
Rules of
Office of Administration
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 5—Working Hours, Holidays and Leaves of
Absence

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**Title 1—OFFICE OF
ADMINISTRATION**
**Division 20—Personnel Advisory
Board and Division of Personnel**
**Chapter 5—Working Hours, Holidays
and Leaves of Absence**

1 CSR 20-5.010 Hours of Work and Holidays

PURPOSE: This rule establishes hours of work and holidays for employees covered by the provisions of section 36.350, RSMo of the State Personnel Law.

(1) Hours of work and attendance shall be governed by the following provisions:

(A) The appointing authority in each agency shall establish the working days and the hours of attendance for employees of that agency and other rules in regard to attendance as are deemed necessary. A full-time employee normally will be scheduled to work forty (40) hours within a fixed and regularly recurring seven (7)-day period established for the employee's position.

1. In the case of law enforcement personnel employed by a recognized law enforcement agency, the director may approve the establishment of normal working hours in excess of those specified in subsection (1)(A), provided the work period, schedules and overtime standards are consistent with applicable statutes or rules. For the purpose of this rule, law enforcement personnel shall include uniformed or plainclothed members of a body of officers who have the power of arrest and who are statutorily empowered to enforce laws designed to maintain public peace and order, to protect life and property from accidental or willful injury, to prevent and detect crimes and who undergo on-the-job training a course of instruction, or both.

2. In the case of personnel employed at a hospital or residential care facility, the director may approve the establishment of normal working hours in excess of those specified in subsection (1)(A), provided the work period, schedules and overtime standards are consistent with applicable statutes or rules;

(B) The appointing authority in each agency may require employees to perform reasonable amounts of overtime work as may be required to fulfill the responsibilities of the agency, provided this overtime work is compensated in accordance with these rules and applicable state or federal statute. Insofar as is practicable, overtime will be distributed among employees qualified for this work and who are available when the overtime is required. Prior authorization for overtime

work shall be obtained from the appointing authority or the appointing authority's designee;

(C) Work authorized by an appointing authority for top level supervisory, managerial and administrative staff and for persons employed in a very responsible professional, technical or consultative capacity which causes the employee to exceed forty (40) hours in pay status during a workweek, shall not be compensated except in unusual circumstances as determined by the appointing authority. When authorized, the employees shall be compensated at the regular rate of pay for their positions for each hour or, at the discretion of the appointing authority, by allowing an equal amount of compensatory time off;

(D) For individuals employed in other supervisory, technical, professional and related categories, compensation for authorized work assignments which cause the employees to exceed forty (40) hours in pay status during a workweek shall be compensated at the regular rate of pay for their positions or, at the discretion of the appointing authority, by allowing an equal amount of compensatory time off. Within the categories of professional and technical employees, an appointing authority may request and the director may recommend for approval of the board that employees in selected classes be compensated for authorized overtime work at the rate of time and one-half, either in payment or compensatory time off providing, however, that this recommendation and approval shall be restricted to occupations for which it is found that overtime compensation is the prevailing practice among employers within the state and for which there is evidence that failure to provide this compensation reasonably may be expected to have a substantially negative effect upon the ability of the appointing authority to recruit and retain the required work force. For purposes of determining compensation at the rate of time and one-half under this rule, overtime is defined as that time worked by an employee in excess of forty (40) hours actually worked within a workweek. Annual leave, sick leave, holidays and other absences with or without pay shall not be considered as hours of work for purposes of computing overtime;

(E) Employees, other than those enumerated in subsections (1)(C) and (D), shall be compensated at the regular rate of pay for their positions or, at the discretion of the appointing authority, by allowing an equal amount of compensatory time off for those work assignments which cause the employee to exceed forty (40) hours in pay status during a workweek. An employee shall receive an additional one-half (1/2) time compensa-

tion, by pay or compensatory time off, for any hours of work which exceed forty (40) hours actually worked within the workweek. Annual leave, sick leave, holidays and other absences with or without pay shall not be considered as hours of work for purposes of determining compensation at the rate of time and one-half under this rule;

(F) Category assignments for overtime purposes shall be made on a job class basis. It shall be the responsibility of the director, after consultation with appointing authorities, to determine the overtime category of each class of positions in the classified service, and these assignments shall be reflected in the pay plan. For positions outside the classified service, the director shall provide to appointing authorities information designed to clarify the application of this rule in the classified service, and to assist them in its application to positions outside the classified service. For these positions, however, the final decision on assignment of a particular type of position to a category for the purpose of determining the method of overtime payment shall be made by the appointing authority. It shall be the responsibility of the appointing authorities to apply these provisions in a manner which provides uniformity of treatment of all employees; and

(G) Compensation for overtime shall be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in their term of employment.

