



DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF STATE HUMAN RESOURCE MANAGEMENT
POLICY GUIDELINE

STATE PERSONNEL SYSTEM

SUBJECT:

Payment of Holidays Upon Separation or Movement to Another Agency

POLICY GUIDELINE: HRM #2021-005

EFFECTIVE DATE: December 27, 2021

SUPERSEDES: *Rule Interpretation 60L-34-2010-#004: Payment of Holidays Upon Separation or Movement to Another Agency*

STATUTES/RULES/REGULATIONS/LAWS:

Section 110.117, Florida Statutes (F.S.), Paid Holidays

Rule 60L-34.0032, Florida Administrative Code (F.A.C.), Holidays

Rule 60L-34.004, F.A.C., General Requirements for Leave Earning, Approval, and Use

FORMS: N/A

ADDITIONAL REFERENCE MATERIALS: N/A

QUESTION AND ANSWER:

Question 1:

When a State holiday is observed on the workday that immediately follows the last physical day of work or paid leave of an employee separating from the State Personnel System (SPS), is the employee entitled to be paid for that holiday?

Answer:

Yes. There is no rule requirement that the employee must physically work on his/her last day of employment. Therefore, if the employee was in pay status for at least a portion of the workday prior to the holiday, the employee is eligible for holiday pay pursuant to Rule 60L-34.0032(1), F.A.C. For employees who meet this criterion and request to be paid the holiday in writing (e.g., by resignation letter or subsequent memo), the agency should process a Personnel Action Request (PAR) in the People First system that reflects the holiday as the "Last Day Employed". In other words, the employee will be separating on the holiday, regardless of whether or not they are required to work on the holiday.

Note: The reason employees should request payment in writing is because changing their separation date could have unknown adverse impact and should not be done without the employee's consent. For example, employees who are separating from the SPS with January 1 as the effective date of retirement (or who have 60 months of participation in the Deferred Retirement Option Program as of December) nullify their retirement if the New Year's Day holiday falls on January 1 and they are paid for that day. For this reason, agencies should not move any employee's separation date unless it has been requested by the employee.

(However, when New Year's Day falls on a Saturday and, pursuant to s.110.117, F.S., December 31 is observed instead, payment for the New Year's Day holiday should not have any impact on the employee's retirement.)

Question 2:

May the hire date of a new employee (not coming from another state government employer) be a State holiday? The current Chapter 60L-34, F.A.C., rules are silent on this.

Answer:

Yes. If agency needs require the new employee to perform work on the actual holiday, then the employing agency may make that holiday the employee's start (hire) date.

Note: Entitlement to a paid holiday as a benefit is only applicable when the employee is in pay status at least a portion of the previous workday. For employees not coming from another state government employer, the only way to be compensated for a starting day on which the State observes a holiday is by performing work on that day. That day is then treated like any other normal established workday and the employee is not eligible to earn special compensatory leave credits for hours worked on the holiday.

Question 3:

Pursuant to Rule 60L-34.004(7), F.A.C., the receiving agency pays for any State holiday that falls after the employee's separation from the exiting agency, provided that the employee moves to the receiving agency within thirty-one days of separation from the exiting agency. What happens if the employee moves to another agency within 31 days, but not immediately (i.e. the new employing agency does not actually hire the employee until one or more workdays have elapsed since the separation)?

Answer:

Rule 60L-34.004(7), F.A.C., is only applicable when the employee is hired immediately by the receiving agency, in which case the receiving agency pays for any hours worked, any approved leave, or any holidays falling after the employee's last day with the exiting agency.

However, if the employee misses any workdays as a result of not moving to the receiving agency immediately, then the employee has experienced a break in employment, notwithstanding the fact that 31 days have not elapsed. Consequently, those missed workdays and State holidays (if any) are not compensable unless the receiving agency is willing to assign a hire date that bridges those days and approves the employee's use of accrued leave transferred from the exiting agency to keep the employee in pay status, as needed, to ensure payment of any holiday.

APPLICABLE STATUTORY AND RULE CITATIONS:

Section 110.117, F.S., Paid holidays

- (1) The following holidays shall be paid holidays observed by all state branches and agencies:
- (a) New Year’s Day.
 - (b) Birthday of Martin Luther King, Jr., third Monday in January.
 - (c) Memorial Day.
 - (d) Independence Day.
 - (e) Labor Day.
 - (f) Veterans’ Day, November 11.
 - (g) Thanksgiving Day.
 - (h) Friday after Thanksgiving.
 - (i) Christmas Day.
 - (j) If any of these holidays falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

Rule 60L-34.0032, F.A.C., Holidays

(1) All employees are entitled to observe the holidays identified in Section 110.117 of the F.S.; provided, that to be eligible for holiday pay, an employee must be in pay status (actual work or paid leave) for at least a portion of the workday before the holiday. If an excluded employee in a senior management service position or a selected exempt service position is unable to observe a holiday, the employee may take an alternate day off during the work period; provided, that if the employee is unable to observe the holiday, the employee is not eligible for special compensatory leave as described below.

Rule 60L-34.004, F.A.C., General Requirements for Leave Earning, Approval, and Use

(7) If an employee moves from one agency to another within thirty-one days, the receiving agency shall pay the number of hours worked plus any approved leave with pay and any holiday falling after the employee’s last day with the exiting agency.

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