 2002 shall be forfeited. Nothing provided herein shall increase the limits contained in Part 30 of these Rules on the number of days of vacation which may be compensated at time of separation from State service.

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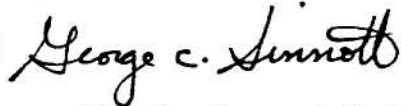
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March 25, 1999

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TO: Attendance and Leave Manual Recipients

FROM: Commissioner George C. Sinnott 

SUBJECT: Year 2000 (Y2K) Compliance Issues – Vacation Accruals for Employees in CSEA and PS&T Units

DATE: March 25, 1999

In accordance with the Memoranda of Agreement reached between the Governor's Office of Employee Relations and CSEA and PEF Regarding Annual Leave for Employees Impacted by Y2K Compliance, employees in the CSEA and PS&T units who are employed in positions directly related to and essential for Y2K compliance have been granted temporary relief from certain contractual limits on vacation maximums. This memorandum sets forth guidelines for application of these new provisions.

Eligibility

The provisions apply to individuals in the CSEA and PS&T units who are performing work directly related to and essential for Y2K compliance. Such employees generally will be working in positions contained in Budget Bulletin G-1027, Attachment A, dated April 7, 1998. However, inclusion of a title in that list does not mean that an employee in that title is automatically eligible to participate. Employees in such titles must be designated by their appointing authority as performing work related to and essential for Y2K compliance to be eligible. Further, eligibility is not limited to employees in titles listed in Budget Bulletin G-1027; agencies have the discretion to extend eligibility to employees in titles not included in such list whose duties are directly related to and essential for Y2K compliance.

Employees in the CSEA units continue to be subject to contractual provisions (ASU, OSU Article 10.5, ISU Article 10.6) requiring denial of a vacation request while at or approaching the vacation maximum in order to exceed the 40-day vacation maximum each time they reach that maximum. Refer to Attendance and Leave Manual Section 21.2, pp. C-6 and 7 for detailed guidelines on those contractual provisions.

Effective Date

Eligible employees in the PS&T and CSEA units will be covered by these agreements beginning April 1, 1999.

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Benefit Description
PS&T and CSEA

When designated employees exceed the 40-day vacation maximum, the requirement that credits in excess of the 40-day vacation maximum must be exhausted prior to April 1 is temporarily waived. Instead, the following provisions apply.

On April 1, 1999, vacation credits in excess of 40 days earned by an eligible employee that otherwise would have been forfeited under the contractual provisions, will be recorded and retained in a separate leave category, "Special Vacation." Special Vacation shall have a separate maximum cap of 50 days.

Employees who first exceed the 40-day regular vacation maximum after April 1, 1999 but prior to the fourteenth pay period in FY 2000-01, will become subject to these provisions at the point they exceed the vacation maximum.

During the period of April 1, 1999 through the last day of the thirteenth pay period in FY 2000-01, vacation credits earned by employees subject to these provisions will be recorded as Special Vacation, provided their regular vacation balance does not drop below 40 days.

During this period, all vacation absences must first be charged against Special Vacation until those credits are exhausted. When Special Vacation credits are exhausted, absences will be charged against regular vacation.

An employee who exhausts Special Vacation credits and drops below the 40-day regular vacation maximum resumes earning regular vacation. Once the 40-day regular vacation maximum is reached, the employee again becomes eligible to earn Special Vacation during this period.

After the last day of the thirteenth pay period in FY 2000-01, employees will no longer be eligible to earn Special Vacation. However, Special Vacation credits may be carried until April 1, 2002, at which time any such unused credits will be canceled. There is one exception to the restriction that Special Vacation cannot be earned after the thirteenth pay period in FY 2000-01. Employees whose vacation anniversary date falls on or after the first day of the fourteenth pay period of FY 2000-01 and prior to April 1, 2001, shall have vacation bonus days or additional vacation credit earned on their anniversary date added to Special Vacation rather than to regular vacation, subject to the 50-day maximum on Special Vacation, regardless of their regular vacation balance.

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Commencing with the fourteenth pay period in 2000-01, employees are no longer required to liquidate Special Vacation before charging absences to regular vacation. Employees may charge a vacation absence to Special Vacation and/or regular vacation, at their option.

Beginning with the fourteenth pay period in FY 2000-01, vacation earned will again be retained as regular vacation, except for vacation bonus days or additional vacation credit earned on vacation anniversary dates that fall after the beginning of the fourteenth pay period in FY 2000-01 but prior to April 1, 2001, as described above. The contractual provisions on vacation maximums remain applicable to regular vacation.

Employees must liquidate regular vacation in excess of 40 days prior to April 1, 2001 or it will be forfeited.

During the period these special provisions are in effect, employees who no longer meet the eligibility requirements for coverage under these provisions (for example, because of a transfer, promotion or new appointment to a position not deemed essential for Y2K compliance, or because of a change in assignment in their current position) may retain previously accrued Special Vacation until April 1, 2002, although they are no longer eligible to earn Special Vacation.

Employees continue to be subject to contractual provisions, which limit the vacation lump sum payment upon separation to a maximum of 30 days. This is a combined maximum of regular vacation and Special Vacation. For example, an employee who has a regular vacation balance of 30 days will not be paid for any Special Vacation at time of separation, while an employee whose regular vacation balance at time of separation is 20 days may also be paid for up to 10 days of Special Vacation. In no event may employees receive payment for more than 30 days of vacation at time of separation.