(2) Holidays shall be governed by the following provisions:

(A) The following and other days or dates as may be designated by the governor or the President of the United States are paid holidays: first day of January, New Year's Day; third Monday in January, Martin Luther King Jr. Day; twelfth day of February, Lincoln's Birthday; third Monday in February, Washington's Birthday; eighth day of May, Truman's Birthday; last Monday in May, Memorial Day; fourth day of July, Independence Day; first Monday in September, Labor Day; second Monday in October, Columbus Day; eleventh day of November, Veteran's Day; fourth Thursday in November, Thanksgiving Day; twenty-fifth day of December, Christmas Day;

(B) When any of the specified holidays shall fall on Sunday, these holidays shall be observed on the following Monday, and when any of these dates or days fall on a Saturday, these holidays shall be observed on the preceding Friday;

(C) An employee shall be credited for a holiday only if it falls during the employee's period of employment and the employee is in pay status. An employee whose effective date of appointment or return to pay status is before or on the day of a holiday shall receive credit for the holiday. An employee whose appointment or return to pay status is effective after a holiday will receive no credit for the holiday, except when the holiday occurs at the start of a month and the employee's appointment or return to pay status is effective the first scheduled working day following the holiday. An employee shall not receive credit for a holiday which occurs after s/he has ceased active duty preliminary to separation from the service;

(D) All full-time employees, regardless of that schedule, shall receive credit for the same number of paid holidays as employees whose regular work schedule is Monday through Friday. Part-time employees who are in pay status from eighty to one hundred nineteen (80—119) hours in a month, including one-half (1/2) credit for those eligible holidays, shall receive one-half (1/2) credit, and those employees who are in pay status from one hundred twenty to one hundred fifty-nine (120—159) hours in a month, including three-fourths (3/4) credit for those eligible holidays, shall receive three-fourths (3/4) credit. Part-time employees who are in pay status one hundred sixty (160) or more hours in a month, including full credit for those eligible holidays, shall receive full credit. Other part-time employees are not entitled to compensation or credit for holidays not worked;

(E) When it is impracticable to give time off to employees regularly scheduled to work on any of the previously mentioned holidays because of the necessity of continuing essential service in a state institution or division of service, the appointing authority may require employees to remain on duty and to perform their assigned work. The employee who has worked on a holiday shall be granted equal compensatory time off from duty at the time(s) the appointing authority shall designate or, at the discretion of the appointing authority, the employee may receive straight-time cash compensation, providing the actual time worked does not fall within the definition of overtime to be paid at the rate of time and one-half as provided for by these rules. This compensation shall be computed uni-

formly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in his/her term of employment;

(F) Holidays falling within the period of annual or sick leave shall not be counted as work days in computing that leave;

(G) For purposes of these rules, a holiday shall be considered as a period of eight (8) hours; and

(H) Employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the Severely Handicapped who are employed for the academic year established for those schools shall receive the same number of holidays during the academic year as received by other state employees during the same calendar period. Specific holidays for these employees will be designated in the annual academic calendar of their-schools.

*AUTHORITY: section 36.070, RSMo (1986). * Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. Amended: Filed Sept. 20, 1947, effective Sept. 30, 1947. Amended: Filed June 1, 1954, effective June 11, 1954. Amended: Filed Dec. 22, 1960, effective Jan. 1, 1961. Amended: Filed July 21, 1967, effective July 31, 1967. Amended: Filed Aug. 28, 1967, effective Sept. 7, 1967. Amended: Filed Dec. 22, 1970, effective Jan. 1, 1971. Amended: Filed June 12, 1972, effective July 1, 1972. Amended: Filed April 23, 1974, effective May 2, 1974. Amended: Filed Feb. 28, 1975, effective March 10, 1975. Amended: Filed Dec. 13, 1978, effective April 12, 1979. Amended: Filed Sept. 29, 1989, effective Jan. 1, 1990. Amended: Filed Sept. 27, 1990, effective Feb. 14, 1991.*

**Original authority 1945, amended 1979.*

1 CSR 20-5.015 Definition of Terms

PURPOSE: This rule defines the meaning of specific words and terms pertaining to leaves of absence.

(1) The following words and terms, used with specific intent throughout this rule and 1 CSR 20-5.020 or in their administration, are defined for clarity:

(A) Annual leave is a form of compensation authorized by the state and paid to an eligible employee by means of paid time off from work, under the conditions set forth in 1 CSR 20-5.020(1);

(B) Annual leave accrual is the accumulation of hours of paid time off as a form of compensation earned by the employee. Eligibility to earn and accrue annual leave as a form of compensation is limited to and shall not exceed a maximum number of hours stipulated by law and set forth in 1 CSR 20-5.020(1);

(C) Sick leave is a benefit granted by the state to the employee in the form of paid time off from work due to illness, under the conditions set forth in 1 CSR 20-5.020(2);

(D) Sick leave accrual is the accumulation of hours of eligibility for paid time off from work conferred upon an eligible employee as a benefit by the state for specific purposes and under specific conditions that are set forth in 1 CSR 20-5.020(2); and

(E) Paid time off from work authorized by the state and conferred upon the employee by the appointing authority and solely at the discretion of the appointing authority for the purpose deemed appropriate and in the best interest of the state may be called administrative leave.

(2) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, state service time shall be defined as—

(A) The total length of time of employment in any department, division or agency of state government that is covered by the provisions of section 36.350, RSMo, and under the conditions set forth in 1 CSR 20-5.020;

(B) Time of state paid employment in the Offices of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, and with the Missouri State Judiciary, shall be recognized and accepted as time of state service for the purposes of eligibility for and accrual of paid leaves of absences; and

(C) Employment with other state funded public entities when these entities have been accepted for coverage under the provisions of 1 CSR 20-5.015(3)(B).

