

Amendment and Compilation of Chapter 6-21
Hawaii Administrative Rules

1. Chapter 6-21, Hawaii Administrative Rules, entitled "Service Credit: Exclusion from Membership of Certain Employees", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

EMPLOYEES' RETIREMENT SYSTEM

CHAPTER 21

SERVICE CREDIT: EXCLUSION FROM MEMBERSHIP
OF CERTAIN EMPLOYEES

Subchapter 1 Claim of Prior Service
Credit for Service as a
Legislator Rendered Prior
to July 1, 1951

§6-21-1 Filing of claim and enrollment
§6-21-2 Retirement

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and the Hawaii State Public Charter
School Commission

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Leave to Additional Service
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Certain Employees

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employees

§6-21-1

Historical Note: Subchapter 1 of this chapter is based substantially on Procedural Rules Relating to Claim of Prior Service Credit for Service as a Legislator Rendered Prior to July 1, 1951, Employees' Retirement System of the State of Hawaii. [Eff 6/15/70; R 11/9/81]

SUBCHAPTER 1

CLAIM OF PRIOR SERVICE CREDIT FOR SERVICE AS A LEGISLATOR RENDERED PRIOR TO JULY 1, 1951

§6-21-1 Filing of claim and enrollment. Upon receipt of a claim for service as a legislator rendered to July 1, 1951, and upon verification of the service, the claimant shall be enrolled as a member of the system. [Eff 11/9/81; comp 2/9/89; comp] (Auth: HRS §§88-28, 88-52) (Imp: HRS §88- 52)

§6-21-2 Retirement. Any legislator or former legislator who has been enrolled as a member in accordance with section 6-21-1 shall be retired in accordance with sections 88-73 and 88-74, Hawaii Revised Statutes. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §§88-28, 88-52) (Imp: HRS §88-52)

Historical Note: Subchapter 2 of this chapter is based substantially on Procedural Rules Relating of the Employees' Retirement System of the State of Hawaii Relating to the Computations of One Year of Service [Eff 6/15/70; R 11/9/81]

SUBCHAPTER 2

COMPUTATION OF ONE YEAR OF SERVICE

§6-21-3 Applicability. This subchapter shall apply in determining how much service in any year is equivalent to a year of service for members classified as general employees in section 88-102, Hawaii Revised Statutes, for members classified as teachers in section 88-102, Hawaii Revised Statutes, for elected officials and part-time workers who are included in the membership of the system. [Eff 11/9/81; comp 2/9/89; comp] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

§6-21-4 Fractional month of employment. A fractional month of employment resulting from initial employment, termination of employment, death, suspension or leave of absence without pay, shall be considered one full month of service if the employee ~~[worked for fifteen or more days during the month, or, for the month of February, if the employee worked for fourteen or more days during the month.]~~ was paid or on paid status for at least one-half of the month. [Eff 11/9/81; comp 2/9/89; am and comp] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

§6-21-5 General employees. (a) For general employees, twelve full months of employment shall be considered one year of service.

(b) A fractional month of employment shall be considered one full month of service, if it meets the requirements of section 6-21-4. [Eff 11/9/81; am and

comp 2/9/89; comp] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

§6-21-6 Teachers of the Department of Education and the Hawaii Public Charter School Commission. (a)

For employees classified as teachers, a year of service shall be computed on the basis of a school year. If service is terminated earlier through death or retirement, service shall be computed to the date of death or retirement.

(b) [A]For traditional school year schedules, a fractional month of employment shall be considered one full month of employment if it meets the requirements of section 6-21-4; provided that if absences without pay total two and one-half months or more in any one semester, one additional month shall be excluded in computing a year of service.

(c) For other school year schedules, a fractional month of employment shall be determined on the basis of teacher days worked and paid during the official school year. [Eff 11/9/81; am and comp 2/9/89; am and comp] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

§6-21-7 Elected officials. (a) For elected officials, any twelve months of service in the office to which they were elected or appointed shall be considered a year of service. For legislators, computation of a year of service shall commence from the day they are elected or appointed. For all other elected officials, computation shall commence from the day they take office.

