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May 2, 2025

**VIA FIRST CLASS MAIL:**

Allison Chris Myers  
Chairwoman and CEO  
New Jersey Civil Service Commission  
P.O. Box 310  
Trenton, NJ 08625-0310

**Re: Petition for Rule Amendments pursuant to N.J.A.C. 4A:1-1.4**

Dear Chairwoman Myers:

Please accept this letter as a petition for the amendment to an existing rule, N.J.A.C. 4A:1-1.3 to define the term “working day” in the Commission’s regulations. Authority for this petition may be found in N.J.A.C. 4A:1-1.4, which permits any interested person to file a petition with the Chairperson to promulgate, amend, or repeal a rule.

The Bergen County Sheriff’s Office requests this amendment to N.J.A.C. 4A:1-1.3 to clarify sick leaves and disciplinary standards for local police and fire employees working alternative schedules such as a “Pitman” Schedule or other schedule in which employees work longer daily shifts of 10, 11, or 12 hours, but work, on average, less than 5 days per week. Specifically, this petition seeks define the term “working day” in the Commission’s regulations to address an apparent ambiguity raised by the Public Employment Relations Commission (PERC), in a recent decision, In the Matter of Local 26, Respondent, and Borough of Lodi, Petitioner, P.E.R.C. No. 2025-6, 51 NJPER ¶ 28 (September 26, 2024).

In Lodi, supra, PERC held that the Commission’s regulation, N.J.A.C. 4A:6-1.3, mandates at least 15 “working days” of sick leave, but held that the Commission had not defined the term “working day” in reference to police and fire employees working compressed schedules with 12-hour days. This lack of definition has led to an anomalous result where PERC arbitrators have held that collectively negotiated agreements providing 120 hours of annual sick leave (15 8-hour days) are preempted by the Commission’s regulations and enabling statute, and have ordered municipalities

to grant employees upwards of 180 hours of annual sick leave (22.5 8-hour days) even though those employees work the same number of hours per year (or even fewer) as employees in a fixed 40-hour workweek titles. Petitioner anticipates that similar arguments will be forthcoming with regard to vacation leave based on the same lack of a definition for “working day.”

The Bergen County Sheriff’s Office submits that the Commission could provide clarity to its regulations for employees in local service while simultaneously removing ambiguity in leave entitlement for employees participating in alternative workweek programs in State service by defining “working day” as proposed herein. Such a definition would be consistent with the Commission’s prior determination in In re Raul Mier, North Hudson Regional Fire and Rescue, Civil Service Commission Docket 2015-2796 (October 12, 2015) that a “working day” is equal to no more than eight hours, regardless of the number of hours worked in a given shift.

**Petitioner Proposes amending N.J.A.C. 4A:1-1.3, to add the following definition:**

“Working Day,” when used in reference to accrual of sick leave or personal leave in Chapter Six, LEAVES, HOURS OF WORK, AND EMPLOYEE DEVELOPMENT, of this Title, or in reference to imposition of discipline in Chapter Two, APPEALS, DISCIPLINE, AND SEPARATIONS, of this Title, shall mean the following in both State service and local service:

- a. For employees assigned a standard workweek of 7 consecutive days, pursuant to 29 U.S.C. § 207, a working day shall equal one fifth of the hours worked in a regular workweek, regardless of the number of hours actually worked in a given day under an alternative workweek program (See N.J.A.C. 4A:6-2.7).

Example: a working day for an employee working a 35-hour workweek equals 7 hours. A working day for an employee working a 40-hour workweek equals 8 hours.

- b. For employees assigned a work period of greater than 7 days, such as a 28-day cycle pursuant to 29 U.S.C. § 207(k), a working day shall equal one fifth of the hours worked in an average 7-day workweek.

Example: An employee working a standard Pitman Schedule works 84 hours over a 14-day work period (60 hours in one week and 24 hours in the other), for an average of 42 hours per week. One fifth of 42 results in a working day of 8.4 hours.

Example: An employee working a schedule with an 8-day cycle of four 11-hour shifts followed by four days off will work 2,007.5 hours per year, or an average of 38.6 hours per week (based on a 52-week year). One fifth of 38.6 results in a working day of 7.7 hours.

Please feel free to contact the undersigned with any questions or concerns, or if the Commission requires anything further for review of this petition.

Thank you for your time and attention to this matter.

Very truly yours,

*/s Daniel E. Zwillenberg*

Daniel E. Zwillenberg  
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Cc: Via Electronic Mail  
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