

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE  
ATTENDANCE AND LEAVE MANUAL  
POLICY BULLETIN NO. 2011-08**

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TO: Manual Recipients  
FROM: Blaine Ryan-Lynch, Director of Staffing Services  
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

## **Introduction**

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in Budget Bulletin B-1197 as they relate to the Deficit Reduction Plan (DRP) for Management/Confidential (M/C) employees. All M/C employees in the Executive branch are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP reduces employee compensation by 4.198% for the last nine pay periods which are paid in the 2011–2012 State Fiscal Year (SFY) and 2.008% for all paychecks which are paid in the 2012–2013 SFY. The 2011–12 SFY compensation reductions will commence with the paycheck issued December 1, 2011 for employees on the Institution Lag payroll calendar and with the paycheck issued December 7, 2011 for employees on the Administration Lag payroll calendar. Deficit Reduction Leave (DRL) will be available for M/C employee use as of November 15, 2011, regardless of which payroll calendar covers the employee. Specifically:

- Nine days of DRL will be credited to full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, and related laws and policies are impacted by the DRP.

## **DEFICIT REDUCTION PLAN ATTENDANCE AND LEAVE GUIDELINES**

### **Eligibility**

All M/C employees in the Executive branch will be subject to this DRP regardless of coverage under the Attendance Rules, except that M/C employees who have an hourly rate of less than \$7.57 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY. M/C employees who have an hourly rate of less than \$7.40 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

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**Earning Deficit Reduction Leave (DRL)**

Full-Time Annual-Salaried Employees

Full-time annual-salaried employees are credited with nine days of DRL, based on their basic workweek of either 37.5 or 40 hours on November 15, 2011. For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 67.5 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 72 hours of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with nine prorated days of DRL based on their current employment percentage on November 15, 2011.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 33.75 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL.

As stated earlier, employees on the payroll on November 15, 2011 are credited on that date with their full allotment of DRL (nine days, prorated for part-time employees). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after November 15, 2011.

The table below specifies the DRL hours earned by M/C employees for the duration of this DRP. The hours earned by an employee depend on the hours in the employee's bi-weekly workweek, and the SFY in question.

Pay Basis	Biweekly PP Hours	2011-12 SFY DRL Factor		2012-13 SFY DRL Factor	
		DRL Factor	Duration	DRL Factor	Duration
26pp	75	3.15 Hrs / Pay Period	9PP's	1.51 Hrs / Pay Period	26 PP's
26pp	80	3.36 Hrs / Pay Period	9PP's	1.61 Hrs / Pay Period	26 PP's

Employees entering M/C employment after November 15, 2011

To determine the amount of DRL to be credited to an employee who becomes subject to the M/C DRP after the start of the M/C DRP, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

$$((2011-12 \text{ DRL Factor}) \times (\text{Remaining Pay Periods of } 2011-12 \text{ SFY Factor Duration}) \times (\text{Employee's payroll percentage})) + ((2012-13 \text{ DRL Factor}) \times (\text{Remaining Pay Periods of } 2012-13 \text{ SFY Factor Duration}) \times (\text{Employee's FTE equivalent}))$$

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For example, a half-time employee (50% payroll percentage) who is hired 6 weeks (3 pay periods) after the start of the DRP with a 26 pay period work year and 80 hour biweekly pay period would be entitled to DRL credit as follows:

$$((3.36) \times (6) \times (.5)) + ((1.61) \times (26) \times (.5)) = 31.00 \text{ Hours of DRL (3.88 Days)}$$

Extra Time Worked

Both full and part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly pay period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value from the table above (in this case, 1.61 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.81 hour) by the number of pay periods (three) and round the product to the nearest quarter-hour, yielding an additional DRL credit of 2.50 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) with 26 pay periods in a work year would be credited with 72 hours of DRL on November 15, 2011. If the employee worked 16 hours of extra service in two pay periods during the 2012–13 SFY (20% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (in this case 1.61 hours per pay period) by 0.2 to prorate for a 20% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .64 hours).

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP. This pro-rated amount should be based on an individual's schedule during the remainder of SFY 2011–2012 and an agency's schedule for such employee for SFY 2012–2013. For example, an agency that has employed an hourly employee for approximately 20 hours per week (where

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a 40 hour workweek is used) in a 26 pay period work year during SFY 2011–12 and plans on continuing such employee at 20 hours per week, should credit such employee with 36 hours of DRL on November 15, 2011. This is based on 9 pay periods of the 2011–12 SFY DRL Factor of 1.68 hours per pay period (full-time rate prorated for 50% work schedule) plus 26 pay periods of the 2012–13 SFY DRL Factor at a rate of (0.81 hours per pay period (full-time rate prorated for work schedule), rounded down to the nearest quarter-hour. If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

