

ATTENDANCE AND LEAVE MANUAL

**WRITTEN AGREEMENT REQUIRED FOR
TRANSFER OF LEAVE CREDITS**

Purpose

The purpose of this Section is to facilitate the movement of qualified personnel between positions subject to the Attendance Rules for Employees in New York State Departments and Institutions and positions not subject to the Rules (e.g., the unclassified service, public benefit corporations, authorities, etc.). The President of the Civil Service Commission is authorized to enter into reciprocal agreements with public agencies not covered by the Rules to provide for the transfer of service and leave credits when employees move between positions in such agencies and positions subject to the Rules.

Eligibility to Enter into Reciprocal Agreements

For the purposes of this Section of the Rules, public employment is divided into three categories: (1) positions which are covered by the Attendance Rules (generally positions in the classified service of the Executive branch), (2) positions in the Legislative and Judicial branches and positions in the Executive branch not subject to the Attendance Rules (e.g., the unclassified service), and (3) positions in other public agencies (generally public benefit corporations and authorities).

Reciprocal agreements may be arranged with any public agency having employees not subject to the Attendance Rules, except where the transfer of leave and/or service credit is otherwise authorized by rule or law. For example, authorizations already exist for transfer of leave credits when employees move between positions covered by the Attendance Rules and positions in the unclassified service of State University or positions covered by the attendance rules for institution teachers. For the provisions pertaining to these two situations, see the discussion in each appropriate section of this Manual.

Reciprocal agreements that include the transfer of leave credits are possible only with public agencies having regulations on attendance and leave which are substantially equivalent to these Attendance Rules.

Transfer of Service Credit

Service credit is used to establish an employee's vacation anniversary date (and therefore accrual rate), to determine the amount of eligibility for sick leave at half-pay an employee has earned and in the application of any section of these Rules requiring or allowing consideration of length of service or creditable service prior to a certain date.

When an employee moves to a position covered by the Attendance Rules from a position not so covered and the employee is eligible to transfer service credit, the credit is defined and

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calculated in the same manner as it is when movement is between positions subject to the Rules. For example, an employee who has been working at least half-time on a regular biweekly schedule is entitled to service credit for that employment. An employee who has been working less than half-time and less than five days a week would not be entitled to service credit (for Attendance Rules purposes) for that employment upon moving to a position subject to these Rules. For a complete discussion of what constitutes creditable service, see Section 26, Applicability, of this manual.

When an employee moves to a position covered by the Attendance Rules from a position in the Executive, Legislative or Judicial branch which is not covered by the Attendance Rules, the employee's service **shall** be credited as State service for the purposes of the Attendance Rules, subject to the same limitations and restrictions which apply upon movement between two positions subject to the Rules.

When an employee moves to a position covered by the Attendance Rules from a position with any other public agency (not Executive, Legislative or Judicial branch), the employee's service with such public agency may be credited as State service for the purposes of the Attendance Rules **only** if there is a reciprocal agreement governing the crediting of such employment as State service in effect at the time the employee moves.

Transfer of Leave Credits

When an employee moves to a position subject to the Attendance Rules from a position in either one of the other two categories of public employment, as defined in this Section, which are not subject to the Rules (e.g., Legislative, Judicial, Executive unclassified, or public authorities), leave credits accrued and unused as of the effective date of such movement shall be transferred **only** if there is a written agreement between the President of the Civil Service Commission and the public agency wherein such employment occurred authorizing the transfer of such credits. (Refer to "Eligibility" in this Section concerning transfer of credits with no reciprocal agreement for certain Executive Branch employees.)

Each reciprocal agreement establishes the terms and conditions for the transfer of leave credits between the two parties entering into the agreement.

All leave credits that are transferred under any reciprocal agreement are transferred in terms of **days**. If there is a change in the number of hours in the basic workweek of the employee who moves, and leave credits are recorded in hours, the leave credits must be converted to reflect the new workweek. See Sections 21.2, 21.3, and 21.6 on transfer of vacation, sick leave, and personal leave credits.

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Examples of Transfers

An employee who moves directly from a full-time position with the Division of Military and Naval Affairs to a position in the Department of Civil Service anytime on or after October 1, 1967, the effective date of the reciprocal agreement, is entitled to both service credit and the transfer of accruals in accordance with the terms of the reciprocal agreement.

An employee in the unclassified service of SUNY, an Executive branch agency, who moves directly to the Department of Transportation is entitled to transfer service credit. In addition, this employee is entitled to transfer vacation, if any, and sick leave as described in the Attendance Rules Sections 21.2, Transfer of Vacation Credits, and 21.3, Transfer of Sick Leave Credits, and no reciprocal agreement is required because transfer of leave credits is authorized by Section 355 of the Education Law.

Related Legal Provisions

Section 136 of the Civil Service Law authorizes appointing authorities to establish attendance rules for institution teachers and those rules authorize transfer of leave credits.

Section 35 of the Civil Service Law defines certain positions in SUNY as unclassified and Section 355-a of the Education Law authorizes the transfer of leave credits.

Current Reciprocal Agreements

Copies of current written agreements between the President of the Civil Service Commission and eligible public agencies are included in Appendix G of this Manual.

When the provisions of this Section require the existence of a reciprocal agreement for the transfer of leave credits and/or service credits, such credits are transferable only if the employee movement takes place while the agreement is in effect and only with the agencies having such agreements for transfer of service and/or leave credits.

It is the policy of the Department of Civil Service that reciprocal agreements become effective on the twentieth day following signature by both parties. This ensures adequate time to publicize such agreements prior to their effective dates. In exceptional cases, however, agreements may become effective on the day following signature by both parties.

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Expired Reciprocal Agreements

A list of expired Reciprocal Agreements is available in Appendix G. Questions concerning expired reciprocal agreements may be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.