Except as described above, provisions of the Attendance Rules and negotiated agreements regarding accrual, transfer and use of vacation credits apply to Special Vacation. As described above, during the period April 1, 1999 through the thirteenth pay period in FY 2000-01, employees subject to these provisions are required to use available Special Vacation first for absences chargeable to vacation credits.

M/C Employees

The Civil Service Commission will amend the Attendance Rules for Managerial/Confidential Employees to provide a similar benefit for eligible M/C employees, effective January 1, 2000. Guidelines for eligible M/C employees will be issued after the Civil Service Commission amends the Rules.

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Absence With Pay Vacation

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Eligibility

Employees appointed on or after January 3, 1957 and compensated on an annual salary basis are eligible to earn vacation upon completion of a cumulative total of 13 pay periods of service on a qualifying schedule without a break of more than one year. During each of these 13 pay periods an employee must be in full pay status seven of the ten working days in order to receive credit for the completion of a pay period.

Part-time annual salaried employees are eligible to earn vacation if they work a fixed number of hours five days a week.

Employees compensated on a per diem or hourly basis who work a regularly scheduled workweek of at least 3 3/4 hours per day and five days per week are eligible to earn vacation following the completion of 19 pay periods of employment without a break of more than one complete pay period, provided they have been in full pay status for at least seven work days in each of 13 or more of such pay periods. After attaining coverage under the Attendance Rules such employees are retroactively credited with vacation for each payroll period during this qualifying period that they were in full pay status for seven out of ten workdays. They are thereafter eligible to earn vacation in the same manner as annual salaried employees. (See Appendix C and Appendix D for additional information.)

Employees designated as summer employees or summer replacements are not eligible to earn vacation. (See Section 26.2 of this Manual.)

Continuous Service

For vacation purposes, a leave of absence without pay of any duration does not constitute a break in continuous service.

A separation of less than one year does not constitute a break in continuous service except when such separation occurs during the period of "qualifying service" of a per diem or hourly employee. A separation of more than one year constitutes a break in service for all employees.

Employees returning to the payroll after a separation of less than one year or a leave of absence of any duration retain all vacation rights and privileges due them prior to such leave or separation. However, such a separation may affect their anniversary date for bonus vacation credits (see "Anniversary Date for Vacation Purposes" in this Section).

Related Contract Provisions

Sec. 26.1,
C-1

Sec. 26.1,
C-5
C-8

C-2

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Earning Vacation

For purposes of determining the rate at which employees earn vacation, service in the Executive, Legislative and Judicial branches of State Government including service in the unclassified service of the State University of New York and in agencies with which reciprocal agreements have been established in accordance with Section 24.1 of the Attendance Rules, is counted as State service. For example, an employee with 10 years of service in the Judicial Branch, moving to a position subject to the Attendance Rules within one year of separation from the Judicial Branch, has 10 years of service to his/her credit under the Rules and his/her vacation anniversary date is calculated in accordance with his/her total State service.

Employees who are separated or are on leave of absence without pay for a period of more than six months must have their anniversary date adjusted. (See "Anniversary Date for Vacation Purposes", in this Section.)

Accrual Rate First Through Seventh Year

Annual salaried employees hired on or after January 3, 1957 are credited with 6 1/2 days vacation upon completion of the required 13 biweekly pay periods. Thereafter, during their second through seventh years they earn vacation credits at the rate of 1/2 day per biweekly pay period and, upon completion of each full year of continuous service, earn vacation "bonus days" in accordance with the following schedule:

<u>Completed Years of Continuous Service</u>	<u>Bonus Days Additional Vacation Credits</u>
1	1 day
2	2 days
3	3 days
4	4 days
5	5 days
6	6 days
7	7 days

After the anniversary date on which an employee is credited with seven "bonus days," he/she earns vacation for completed pay periods at the rate of 20 days per 26 pay periods. (See "Twenty Day Accrual Rate" below.)

Related Contract Provisions

Sec. 21.1,
C-16

C-3

C-1

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Employees whose seventh anniversary date falls during the first 13 days of a pay period earn vacation for that period and thereafter at the rate of 20 days per 26 pay periods. However, if the seventh anniversary date falls on the last day of the pay period, vacation is not earned on the basis of 20 days per 26 pay periods until the following pay period.

Employees who are not on the payroll on their anniversary date because of a separation or a leave without pay of six months or less are credited with "bonus days" upon their return to the payroll and retain their original anniversary date. (Employees on sick leave at half-pay are credited with vacation bonus days on their anniversary date.)

Twenty Day Accrual Rate

Employees hired prior to January 3, 1957 and employees who have completed seven years of creditable State service earn vacation at the rate of 20 days for each 26 pay periods.

Employees in State service on January 3, 1957, or who were in State service prior to that date and were reinstated or reemployed within one year after separation, may be credited with vacation at the close of each payroll period during which they are in full pay status seven work days or, at the discretion of the employing agency, a lesser number of days in accordance with agency regulations in force and effect on January 2, 1957.

Vacation is credited each payroll period in such a manner as to add up to 20 days at the end of 26 payroll periods. The following are two systems currently in use in State service which are acceptable;

1. For a 37 1/2 hour workweek, vacation is credited at the rate of 5 3/4 hours each pay period. An additional quarter hour is credited at the end of the 13th and 26th pay periods.
2. For a 37 1/2 or 40 hour workweek, vacation is credited at the rate of 3/4 of a day per pay period with an additional 1/4 day credited at the end of the 13th and 26th pay periods.