Voluntary Reduction in Work Schedule (VRWS) Employees

Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees

Per diem employees are also subject to the DRP and therefore are entitled to DRL once the DRP begins. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

**Using DRL**

All DRL credits must be used prior to the end of the 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. For the **2013 calendar year only**, the vacation credit balance of an employee may not exceed 45 days on January 1, 2013.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences, such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

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Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

### **Time Record Maintenance**

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

### **Separations**

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the M/C DRP for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee's vacation, holiday leave, floating holiday leave, overtime non-compensatory time and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour):

$$(\text{DRL hours charged}) - ((2011-12 \text{ DRL Factor}) \times (\text{Pay Periods of 2011-12 SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage})) + ((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of 2012-13 SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage}))$$

For example, a full-time employee (1 FTE) (26 pay period work year, 80 hour biweekly workweek) who participates in the DRP for all 9 pay periods in the 2011-12 SFY and 5 pay periods in the 2012-13 SFY leaves State service after charging all 9 DRL days (72 DRL hours) will have other accruals offset based on the following calculation:

$$(72.00 \text{ hours}) - ((3.36) \times (9) \times (1)) + ((1.61) \times (5) \times (1)) = (72.00 \text{ hours}) - (38.29 \text{ hours}) = 33.71 \text{ hours}$$
  
rounded down to 33.5 hours (4.19 days) to be offset by charges to other leave accruals

There is no lump sum payment for unused days of DRL.

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**Movement from a position subject to the M/C DRP to a position not subject to the M/C DRP**

Agencies will have to adjust the DRL credited to an employee who leaves the M/C position for a position in another bargaining unit. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter hour):

$$((2011-12 \text{ DRL Factor}) \times (\text{Pay Periods of } 2011-12 \text{ SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage})) + ((2012-13 \text{ DRL Factor}) \times (\text{Pay Periods of } 2012-13 \text{ SFY Factor Duration in which employee participated in the DRP}) \times (\text{Employee's payroll percentage}))$$

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see "*Separations*" section for calculation) prior to leaving the M/C position.

For example, a full-time employee (26 pay period work year, 80 hour biweekly workweek) who participates in the DRP for 9 pay periods in the 2011-12 SFY and 5 pay periods in the 2012-13 SFY changes to another position after charging 4 DRL days (32 DRL hours). An agency would make the following calculations:

DRL earned:  $((3.36) \times (9) \times (1)) + ((1.61) \times (5) \times (1)) = 38.29$  hours (rounded down to 38.25 hours) of earned DRL

DRL Retained / Offset:  $(38.25 \text{ hours of earned DRL}) - (32 \text{ hours of charged DRL}) = 6.25$  hours of DRL retained by the employee in the employee's new unit until March 31, 2013.

NOTE: Earned and unused DRL retained by an employee who leaves the M/C position prior to March 31, 2013 will expire on March 31, 2013.

**Promotion or Reassignment within an Agency or Within a Facility or Institution**

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

**Movement from one Agency to another or between Facilities or Institutions within an Agency**

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

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### **Movement under a Reciprocal Agreement**

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

### **Sick Leave at Half-Pay**

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with nine days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

### **Workers' Compensation Benefits**

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers' compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers' Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

DRL charged during a period of workers' compensation leave for which the State has received a "Credit New York State" issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period.

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### **Income Protection Plan**

Employees on Short Term Disability (STD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees on Long Term Disability (LTD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees who go on STD/LTD after the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

### **Military Leave**

Annual-salaried employees on military leave on November 15, 2011 will be credited with 9 days of DRL. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before March 31, 2013. Similarly, questions regarding excess DRL should be directed to the Attendance & Leave Unit.

Annual-salaried employees who go on military leave following November 15, 2011 will need to have their DRL credit computed as described above based on the applicable biweekly DRL rate. Questions about this should be directed to the Attendance & Leave Unit.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

### **Leave Donation**

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

### **Family and Medical Leave Act (FMLA)**

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.



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The page numbers have changed for much of the material in the Manual with this January 1991 update. Therefore the page numbers for subject matter in other sections of the Manual referenced in the Appendix may be incorrect.

Until this Appendix is reissued incorporating the revised page numbers, care should be taken to refer back by Section number and subject matter, but not by specific page numbers.

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INTRODUCTION

The purpose of this Appendix is to identify attendance and leave provisions applicable to Managerial/Confidential employees.

The M/C Attendance Rules were adopted in March 1981 to provide authorization for leave benefits for M/C employees. They constitute Parts 27 - 33 of Title IV of the Official Compilation of Codes, Rules and Regulations. (Parts 20 - 26 are the Rules for Nonmanagerial/Confidential Employees. Both sets of Rules are reprinted in Appendix A.) The M/C Rules were written to parallel the Non-M/C Rules and also to incorporate the complete benefit available to M/C employees. (The Non-M/C Rules do not contain the complete benefit for negotiating unit employees since these Rules are modified by the contracts.)

