

1 **SECTION 36. VACATION LEAVE.**

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3 **36.01 VACATION LEAVE EARNED.**

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5 **36.01 a.** An Employee who is employed in Unit 1 shall earn fourteen (14) hours
6 vacation leave for a month of work.

7
8 **36.01 b.** An Employee who is employed in Unit 1 and earns vacation leave as
9 provided in Section 36.01 a. and renders less than a month of work shall
10 earn vacation leave for the month as follows:

11

<u>Straight Time Hours of Work Per Month</u>	<u>Earned Work Hours of</u> <u>Leave</u>
For 0 to 31	0
For 32 to 55	4
For 56 to 79	6
For 80 to 103	8
For 104 to 127	10
For 128 to 151	12
For 152 or more	14

12
13 **36.02 RESERVED.**

14
15 **36.03 VACATION LEAVE EXCEPTIONS.**

16
17 **36.03 a.** An Employee shall earn vacation leave while on leave with pay including
18 paid holidays whether or not the Employee works on holidays unless
19 specifically prohibited.

- 1 **36.03 b.** An Employee shall not earn vacation leave while on:
2
- 3 **36.03 b.1.** Vacation leave or sick leave when the employment terminates or is to
4 terminate at the end of the leave;
5
- 6 **36.03 b.2.** Leave without pay, except when the Employee is on leave for disability
7 and is being paid workers compensation;
8
- 9 **36.03 b.3.** Suspension that is sustained;
10
- 11 **36.03 b.4.** Unauthorized leave;
12
- 13 **36.03 b.5.** Sabbatical leave;
14
- 15 **36.03 b.6.** Temporary, contractual, or substitute employment while on vacation from
16 another position in the State government or any political subdivision of the
17 State.
18
- 19 **36.04** **PROVISIONAL APPOINTMENT AND TEMPORARY APPOINTMENT**
20 **OUTSIDE THE LIST (TAOL).**
21
- 22 **36.04 a.** An Employee serving a provisional appointment shall earn and
23 accumulate vacation leave while on a provisional appointment.
24
- 25 **36.04 b.** An Employee serving a provisional appointment shall not be entitled to
26 use vacation leave.
27
- 28 **36.04 c.** An Employee whose provisional appointment is ended and receives a
29 probationary, limited-term or permanent appointment in the same position
30 shall be credited with the vacation leave accumulated while on the
31 provisional appointment.

1 **36.04 d.** An Employee whose provisional appointment is ended and does not
2 receive a limited-term, probationary, or permanent appointment shall
3 forfeit the vacation leave accumulated.

4
5 **36.04 e.** A regular Employee who is promoted through a provisional appointment
6 shall be considered to be a regular Employee and shall continue to earn
7 vacation leave.

8
9 **36.04 f.** A non-regular Employee serving a Temporary Appointment Outside the
10 List (TAOL) shall not be entitled to a vacation leave with pay.

11
12 **36.04 g.** A non-regular Employee serving a TAOL that is more than one (1) year,
13 including extensions granted for a specific appointment, the non-regular
14 Employee shall be entitled to:

15
16 **36.04 g.1.** Earn vacation leave beginning with the first (1st) month of the second
17 (2nd) year, and

18
19 **36.04 g.2.** Use the vacation leave accumulated.

20
21 **36.04 h.** A non-regular Employee whose TAOL is ended shall forfeit the vacation
22 leave accumulated.

23
24 **36.05** **VACATION LEAVE ACCUMULATION.**

25
26 **36.05 a.** An Employee may accumulate up to one hundred sixty-eight (168) hours
27 of vacation leave per calendar year until the Employee accumulates the
28 first three hundred thirty-six (336) hours.

29

1 **36.05 b.** Subsequently an Employee may accumulate not more than one hundred
2 twenty hours of vacation leave per calendar year, even if the Employee's
3 total accumulated days fall below three hundred thirty-six (336) hours.
4

5 **36.05 c.** Vacation leave in excess of one hundred twenty (120) hours per calendar
6 year may be accumulated for good cause when a request for
7 accumulation is approved by the Employer provided the request shall be
8 accompanied by a stipulation that the Employee shall take the excess
9 vacation leave at a specified time.
10

11 **36.05 d.** An Employee who fails to take the excess vacation leave as provided in
12 Section 36.05 c. shall forfeit the excess vacation leave unless for good
13 reason an extension of time is granted by the Employer.
14

15 **36.05 e.** An Employee may accumulate vacation leave for the succeeding year or
16 years provided that the total accumulation shall not exceed seven hundred
17 twenty (720) hours at the end of the calendar year.
18

19 **36.06** **FORFEITURE.**
20

21 **36.06 a.** Vacation leave accumulated at the end of a calendar year that exceeds
22 seven hundred twenty (720) hours shall be forfeited except as provided in
23 Section 36.06 b., Section 36.06 c. and Section 36.07a.
24

