

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

ATTENDANCE AND LEAVE MANUAL

ADVISORY MEMORANDUM NO. 2021-03

Section 21.1

May 2021

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TO: Manual Recipients
FROM: Jessica Rowe, Director of Staffing Services
SUBJECT: Independence Day Holiday Observance

A number of agencies have inquired about the holiday benefits for Independence Day this year that are available to eligible former reservists who served during peace time. Section 249 of the Military Law provides that eligible former reservists (as defined in that section) are entitled to leave with pay on July 4 or, if required to work that day, to a day off in lieu thereof.

Under the General Construction Law, holidays which fall on Sunday are observed by the State on the following Monday. Independence Day falls on Sunday, July 4, this year and will therefore be observed by the State on Monday, July 5. State offices will be closed on July 5, 2021.

Please be aware that there are additional benefits for Security Supervisors Unit (SSpU) and Security Services Unit (SSU) employees who are eligible former reservists. Those benefits are described in [Advisory Memorandum 2021-01 Special Holiday Waiver Memoranda of Understanding for Security Supervisors Unit \(SSpU\) and Security Services Unit \(SSU\)](#).

The following examples are provided to clarify how to apply the benefits provided by section 249 of the Military Law and by negotiated agreements when there are two calendar days involved.

Eligible former reservists who work on Monday, July 5, and who are not required to work on July 4 are not affected by section 249 since they have a day off on July 4. Such employees are entitled to holiday benefits for July 5 in accordance with the holiday provisions contained in the Attendance Rules and related contract provisions.

An eligible former reservist scheduled to work on July 4 and 5 and who has opted for holiday pay would receive a regular day's pay for work on July 4, compensatory time off for the time worked on July 4 (a section 249 benefit), and on July 5 would receive a day of holiday pay (a contractual benefit) in addition to the regular day's pay for time worked. The eligible former reservist who has a holiday leave option and is scheduled to work on July 4 and 5 would receive a regular day's pay for work on July 4, a day of compensatory time off (a section 249 benefit) and, for working July 5, a regular day's pay and a day of holiday leave (a contractual benefit).

If, in the examples cited above, either July 4 or 5 is a pass day on which the employee is required to work, the overtime eligible employee may be receiving overtime pay rather than regular pay. However, the holiday benefits under both section 249 and the contracts are applied in the same manner as described above.

Restoration of Honor Act

Veterans or former eligible reservists granted status in accordance with the Restoration of Honor Act (ROHA), may be eligible for leave under Section 249 of the Military Law, so long as they meet all other eligibility criteria under the law.

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The New York State Division of Veterans' Services adjudicates all Restoration of Honor Act applications. When an application meets the law's criteria for restoration of eligibility for the enumerated State benefits, the Division of Veterans' Services will issue a letter on its letterhead, signed by the agency's Director or designee, stating that the veteran now meets the character of discharge criteria for all of the benefits and services listed in the Restoration of Honor Act.

More information on the Restoration of Honor Act is available on the Division of Veterans' Services website at the following link:

<https://veterans.ny.gov/content/restoration-honor-act>

Questions about this holiday may be referred to the Attendance and Leave Unit of this Department at (518) 457-2295.