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#### ORGANIZATION

This Appendix compares and contrasts the M/C Rule provisions with the Non-M/C Rule and related contract provisions. It lists the sections of the M/C Attendance Rules followed by the corresponding section of the Attendance Rules for Nonmanagerial/Confidential employees. The Non-M/C Rule section number is also the section number of this Manual which contains the applicable interpretive material. For example, under "Section 28-1.2 Vacation," in this Appendix, the corresponding Rule Section is 21.2. This means that Rule Section 21.2 is the Non-M/C Rule on vacation and Section 21.2 of this Manual contains a discussion of the vacation benefit. Following the "Corresponding Rule Section" subheading are two other subheadings: "Rule Interpretation Pages" and "Contract Interpretation Pages," which reflect the organization of each Manual section. Because the benefits for M/C and Non-M/C employees are so similar, this Appendix indicates which discussions in the main body of the Manual apply to M/C employees; this Appendix only details differences between the benefits. For example, under "Section 28-1.2 Vacation," this Appendix indicates that the Rule interpretation pages in Section 21.2 of the Manual "apply"; i.e., describe the benefit for M/Cs, and there is a list of contract interpretation pages which "apply" to M/Cs as modified by the discussion in this Appendix. Contract interpretation pages that are not listed do not apply to M/C employees.

The description of the attendance and leave provisions of the Income Protection Plan (IPP) begins on page 10 of this Appendix. Since this program applies only to M/C employees, there is no discussion elsewhere in the Manual.

The description of attendance and leave benefits for part-time employees in Appendix D and for those on compressed workweeks in Appendix C applies to M/C employees with the exceptions noted in those appendices. M/C employees are subject to the provisions of the reciprocal agreements found in Appendix G. Appendix C, Seasonal Employment, does not apply to M/C employees.

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SECTION 27.1 BASIC WORKWEEK

Corresponding Rule Section - 20.1  
Rule interpretation pages - apply  
Contract interpretation pages - not applicable

SECTION 27.2 RECORD OF ATTENDANCE

Corresponding Rule Section - 20.2  
Rule interpretation pages - apply  
Contract interpretation pages - not applicable

SECTION 27.3 TARDINESS

Corresponding Rule Section - 20.3  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:  
Excused Tardiness (p. C-1)

General discussion on excused tardiness applies to M/C employees whose tardiness is caused by direct emergency duties as duly authorized volunteer ambulance squad members, volunteer fire fighters, enrolled civil defense volunteers and enrolled civil air patrol volunteers.

SECTION 28-1.1 SUNDAYS AND HOLIDAYS

Corresponding Rule Section - 21.1  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:

Holiday Observance (pp. C-1 to C-3)

M/C seasonal employees without Attendance Rules coverage do not observe holidays.

Martin Luther King Jr. Day (p. C-4)

Designation of Floating Holidays (pp. C-5 and C-6)

Observance of Saturday Holidays - Part-Time Employees (p. C-7)

Anticipated Eligibility to Observe Holidays (p. C-8)

Holiday Pay - General Provisions (pp. C-9 and C-10)

M/C employees are subject to Section 144 of the Budget Director's Rules and Regulations which stipulate that M/C employees, grade 23 and above, are ineligible for holiday pay and receive holiday leave for the first 7 1/2 or 8 hours worked on the holiday.

Holiday Pay - Special Holidays (pp. C-11 and C-12)

Holiday Pay - Holiday Call-In (p. C-14)

Holiday Accruals (pp. C-15 and C-16)

The M/C benefit is identical to that available to PS&T employees.

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SECTION 28-1.2 VACATION

Corresponding Rule Section - 21.2

Rule interpretation pages - apply

Contract interpretation pages - apply as follows:

Additional Vacation Credit (pp. C-1 and C-2)

M/C employees who are eligible to earn and accumulate vacation shall be credited with additional vacation upon completion of 20 years of continuous service and upon completion of each additional year as follows:

<u>Completed Years of Continuous Service</u>	<u>Additional Days of Vacation Credits</u>
20 - 24	1
25 - 29	2
30 - 34	4
35 or more	5

Minimum Units of Liquidation (p. C-3)

Maximum Accumulation (pp. C-4 through C-7)

See description of vacation maximum applicable to PS&T and RRS Units.

SECTION 28-1.3 SICK LEAVE

This Rule applies to M/C employees appointed before 1/1/86 and M/C employees with prior creditable service who return or who become M/C on or after 1/1/86 who either elect not to participate in the IPP or who are not eligible to participate.