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Crediting Vacation

Employees in full pay status for at least seven working days (not cumulative total of seven days but seven separate full days) during a pay period receive vacation credits for that period. Full pay status includes leave with full pay. (See p. 9, Section 26.1 for status of employees on educational leave with pay.) (See also Appendix C and Appendix D for additional information.)

Civil Service Commission Reinstatement

Employees who are reinstated by action of the Civil Service Commission following a break in service of more than one year are eligible to accrue vacation at a rate based on their prior State service beginning with the payroll period in which the reinstatement was approved. They are not entitled to a retroactive adjustment in vacation accruals for the period between reentry into State service and the date of their reinstatement by the Commission.

Crediting Other Public Service Employment as State Service for Vacation Purposes

Employees who move from positions not subject to the Attendance Rules in the Legislative, Executive, or Judicial branches, or agencies with which reciprocal agreements have been established in accordance with Section 24.1 of the Attendance Rules, to positions subject to the Attendance Rules are entitled to earn and liquidate vacation credits immediately upon such movement provided they have completed the required number of qualifying biweekly pay periods in their former positions.

Per Diem or Hourly Employees

Provided they have been in full pay status for seven of ten working days in each of 13 pay periods, employees compensated on a per diem or hourly basis who have completed the required 19 pay periods of employment on a qualifying schedule are credited with vacation retroactive to the beginning of their continuous service as if they had been subject to the Attendance Rules during this period. (Vacation credit is not earned for a pay period unless an employee was in full pay status for at least seven of the ten work days during the pay period.) Any paid vacation granted to them during this period is deducted from such total credits. Thereafter they earn and are credited with vacation in the same manner as annual salaried employees.

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Example 1:

An employee is hired on an annual salaried basis and works five pay periods; he/she then has a break in service of three pay periods. Following this break of less than one year, said employee is reemployed on a per diem basis and completes the required 19 pay periods of continuous service in the per diem position.

In crediting vacation, this employee receives vacation credits for the 5 pay periods of service in the annual salaried position as well as the 19 pay periods in the per diem position. The anniversary date will be the date of appointment to the annual salaried position.

Example 2:

An employee is hired on a per diem basis and is employed for 19 pay periods without a break in service of more than one pay period. However, during one pay period this employee was in full pay status for only six days, being absent without pay the remaining days with the consent of the appointing authority. No credit is granted for this pay period when computing the amount of vacation to be credited retroactively. However, this employee does receive credit for the pay period for the purpose of meeting the 19 pay period requirement. Therefore, at the end of the 19th pay period, said employee is credited with vacation for 18 pay periods. The anniversary date will be the date of appointment to the per diem position.

Part-Time Employees

Employees who work a regularly scheduled week of fewer than 37 1/2 hours and who are eligible to earn vacation are credited with such vacation on a prorated basis in the same ratio that the number of hours worked per week has to the normal workweek of 37 1/2 or 40 hours. (See Appendix D for additional information.)

Changes in Percentage of Employment

Employees whose percentage of employment changes at any point during a biweekly payroll period are credited with vacation accruals based on their percentage of employment on the last day of the payroll period. For example, a full-time employee who moves to a 50% part-time position in the middle of the payroll period accrues vacation at the 50% rate for the entire biweekly payroll period.

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Employees eligible for vacation bonus days whose percentage of employment changes prior to their vacation anniversary date are credited with vacation bonus days based on their percentage of employment on their vacation anniversary date. A 40-hour per week employee who worked full time for three years and became a 50% employee during the fourth year of service receives four prorated vacation bonus days (16 hours) based on his/her 50% employment on the fourth anniversary date. (See Appendix D for additional information.)

Anniversary Date for Vacation Purposes

The date of original appointment is the anniversary date for vacation purposes for annual salaried employees hired on or after January 3, 1957 except as adjusted because of a leave of absence without pay or a period between separation and reinstatement or reemployment in excess of six months.

If following a leave of absence without pay of more than six months, or a separation of more than six months duration, a person is:

1. restored to the payroll at any time following the leave of absence (not separation), or
2. reinstated or reemployed within one year of the date of separation, or
3. reinstated or reemployed at any time from a preferred list, or while eligible for reinstatement from a preferred list, or
4. reinstated at any time by action of the Civil Service Department or Commission in accordance with Section 5.4 of the Civil Service Rules or Sections 71 or 73 of the Civil Service Law,

the anniversary date for vacation purposes is adjusted as follows:

- Determine the duration of the leave of absence without pay or the period of separation (calendar months and days).

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Sec.26.1,
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- Add the number of months and days of the leave or separation to the employee's vacation anniversary date as of date of leave or separation. The result is the adjusted anniversary date for vacation purposes.
- Example: An employee with a vacation anniversary date of 7/1/70 is on leave without pay from 6/25/75 to 8/1/76, a total of 13 months and 8 days. Adding 13 months and 8 days to 7/1/70 adjusts the vacation anniversary date to 8/9/71 and on 8/9/76 the employee is credited with 5 bonus days of vacation.

The anniversary date for vacation purposes for a person who is reemployed following a separation of more than one year is the date of reemployment unless the person returns to the payroll under the conditions identified above.