(3) For the purposes of leaves of absence as set out in 1 CSR 20-5.020, an eligible employee shall be defined as—

(A) Any employee of the state of Missouri covered by the provisions of section 36.350, RSMo; and

(B) Any state paid employee of elected state officials, specifically employees of the Offices of the Governor, Lieutenant

Governor, Secretary of State, State Auditor, Treasurer, Attorney General, Houses of the Missouri State Legislature, the Missouri State Judiciary and other state funded public entities, shall be considered eligible employees under 1 CSR 20-5.020 upon submission of written certification of adherence to the provisions of 1 CSR 20-5.020 and acceptance by the Personnel Advisory Board of the public entity for coverage under the rule.

AUTHORITY: sections 36.060, RSMo Supp. 1993 and 36.070, RSMo 1986. Original rule filed July 21, 1994, effective Feb. 26, 1995.*

**Original authority: 36.060, RSMo 1945, amended 1971, 1979, 1993 and 36.070, RSMo 1945, amended 1979.*

1 CSR 20-5.020 Leaves of Absence

PURPOSE: This rule provides for annual, sick and other leaves of absence and specifies the conditions under which these leaves shall be granted for employees covered by the provisions of section 36.350, RSMo of the State Personnel Law.

(1) Annual leave or vacation with pay shall be governed by the following provisions:

(A) Employees who are employed on a full-time basis in positions of a continuing or permanent nature shall be entitled to annual leave or vacation with full pay computed at the rate of ten (10) hours for each calendar month of service in which they are in pay status for one hundred sixty (160) or more hours, until they complete ten (10) years of total state service.

1. Employees who have completed ten (10) years of total state service shall earn annual leave at the rate of twelve (12) hours per month. Employees who have completed fifteen (15) years of total state service shall earn annual leave at the rate of fourteen (14) hours per month.

2. For purposes of this rule, any month during which an employee is eligible to earn any annual leave credit under this and subsequent sections shall be a month of state service. Annual leave will be credited at the rate of one-half (1/2) the full-time accrual rate for months in which the employee is in pay status from eighty to one hundred nineteen (80–119) hours and three-fourths (3/4) the full-time rate for months in which they are in pay status from one hundred twenty to one hundred fifty-nine (120–159) hours.

3. Annual leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service.

4. Except when granted in accordance with subsection (1)(E), annual leave or vaca-

tion with pay shall be granted at the times public service will best permit and only on written application approved by the appointing authority;

5. Annual leave shall not be credited to any employee while on a paid leave of absence for educational purposes when that leave is for a period of three (3) or more months;

(B) Annual leave or vacation with pay shall not be allowed to employees who are employed on a noncontinuing basis in positions of limited duration requiring less than the equivalent of six (6) months of full-time employment in any twelve (12)-month period, whether this be on an emergency, temporary, limited temporary, hourly or per-diem basis. Employees who are ineligible to earn annual leave under this rule shall be identified as ineligible at the time of appointment or assignment and shall be notified of their ineligibility. If the term of limited duration employment is extended to the equivalent of six (6) months or more of full-time work in any twelve (12)-month period, the employee shall be credited with earned annual leave for that period of employment in excess of six (6) months. If a limited duration appointment is followed without break in service by appointment to a position of a continuing or permanent nature, the employee shall be credited with earned leave for the initial period of limited duration employment;

(C) Employees who are employed on an intermittent or regularly scheduled part-time basis except those employed in positions of limited duration requiring less than the equivalent of six (6) months of full-time employment in any twelve (12)-month period, shall earn annual leave in accordance with the schedule of leave accruals enumerated in paragraph (1)(A)2.;

(D) At the end of any calendar month, unliquidated accumulation of annual leave which exceeds twenty-four (24) times that employee's current full-time monthly accrual rate shall lapse and credit for the excess leave shall not be carried forward to the next calendar month;

(E) An employee entitled to annual leave who has resigned or otherwise separated from the service shall be entitled to receive reimbursement for all this accrued leave. This reimbursement shall be based on the employee's rate of pay at the time of separation and shall be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the

Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in their term of employment;

(F) Annual leave shall be granted and liquidated in multiples of one-quarter (1/4) hour;

(G) An employee who transfers to another department or who is appointed to a position in another department without break in service shall be reimbursed for all his/her accrued leave by the department which the employee is leaving, except that on the employee's request and with the approval of the appointing authority of the receiving department the employee may carry all or part of accrued annual leave to that department. Accrued annual leave in excess of that agreed to by the respective departments shall be reimbursed in the manner prescribed in subsection (1)(E). Each department will establish a policy providing for the consistent transfer reimbursement of accumulated annual leave, or both, when employees transfer or are appointed to positions in another division of service within the department;

(H) If an employee is granted annual leave and subsequently is recalled to duty during the leave period because of emergency conditions requiring the employee's services, annual leave credits shall be restored for the time worked unless this has the effect of causing accrued annual leave to exceed the maximum accrual allowed under subsection (1)(D), in which case the employee shall be granted equal compensatory time off or at the discretion of the appointing authority shall be granted straight-time cash compensation for the time worked;