25 **36.06 b.** Vacation leave accumulated at the end of a calendar year that exceeds
26 ninety (90) working days shall not be forfeited when the vacation leave
27 begins on or before the last workday of the calendar year and includes the
28 accumulated vacation leave in excess of ninety (90) working days.
29

30 **36.06 c.** Vacation leave accumulated at the end of a calendar year that exceeds
31 ninety (90) working days shall not be forfeited when an Employee

1 becomes sick prior to an approved vacation that would have begun on or
2 before the last workday of the calendar year and the sickness continues
3 into the next calendar year. The excess vacation leave shall be taken
4 immediately after the conclusion of the sick leave.

5
6 **36.06 d.** Nothing contained in this Section shall be construed to require the
7 forfeiture of vacation credits when an Employee terminates on or before
8 the last working day of the calendar year, notwithstanding the fact that the
9 recording of current accrued vacation for the year on the last day may
10 result in an accumulation of more than ninety (90) working days.

11
12 **36.07** **PAYMENT.**

13
14 **36.07 a.** An Employee may be paid for vacation leave accumulated at the end of a
15 calendar year that exceeds ninety (90) working days in lieu of taking
16 vacation leave if the excess vacation leave resulted from the Employer's
17 refusal to grant the vacation.

18
19 **36.08** **SICK LEAVE WHILE ON VACATION LEAVE.**

20
21 **36.08 a.** An Employee who is sick one or more consecutive working days while on
22 vacation leave who submits a licensed physician's certificate or other
23 satisfactory proof of the sickness shall be charged sick leave in lieu of
24 vacation leave.

25
26 **36.08 b.** Application for sick leave in lieu of vacation leave shall be made within five
27 (5) working days after return to work.

28
29 **36.09** **ADMINISTERED.**

1 **36.09 a.** Vacation leave shall be administered on a calendar year basis and
2 recorded at the end of each calendar year.

3
4 **36.09 b.** In order to facilitate the scheduling of annual vacations, the Employer may
5 require its Employees to submit their vacation preference. In such cases,
6 the annual schedule of vacation preferences shall be posted or made
7 available for viewing by the Employees upon the Employees' request.

8
9 **36.09 c.** An Employee will not be required to submit the annual vacation preference
10 without first receiving the amount of vacation leave accumulated from the
11 Employer.

12
13 **36.09 d.** After the end of the year, an Employee shall be given an annual statement
14 of the accumulated vacation leave, remaining as of December 31.

15
16 **36.10** **NOTICE TO USE VACATION LEAVE.**

17
18 **36.10 a.** An Employee desiring to use vacation leave shall submit an application in
19 advance of the beginning date of the vacation to enable the Employer to
20 make necessary readjustment of work.

21
22 **36.10 b.** The requirement for advance notice may be waived for emergency
23 situations or when the Employee does not have accumulated sick leave
24 and elects to use accumulated vacation leave in place of authorized leave
25 without pay for sick leave.

26
27 **36.11** **VACATION LEAVE GRANTED.**

28 An Employee shall be granted vacation leave on the dates and times as
29 approved by the Employer provided, that it shall be as close to the
30 requested dates and times as conditions of the Employer will permit and
31 will not cause forfeiture of vacation leave.

1 **36.12** **VACATION LEAVE DENIED.**

2 In the event that a vacation leave request is denied, the Employee may
3 request the reasons for denial in writing. A copy of the reasons shall be
4 furnished to the Union.

5
6 **36.13** **VACATION LEAVE GRANTED.**

7 When a vacation is granted, it may include, at the request of the
8 Employee, vacation leave accrued up to the end of the Employee's last full
9 month of work immediately preceding the beginning of the vacation leave.

10
11 **36.14** **VACATION LEAVE MINIMUM.**

12
13 **36.14 a.** Vacation leave of less than one (1) hour shall not be granted.

14
15 **36.14 b.** When payment in lieu of vacation leave is granted or when the
16 Employee's employment will not continue at the expiration of the vacation
17 leave, the payment shall include a prorated amount for any fraction of a
18 workday of vacation leave to which the Employee is entitled as provided in
19 Section 36.

20
21 **36.15** **SENIORITY.**

22
23 **36.15 a.** Whenever two (2) or more Employees' requests for vacation leave are in
24 conflict, the Employee with the greatest Baseyard/ Workplace or
25 Institutional Workplace Seniority shall be given preference, provided it will
26 not seriously hamper operations in the Baseyard/Workplace or Institutional
27 Workplace.

28
29 **36.15 b.** The senior Employee's request shall not be granted when the conflict is
30 the result of the senior Employee changing the original request.