For hourly and per diem employees who attain coverage under the Attendance Rules, the anniversary date for vacation purposes is the date the employee began the 19 consecutive payroll periods of qualifying service, except where such anniversary date is adjusted because of a leave of absence without pay or a period between separation and reinstatement or reemployment in excess of six months subsequent to attaining Rule coverage.

Advanced Vacation Bonus Days

During the second through seventh year of continuous service "bonus days" may be advanced on a prorated basis to cover necessary absences if no appropriate credits are available. Such advances are at the discretion of the appointing authority.

During the second through seventh years of continuous service payment in cash should be made on a prorated basis for "bonus days" in the event of layoff (other than termination of temporary service), military leave (for other than training purposes) or death of an employee.

Additional vacation credits are prorated on the basis of the number of pay periods of continuous service completed by the employee since the last date "bonus days" were credited.

The amount of additional vacation credits which may be advanced or paid may be determined by use of the following formula:

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(number of complete pay periods of
service since last anniversary date) X
26

(number of bonus days
earned on last
anniversary date)

Related
Contract
Provisions

The resultant figure will be in terms of days and fractions of days. These may be converted to hours or fractions of hours pursuant to the current practice of each individual agency and dependent upon the normal working day of the employee involved.

The cumulative total of additional vacation credits advanced between anniversary dates may not exceed the number of additional vacation days credited on the last vacation anniversary date.

Maximum Accumulation of Vacation Credits

No employee may accumulate more than 30 days of vacation credits. Each agency is responsible for informing its employees of this maximum limit on accumulations.

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The appointing authority must notify the employee, in writing, when such accumulated credits total 25 work days. Notification on the time card on which the employee keeps a record of his/her accumulated credits may be considered such written notice to the employee.

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Employees who attain 30 days of vacation credits do not earn any vacation until this balance is reduced below the 30-day maximum. All credits an employee would have earned if he/she did not have a balance of 30 days are lost to that employee. No employee can be credited with such lost credits after his/her accumulated balance is reduced below the maximum.

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When credits are restored under Rule 21.8 (Workers' Compensation Leave) and such restoration causes the total vacation credits to exceed 30 days, a period of one year from the date of the restoration of the credits or the date of return to service, whichever is later, is allowed to reduce the total accumulation to 30 days. During this period, employees continue to accrue.

It is the responsibility of each agency to schedule vacation in such a manner as to ensure that no employee loses any vacation because of reaching the maximum accrual. Accordingly, employees should not be permitted consistently to maintain a high balance of credits.

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Military Leave of Absence

Employees on military leave of absence without pay do not earn vacation credits.

Military leave of absence is counted as continuous service in crediting "bonus days." On return from military service, an employee earns vacation credits commensurate with his/her total service including time spent on military leave and is credited with "bonus days" on his/her first anniversary date following his/her return from leave.

For example, an employee enters State service on February 1, 1980. After receiving one "bonus day" on February 1, 1981, he/she enlists and serves two years in the military. He/She returns on April 1, 1983. No "bonus days" are credited to him/her until February 1, 1984 when he/she will receive four. The employee's anniversary date is not adjusted and remains February 1, 1980.

If an annual salaried employee enters military service prior to completion of the required 13 biweekly pay periods which would make him/her eligible to earn and accrue vacation credits, or a per diem or hourly paid employee enters military service prior to the completion of the required 19 pay periods, such military service is counted as completed pay periods for this purpose when he/she returns. However, he/she may be credited with vacation only for those pay periods he/she was actually on the payroll for 7 of the 10 work days.

Use of Vacation Credits

The use of vacation credits is subject to the prior approval of the appointing authority.

The appointing authority is authorized to schedule vacation for the convenience and efficient operation of the agency. However, employee needs and wishes in this matter should be considered.

It is recommended that each employee take one vacation of at least two weeks duration each year, if accrued credits are available.

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Normally, vacation credits are not available for use until the completion of the pay period in which they were earned and, in no event, prior to completion of the required seven work days in full pay status except at the discretion of the appointing authority to avoid need for a payroll deduction because of leave without pay.

Transfer of Vacation Credits

All earned and unused vacation credits are transferred with an employee when:

1. he/she moves from a position covered by the Attendance Rules to another position also covered by the Attendance Rules, or
2. he/she moves to or from a position covered by the Attendance Rules to or from a position in an agency with which a prior reciprocal agreement has been made between such agency and the Department of Civil Service (see Section 24.1, "Written Agreement Required for Transfer of Leave Credits," of this Manual), or
3. he/she moves to or from a position covered by the Attendance Rules to or from a position in the professional service of State University (professional service as defined in Subdivision 3, Section 355(a) of Education Law and placed in unclassified service by Section 35(h) of Civil Service Law). Although some employees in the unclassified service of State University of New York do not accrue vacation and thus will not have vacation accruals to transfer, they should upon transfer be given a vacation anniversary date commensurate with their total State service and they are eligible to accrue and use vacation credits based upon that date.

Vacation credits transferred upon movement from a position with a basic workweek of 37 1/2 hours to a position with a basic workweek of 40 hours, or vice versa, should be converted to reflect the new workweek. 225 hours (30 days) vacation earned in a position with a 37 1/2 hour workweek converts to 240 hours for a 40 hour workweek. If the vacation credits transferred are expressed in terms of days, the receiving agency can readily convert them to the appropriate number of hours.