(I) Annual leave shall be taken upon a workday basis. Holidays falling within a period of annual leave shall not be counted as workdays;

(J) Annual leave shall not be anticipated. Annual leave taken shall be construed to have been earned prior to the time it was taken;

(K) Annual leave shall not accrue to any employee while on leave of absence without pay; and

(L) Annual leave for employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the Severely Handicapped who are employed for the academic year established for those schools shall be granted in the form of days off with pay which are designated as school holidays in the annual academic calendar of their schools and which are in addition to those holidays provided in 1 CSR 20-5.010(2)(H). Any annual leave which these

employees are entitled to under the provisions of subsection (1)(A) which is in excess of the additional school holidays will be credited to these employees as annual leave. This annual leave shall be granted in accordance with subsection (1)(A).

(2) Sick leave shall be governed by the following provisions:

(A) Except to the extent restricted below, sick leave under these rules is defined to mean a period in which the employee is incapacitated for the performance of assigned duties by sickness or injury, or by pregnancy, childbirth and recovery from them, or periods of time required for medical, surgical, dental or optical examination or treatment, or where through exposure to contagious disease the presence of the employee on duty would jeopardize the health of others;

(B) Employees who are employed on a full-time basis in positions of a continuing or permanent nature shall be allowed sick leave with full pay computed at the rate of ten (10) hours for each calendar month of service in which they are in pay status for one hundred sixty (160) or more hours. Sick leave will be credited at the rate of one-half (1/2) the full-time accrual rate for months in which they are in pay status from eighty to one hundred nineteen (80–119) hours and three-fourths (3/4) the full-time rate for months in which they are in pay status from one hundred twenty to one hundred fifty-nine (120–159) hours.

1. Sick leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service.

2. In all cases where an employee has been absent on sick leave, the employee immediately upon return to work shall submit a statement in a form the appointing authority may require indicating that the absence was due to illness, disease, disability or other causes for which sick leave is allowed under these rules. The appointing authority shall establish and advise employees of required procedures for initial and continuing notification by the employee to the appointing authority regarding absence due to illness and for submission of a written request for allowance of sick leave together with proof of illness as the appointing authority deems necessary.

3. Sick leave shall not be credited to any employee while on a paid leave of absence for educational purposes when that leave is for a period of three (3) or more months;

(C) Sick leave with pay shall not be allowed to employees who are employed on a noncontinuing basis in positions of limited duration requiring less than the equivalent of six (6) months of full-time employment in

any twelve (12)-month period, whether this be on an emergency, temporary, limited temporary, hourly or per-diem basis. Employees who are ineligible to earn sick leave under this rule shall be so identified at the time of appointment or assignment and shall be notified of their ineligibility. If the term of limited duration employment is extended to the equivalent of six (6) months or more of full-time work in any twelve (12)-month period, the employee shall be credited with earned sick leave for that period of employment in excess of six (6) months. If a limited duration appointment is followed without break in service by appointment of a continuing or permanent nature, the employee shall be credited with earned leave for the initial period of limited duration employment;

(D) Employees who are employed on an intermittent or regularly scheduled part-time basis, except those employed in positions of limited duration requiring less than the equivalent of six (6) months of full-time employment in any twelve (12)-month period, shall earn sick leave in accordance with the schedule of leave accruals enumerated in subsection (2)(B);

(E) Employees shall be allowed to accumulate sick leave without limit;

(F) Sick leave shall be granted and liquidated in multiples of one-quarter (1/4) hour;

(G) All accumulated and unused sick leave shall be credited to any employee returned to employment in the state service within five (5) years of leaving the service, transferred to or employed in another division of service or returning from leave of absence. Leave shall not be accepted in an amount exceeding that which would have been accumulated and transferred under these rules, and an appointing authority shall require that each employee submit a written statement from the former employing agency specifying the basis on which sick leave was earned, the period of service involved and the total unused leave accumulated. This rule will be applied retroactively with respect to those persons employed on the date this rule is effective who have not previously received credit for these sick leave credits;

(H) Sick leave shall be taken upon a workday basis. Holidays falling within a period of sick leave shall not be counted as workdays;

(I) Sick leave shall not accrue to any employee while on leave of absence without pay;

(J) Loss of time due to an illness of the employee's spouse, children, other relatives or members of the employee's household, which requires the employee's personal care and attention shall be charged against the employee's accumulated sick leave. The final

decision concerning the granting of leave under this section shall rest with the appointing authority and shall be based upon the degree to which the employee is responsible for providing personal care and attention; and

(K) Employees who are incapacitated from performing their jobs due to injury or disease covered by Chapter 287, RSMo (Workers' Compensation Law) shall be permitted to use accrued sick leave only to the extent necessary to make up the difference between disability benefits paid under Chapter 287, RSMo and their salary at the time of the injury.