Corresponding Rule Section - 21.3

Rule interpretation pages - apply

Contract interpretation pages - apply as follows:

Maximum Accumulation (pp. C-1 and C-2)

The maximum accumulation of sick leave for M/C employees is 200 days.

Minimum Units of Liquidation (p. C-5)

Leave for Bereavement or Family Illness (pp. C-6 and C-7)

The general discussion applies to M/C employees.

Medical Certificates (pp. C-12 through C-14)

The general discussion applies to M/C employees.

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SECTION 28-1.4 EXTENDED SICK LEAVE

This Rule applies to M/C employees appointed before 1/1/86 and M/C employees with prior creditable service who return or who become M/C on or after 1/1/86 who either elect not to participate in the IPP or who are not eligible to participate.

Corresponding Rule Section - 21.4  
Rule interpretation pages - apply  
Contract interpretation pages - none

SECTION 28-1.5 SICK LEAVE AT HALF-PAY

This Rule applies to M/C employees appointed before 1/1/86 and M/C employees with prior creditable service who return or who become M/C on or after 1/1/86 who either elect not to participate in the IPP or who are not eligible to participate and M/C employees appointed on or after 1/1/86 with no prior creditable service who are ineligible for the IPP.

Corresponding Rule Section - 21.5  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:  
Only discussion of Probationary Employees (C-2), Employee Requests for Sick Leave at Half-Pay (C-4) and Sick Leave at Half-Pay for Less Than Full-Day Absences (C-4) apply to M/C employees.

NOTE: A discussion of sick leave and extended sick leave for IPP participants (Rules 28-2.1 and 28-2.2) begins on page 8.

SECTION 28-1.6 PERSONAL LEAVE

Corresponding Rule Section - 21.6  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:  
Use of Personal Leave (pp. C-1 through C-4)  
General discussion applies.  
Minimum Units of Liquidation (p. C-5)



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#### SECTION 28-1.7 LEAVE FOR EXTRAORDINARY WEATHER CONDITIONS AND EXTRAORDINARY CIRCUMSTANCES

Corresponding Rule Section - 21.7

Rule interpretation pages - apply

Contract interpretation pages - apply

M/C employees, like PS&T employees, directed not to report to work by the Governor during a declared state of emergency do not charge absences to leave credits (see PS&T discussion, Section 25.1, pp. C-1 and C-2).

Discussion of directed early departures is found in Section 25.1 beginning on p. C-1.

#### SECTION 28-1.8 WORKERS' COMPENSATION LEAVE

Corresponding Rule Section - 21.8

Rule interpretation pages - apply

Contract interpretation pages - apply with the following modifications:

##### Workers' Compensation Leave Program

Calculation of the six month workers' compensation leave with pay is 131 workdays rather than the 182.5 calendar days available to bargaining unit employees (see p. C-14).

##### Workers' Compensation Supplemental Benefit Program

1. The program for M/C employees applies to injuries and diseases which result from incidents occurring on or after September 1, 1986. (For employees represented by CSEA, PEF and DC-37, the effective date is April 1, 1986. See p. C-21.)
2. There is no period stipulated in rule during which an M/C employee must report an occupational injury or disease to the employer to avoid having the supplemental portion of the pay benefits withheld. (The affected union represented employees must report within seven days.)

Agency accident reporting procedures and agency call-in procedures requiring that employees report unscheduled absences on the first day of such absence place sufficient

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responsibility on M/C employees for reporting accidents and resultant absences in a timely fashion.

3. M/C employees absent due to an occupational injury or disease, who exhaust their leave credits pending receipt of the award and supplement, must complete and submit a request for advanced leave to continue in full paid leave status rather than on leave with half-pay or leave without pay. (The affected union represented employees must request not to be given advanced leave. See p. C-23.)

#### SECTION 28-1.9 LEAVE FOR SUBPOENAED APPEARANCE AND JURY ATTENDANCE

Corresponding Rule Section - 21.9

Rule interpretation pages - apply

Contract interpretation pages - not applicable

#### SECTION 28-1.10 LEAVE FOR CIVIL SERVICE EXAMINATIONS

Corresponding Rule Section - 21.10

Rule interpretation pages - apply

Contract interpretation pages - apply with the following modifications:

If an M/C employee's work shift ends less than eight hours prior to the starting time of a Civil Service examination, such employee may be allowed leave with pay without charge to leave credits for part or all of such shift at the discretion of the appointing authority. If the employee can be spared, such time off must be with pay without charge to credits.

#### SECTION 28-1.11 LEAVE FOR QUARANTINE

Corresponding Rule Section - 21.11

Rule interpretation pages - apply

Contract interpretation pages - none

#### SECTION 28-1.12 LEAVES REQUIRED BY LAW

Corresponding Rule Section - 21.12

Rule interpretation pages - apply

Contract interpretation pages - apply as follows:

Leave for Professional Meetings (p. C-1)

(See Section 28.1-14 below.)