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Vacation credits transferred upon movement between full-time and part-time items (with the same basic workweek of 37 1/2 or 40 hours) should not be converted but should be transferred in hours without increase or decrease. If such transfer causes the employee to exceed the maximum accruals allowed in the part-time item, he/she should not be deprived of credits earned but should not be credited with additional vacation until his/her accruals are reduced below the allowable maximum in that item. If the movement involves items with different basic workweeks (e.g., a full-time item with a 37 1/2 hour workweek to a 1/2 time 1/2 pay item with a 20 hour workweek), vacation should be converted as described above and then transferred in hours. (See Appendix D for additional information.)

Restoration of Unused Vacation Credits

Employees (including retirees) reinstated or reemployed in a State agency within one year of separation, or reinstated at any time by action of the Civil Service Commission or while on a preferred list shall have all earned and unused vacation credits restored to them by the employing agency provided these employees have not received payment for such credits.

Employees who elected not to receive a lump sum payment for accrued vacation upon appointment to the unclassified service and who subsequently return to the classified service (without any break in State service exceeding one year) are entitled to have such unused vacation credits restored to them. (Service in the unclassified service does not constitute a break in State service.)

Employees who were denied payment for unused vacation credits because of failure to give two weeks' notice upon resignation shall have such credits restored if reemployment or reinstatement occurs within one year or if reinstatement occurs at any time by action of the Civil Service Commission.

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Negotiating Units:

Administrative Services Unit Article 10.3
Institutional Services Unit Article 10.3
Operational Services Unit Article 10.3
Professional, Scientific and Technical
Services Unit Article 12.5
Rent Regulation Services Unit Article 12.3
Security Services Unit Article 14.1(b)
Security Supervisors Unit Article 14.1(b)

Effect:

Employees who are subject to these contract articles and who are eligible to earn and accumulate vacation shall be credited with additional vacation upon the completion of 15 or 20 years of service, depending upon bargaining unit, and upon the completion of each additional year of service thereafter as shown on the following chart:

<u>Completed Years of Continuous Service</u>	<u>Additional Days of Vacation Credit</u>	
	<u>Administrative Services</u>	<u>Other Units Listed Above</u>
15 to 19	1	
20 to 24	2	1
25 to 29	3	2
30 to 34	4	3
35 or more	5	4

Employees who are not subject to rules or regulations providing for the regular earning and accumulation of vacation are not eligible for such additional vacation; e.g., institution teachers, employees in the classified service who are not eligible for vacations under the Attendance Rules for State employees and employees in the unclassified service who are not subject to any rules or regulations on attendance and leave.

Definition of Continuous Service

For purposes of determining eligibility for additional vacation credits, service should be computed in the same manner and subject to the same limitations and restrictions as apply in the computation of service for purposes of determining eligibility for vacation "bonus days" under the Attendance Rules for State employees.

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Verification of Service

The following procedures may be used where an agency is unable to verify length of service from its own records:

1. The agency may contact the employee's former agency(ies) for verification of service.
2. If the former agency(ies) cannot provide the information, the employing agency may contact the Department of Civil Service, Employment Records Section, for a check of the records maintained by this Department.
3. If the former agency(ies) cannot provide the information, the employing agency may write the Director of Payroll Audit, Office of the State Comptroller, for a check of records maintained by that Department.
4. If the Departments of Civil Service and Office of the State Comptroller cannot supply the information, the agency may accept an affidavit from the employee indicating the length of service for this purpose only.

Crediting Additional Vacation

Except where there is an interruption of State service, an employee should be credited with additional vacation once every 12 months in accordance with the schedule contained in the appropriate unit agreement. In no event may he/she be credited with additional vacation more than once every 12 months.

Advanced Vacation Credits

Additional vacation credits earned and credited upon completion of 15 or more years of service may not be advanced on a prorated basis to cover absences when no appropriate leave credits are available or to be included in any vacation lump sum payment.

Use, Transfer, Restoration of and Cash Compensation for Vacation Credit

Once credited to an employee, additional vacation credits should be used, transferred and restored and cash compensation should be made for them in the same manner and subject to the same limitations and restrictions as apply to the use, transfer, restoration of and payment for vacation credits earned under the Attendance Rules for State employees.

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Negotiating Unit:

Professional, Scientific and Technical
Services Unit Article 12.4(a)

Effect:

This provision eliminates vacation bonus days at the end of the first and second years of continuous service for employees hired on or after April 1, 1988. All other Attendance Rule and contract provisions concerning the establishment of the anniversary date, crediting, use and transfer of vacation continue to apply.

Employees subject to this contract article will not earn vacation bonus days on their first and second anniversary dates. On the third anniversary date, such employees will be credited with three vacation bonus days and thereafter will be credited with vacation bonus days in accordance with the Attendance Rules up through the seventh anniversary date at which time the employee will be credited with seven vacation bonus days.

Thus, the vacation bonus day schedule for a PS&T employee hired on or after April 1, 1988, is as follows:

<u>Years of Service</u>	<u>Vacation Bonus Days</u>
1	0
2	0
3	3
4	4
5	5
6	6
7	7

For an employee to be deemed to have been hired on or after April 1, 1988, and therefore subject to this revised schedule, the employee must not have had creditable State service prior to April 1, 1988.

