



STATE OF NEW JERSEY

In the Matter of A.M., Plainfield

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2022-2055

Administrative Appeal

ISSUED: June 7, 2023 (SLK)

A.M., a Registered Environmental Health Specialist, Public Health with Plainfield, requests vacation leave entitlement based on her years of service.

By way of background, personnel records indicate that A.M. began employment with Irvington on August 13, 1998. Thereafter, she was intergovernmentally transferred to Plainfield as a Registered Environmental Health Specialist, Public Health, effective July 22, 2017.

In her request, A.M. presents that she submitted Family and Medical Leave Act (FMLA) forms to take leave in December 2021 and January 2022. She indicates that Plainfield’s personnel department (personnel) indicated that although she was supposed to have accrued new vacation and sick time at the start for 2022, because she did not work for most of January 2022, she did not accrue new vacation and sick time and she would not receive monetary compensation for either of her leaves in December 2021 or January 2022. A.M. indicates that although she has more than 25 years in local service, Plainfield is only providing her vacation time (13 days) based on her starting as a new employee in July 2017. She asserts that under Civil Service rules, she should have received vacation time based on all her years of local service.

Although given the opportunity, Plainfield did not submit any arguments in response to A.M.’s request.

CONCLUSION

N.J.A.C. 4A:6-1.2(b) provides that annual vacation leave for full-time local employees shall be at least:

1. From the beginning of the first full calendar year of employment and up to 10 years of continuous services, 12 working days;
2. After 10 years of service and up to 20 years of continuous service, 15 working days; and
3. After 20 years of continuous service, 20 working days.

N.J.A.C. 4A:6-1.2(c) provides that continuous services for the purposes of this section shall mean employment for the same jurisdiction, or, if the requirements of *N.J.A.C.* 4A:4.7.1A (the intergovernmental transfer rule) are met, employment from different jurisdictions, without actual interruption due to resignation, retirement, or removal.

N.J.A.C. 4A:6-1.2(g) provides, in pertinent part, that vacation leave not used in a calendar year because of business necessity shall be used during the next succeeding year only and shall be scheduled to avoid loss of leave time.

In this matter, personnel records indicate that A.M. began employment in Irvington on August 13, 1998, and she intergovernmentally transferred to Plainfield, effective July 22, 2017. Further, a review of personnel records indicates that her local service was without interruption due to resignation, retirement, or removal. Therefore, the record indicates that A.M. currently has more than 24 years of continuous service for the purposes of determining her vacation leave entitlement. As such, under *N.J.A.C.* 4A:6-1.2(b), A.M. is presently entitled to at least 20 vacation leave days per year.¹ However, A.M. asserts that Plainfield, for the purposes of determining her annual vacation leave, treated her intergovernmental transfer like she was a new hire, and she has only been entitled to take 13 vacation leave days per year.²

Therefore, the Commission finds that A.M. is entitled to 20 vacation leave days in 2023³ plus 20 carryover vacation leave days from 2022 less the pro-rated unearned vacation leave time while on any leave of absence in 2022 less the number of vacation

¹ It is noted that at the time of the intergovernmental transfer, A.M. had less than 20 years of continuous service. Therefore, she was only entitled to 15 days of vacation leave at that time.

² As Plainfield has not responded, the Civil Service Commission accepts A.M.'s assertion as undisputed.

³ In 2023, if A.M. has taken or will take any leaves of absences or separates from employment, the unearned pro-rated amount would reduce her vacation leave entitlement in 2023.

leave days that she used in 2022. Additionally, A.M. shall receive, at minimum, 20 vacation leave days in subsequent years.⁴

Concerning any claim that A.M. may be making for not receiving her full vacation entitlement prior to 2022, under *N.J.A.C. 4A:6-1.2(g)*, an employee can only carry over one year of unused vacation leave time. Regarding any claim that A.M. may be making to receive payment for her FMLA time in 2022 instead of carrying over vacation time to 2023, *N.J.A.C. 4A:6-1.2(g)* provides that the carry over shall be ***scheduled*** to avoid loss of leave time. In other words, carry over vacation leave time should be used, and compensation is not an appropriate remedy.

ORDER

Therefore, it is ordered that this request be granted in part.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7TH DAY OF JUNE, 2023



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⁴ An appointing authority is not prohibited from providing vacation leave time above the minimum amounts as indicated in the rules. Further, A.M. could use more than 20 vacation leave days in a subsequent year by carrying over a prior year's unused balance.