Leave for Professional Examinations (p. C-2)

(See Section 28.1-15 below.)

Leave for Social Activities (p. C-4)

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SECTION 28-1.13 LEAVE FOR CIVIL DEFENSE DUTIES

Corresponding Rule Section - 21.13  
Rule interpretation pages - apply  
Contract interpretation pages - none

SECTION 28-1.14 LEAVE FOR PROFESSIONAL MEETINGS

Corresponding Rule Section - none  
Rule interpretation pages - none  
Contract interpretation pages - apply as follows:  
Section 21.12, p. C-1. Discussion of leave for professional meetings applies except that there are no limits on the number of days of leave for professional meetings that the appointing authority may grant to M/C employees on a discretionary basis nor is there any limit on the number of employees who can be approved to attend a professional meeting.

SECTION 28-1.15 LEAVE FOR PROFESSIONAL EXAMINATIONS

Corresponding Rule Section - none  
Rule interpretation pages - none  
Contract interpretation pages - apply as follows:  
Section 21.12, p. C-2. Discussion of leave for professional examinations.

NOTE: A discussion of sick leave for IPP participants (Rules 28-2.1 and 28-2.2) begins on page 8.

SECTION 29.1 LEAVE OF ABSENCE; DURATION

Corresponding Rule Section - 22.1  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:  
Leave for Pregnancy, Childbirth, Child Care and Adoption (pp. C-1 through C-7).

SECTION 29.2 SUCCESSIVE LEAVES OF ABSENCE

Corresponding Rule Section - 22.1  
Rule interpretation pages - apply  
Contract interpretation pages - none

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SECTION 30.1 PAYMENT FOR ACCRUALS UPON SEPARATION

Corresponding Rule Section - 23.1

Rule interpretation pages - apply

Employees who retire, die or are terminated under Section 71 or 73 of the Civil Service Law while on STD or LTD are entitled to receive a lump sum payment for accrued and unused vacation up to a maximum of 30 days and accrued and unused overtime compensatory time up to 30 days. Such employees who participated in the VRWS program are also entitled to a lump sum payment for all accrued and unused VR credits.

Contract interpretation pages - not applicable

SECTION 30.2 PAYMENT FOR ACCRUALS UPON ENTRY INTO ARMED FORCES

Corresponding Rule Section - 23.2

Rule interpretation pages - apply

Contract interpretation pages - none

SECTION 30.3 PAYMENT FOR OVERTIME ACCRUALS UPON APPOINTMENT, PROMOTION OR TRANSFER

Corresponding Rule Section - 23.3

Rule interpretation pages - apply

Contract interpretation pages - none

SECTION 31.1 WRITTEN AGREEMENT REQUIRED FOR TRANSFER OF LEAVE CREDITS

Corresponding Rule Section - 24.1

Rule interpretation pages - apply

Contract interpretation pages - apply

SECTION 32.1 SUSPENSION OF RULES

Corresponding Rule Section - 25.1

Rule interpretation pages - apply

Contract interpretation pages - apply

M/C employees, like PS&T employees, directed not to report for work by the Governor during a declared state of emergency do not charge absences to leave credits. (See PS&T discussion pp. C-1 and C-2.)

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SECTION 33.1 TO WHOM RULES APPLY

Corresponding Rule Section - 26.1  
Rule interpretation pages - apply  
Contract interpretation pages - apply as follows:  
    Part-Time Annual Salaried Employees (pp. C-1 and C-4)  
    Hourly and Per Diem Employees (pp. C-5 through C-7)

SECTION 33.2 EXCEPTIONS

Corresponding Rule Section - 26.2  
Rule interpretation pages - apply  
Contract interpretation pages - none

INCOME PROTECTION PLAN

The following is a discussion of sick leave and extended sick leave for Income Protection Plan (IPP) participants.

SECTION 28-2.1 SICK LEAVE

This Rule applies to:

- a) M/C employees appointed before 1/1/86 and M/C employees with prior creditable service who return or who become M/C on or after 1/1/86 who elect to participate in the IPP.
- b) All M/C employees hired on or after 1/1/86 with no prior creditable service regardless of eligibility for IPP.

Corresponding Rule Section - none  
Rule interpretation pages - none  
Contract interpretation pages - none

Eligibility

All annual salaried M/C employees who are scheduled to work at least half-time and are in positions subject to Article II of the Attendance Rules for Employees in New York State Departments and Institutions are eligible to participate in the IPP.

To receive LTD benefits, employees who participate in the IPP must have rendered at least six months of active service (exclusive of days of leave without pay) and must be members of a public retirement system of this State (including political subdivisions) or an optional retirement program.