The term "prior creditable service" for purposes of this Article means State service prior to April 1, 1988 (regardless of negotiating unit, including service with the Executive, Legislative and Judicial branches and service transferable under a reciprocal agreement) which was on a qualifying schedule (a schedule which would have entitled an employee to earn leave accruals) and which was not interrupted by a break in service of more than one year or, if interrupted by a break in service of more than one year, was followed by reinstatement by the Civil Service Commission or Department or by appointment from or while on a preferred list.

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The crediting of vacation bonus days is determined by the employee's status on the vacation anniversary date and creditable State service prior to April 1, 1988.

If an employee hired on or after April 1, 1988, in another negotiating unit subsequently moves to the PS&T Unit and the appointing authority determines that the employee is subject to the revised vacation bonus day schedule, such employee will be entitled to retain, upon appointment to the PS&T position, all vacation bonus days previously received. On the employee's first vacation anniversary date following movement to the PS&T position, the employee will be subject to the revised vacation bonus day schedule.

Similarly, if an employee in the PS&T Unit subject to the revised vacation bonus day schedule moves to a position in another unit subject to the Attendance Rules, such employee becomes subject to the vacation bonus day schedule contained in the Attendance Rules on the first vacation anniversary date following movement to the new unit.

Some examples follow:

1. A full-time annual salaried employee with no prior creditable service is appointed to a PS&T position on May 1, 1988. On May 1, 1989, the employee's first anniversary date, the employee receives no vacation bonus days. On June 1, 1989, the employee moves to an M/C position. On May 1, 1990, the employee's second anniversary date, the employee is credited with two vacation bonus days as an M/C employee.
2. A full-time annual salaried employee with no prior creditable service is appointed to an ASU position on July 30, 1988. On July 30, 1989, the employee's first anniversary date, the employee receives one bonus day as a CSEA employee. On August 15, 1989, the employee moves to a PS&T position. On July 30, 1990, the employee's second anniversary date, the employee receives no vacation bonus days since the employee is subject to the revised vacation bonus day schedule as a PS&T employee.

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Negotiating Units:

Administrative Services Unit Article 10.4(a)
Institutional Services Unit Article 10.5
Operational Services Unit Article 10.4
Professional, Scientific and Technical
Services Unit Article 12.7(a)
Rent Regulation Services Unit Article 12.6(a)

Effect:

Employing agencies may not require employees in the negotiating units listed above to use vacation in units greater than 1/4 hour but may permit liquidation in smaller units of time. This means that an employee may be allowed to charge a 35-minute absence against vacation credits as a 45-minute charge (three 1/4 hour units). In accordance with a "local arrangement," he/she may be allowed to charge such an absence as a 40-minute charge (four 10-minute units) or as a 35-minute charge (seven 5-minute units) or on a minute-by-minute basis. Such "local arrangements" which existed as of 4/1/73 are not superseded by the subject contract item and cannot be terminated unilaterally.

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Negotiating Units:

Administrative Services Unit Article 10.5
Institutional Services Unit Article 10.6
Operational Services Unit Article 10.5
Professional, Scientific and Technical Services
Unit Article 12.4(c)
Rent Regulation Services Unit Article 12.4(a)
Security Services Unit Article 14.1(e)
Security Supervisors Unit Article 14.1(e)

Effect:

Employees who earn and accumulate vacation may accumulate vacation credits to a maximum of 40 days (see Exception to the 40-Day Maximum below). This limitation applies to all vacation credits regardless of how they are earned and credited.

Eligible employees do not have an unrestricted right to accumulate vacation up to and beyond the 40-day maximum. (See Liquidation of "Excessive" Vacation Accruals on page C-9 of this Section.)

Exception to the 40-Day Maximum

Effective April 1, 1985, employees in the Administrative Services, Institutional Services, Operational Services, Security Services and Security Supervisors Units may exceed the 40-day vacation maximum during a fiscal year under the following conditions:

The employee must be at the 40-day maximum or about to exceed it during the next accrual period; i.e., on the next time card. If this employee submits a written request for the use of vacation and it is denied, in writing, such employee may continue to accrue vacation beyond 40 days through the last day of the fiscal year, March 31, at which time all vacation in excess of 40 days is forfeited.

In other words, for the purposes of this provision, the employees in these five units are obligated to make a written request for use of the leave credits and management is obligated to provide a written denial if the request is not approved. An employee's eligibility to exceed the 40-day maximum ends whenever the employee drops below the 40-day maximum or on the first day of each fiscal year. To exceed the maximum again, such employee must have a vacation request denied as explained above.

The 30-day limit on cash compensation for accrued and unused vacation at time of separation remains unchanged.

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Some examples follow:

1. Employee A has 39 days of vacation as of April 10, 1985. Her accruals between 4/11/85 and 5/8/85, the next time card, will be 12 hours and will bring her over 40 days. On 4/15/85, she submits a request to use four days of vacation, 4/23 - 26/85 and it is approved. At the end of the time card, her accruals will not exceed the maximum.

If this employee's request had been denied, she would be eligible to exceed the 40-day maximum from that time until she either (1) dropped below 40 days of vacation following use of the accruals, or (2) reached the end of the fiscal year; i.e., March 31 c.o.b., at which time all vacation credits over 40 days would be forfeited.

