
 <p>Corrections and Community Supervision</p> <p>DIRECTIVE</p>	<p>TITLE</p> <p>Attendance-Holidays</p>		<p>NO. 2213</p>
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<p>SUPERSEDES</p> <p>DIR #2213 Dtd. 3/31/2014</p>	<p>DISTRIBUTION</p> <p>A</p>	<p>PAGES</p> <p>PAGE 1 OF 6</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p> <p>NYS Dept. of Civil Service Attendance and Leave Manual; NYS Election Law; Public Officer's Law; NYS Military Law</p>	<p>APPROVING AUTHORITY</p> 		

I. DESCRIPTION: Legal holidays recognized by the State entitle eligible employees to time off with pay. Employees required to work on a holiday may be granted either holiday pay or compensatory time off.

- A. Section 21.1 of the New York State Department of Civil Service Attendance and Leave Manual sets forth the legal holidays recognized by New York State Departments and institutions. Additional applicable criteria are included in the various employee organization contracts and Division of Budget rules and regulations on holiday pay and overtime.
- B. Listed below are provisions which govern holiday, holiday service, holiday compensation, and designated holidays with specific attendance rules.

II. POLICY

A. Holiday

1. The 12 legal holidays; New Year's Day, Dr. Martin Luther King, Jr. Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, and Christmas Day, observed by New York State as an employer, entitle eligible employees to time off with pay or, if such employees work on the holiday, alternate compensation in the form of time or pay.
2. If a holiday falls on a Saturday, the State does not observe it. The Governor may declare an alternate day for observance of holidays falling on Saturday. If an alternate day is not designated, negotiated agreements and the Attendance Rules extend holiday benefits to all eligible employees.
3. Holidays falling on a Sunday are observed on the following Monday.
4. Sick accruals may be charged, if appropriate, on a day designated for the employee's negotiating unit as a holiday by New York State. For absences on a holiday for reasons other than sick, or when sick accruals are not available, the employee is deemed to be observing the holiday. Accruals other than sick can be charged, if appropriate, for an absence on a day designated for the employee's negotiating unit as a floating holiday by New York State.

B. Holiday Service

1. It is the policy of the State that holiday work must be authorized by the Commissioner (the Department's appointing authority) or designee.
2. In Central Office, holiday work must be approved on an individual basis by the appropriate Executive staff member.

3. In Community Supervision Regional Offices, holiday work must be approved on an individual basis by the appropriate Bureau Chief.
4. In correctional facilities, the designated approving authority is the Superintendent. Because of the need to maintain security and other essential services, the Superintendent may designate other officials, such as Deputy Superintendents, Chart Sergeants, and Nurse Administrators, to approve holiday work.

C. Holiday Compensation

1. Eligibility for Compensation: All employees who are subject to the Attendance Rules and/or meet the requirements of the negotiated agreements for observing holidays are eligible for compensation. Employees who are on jury duty, military leave, workers' compensation leave at full pay without charge to leave credits, or sick leave at half-pay are not eligible to observe holidays, i.e., the employee is neither entitled to additional cash compensation nor compensatory time off for a holiday that falls during such periods of paid leave. The exception is a floating holiday which may be credited in accordance with the Attendance Rules or negotiated contract provisions. Eligible employees are:
 - a. All full-time annual salaried employees;
 - b. All part-time annual salaried employees who work a fixed schedule five days a week and part-time annual salaried employees who work at least half time during a pay period provided the holiday and work schedule coincide;
 - c. All full-time per diem and hourly employees who have attained Attendance Rules coverage; and
 - d. All part-time per diem and hourly employees who have attained Attendance Rules coverage, when the holiday and scheduled workday coincide or the employee is directed to work on the holiday. Refer to Section 21.1 of the Attendance Rules for holidays that fall on a Saturday.
2. Computation of Holiday Compensation
 - a. The smallest unit of time that can be credited as holiday work is 1/4 hour in a 24 hour period. Subsequent time is credited in 1/4 hour units.
 - b. Compensation is made only for the actual time worked on the holiday during the hours that correspond to the employee's work shift, excluding any absences that may be needed for meals, up to a maximum of 7 1/2 or 8 hours except in situations involving the recall of an employee eligible for holiday recall pay.
 - c. Each full day of holiday work is compensated at the rate of one-tenth of the employee's biweekly salary which includes the appropriate geographic, locational, inconvenience, or shift pay. Thanksgiving and Christmas Day, however, are compensated at one and one-half times such rate for employees in the Administrative, Institutional, Operational, and PS & T bargaining units. Compensation for less than a full day of work on a holiday will be prorated.