(3) Overtime or compensatory leaves of absence with pay shall be granted in accordance with 1 CSR 20-5.010(1)(C), (D) and (E) and (2)(E) to employees who have not been otherwise compensated for overtime or holiday work. Compensatory leave will be governed by the following provisions:

(A) The appointing authority will keep records of compensatory time earned in accordance with these rules. Each appointing authority will establish maximum compensatory leave balances that may be maintained, provided that the maximum balance established shall not exceed that permitted by applicable statute or rule. Overtime or holiday work will be compensated by pay if additional compensatory leave will exceed established maximum accrual;

(B) Requests for the use of accumulated compensatory time off with pay shall be granted at times that the needs of the service are not unduly disrupted; and an appointing authority may direct the use of this leave; and

(C) Employees will be paid for compensatory time balances in effect at the time of separation from the state service or upon transferring to or being appointed to a position in another department. This payment shall be based on the employee's rate of pay at the time of separation, transfer or appointment and shall be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf and State Schools for the Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in his/her term of employment. For employees subject to the overtime provisions of the Fair Labor

Standards Act, compensation for accumulated compensatory time shall be made on the basis of the employee's current rate of pay as defined in this section, or his/her average rate of pay for the last three (3) years, whichever is higher. Each department will establish a policy providing for the consistent transfer or reimbursement of accumulated leave credits, or both, when employees transfer or are appointed to positions in another division of service within the department.

(4) Military leave shall be governed by the following provisions:

(A) Employees who are members of the national guard or any of the reserve components of the armed forces of the United States shall be entitled to leaves of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled, for all periods of military service during which they are engaged in the performance of duty under competent orders for a period not to exceed a total of fifteen (15) calendar days in any federal fiscal year. These limitations shall not apply to periods of military service during which they are engaged in the service of this state at the call of the governor and as ordered by the adjutant general. The employee shall file with the appointing authority an official order from the appropriate military authority as evidence of this duty for which military leave with pay is granted. Other absences required by military duty, not elsewhere provided for in these rules, may be charged to accrued annual leave, compensatory time or leave of absence without pay;

(B) Employees who are employed in positions of a continuing or permanent nature and who enter the armed forces of the United States for any of the following reasons shall be granted a leave of absence without pay for the period of military training and service required of the employee:

1. Because of an order issued under the Military Selective Service Act (or under any prior or subsequent corresponding law) requiring the employee's induction into the armed forces;

2. Because of an order issued by a military authority calling an employee to active duty from organized units of the national guard, any component of the armed forces of the United States or the public health service reserve, for a period of time in excess of that covered by subsection (4)(A);

3. Because an employee enlists in any component of the armed forces of the United States for a period of not more than five (5) years;

4. Because an employee who is a member of a component of the armed forces of the United States voluntarily or involuntarily enters upon active duty, or whose active duty is voluntarily or involuntarily extended during a period when the President is authorized to order units of the armed forces of the United States to active duty;

5. Because an employee not covered by other provisions of these rules is required to report for active duty for training or inactive duty training in the armed forces of the United States or an organized unit of the national guard; and

6. Because an employee who is a member of a component of the armed forces of the United States or an organized unit of the national guard is ordered to an initial period of active duty for training of not less than twelve (12) consecutive weeks;

(C) An employee's return to active status following leave granted under any of the provisions of subsection (4)(B) shall be subject to the following rules:

1. The employee shall make application for return to active status within ninety (90) days after being relieved from training or service or from hospitalization continuing after discharge for a period of not more than one (1) year, except that employees entering the service under paragraph (4)(B)6. of this rule must make application for reemployment within thirty-one (31) days;

2. Employees granted leave under paragraph (4)(B)5. and subsection (4)(E) must report for work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of military training, preinduction processing or hospitalization incident to either of these to the place of employment following release, or within a reasonable time after that if delayed return is due to factors beyond an employee's control. Failure to report for work at the regularly scheduled working period shall make the employee subject to the procedures of the appointing authority with respect to absence from scheduled work;

3. Any person receiving a dishonorable discharge from the armed forces resulting from a general court martial may be reinstated to a position subject to the law or these rules only with the approval of the appointing authority; and

4. Return from a leave of absence is authorized providing that the employee is relieved from active duty not later than five (5) years after the date of entering upon active duty or as soon after the expiration of that five (5)-year period as the employee is

able to obtain orders relieving him/her from active duty;

(D) If an employee is granted leave under the provisions of subsection (4)(B) and meets the restoration requirements of subsection (4)(C), the employee is entitled to exercise restoration rights as follows:

1. If the employee is still qualified to perform the duties of the position involved, the employee has the right to be restored by that appointing authority or his/her successor in interest to the former position held or to a position of like seniority, status and pay, without loss of position, seniority, accumulated leave, impairment of performance appraisal, pay status, work schedule including shift, working days and days off assigned to the employee at the time that the leave commenced; without loss of position, seniority, accumulated leave, impairment of performance appraisal, pay status, work schedule including shift, working days and days off assigned to the employee at the time that the leave commenced; or, if not qualified to perform the duties of the former position, by reason of disabilities sustained during military service, but qualified to perform the duties of any other position in the employ of the appointing authority or his/her successor in interest, the employee has the right upon request to be restored to the other position the duties of which the employee is qualified to perform and which will provide that person like seniority, status and pay, or the nearest approximation of them consistent with the circumstances in the individual case, unless the appointing authority's circumstances have so changed as to make it impossible or unreasonable to do so;

