

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

ATTENDANCE AND LEAVE MANUAL

Payment for Accruals Upon Entry
Into Armed Forces

Section 23.2

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Purpose

The purpose of this Section is to provide authorization for cash payment for accrued and unused vacation and overtime compensatory time credits to eligible employees who are on leave from their positions on account of entry into the Armed Forces.

Eligibility

An employee who is subject to the Attendance Rules and who is on military leave without pay is eligible for cash payment for accrued and unused vacation and overtime compensatory time credits, not in excess of 30 days each, provided the employee requests such payment and has entered the Armed Forces of the United States for active duty and for other than training purposes. Training purposes includes the two-week annual training for National Guard members and Reservists, the three to six months' initial period of active duty required of enlistees in reserve units under the Reserve Forces Act, and assignment to a service school. In all cases it is advisable to check the employee's orders to active duty to determine whether or not the duty is for training purposes.

Lump Sum Payment

An employee is entitled to only one lump sum payment for all vacation and overtime compensatory time credits earned and accumulated as of the date of the beginning of military leave without pay. The Comptroller will not approve payment for less than the full amount of vacation and overtime credits, nor multiple partial payments. Any such credits for which an employee is not paid should be restored when the employee returns to the payroll from military leave.

Military Leave With Pay Followed by Leave Without Pay

When an employee is called to active duty and is eligible to receive 30 calendar or 22 workdays of military leave with pay, or any unused portion of such leave, under Section 242 of the Military Law, such employee may subsequently receive military leave without pay under Section 243 of the Military Law (see Section 21.12, "Other Leaves Required by Law," of this Manual). Such an employee is not eligible for payment for accrued vacation and overtime compensatory time credits while on

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Provisions

Sec. 21.2,
C-2

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military leave with pay; however, the individual should receive payment for accrued and unused credits, including any vacation credits accrued while on military leave with full pay, when the employee requests such payment while on military leave without pay and is otherwise eligible for such payment (see "Eligibility" above).

Resignation While on Military Leave

An employee who resigns while on military leave of absence is entitled to payment for accrued and unused vacation and overtime compensatory time credits, not in excess of 30 days each, provided the employee has not already been paid for such credits. Two weeks notice of resignation shall be considered made and the date of resignation shall be the date of the notification of resignation given to the agency, provided the resignation occurs within the time allowed the employee to apply for reinstatement after termination of military duty.

The lump sum payment for such credits should be made at the rate of pay the employee would have been earning had such employee remained in State service for the period of military leave.

Sick Leave, Personal Leave and Holiday Leave

There is no provision in the Attendance Rules for payment at any time for accrued sick leave credits, unused personal leave or unused holiday leave.

An employee who returns to work following a military leave of absence should have accrued and unused sick leave credits and holiday leave credits restored. Personal leave credits are restored if the employee returns within one year following the last date on which personal leave was credited. If the employee returns more than one year after that date, the date of return becomes the new personal leave anniversary date (see Section 21.6, "Personal Leave," of this Manual).

Related
Contract
Provisions

Sec. 21.1,
C-5
C-14