- d. Overtime eligible employees who are on a 40 hour work week are paid time and one-half for time worked in excess of 40 hours. If holiday work also results in an employee's working more than the number of hours in his or her basic work week, the Budget Director's overtime rules apply.
Employees on a 37 1/2 hour work week are likewise paid time and one-half for time worked in excess of 40 hours. The first 2 1/2 hours worked in excess of 37 1/2 hours result in compensatory time earned.
- e. Employees may request compensatory time off in lieu of holiday compensation by signing a waiver to this effect.
- f. Management/Confidential employees with a State salary grade at or above the grade 23 level are eligible to accrue compensatory time off (but not cash compensation) for time worked on a holiday only for the first 7 1/2 or 8 hours worked on the holiday.

D. Election Day

- 1. An employee who is required to work on Election Day is considered to have sufficient time to vote outside his or her work schedule if there are four consecutive hours either between the opening of the polls and the beginning of the work shift or between the end of the work shift and the closing of the polls.
- 2. An employee who is required to work on Election Day, but does not have four consecutive hours available outside his work schedule in which to vote, must be allowed the privilege of voting during his work schedule according to the following guidelines:
 - a. At least two working days prior to an Election Day, the employee shall notify his supervisor of the amount of time required from work to vote.
 - b. The employee's supervisor shall designate whether the absence allowed for voting will occur at the beginning or the end of the employee's work shift.
 - c. Employees must be excused from work to vote without loss of pay as long as their absence does not exceed two hours.
- 3. Not less than ten working days before an election, each facility, Community Supervision Regional Offices, and each Central Office work location must post sufficient notices (Attachment A) setting forth the provisions of Section 3-110 of the NYS Election Law. These notices are to be posted conspicuously so that they can be seen by every employee and shall be posted until the close of the polls on Election Day.
- 4. The rules in this directive concerning time off to vote do not apply to school or fire district elections.

E. Memorial Day and Veterans Day

- 1. Section 63 of the Public Officers Law provides that veterans "...who served on active duty in the armed forces of the United States...who were honorably discharged or separated from such service under honorable conditions..." shall be granted leave with pay without charge to credits on Memorial Day and Veterans Day, November 11th, or receive a day in lieu thereof. An employee would receive a day in lieu thereof in those situations in which the granting of time off would endanger the public safety or the safety or health of persons cared for by the State.

2. An eligible veteran as described in Section 63 of the Public Officers Law, who is eligible under Section 63 of the Public Officers Law for holiday benefits (law benefits) in connection with Memorial Day and November 11 (Veterans Day), may be entitled to receive both holiday pay and holiday time for the holiday depending on the employee's Holiday Waiver option.
 - Eligible veterans, who have filed a Regular Holiday Waiver option to receive holiday pay, are also entitled to be credited with compensatory time off for the holiday.
 - Eligible veterans, who have filed a Regular Holiday Waiver option for holiday time and have not filed a Special Holiday Waiver to receive holiday pay for work on Memorial Day and November 11 (Veterans Day), are entitled to compensatory time for the time worked on an hour-for-hour basis up to a maximum of 8 hours. The employee will not receive holiday pay.
 - Council 82 and NYSCOPBA employees who are eligible veterans are allowed, each year, to file a Special Holiday Waiver for contractual holiday compensation benefits for Memorial Day and November 11 (Veterans Day). The same election must apply to both holidays.