(b) A fractional month in office shall be treated in the same manner as a fractional month of employment provided for in section 6-21-4. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §§88-28, 88-50, 88-52) (Imp: HRS §§88-50, 88-52)

§6-21-8 Part-time employees. (a) For an employee to be eligible for membership in the system, employers shall establish the part-time employee position with one full-time equivalence and base pay, and the part-time employee must meet the minimum of fifty percent (50%) full-time equivalence.

(1) Employers shall designate and report eligible part-time employees at a minimum of fifty percent (50%) full-time equivalence or greater.

(2) Employers shall convert hourly-paid employees to a percentage of full-time equivalence for the position.

(3) Employers shall determine and report a full-time equivalence base pay compensation rate for part-time hourly-paid employees consistent with a bargaining unit salary schedule:

(A) Annual Compensation: Hourly Rate x 2080 = Annual Base Salary.

(B) Monthly Compensation: Hourly Rate x 2080 ÷ 12 = Monthly Base Salary.

(4) For part-time employees who are included in the membership of the system, twelve months of part-time service shall be considered a year of service[-] for eligibility purposes.

(b) If an employee has service comprised of periods including both part-time and full-time employment, the part-time service shall be converted to full-time equivalent service or vice-versa, for the purpose of determining average final compensation and the retirement allowance payable. Whatever method of conversion is used, the part-time or full-time service shall conform to the same basis of part-time or full-time salary used to determine average final compensation; provided that if the employee is employed on the same part-time basis throughout the member's membership, no conversion to full-

time equivalent is required and the average final compensation shall be based on the part-time salary.

- (c) A fractional month of employment shall be considered a month of part-time service if it meets the requirement of section 6-21-4. [Eff 11/9/81; am and comp 2/9/89; am and comp] (Auth: HRS §§88-28, 88-50)
(Imp: HRS §88-50)

§6-21-8.1 Average final compensation. (a) For the purpose of computing average final compensation, a year of credited service means a period of twelve consecutive months of service; provided that if a fraction of a month is considered a full month of service, the actual compensation, pay, or salary paid for the month shall be used in the computation.

(b) For the purpose of computing average final compensation under the provisions of §6-21-6 for teachers of the Department of Education and the Hawaii Public Charter School Commission, a year of credited service means a period of twelve consecutive months of service as determined on the basis of traditional school year schedules under section 6-21-6(b) or other school schedules under section 6-21-6(c). [Eff and comp 2/9/89; am and comp] (Auth: HRS §§88-28, 88-50) (Imp: HRS §§88-50, 88-81)

Historical Note: Subchapter 3 of this chapter is based substantially on Procedural Rules Relating to the Conversion of Unused Sick Leave to Additional Service Credit, Employees' Retirement System of the State of Hawaii [Eff 8/4/75; R 11/9/81]

SUBCHAPTER 3

CONVERSION OF UNUSED SICK LEAVE TO ADDITIONAL SERVICE CREDIT

§6-21-9 Unused sick leave defined. Unused sick leave means the number of working days of sick leave which has been accumulated by the member in accordance with existing statutes, rules, regulations or collective bargaining agreements, and which remains unused at the time the member retires or terminates service. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §88-28) (Imp: HRS §88-63)

§6-21-10 Limitations. (a) Unused sick leave shall be converted to additional service credit only if the member has at least sixty days of that leave for each term of membership service at the time the member retires or terminates service.

(b) Additional service credit derived from the conversion of unused sick leave shall be used only for the purpose of computing retirement allowances and shall not be used to meet any length of service requirement, such as eligibility for retirement, the election of mode of retirement or for establishing vested benefit status.