2. Employee B had 40 days of vacation in June 1986, requested time off within the pay period and was denied; therefore, he has been accruing vacation beyond 40 days since that time. In September, he has 43 days of vacation; he requests and has approved a two-week vacation. At the end of the vacation, he has 33 days of credits left and is again subject to a 40-day maximum.
3. Employee C is at the vacation maximum and requests use of vacation which is denied. The employee is now eligible to accrue above the 40-day limit. The employee's vacation balance exceeds 40 days on 3/31, so on 4/1 the employee carries forward only 40 days and credits in excess of 40 are forfeited. The employee continues to be subject to the 40-day maximum effective 4/1 until he has a vacation request denied as explained above.
4. Employee D is at the vacation maximum and requests use of four days of vacation. Agency management is unable to spare the employee for four days and advises her that two of the four days requested can be approved. If the employee elects to take the two days of approved vacation, she drops below the 40-day maximum and continues to be subject to that maximum. If the employee elects not to take the two days of vacation because the entire request could not be approved, she must be allowed to exceed the vacation maximum.

The date on which employees in the Professional, Scientific and Technical Services and Rent Regulation Services Units may not exceed the 40-day maximum credit accumulation changed from January 1 to April 1 beginning with 1989. On April 1, 1989, and each April 1 thereafter, employees' time records should be adjusted as necessary to reflect no more

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than 40 days of vacation. Employees subject to these contract articles may exceed the 40-day maximum at any time other than April 1. The 30-day limit on cash compensation for accrued and unused vacation at time of separation remains unchanged.

Cash Compensation for Vacation

Employees who accumulate 40 days or more of vacation may not be compensated in cash for more than 30 days. Vacation credits in excess of 30 days should be liquidated prior to separation subject to the need to maintain essential services and subject to the requirement for prior approval.

Transfer of Vacation Credits

Credits accumulated in excess of 30 days under these contract provisions may be used, transferred and restored subject to the same limitations and restrictions as apply to vacation credits accumulated up to 30 days under the Attendance Rules.

An employee with over 40 days of vacation who moves between two CSEA-represented bargaining units, a CSEA unit and a Council 82 unit or two Council 82 units stops accruing vacation until he/she completes the process of submitting a written request and receiving a denial for use of vacation. This is also true if an employee moves from the PEF or DC 37 unit to a CSEA or Council 82 unit with over 40 days of vacation.

An employee with over 40 days of vacation who moves from any unit to a PEF- or DC 37-represented unit continues to accrue subject only to the April 1st 40-day vacation maximum.

See Appendix D, Part-Time Employees, page 7, for a discussion of the impact of the vacation maximum of moving from a full-time to a part-time position.

Notification to Employees of Vacation Accruals

Under the Attendance Rules employees who are allowed to accumulate 40 days or more of vacation must be notified when they have accumulated 25 days of vacation. Although it is not required by the subject contract item, such employees should also be notified when they have accumulated 35 days of vacation.

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Liquidation of "Excessive" Vacation Accruals

Agency policies requiring employees to take or schedule vacation when their vacation accruals total a prescribed number of days should reflect the fact that employees are allowed to accumulate up to 40 days of vacation and may be allowed to accumulate beyond 40 if eligible. That is, it is reasonable to require such employees to take or schedule vacations when their vacation accruals reach 35 days.

The exception to the 40-day vacation accumulation limitation should not be interpreted as extending a "right" to "hoard" vacation and maintain excessive vacation accumulations. Employees may still be required to schedule and use vacation in accordance with reasonable agency policies designed to encourage the use of vacation in a manner consistent with the intent of the Attendance Rules and the needs of the agency and employee.

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Administrative Services Unit Article 10.4(b)
Institutional Services Unit Article 10.12(a)
Operational Services Unit Article 10.6(e)
Professional, Scientific and Technical Services
Unit Article 12.7(b)
Rent Regulation Services Unit Article 12.6(b)

Effect:

If an employee in the Professional, Scientific and Technical Services Unit or the Rent Regulation Services Unit submits a written request for vacation, the employee is entitled to a written response within a reasonable period of time, but if the request is denied (or the vacation is cancelled) and the employee files a written request for a written statement of the reasons for such denial (or cancellation), the employee is entitled to such written statement within three days of receipt of his/her written request for it.

If an employee in the Administrative Services Unit submits a written request for vacation which is denied, the employee is automatically entitled to a written statement of the reasons for the denial within five (5) working days of such request. That is, once an employee has submitted such a written request for the use of vacation, the appointing authority is responsible for supplying the reasons, in the case of denial, within five working days, without any further requests from the employee.

If an employee in the Operational Services Unit properly submits a written request for use of vacation, such employee shall receive a written response within five (5) days of receipt of the request. This response requirement applies to both approvals and denials of employee requests to use vacation. There is no requirement that, in the case of a denial, reasons be included in the written response.

The procedures in this OSU article apply in all cases except where local labor/management arrangements on vacation scheduling made pursuant to this article provide for alternate procedures. The five-day response requirement may not, for example, apply to situations such as that described in 10.6(c) which provides for the establishment of annual periods within which an employee must request a block of time in order to have his/her seniority considered. (See Section 21.2, pp. C-12 - C-14 of this Section on vacation scheduling.)

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An employee in the Institutional Services Unit, who submits a written request for use of leave credits, shall receive a written response within six working days, including reasons if the request is denied. In addition, an employee who has not received a response at the end of four days after making the request to use leave credits has the right to appeal to a designated management representative who then is responsible for ensuring that the employee receives a response within two days of the appeal. The contract article states that the management designees at each location were to have been identified within 60 days of the execution of the 1985-88 ISU agreement. This provision was continued in the 1988-91 ISU agreement.