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Prior Creditable Service. The term "prior creditable service" means State service prior to January 1, 1986 (regardless of negotiating unit, including service with the 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; i.e., annual salaried, regularly scheduled to work either five days per week or 50% per biweekly pay period) 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. (NOTE: This is the same definition of prior creditable service used for purposes of calculating the rate at which vacation is accrued.)

In some cases, "prior creditable service" will be the determining factor in ascertaining whether a particular employee's participation in the IPP is optional or mandatory. An eligible employee with creditable State service prior to January 1, 1986 may choose either to participate in the IPP or to continue to accrue sick leave under Section 28 of the Attendance Rules. If he/she elects to participate, the new Section 28-2.1 will control; under it the employee receives four days of sick leave on the effective date of appointment, which becomes the first sick leave grant date. Eligible employees appointed on or after January 1, 1986, with no creditable State service prior thereto, must participate in the IPP. They are first eligible to receive sick leave six months from their date of appointment.

Some examples follow:

1. A full-time annual salaried employee is initially hired into State service in an ASU position on April 22, 1986 and earns sick leave at the rate of 13 days per year. On August 12, 1986 this employee moves to an M/C position. Effective August 12, this employee becomes a mandatory IPP participant with sick leave grant dates of February 12, and August 12, and is credited with four days of sick leave on each of those dates, the first grant being on February 12, 1987.
2. A full-time annual salaried employee is hired on September 15, 1985 in the PS&T unit and earns sick leave at the rate of ten days per year. On January 15, 1986 this employee is appointed to an M/C position and is given the option of participating in the IPP. This employee's sick leave grant dates, if the IPP is selected, would be January 15 and July 15, and the employee would receive four days on each, the first grant occurring on January 15, 1986.



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3. A full-time annual salaried employee was employed in an OSU position from January 1980 through June 1985 when he resigned. He is appointed to an M/C position within one year of his date of resignation on May 15, 1986 and therefore has credit for his prior service. This employee is given the option to participate in the IPP. If the IPP is selected, this employee will receive four days of sick leave on May 15, 1986; his sick leave grant dates will be May 15 and November 15.

Effect of LWOP on Eligibility. Employees who are granted a leave without pay for one continuous year or less continue to be covered by the IPP. However, if an employee becomes disabled while on such leave without pay, eligibility for benefits will begin only on the day following the date on which the employee's leave without pay was scheduled to expire.

For example, an employee is granted a leave without pay from April 15, 1986 until April 14, 1987. The employee becomes disabled on November 1, 1986 but does not begin to receive IPP benefits until April 15, 1987, the day following expiration of the leave without pay.

Benefit eligibility is controlled by the date the employee returns to the payroll. The employee in the above example must serve a 14 calendar day waiting period beginning April 15, 1987 (or exhaust accrued sick leave, whichever occurs later) before receiving STD benefits.

Leave Benefits for Employees Who Lose IPP Eligibility. Employees lose coverage under the IPP if:

- 1) their work schedule drops below 50% per pay period or
- 2) they are no longer paid on an annual salaried basis or
- 3) they move out of the M/C Unit or
- 4) their employment terminates or
- 5) they are granted a leave without pay, for any reason, that exceeds one year.

Employees who are disabled and who are receiving IPP benefits at the time of loss of eligibility continue to receive IPP benefits for the duration of that incidence of disability.

For example, an employee's temporary M/C appointment terminates on June 15, 1986 and the employee reverts to her permanent ASU position. The employee has been on STD since March 1. The employee continues to receive STD benefits, followed by LTD benefits until she returns to work

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in December 1986. At that point, she begins to earn and accrue sick leave as an ASU employee.

If this employee becomes disabled due to the same disability within 90 days of her return to work, her absence is a continuation of her previous disability and she once again receives LTD benefits. Each time this employee files a claim and receives benefits for the same disability, the 90-day period begins as of the date she returns to work. If, on the other hand, she becomes disabled due to the same condition more than 90 days following her return to work, she would be eligible for the sick leave, sick leave at half-pay and sick leave without pay benefits available to her as an ASU employee. In calculating the number of pay periods of sick leave at half-pay to which such employee is entitled, time spent on STD counts as State service; time spent on LTD does not count for this purpose.

Should a formerly eligible person once again become eligible to participate in IPP, one of the following provisions will apply:

1. A person with prior creditable service who previously had enrolled in the IPP must again participate.
2. A person with prior creditable service who previously had declined to participate in the IPP may not now participate.
3. A person who has no credit for his/her prior service must be treated as a new employee and is automatically enrolled in the IPP.

