STATE PERSONNEL SYSTEM

SUBJECT:
Defining “Continuous Service”, State Government Creditable Service”, and “Creditable State Employment” for purposes of administering Rule 60L-34, Florida Administrative Code

POLICY GUIDELINE: HRM #2018-003  EFFECTIVE DATE: March 26, 2018

SUPERSEDES: Rule Interpretation Tracking Number 60L-34-2008-#001

STATUTES/RULES/REGULATIONS/LAWS:
Section 110.122, Florida Statutes (F.S.), Terminal payment for accumulated sick leave
Section 110.219, F.S., Attendance and leave; general policies
Rule 60L-34.0041, Florida Administrative Code (F.A.C.), Annual Leave

FORMS: N/A

ADDITIONAL REFERENCE MATERIALS: N/A

SCOPE AND PURPOSE OR ISSUE:
To assist State Personnel System (SPS) Human Resource professionals with the consistent administration and application of the concepts of “continuous service”, “state government creditable service”, and “creditable state employment”.

QUESTION AND ANSWER:

Questions 1 and 2:
For the purpose of determining the annual leave accrual rate for a Career Service employee, how is “state government creditable service” calculated?

For the purpose of paying terminal sick leave to all eligible SPS employees, how is “creditable state employment” calculated?

Answer:
Under Rule 60L-34, F.A.C., an employee accrues “state government creditable service” or “creditable state employment” when, pursuant to section 110.219(5)(b), F.S., the employee is in paid status or authorized leave without pay for at least one day of a calendar month or a portion thereof. For the purpose of paying terminal sick leave, this calculation of service credits applies to the Career Service (CS), Selected Exempt Service (SES), and Senior Management Service (SMS). Furthermore, this guidance is consistent with how the SPS determines an employee’s length of service in the SES or SMS for annual leave proration purposes.

Note: The method of accruing creditable service provided in this policy guideline is consistent with the manner in which creditable service is recognized in the retirement and group insurance rules, to the extent that neither of these program areas requires employment for the full...
Policy Guideline: Defining “Continuous Service”, “State Government Creditable Service”, and “Creditable State Employment” for purposes of administering Rule 60L-34, Florida Administrative Code

calendar month in order to accrue retirement service credit for that month or to be eligible for state (employer) insurance premium contributions for the following coverage month.

However, one important distinction remains. Pursuant to Florida Retirement System rules, the employee must be in pay status, even if only for one partial workday during the month. In contrast, even if the employee is on authorized leave without pay for the entire month, the employee accrues creditable service for leave administration purposes (pursuant to section 110.219(5)(b), F.S.) and is eligible for the state insurance premium contributions (pursuant to Management Advisory 15-003 issued by the Division of State Group Insurance).

**Question 3:**

For purposes of administering Rule 60L-34, F.A.C., what state entities constitute “state government”, “state government creditable service”, or “creditable state employment”?

**Answer:**

Under Rule 60L-34, F.A.C., the terms “state government”, “state government creditable service”, and “creditable state employment” refer to employment in a regular (non-OPS) position with the SPS, the State Court System, the Justice Administration Commission, the Legislature, the Florida Lottery, a state university, or the State Board of Administration.

**Question 4:**

When determining whether a separating Career Service employee is eligible for a terminal annual leave payment, what constitutes “twelve continuous months”?

**Answer:**

For purposes of administering Rule 60L-34.0041(6)(a), F.A.C., “twelve continuous months” is defined as the 12 continuous months of creditable “state government” service (as defined above in Questions 1 and 2), that immediately precede the employee’s separation. This equates to 365 consecutive calendar days including paid status and authorized leave without pay. The accumulation of 12 continuous months will not be interrupted by employment gaps of up to 31 days, since these gaps are not considered breaks in service. Therefore, the threshold for determining a terminal annual leave payment is when the employee has accrued at least 365 consecutive calendar days from their “Continuous Service Date”.

The following are examples of when a CS employee would or would not be eligible for a terminal payment of unused annual leave:

- An employee with no prior state service and no break in service since being hired on January 31, 2017 terminates on January 30, 2018.

  The employee would be eligible to receive a terminal payment for unused annual leave since the employee accrued a full 12 “continuous months” of creditable “state government” service, i.e., 365 consecutive calendar days, based on the “Continuous Service Date” of January 31, 2017.