(c) The conversion of unused sick leave to additional service credit shall apply only to members retiring or terminating service in good standing after July 1, 1975[.] as determined and reported to the system by the member's employing agency. [Eff 11/9/81; am and comp 2/9/89; am and comp] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

§6-21-11 Conversion rate. (a) Unused sick leave accumulated other than on the basis of working days shall be converted into working days at the rate of one working day for each eight hours, or in the case of firefighters who are employed on twenty-four hour work shifts, at the rate of two and one-tenth working

days for each working shift.

(b) For the purpose of computing retirement allowance, unused sick leave shall be converted into additional service credit at the rate of one additional month of service for each twenty days of sick leave with any remaining balance of ten or more days being equal to another additional month of service. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

§6-21-12 Certification. On such form as may be prescribed by the system, or on such form as is being used by the employing agency, the agency responsible for the maintenance of sick leave records shall certify the amount of unused sick leave at the time of retirement or termination of service of the member. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

Historical Note: Subchapter 4 of this chapter is based substantially on Rules Relating to the Exclusion from Membership of Certain Employees, Employees' Retirement System of the State of Hawaii [Eff 8/25/73; R 11/9/81].

SUBCHAPTER 4

EXCLUSION FROM MEMBERSHIP OF CERTAIN EMPLOYEES

§6-21-13 Scope. This subchapter shall govern the exclusion from membership in the system of certain classes of employees who are employed on a part-time or short-term basis and members of the legislature who do not elect to be members of the system. [Eff 11/9/81; am and comp 2/9/89; comp] (Auth: HRS §88-28) (Imp: HRS §88-43)

§6-21-14 Employees excluded from membership. The following classes of employees shall be excluded from membership in the system:

- (1) Persons employed by the legislature or any committee thereof; except that legislative employees employed on a full-time basis during and between sessions and any member of the system on leave of absence to be employed by the legislature during any legislative session shall be included in the membership of the system as provided in sections 88-21 and 88-54, Hawaii Revised Statutes;
- (2) Persons employed on short-term or temporary appointments of three months or less;
- (3) Persons employed as substitute teachers;
- (4) Persons employed in part-time positions in adult education and evening class programs;
- (5) Persons in any position requiring less than one-half ~~[or]~~ of full-time employment, including but not limited to, lecturers teaching less than seven credit hours per semester at baccalaureate colleges of the University of Hawaii and lecturers teaching less than eight credit hours per semester in the community colleges of the University of Hawaii;
- (6) Graduate assistants of the University of Hawaii;
- (7) Persons employed in any position where employment is casual or intermittent and the percentage of full-time equivalence is indeterminate; provided that after at least three months, any person whose employment has been determined to average twenty or more hours per week shall be included in the membership of the system;
- (8) Members of the legislature who do not elect to be members as provided in section 88-42,

- Hawaii Revised Statutes; or
- (9) Students, including graduate school students, employed as student helpers, student hires, student aides, summer student law clerks, college student interns, or in similar non-permanent positions. [Eff 11/9/81; am and comp 2/9/89; am and comp] (Auth: HRS §88-28)
(Imp: HRS §§88-21, 88-43)

§6-21-15 Acquisition of service credit by excluded employees. (a) A member shall not be eligible for service credit for any period of service as an employee excluded from membership in the system.

(b) A member who rendered service in the armed forces of the United States during the period 1941-1949 who was employed by the Territory or a county at the time of induction into the armed forces but was not included in the membership of the system, and who returned to employment by the Territory or a county shall be eligible to purchase service credit not to exceed four years for the period of military service between 1941-1949, if the member returned to employment with the Territory or a county within five years after discharge from the armed forces." [Eff and comp 2/9/89; comp] (Auth: HRS §88-28)
(Imp: HRS §88-43, 88-51(8))

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments are not underscored.

4. These amendments to and compilation of Chapter 6-21, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

Emmit Kane, Chairperson
Employees' Retirement System of
the State of Hawaii, Board of
Trustees

Craig Hirai, Director
Department of Budget and Finance

APPROVED AS TO FORM:

Deputy Attorney General