1 **36.16** **VACATION LEAVE CHARGED.**

2 An Employee shall have charged against the accumulated vacation leave
3 only those days or hours the Employee would have worked had the
4 Employee not used vacation leave.

5
6 **36.17** **RECALL FROM VACATION.**

7
8 **36.17 a.** An Employee may be recalled to work before the expiration of a vacation
9 leave by the Employer.

10
11 **36.17 b.** The recalled Employee shall be paid for all work at the rate of one and
12 one-half (1 ½) times the basic rate of pay for the days of vacation leave
13 the Employee's services were required.

14
15 **36.17 c.** The Employee shall be granted the unused vacation leave days, as the
16 result of being recalled to work, on the dates and times as mutually agreed
17 between the Employee and the Employer.

18
19 **36.18** **ADVANCE VACATION LEAVE.**

20
21 **36.18 a.** Advanced vacation leave shall be granted only when an Employee has
22 used all accumulated vacation leave and is detained out of the State of
23 Hawaii or on another island for a cause that the Employee establishes to
24 the satisfaction of the Employer.

25
26 **36.18 b.** An Employee who is detained as provided in Section 36.18 a. shall
27 immediately communicate with the Employer and request advance
28 vacation leave.

29
30 **36.18 c.** In the event advanced vacation leave is granted, it shall be considered as
31 used with the express understanding that if vacation leave is not later

1 earned during the term of employment, the unearned portion of the
2 vacation leave advanced will be repaid, on demand to the Employer as
3 follows:

4
5 **36.18 c.1.** By the Employee through payroll deductions from salary due the
6 Employee.

7
8 **36.18 c.2.** From the Employee's retirement system account with the Hawaii
9 Employees Retirement System.

10
11 **36.18 c.3.** By the executors and administrators of the Employee's estate if the
12 Employee is deceased.

13
14 **36.19** **TRANSFER.**

15
16 **36.19 a.** An Employee who is transferred from or relinquishes one (1) position in
17 which vacation leave is earned, and accepts employment in another
18 position in the service of the Employer in which vacation leave is not
19 earned shall be paid for the accumulated vacation leave, including any
20 vacation leave credits in excess of the maximum allowed for the calendar
21 year, as provided in Section 36.21 a. or Section 36.21 b.

22
23 **36.20** **PAY FOR VACATION LEAVE UPON SEPARATION AND WHEN**
24 **MOVING BETWEEN JURISDICTIONS OF THE STATE.**

25
26 **36.20 a.** An Employee shall be paid for accumulated vacation leave in a lump sum
27 when employment ends as provided in Section 36.21 a. or Section 36.21
28 b.

29
30 **36.20 b.** When an Employee moves from one Employer jurisdiction to another to
31 accept employment in a position in which vacation allowance is earned,

1 the Employee shall be given credit for the vacation earned or accumulated
2 in the jurisdiction from which the Employee transferred and the director of
3 finance of the State or the equivalent officers of the counties, Judiciary,
4 and the Hawaii Health Systems Corporation, as the case may be, shall
5 make the appropriate transfer of funds to implement the transfer.
6 However, the Employee may request and receive payment of a portion of
7 or all of the Employee's vacation credits accumulated up to the effective
8 date of the movement.

9
10 **36.21** **LUMP SUM.**

11
12 **36.21 a.** When payment in a lump sum is made, the sum payable for accumulated
13 vacation leave shall be equal to the amount of compensation that the
14 Employee would be entitled or would be allowed during the vacation leave
15 the Employee was permitted to use in the normal manner. When payment
16 in a lump sum is made to an Employee hired after June 30, 1997, the sum
17 payable for accumulated vacation leave shall be computed using the basic
18 rate of pay on the date the Employee ends employment.

19
20 **36.21 b.** An Employee who is discharged shall be paid in a lump sum for
21 accumulated vacation leave computed on the basis of accumulated
22 vacation hours multiplied by the hourly rate of pay on the effective date of
23 discharge.

24
25 **36.22** **REHIRED.**

26
27 **36.22 a.** In the event the Employee is rehired within seven (7) calendar days by the
28 Employer and continues to earn vacation leave, payment for accumulated
29 vacation leave shall not be made.

30
31 **36.23** **MILITARY SERVICE.**

1 36.23 a. — ~~An Employee who, pursuant to the U.S. Universal Military Service and~~
2 ~~Training Act or other Federal Statute is called or ordered and reports~~
3 ~~either voluntarily or involuntarily for active military duty with a branch of the~~
4 ~~U.S. Armed Forces shall be deemed to have ended employment and shall~~
5 ~~be paid in a lump sum for accumulated vacation leave as provided for in~~
6 ~~Section 36.21 a.~~

7

8 36.23 b. — ~~The lump sum payment for accumulated vacation leave will not cause the~~
9 ~~Employee to forfeit accumulated sick leave.]~~