Some examples follow:

1. Employee A elected to enroll in the IPP on January 1, 1986 and in June 1986 transferred to a PS&T position and served continually until February 1988 when this employee receives an appointment from a promotion list to a position designated M/C. Since this employee has prior creditable service and previously enrolled in the IPP, she is now an automatic IPP participant.
2. Employee B elected not to enroll in the IPP on January 1, 1986 and resigned in November 1986. In June of 1988 he is reinstated by the Civil Service Commission which gives him prior creditable service. This employee is covered by the sick leave provisions of Section 28.3 of the Attendance Rules and may not enroll in the IPP.



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3. Employee C elected not to enroll in the IPP on January 1, 1986 and resigned in June 1986. This employee returns to State service from an open competitive eligible list in September 1988 and is automatically enrolled in the IPP.

#### Crediting Sick Leave

Plan participants retain their current sick leave accruals and earn new sick leave of eight days per year, cumulative to a maximum of 200 days. Employees may not be credited with sick leave in excess of 200 days. Therefore, an employee with 200 days of sick leave on his/her grant date cannot be credited with sick leave since this would cause the employee to exceed the maximum. An employee with a sick leave balance of 199 days on the sick leave grant date will receive one sick leave day to bring him/her up to the 200-day maximum.

Present provisions governing the use of sick leave credits continue to apply.

Sick leave for IPP participants is granted at the rate of four days (30 hours or 32 hours) each six months. The semiannual dates on which sick leave is credited are referred to as sick leave grant dates. Each IPP participant will have two sick leave grant dates six months apart.

For employees in State service prior to January 1, 1986 who elect to participate in the IPP beginning January 1, 1986, the first sick leave grant date will be January 1, 1986 and such employees will be credited with four days of sick leave on that day. The second sick leave grant date for such employees will be July 1. Any employee who enters the M/C Unit on or after January 1, 1986, who has creditable service prior to January 1, 1986 and who elects to participate in the IPP, receives four days of sick leave on the effective date of appointment to the M/C position. That date is the first sick leave grant date.

Employees with no prior creditable State service who are appointed to M/C positions must participate in the IPP; these employees receive four days of sick leave six months from the date of appointment. That date becomes their first sick leave grant date.

Sick leave grant dates are adjusted only if the employee is not in pay status on such dates. In that case, the sick leave grant date changes to the date of return to pay status. For example, an employee's sick leave grant dates are January 1 and July 1. The employee receives four days of sick leave on January 1 and goes on leave without pay from

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March 15 through December 14. The employee returns to the payroll on December 15. This employee receives four days of sick leave on December 15 which then becomes one of the two revised sick leave grant dates. (The second grant date becomes June 15).

Part-Time Schedules. Part-time employees are credited with four prorated days of sick leave on each of their sick leave grant dates based upon their percentage of full-time employment on such date rounded up to the nearest quarter-hour. For example, a half-time employee receives four half-time days (the equivalent of two full-time days, 15 or 16 hours) on each grant date.

Alternative Work Schedules. Employees are granted sick leave on the basis of their percentage of full time worked, not on the basis of scheduled workdays. Full-time employees receive 30 or 32 hours of sick leave (four 7 1/2-hour days or four 8-hour days) regardless of whether they work three, four or five days per week. Likewise, a half-time employee receives 15 or 16 hours of sick leave (four 3 3/4-hour or four 4-hour days) regardless of how many days per week (or how many hours per day) he/she is scheduled to work.

VRWS Agreements. Employees participating in a VRWS program are credited with four days of sick leave at the full-time rate (30 or 32 hours) on each of their sick leave grant dates.

NOTE: An employee's VRWS agreement is automatically cancelled on the day the employee begins receiving STD/LTD benefits.

#### Crediting Leave Accruals for IPP Participants Absent Due to Disability

Generally, for purposes of earning leave credits, employees on STD are treated as if they were on sick leave at half-pay, and employees on LTD are treated as if they were on leave without pay. The following chart applies as long as the disabled employee remains in State service.

Holidays. Employees absent on full pay charged to leave credits are eligible to observe holidays. As with employees on sick leave at half-pay and sick leave without pay, employees receiving STD and LTD are not eligible to observe any holidays occurring while receiving those benefits.

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<u>EMPLOYEE STATUS</u>	<u>ELIGIBILITY FOR ACCRUALS</u>			
	<u>SICK LEAVE CREDITS</u>	<u>PERSONAL LEAVE CREDITS</u>	<u>BIWEEKLY ANNUAL LEAVE CREDITS</u>	<u>ANNUAL LEAVE BONUS DAYS</u>
ABSENT ON SICK LEAVE (OR OTHER LEAVE CREDITS)	Yes	Yes	Yes	Yes
STD	Yes, if either six month grant date falls during STD period. Grant dates are not changed.	Yes, if anniversary date falls during STD period. Anniversary date is not changed.	No. Employee will earn biweekly leave accruals only upon return to pay status.	Yes, if anniversary date falls during STD period. Anniversary date is not changed.
LTD	No. If grant date(s) falls during LTD period, employee receives four days upon return to pay status. Grant date changes to date of return.	No. If anniversary date falls during LTD period, employee receives five days upon return to pay status. Anniversary date is changed to date of return.	No. Employee will earn biweekly leave accruals upon return to pay status. Annual leave is earned at a rate determined by the annual leave anniversary date.	No. If LTD period is less than six months and anniver- sary date falls during LTD period, bonus days are credi- ted upon return to pay status and anniver- sary date is not changed. If LTD period is six months or more, annual leave anniversary date is adjusted to account for LTD period.