2. Any person who is restored to or employed in a position in accordance with the provisions of subsection (4)(C) shall not be discharged from that position without cause within one (1) year after that restoration with the exception that those who enter the service under paragraph (4)(B)6. shall not be discharged from that position without cause within six (6) months after that restoration;

3. Any person who is restored to or employed in a position in accordance with the provisions of subsection (4)(C) shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a component of the armed forces of the United States; and

4. An employee who obtains leave to enter the service under paragraph (4)(B)6. is not entitled to retention, preference or displacement right over any veteran with a superior claim under these rules or federal law applicable to reemployment of veterans; and

(E) Any employee eligible for leave under subsection (4)(B) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination, physical fitness to enter the armed forces of the United States. Upon rejection following preinduction or other examination, or upon discharge from hospitalization incident to that rejection or examination, the employee shall be permitted to return to employment in accordance with the provisions of subsections (4)(C) and (D). An employee's rights to sick leave under section (2) shall not be diminished by subsection (4)(E).

(5) Leave for disaster relief shall be governed by the following provisions:

(A) Leave under this section shall be limited to persons who have completed the necessary training for, and have been certified as, disaster service specialists by the American Red Cross;

(B) Employees who are certified by the American Red Cross as disaster service specialists may, with appointing authority approval, be granted leave of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled. This will cover all periods of Red Cross disaster service during which they are engaged in the performance of duty under a Red Cross letter of agreement for a period not to exceed a total of fifteen (15) calendar days in any state fiscal year. Other absences for service for the Red Cross, not elsewhere provided for in these rules, may be charged to accrued annual leave, compensatory time or leave of absence without pay;

(C) In the event of a need for the specialist's services, the local Red Cross will send a request for the services to the employee and to the employee's supervisor with a copy to the Office of Administration, Division of Personnel stating that the employee has met all Red Cross requirements for assignment as a disaster specialist volunteer. If the request is approved by the appointing authority, the approval will state whether the employee is able to respond only to local disasters (due to the work of the employee) or whether the employee is able to be on call for disaster outside the employee's local area;

(D) An employee who returns to work from disaster relief shall be placed into his/her former position; and

(E) No more than twenty-five (25) full-time state employees may be absent in any state fiscal year. Each employee is subject to

a cap of fifteen (15) calendar days per fiscal year of disaster relief leave.

(6) Leaves of absence for emergency services and counter-narcotics missions shall be governed by the following provisions:

(A) Leaves of absence under this section shall be limited to persons who are members of the Civil Air Patrol and who hold a Civil Air Patrol emergency service specialty rating or who are certified to fly counter-narcotics missions;

(B) Employees who are certified by the Civil Air Patrol as emergency service specialists or certified to fly counter-narcotics missions may be granted leave of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled for periods during which such person is engaged in the performance of Civil Air Patrol emergency service or counter-narcotics missions;

(C) Leave for such service shall be for not more than fifteen (15) working days in any state fiscal year, but may be for a longer period of time in the event of a declared state or national emergency. Other absences for service for the Civil Air Patrol, not provided for in these rules, may be charged to accrued annual leave or compensatory time, or to leave of absence without pay;

(D) A leave of absence may be granted only upon written request made to the appointing authority by the Missouri state wing commander of the Civil Air Patrol. The agency shall forward a copy to the Office of Administration, Division of Personnel;

(E) Before any payment of salary is made to the employee, the Missouri state wing commander or designated representative of the Civil Air Patrol shall submit written evidence to the appointing authority that the employee for whom the leave was requested actually participated in emergency services duty or counter-narcotics missions, by providing a Drug Enforcement Agency/Civil Air Patrol (DEA/CAP) mission number; and

(F) An employee who returns to work from authorized Civil Air Patrol service shall be placed into his/her former position.

(7) Leaves of absences without pay shall be governed by the following provisions:

(A) Employees whose employment is of a continuing or permanent nature, upon application in writing to, and upon written approval of, the appointing authority, may obtain a leave of absence without pay under the following circumstances and regulations:

1. Leaves of absence without pay may be granted for any of the following reasons:

A. Because of medical disability of the employee which is not covered by the provisions in subsection (6)(B);

B. Because the employee is entering upon a course of training or study for the purpose of improving the quality of service to the state or of preparing the employee for promotion; and

C. Because of extraordinary reasons, sufficient in the opinion of the appointing authority to warrant that leave of absence; and

2. Leaves for any of these reasons shall be subject to the following regulations:

A. These leaves shall not be granted for more than twelve (12) months, but upon written application, prior to the expiration of the leave, the appointing authority may grant extensions of leaves of absence as appear best to serve the interest of the division of service;

B. At the expiration of a leave of absence or any extension of a leave of absence, the employee shall be returned to active duty in the division of service;

C. The individual, upon making written application and with the approval of the appointing authority, may be returned to active duty in the division of service prior to the expiration of a leave of absence or any extension of a leave of absence;

D. Failure on the part of the appointing authority to approve the individual's application to return to active duty prior to the expiration of a leave of absence or any extension of a leave of absence shall not affect the individual's right to return to active duty at the expiration of a leave of absence or any extension of a leave of absence;

E. Failure on the part of an individual to report within three (3) working days after the expiration of a leave of absence or extension of a leave of absence shall be treated as an absence without leave; and

F. Unless the appointing authority shall otherwise provide, before any such leave shall commence, the employee's accumulated annual and compensatory leave, and in the event leave is granted because of medical disability, all accumulated sick leave shall be exhausted; and

(B) Leaves of absence without pay for family and medical care shall be granted in accordance with the provisions of the federal Family and Medical Leave Act of 1993.