- An employee with 12 months of prior state service was hired on January 31, 2017 following a break in service and then terminates on December 1, 2017.
Policy Guideline: Defining “Continuous Service”, “State Government Creditable Service”, and “Creditable State Employment” for purposes of administering Rule 60L-34, Florida Administrative Code

The employee would not be eligible to receive a terminal payment for unused annual leave since the employee did not accrue a full 12 “continuous months” of creditable “state government” service, i.e., 365 consecutive calendar days, based on the “Continuous Service Date” of January 31, 2017.

“Continuous Service Date” is the (most recent) date the employee has been continuously employed in a regular position without a break in service. Additionally, a break in service of over 31 days requires resetting the “Continuous Service Date” (and the “CS Continuous Service Date”) to the employee’s new appointment date. Therefore, agencies may rely on the “Continuous Service Date” (also used for People First system edits in the Leave Payout screen) as the most efficient method to determine if a separating CS employee has attained 365 consecutive calendar days in “state government”. Appropriately, this date does not account for any movement between pay plans (CS, SES, or SMS) or state government employers, nor employment gaps up to 31 days, none of which are breaks in service that restart the “Continuous Service Date”.

In sum, this guidance comports with SPS policy that a CS employee should not become eligible for a terminal annual leave payment until completing at least 12 continuous months, i.e., one year (365 consecutive calendar days) of continuous “state government” service, immediately preceding separation. Therefore, regardless of how many “Creditable Service Months” the employee has accrued in the People First system (Key Service Dates screen), if the past 365 consecutive calendar days immediately preceding separation includes a break in service (over 31 days), the employee will not be eligible for an annual leave payout.

**Note:** For detailed instructions and restrictions on payment and transfer of annual leave credits in general, review the following two rule interpretations:

- [Waiting Period for the Payment or Transfer of Accrued leave and Verification of Eligibility for Subsequent Payments for Separating Career Service, SES and SMS Employees](#);
- [Leave Transfers with Entities Outside of the State Personnel System](#).

**APPLICABLE STATUTORY AND RULE CITATIONS:**

**Section 110.122, F.S., Terminal payment for accumulated sick leave**

(1) All state branches, departments, and agencies which have the authority to establish or approve personnel policies for employees and to employee personnel and establish the conditions of their employment shall establish policies to provide terminal “incentive” pay for accumulated and unused sick leave to each employee upon normal or regular retirement for reason other than disability or upon termination of employment, or to the employee’s beneficiary if service is terminated by death, provided such retirement, termination, or death occurs after 10 years of creditable state employment.

**Section 110.219, F.S., Attendance and leave; general policies**

(5)(b) Creditable service in which 1 month of service credit is awarded for each calendar month that the employee is on the payroll of a state agency or during which the employee is on authorized leave without pay.
Rule 60L-34.0041, F.A.C., Annual Leave

(2)(a) Full-time employees in career service positions shall earn annual leave as follows. Employees shall be entitled to use all previous state government creditable service immediately upon reemployment for determining eligibility for higher annual leave credits.

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Hours of Leave Earned</th>
<th>Length of Service</th>
<th>Hours of Leave Earned</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>During Pay Period</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monthly</td>
<td>Biweekly</td>
<td></td>
</tr>
<tr>
<td>Through 60 months</td>
<td>8.667 hours</td>
<td>4 hours</td>
<td></td>
</tr>
<tr>
<td>61 through 120 months</td>
<td>10.833 hours</td>
<td>5 hours</td>
<td></td>
</tr>
<tr>
<td>Over 120 months</td>
<td>13 hours</td>
<td>6 hours</td>
<td></td>
</tr>
</tbody>
</table>

(5)(a) If an employee moves into the State Personnel System from another state government employer, the receiving agency shall credit all annual leave not paid for at the time of the transfer.

(b) If an employee moves from one position in the State Personnel System to another position in the State Personnel System in a different agency within thirty-one days, the receiving agency shall credit the employee’s unused annual leave.

(c) If an employee moves from a position in the State Personnel System to position outside the State Personnel System, the agency shall either transfer unused annual leave credits to the system into which the employee is transferring, or, if the new system will not accept the credits, pay for the credits subject to subsection 60L-34.0041(6), F.A.C. For either transfer or payment, current year credits shall be prorated.

(6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. With respect to leave payments received at the time of separation, agencies shall only include payments for separations occurring after December 31, 2001 in the calculation of the lifetime maximum. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee’s beneficiary, estate, or as provided by law.