The provisions of this article in the ISU agreement are applicable to all requests for use of any leave credits with the following two exceptions:

1. Requests for vacation time off submitted according to agreements reached pursuant to Article 10.4, Vacation Scheduling.
2. Requests for holiday time off submitted according to agreements reached pursuant to Article 10.1, Holiday Scheduling.

For all units listed above where reasons for denial must be given, these written statements of denial or cancellation need not be any more explicit than is necessary to indicate the basis therefore--it is not intended that they be so lengthy or explicit as to serve as "proof" that the denial or cancellation was absolutely necessary or essential to the proper conduct of agency business.

Failure to provide the written statement of the reasons for denying an employee's request for vacation may be grieved as a contract grievance. However, the denial itself may be grieved only as a non-contract grievance.

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Negotiating Units:

Administrative Services Unit Article 44.2
Institutional Services Unit Article 10.4
Operational Services Unit Articles 10.6 and 10.7
Professional, Scientific and Technical Services
Unit Article 12.6
Rent Regulation Services Unit Article 12.5
Security Services Unit Article 14.1(d)
Security Supervisors Unit Article 14.1(d)

Effect:

For employees in the Administrative Services Unit, seniority as defined in Article 44.1 of the ASU agreement shall be the basis for scheduling vacation "where there is no distinction between employees with respect to factors relevant to the ability of the employees to perform required duties and responsibilities satisfactorily, or subject to the operating needs of a department or agency or component thereof." In most instances, therefore, seniority will be the determining factor in scheduling vacations.

For employees in the Institutional Services Unit, seniority as defined in Article 44.1 of the ISU Agreement, and for employees in the Operational Services Unit, seniority as defined in Article 44.1 of the OSU Agreement, must be used for the purposes of scheduling vacation or approving employee requests for vacation when the number of employees requesting vacation exceeds the number who can be allowed time off for the period of time involved and when the need to maintain services is not otherwise involved.

In addition, for employees in the Operational Services Unit, agencies may establish deadlines for the submittal of requests for vacation as a prerequisite for scheduling vacation by seniority. Such deadlines must be worked out jointly with CSEA. Any such existing or established methods or practices governing the scheduling of vacation for OSU employees may not be changed or terminated unless appropriate representatives of CSEA are consulted.

For Institutional Services Unit employees, the CSEA local may request that appointing authorities (departments, agencies, institutions or other local operating units) establish by September 1 of each year of the contract an annual date or dates or period(s) by or within which an employee must request a block or blocks of time off in order to have his/her seniority considered. For the purposes of requesting vacation time off under this provision, a "block of time" is defined as five or more consecutive workdays. (The five days may be five consecutive workdays that

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coincide with five consecutive calendar days [e.g., Monday through Friday] or five consecutive workdays surrounding pass days [e.g., Thursday, Friday, Saturday and Tuesday, Wednesday, with a Sunday/Monday pass day combination]. The employee must have sufficient leave credits [vacation, holiday, personal leave] to cover the requested absence.)

For employees in the Professional, Scientific and Technical Services Unit, seniority as defined in Article 25 of the PS&T Agreement and for employees in the Rent Regulation Services Unit, seniority, as defined in Article 27 of the RRSU agreement, must be used for purposes of scheduling vacation or approving employee requests for vacation when the number of employees requesting vacation exceeds the number who can be allowed time off for the period of time involved and when the need to maintain services is not otherwise involved. In both units there may be labor/management agreements to provide preference in the assignment of vacation and without regard to "seniority" for employees with more than 35 days of vacation. Any such agreement should provide some method for determining in what order vacation shall be approved for these employees. Also, in developing such agreements, care should be taken to consider the problem of extending preferential treatment to employees who accrue excessive amounts of vacation by "hoarding" vacation credits instead of taking vacation time each year in a manner consistent with the intent and spirit of the Attendance Rules.

Except as mutually agreed upon local arrangements may otherwise permit, seniority as defined in Article 24 of either the Security Services or the Security Supervisors Agreement must be used for purposes of scheduling vacations and approving requests for vacation time for employees in the Security Services and Security Supervisors Units.

For the purpose of applying the seniority definition in the contract for the Security Services Unit and Security Supervisors Unit employees:

1. uninterrupted service (permanent, provisional or temporary) in title in the employing department or agency is counted beginning with initial employment on a full-time basis;
2. uninterrupted service includes leaves with pay, military leave without pay not to exceed four years, workers' compensation leave without pay and any period of continuous leave without pay up to but not in excess of one year;

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3. a resignation, termination, retirement, layoff or other separation followed by reinstatement or reemployment within one year of such separation does not constitute an interruption of service; the period between separation and reinstatement or reemployment is counted as service in title;
4. an employee who is promoted and subsequently reassigned, without a break in State service, to a position with the same title as the position from which he/she was promoted and is so reassigned more than one year following such promotion should be credited with that amount of service in title as he/she had accumulated at the time of the promotion;
5. two employees who have equal service in title should be ranked (for seniority purposes) in accordance with their scores on the civil service examination taken for that appointment which corresponds to the beginning date of each employee's current period of uninterrupted service and, if such scores are identical or unavailable, they may be ranked by any procedure mutually agreed upon at the department or agency level;
6. employees with permanent status in title shall be considered before employees with temporary or provisional status in title (e.g., the permanent employee with six months of service in title has greater "seniority" than the temporary employee with ten months of service).