1. For the purposes of family and medical care leave, the following words and terms, unless the content clearly requires otherwise, shall have the meaning indicated as follows:

A. Child means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in *loco parentis*,

who is under eighteen (18) years of age or eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability;

B. Eligible employee means an employee who has been employed for at least twelve (12) months and who has worked at least one thousand two hundred and fifty (1250) hours within that time is eligible for a maximum of twelve (12) work weeks of unpaid leave during the year;

C. Employer, for the purposes of the Family and Medical Leave Act of 1993 and this section, the state of Missouri constitutes a single public employer;

D. Parent means the biological parent of an employee or an individual who stands or stood in *loco parentis* to an employee when the employee was a child. This term does not include parents-in-law;

E. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves—

(I) Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or residential medical care facility;

(II) Any period of incapacity requiring absence from work, school or other regular daily activities, of more than three (3) calendar days, that also involves continuing treatment by, or under the supervision of, a health care provider; or

(III) Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or for prenatal care;

F. Spouse means a husband or wife as defined or recognized under state law for purposes of marriage;

G. Substantially equivalent position means a position that has the same pay, benefits and working conditions, including privileges, prerequisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility and authority; and

H. Year means the current month and preceding eleven (11) months;

2. An eligible employee shall be granted leave without pay for the following causes and under the following conditions:

A. The birth or adoption of a child in accordance with the following provisions:

(I) Entitlement to leave for the purpose of adoption or for the birth of a child is limited to twelve (12) calendar months from

the date of the birth or adoption of the child; and

(II) The employee shall request leave in writing at least thirty (30) days prior to the commencement of leave or in the event of an emergency as soon as reasonably practical; also

(III) In the event that both parents are employees of Missouri, leaves for the birth or adoption of a child shall be limited to a period of twelve (12) weeks between parents/employees;

B. To provide care for a child, spouse or parent with a serious health condition; and

C. For treatment of the employee's serious health condition;

3. The following regulations shall apply to any of the family or medical leave requests:

A. The employee may take leave on an intermittent basis with prior approval of the appointing authority;

B. Employees shall be required to provide medical certification as to the need for leave of absence to obtain treatment for themselves or to care for a child, spouse or parent when requested;

C. At the appointing authority's discretion, employees may be required to transfer to another position to better accommodate an intermittent leave schedule;

D. The appointing authority may require accumulated sick leave or annual leave to be utilized prior to granting leave without pay;

E. Sick leave or annual leave utilized for the purposes of family or medical leave, whether at the employee's option or at the appointing authority's direction, shall be considered part of the twelve (12)-week leave obligation;

F. The employee is entitled to be returned to the position from which leave was granted or to a position that is substantially equivalent;

G. The employee shall suffer no loss in benefits accrued prior to the commencement of the leave of absence without pay;

H. Except as provided in Missouri statute or rules, the employee shall not be eligible to accrue benefits during the period of leave of absence without pay; and

I. The employer shall continue to provide what is currently paid toward the employee's same medical insurance coverage during the period of leave not to exceed twelve (12) weeks.

(8) Time off with compensation shall be governed by the following provisions:

(A) An employee shall be granted time off from duty, with compensation, by the

appointing authority for any of the following reasons:

1. In compliance with a subpoena to appear in court or before a judge, any legislative committee or any officer, board or body authorized to conduct any hearing or inquiry, except when the employee is a plaintiff or defendant in a cause of action not arising out of employment, or for jury service; and

2. For participation in promotional examinations held by the Personnel Division for positions in the division of service in which the individual is employed or in other examinations or promotional selection procedures which are offered or required by the division of service in which the individual is employed, provided that requests for this leave are coordinated with the appointing authority, for the purpose of ensuring that proper staffing is maintained within the work unit; and

(B) With the approval of the appointing authority, an employee may be granted time off from duty, with compensation, for any of the following reasons:

1. Attendance at professional conferences, institutes or meetings when attendance, in the opinion of the appointing authority, may be expected to contribute to the betterment of the service. Proof of actual attendance at these meetings may be required by the appointing authority;

2. Attendance at in-service training and other courses designed to improve the employee's performance or to prepare the employee for advancement;

3. Absence, not to exceed five (5) consecutive workdays, due to the bereavement of an employee as a result of the death of the employee's spouse, child, sibling, parent, grandparent or grandchild, and spouse's child, parent, grandparent or grandchild, or a member of the employee's household. The final decision concerning the applicability and length of such leave under this section shall rest with the appointing authority. Other absences due to the death of loved ones, when approved by the appointing authority, shall be charged to an employee's accumulated annual or compensatory leave; and

4. Because of extraordinary reasons sufficient in the opinion of the appointing authority to warrant such time off with compensation.