The employee must work the holiday to be effected by the Special Holiday Waiver.

Employees, who have a Regular Holiday Waiver option of holiday pay for work on holidays, receive holiday pay for all other holidays (unless they file a Special Holiday Waiver as eligible former reservists for Independence Day).

3. When Veterans Day, November 11th, falls on a Sunday and therefore is observed by the State on Monday, an eligible veteran who works on Sunday, November 11, is entitled to a day off under Section 63 of the Public Officers Law.
4. If on Memorial Day or Veterans Day an eligible veteran is absent from work the employee will be considered to be observing the holiday and will not be allowed to charge accruals other than sick leave, if appropriate.

F. Independence Day

1. Section 249 of the Military Law provides that an employee of the State who was a member of the National Guard or Naval Militia or a member of the Reserve Corps of the United States and has been honorably discharged therefrom shall be entitled to absent himself or herself from duty with pay on July 4th of each year or receive a day in lieu thereof.
2. An eligible former reservist who is eligible under Section 249 of the New York State Military Law for holiday benefits (law benefits) in connection with the Independence Day holiday may be entitled to receive both holiday pay and holiday time for the holiday, depending on the employee's Regular Holiday Waiver option.
 - Eligible veterans, who have filed a Regular Holiday Waiver option to receive holiday pay for working on Independence Day, are also entitled to be credited with compensatory time off for the holiday.

- Eligible veterans, who have filed a Regular Holiday Waiver option for holiday time and have not filed a Special Holiday Waiver to receive holiday pay for work on Independence Day, are entitled to compensatory time for the time worked on an hour-for-hour basis up to a maximum of 8 hours. The employee will not receive holiday pay.
- Council 82 and NYSCOPBA employees who are eligible veterans are allowed, each year, to file a Special Holiday Waiver for contractual holiday compensation benefits for Independence Day.

The employee must work the holiday to be effected by the Special Holiday Waiver.

Employees who have a Regular Holiday Waiver option of holiday pay for work on holidays, receive holiday pay for all other holidays (unless they file Special Holiday Waivers as eligible veterans for Memorial Day/Veterans Day).

3. When Independence Day, July 4th, falls on a Sunday and therefore is observed by the State on Monday, an eligible former reservist who works on Sunday, July 4th, is entitled to a day off under Section 249 of the Military Law.
 4. If on Independence Day an eligible former reservist is absent from work on accrued leave, his or her absence shall be charged as a holiday and not against accrued leave credits.
- G. Floating Holidays: A holiday may be designated as a floating holiday for Department employees with the exception of employees in the Security Services and Security Supervisors Units. These designations are made by the Governor's Office of Employee Relations on a yearly basis. Employees are therefore advised to refer to advisory memoranda issued by the Department of Civil Service each year regarding the observance of any holiday which may be designated as a floating holiday.



NEW YORK STATE ELECTION LAW § 3-110 **POSTING**

ATTENTION ALL NEW YORK STATE EMPLOYEES **WHO ARE REGISTERED VOTERS**

IF YOU DO NOT HAVE SUFFICIENT TIME OUTSIDE YOUR WORKING HOURS TO VOTE, YOU MAY TAKE OFF UP TO TWO (2) HOURS AT THE BEGINNING OR END OF YOUR SHIFT, WITH PAY, TO ALLOW YOU TIME TO VOTE.

SUFFICIENT TIME IS DEFINED AS: FOUR CONSECUTIVE HOURS EITHER BETWEEN THE OPENING OF THE POLLS AND THE BEGINNING OF YOUR WORKING SHIFT OR BETWEEN THE END OF YOUR WORKING DAY AND THE CLOSING OF THE POLLS.

YOU MUST NOTIFY YOUR EMPLOYER NO MORE THAN TEN (10) DAYS OR NOT LESS THAN TWO (2) DAYS BEFORE THE DAY OF THE ELECTION THAT YOU WILL TAKE THAT TIME.

Attention New York State Employers: Not less than ten (10) working days before every election, every New York State employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on Election Day.