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#### Use of Other Credits as Sick Leave for IPP Participants

IPP participants must exhaust all sick leave credits before becoming eligible to receive either STD or LTD benefits. However, they can choose whether they wish to use other credits (vacation, personal leave, holiday leave, overtime compensatory time, VR credits) as sick leave. If an employee, who does not have enough sick leave to cover the waiting period for STD (14 calendar days), chooses not to use other leave credits, he/she is entitled to sick leave without pay for the remainder of the waiting period before STD begins.

The decision to use other credits must be made by the employee before STD/LTD begins. Once the employee goes on STD/LTD, he/she cannot be returned to the payroll to liquidate other accruals. Since an employee can choose which and how many credits he/she wants to use, agencies should ensure that employees make a timely determination appropriate to their circumstances. For example, an employee approaching his/her personal leave anniversary date might want to use these credits. Also, since lump sum payments are not offset against STD/LTD benefits, employees can save some vacation or VR time without negative financial consequences.

There is one exception to the sequence described in the above paragraph. Employees disabled because of pregnancy and childbirth may, after exhausting sick leave and after receiving STD during the period of medical disability, elect to use credits other than sick leave while on child care leave. This election must be made known to the employer by the employee by the end of the disability period and must begin immediately following cessation of the disability.

#### USE OF LEAVE CREDITS DURING WAITING PERIODS FOR STD AND LTD

Short-Term Disability. The waiting period for STD benefits is the later of 14 calendar days from onset of disability or exhaustion of sick leave accruals. Employees enrolled in the IPP cannot be advanced sick leave under Section 28-1.4 of the Attendance Rules, but they may choose to use other credits or go on leave without pay for part or all of the waiting period.

Long-Term Disability. The waiting period for LTD benefits is the later of six months of absence from onset of disability or exhaustion of sick leave accruals.

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An employee is deemed to have exhausted sick leave accruals when his/her sick leave balance is less than the number of hours in that employee's next workday.

Workers' Compensation Leave. STD benefits are offset by all workers' compensation benefits. The employee granted workers' compensation leave with full pay will receive that full pay benefit for the first six months of disability and so will receive no STD payments. Should an employee exhaust his/her six month leave with full pay entitlement before entering a period of continuous disability that would qualify him/her for STD payments, the employee would receive STD payments reduced by the amount of payments awarded by the Workers' Compensation Board.

When an employee is receiving an STD or LTD benefit in connection with a workers' compensation illness or injury, such time counts toward the continuous year's absence for the purpose of Section 71 of the Civil Service Law.

Incidence of Disability. An incidence of disability is an absence due to illness or disability which is either continuous or is interrupted by return to work of less than three continuous months. An employee is required to serve only one waiting period for an incidence of disability. For example, an employee who is absent for eight months on STD/LTD returns to work for two months and is then once more absent for the same disability. This employee begins to receive LTD benefits again without having to serve another waiting period.

An employee continuously absent whose sick leave grant dates fall during a period of STD is not returned to the payroll to liquidate those credits but is continued on STD/LTD until the disability ends. Similarly, an employee absent intermittently whose sick leave grant dates occur when he/she is at work is not required to liquidate these credits if absent again for the same disability within three months of return to work.

#### SECTION 28-2.2 EXTENDED SICK LEAVE

This Rule applies to persons appointed on or after 1/1/86 with no prior creditable service who are ineligible for the IPP.

Corresponding Section - 21.4

Rule interpretation pages - apply as described in discussion below

Contract interpretation pages - none

This Rule provides that the appointing authority may, in its discretion, advance up to four days of sick leave to an

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employee absent due to personal illness who has exhausted accumulated sick leave, vacation and overtime credits.

Sick leave credits advanced under this Section must be repaid as soon as practicable following the employee's return to work from subsequent accumulations of leave credits.

Upon termination of the employee's services, any unrepaid advanced sick leave will be deducted from salary or wages due to the employee.

Except for the four-day limit on outstanding unrepaid sick leave, this Section is identical to Section 21.1, which provides for up to 5 days of extended sick leave for M/C employees appointed before 1/1/86 and M/C employees with prior creditable service who return or who become M/C on or after 1/1/86 who either elect not to participate in the IPP or who are not eligible to participate.