AUTHORITY: section 36.070, RSMo Supp. 1997. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. Amended: Filed Sept. 20, 1947, effective Sept. 30, 1947. Amended: Filed Dec. 23, 1947, effective Jan. 2, 1948. Amended: Filed March 25, 1948,*

effective April 4, 1948. Amended: Filed Sept. 15, 1948, effective Sept. 25, 1948. Amended: Filed Aug. 13, 1949, effective Aug. 23, 1949. Amended: Filed June 1, 1954, effective June 11, 1954. Amended: Filed Nov. 18, 1957, effective Nov. 28, 1957. Amended: Filed Aug. 22, 1958, effective Sept. 1, 1958. Amended: Filed Dec. 22, 1960, effective Jan. 1, 1961. Amended: Filed July 21, 1967, effective July 31, 1967. Amended: Filed Aug. 28, 1967, effective Sept. 7, 1967. Amended: Filed June 20, 1969, effective June 30, 1969. Amended: Filed Feb. 2, 1971, effective Feb. 12, 1971. Amended: Filed June 12, 1972, effective July 1, 1972. Amended: Filed Dec. 21, 1972, effective Jan. 1, 1973. Amended: Filed Feb. 27, 1973, effective March 9, 1973. Amended: Filed June 18, 1973, effective July 1, 1973. Amended: Filed April 23, 1974, effective May 2, 1974. Amended: Filed Feb. 28, 1975, effective March 10, 1975. Amended: Filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Dec. 13, 1978, effective April 12, 1979. Amended: Filed Sept. 29, 1989, effective Jan. 1, 1990. Amended: Filed Sept. 27, 1990, effective Feb. 14, 1991. Amended: Filed July 6, 1993, effective Jan. 31, 1994. Amended: Filed Nov. 16, 1993, effective July 30, 1994. Amended: Filed July 21, 1994, effective Feb. 26, 1995. Amended: Filed Oct. 31, 1995, effective May 30, 1996. Amended: Filed July 9, 1997, effective Jan. 30, 1998. Amended: Filed Sept. 15, 1998, effective March 30, 1999.

**Original authority 1945, amended 1979, 1995.*

1 CSR 20-5.025 ShareLeave

PURPOSE: *This rule prescribes guidelines and standards regarding donated leave programs under the authorization of section 36.350, RSMo. These guidelines and standards shall provide a framework to agencies for the establishment of their ShareLeave programs.*

(1) The state agencies that are covered under section 36.350, RSMo, may establish ShareLeave programs within their agencies for employees to donate leave to other employees. These programs may be established under the conditions set out within the following regulations:

(A) As used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

1. ShareLeave means a pool of leave hours donated by eligible employees that may be conveyed to other eligible employees;

2. A catastrophic illness or injury is one which is life threatening, terminal or likely to

result in a substantial permanent disability; and

3. ShareLeave pool means a repository of eligible leave hours that is maintained by a department or agency of state government for the purposes set forth under the ShareLeave program.

(B) Employees eligible to donate leave to the ShareLeave pool are those employees that are employed in positions of a permanent or continuing nature and who have completed their original probationary period. Employees eligible to receive ShareLeave pool benefits are those employees who are employed in positions of a permanent or continuing nature and who have completed their original probationary period or six (6) months of successful performance;

(C) Annual leave as defined by 1 CSR 20-5.020(1) may be donated between employees. Sick leave benefits, which are a grant from the employer and in no sense the property of individuals, may not be donated;

(D) To be eligible for donated leave, recipient employees must have experienced a catastrophic illness or injury. Departments may also provide that employees may be eligible for donated leave if they can demonstrate that their spouse or children have experienced catastrophic illness or injury requiring the employee's personal care and attention. The final decision concerning the granting of leave under this section shall rest with the department;

(E) Recipient employees must have exhausted all of their own accrued annual leave, sick leave, and compensatory leave and all worker's compensation indemnity payments (if applicable) before being eligible for donated leave;

(F) Employees eligible to receive disability benefits from the state of Missouri are not eligible for donated leave;

(G) Donations shall not be made to individuals, but shall be made to a departmental or agency "pool" established for this purpose;

(H) Appointing authority will establish a method for determining the eligibility of persons who apply for leave benefits from the "pool";

(I) All eligible applicants will receive an equitable share of leave from that available in the donation "pool";

(J) The maximum benefit which can be authorized for any one (1) employee for any one (1) instance of eligibility shall not exceed the equivalent of four (4) months of regular salary;

(K) An employee receiving donated leave shall be credited with additional leave earnings during this period; and

(L) All donations of eligible leave shall be voluntary. No employee may intimidate, threaten, or coerce any other employee with respect to donating or receiving leave under this program. Individual leave records that apply to ShareLeave are confidential and no individual employees shall receive remuneration of any kind for leave donated.

(2) Each appointing authority that adopts a program under this program shall submit a formal written policy and updates to the Personnel Advisory Board for review.

AUTHORITY: *sections 36.060 and 36.070, RSMo 1994.* Original rule filed Oct. 31, 1996, effective May 30, 1996.*

**Original authority: 36.060, RSMo 1945, amended 1971, 1979, 1993, 1995 and 36.070, RSMo 1945, amended 1979, 1995.*