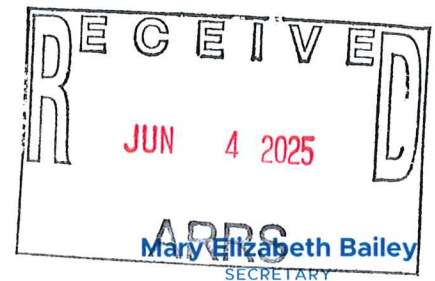




Andy Beshear
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PERSONNEL CABINET

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June 4, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 2:034. Classified compensation administrative regulations.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 2:034, the Personnel Cabinet proposes the attached amendment to 101 KAR 2:034.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

SUGGESTED SUBSTITUTE

PERSONNEL CABINET

101 KAR 2:034. Classified compensation administrative regulations.

RELATES TO: KRS 18A.020(2)(a), 18A.030(2), 18A.110, 18A.165, 29 U.S.C. sec. 201, et seq.

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(c), (d), (g), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(c) requires the Secretary of the Personnel Cabinet to promulgate administrative regulations to[which] govern the pay plan for all employees in the classified service. This administrative regulation establishes requirements to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. New Appointments.

(1) An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

(2) The appointing authority shall adjust to that salary, an employee who is not on initial or promotional probation and is earning less than the new appointee's salary, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d) Has a similar combination of education and experience relating to the relevant job class specification.

(3) The appointing authority shall adjust to five (5) percent above that salary, an employee who is not on initial or promotional probation and whose salary is the same or less than five (5) percent above the appointment salary assigned to the new employee, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d) Has a similar combination of education and experience relating to the relevant job class specification~~[If sufficient funds are available, the appointing authority may identify each incumbent employee affected by subsection (2) of this section whose salary is less than five (5) percent above the appointment salary assigned to the new employee. The appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary].~~

Section 2. Reentrance to Classified Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments as established in this administrative regulation.

(2) Other reentering employees.

(a) Former classified employees. An appointing authority shall set the salary of a former classified employee, other than a returning retiree, who is being reemployed, reinstated after a break in continuous employment in the classified service, or probationarily appointed ~~[in one (1) of the following ways]:~~

1.[a.] In accordance with the standards used for making new appointments in this administrative regulation;

2.[b.] Up to the same hourly rate[salary] as that paid at the time of separation from the classified service, if that hourly rate[salary] does not exceed the midpoint hourly rate[salary] plus the difference, in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary]; or

3.[c.] **At** the same hourly rate[salary] as that paid at the time of separation from the classified service if the employee is returning to the same pay grade or same job classification held at the time of separation from the classified service.

~~[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]~~

(b) Former unclassified employees with prior classified service. An appointing authority shall set the salary of a former classified employee who moved to the unclassified service and who is reinstated, reemployed, or probationarily appointed to a position in the classified service ~~[in one (1) of the following ways]:~~

1.[a.] In accordance with the standards for making new appointments as established in this administrative regulation;

2.[b.] Up to the same hourly rate[salary] as that paid at the time of separation from the classified service, if that hourly rate[salary] does not exceed the pay grade midpoint hourly rate[salary] plus the difference, in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary];

3.[c.] At an hourly rate[salary] that is the same as the hourly rate[salary] the employee last received in the classified service with adjustments for increases that would have been received if the employee had remained in the classified service prior to resignation if the hourly rate[salary] does not exceed the pay grade midpoint hourly rate[salary] plus the difference, in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary]; or

4.[d.] At a salary up to five (5) percent above the pay grade entry level wage for each year of service in the KRS Chapter 18A system, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

~~[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this~~

~~subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]~~

(c) Former unclassified employees with no previous classified service. An appointing authority shall set the salary of a former unclassified employee with no previous classified service, who is probationarily appointed or reemployed ~~[, in one (1) of the following ways]:~~

1.~~[a.]~~ In accordance with the standards for making new appointments as established in this administrative regulation; or

2.~~[b.]~~ At a salary up to five (5) percent above the minimum salary for each year of service in the unclassified service, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

~~[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]~~

(d) Laid off employees. A former employee, separated from the classified service by layoff and reinstated or reemployed in the same ~~[or similar]~~ job classification within two (2)~~[five (5)]~~ years from the date of layoff, may receive the salary the employee was receiving at the time of layoff, even if the salary is above the maximum of the pay grade.

(3) Probationary increments upon reentrance to state service. A former employee who is probationarily appointed at a salary at or below the midpoint of the pay grade shall receive a probationary increment upon successful completion of the probationary period.

Section 3. Salary Adjustments.

(1) Promotion.

(a) An employee who is promoted shall receive the greater of five (5) percent for each grade, or an increase to the minimum of the new grade except as established[provided] under subsection (2)(b), (3)(b), or[subsections (2)(b), (3)(b), and] (4)(b) of this section; or

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade if the increase is greater than the increase established[specified] in paragraph (a) of this subsection.

(2) Demotion.

(a) If an employee is demoted, ~~[the appointing authority shall determine]~~ the salary shall be determined in one (1) of the following ways:

1. The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced; or
2. If requested in writing by the appointing authority and approved by the secretary, the employee shall retain the salary received prior to demotion. If approved by the secretary, the written request and notice of approval shall be placed in the employee's agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a) [If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files].

(b) An employee whose salary is not reduced by five (5) percent per grade upon demotion shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was demoted. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been demoted.

(c) Upon the salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent for each grade or the new grade minimum, except as **established[provided]** under **subsection (2)(b) or[subsections (2)(b) and]** (4)(b) of this section **or[, and]** paragraph (b) of this subsection; or

2. If sufficient funds are available, up to the midpoint of the pay grade if the increase is greater than the increase **established[specified]** in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was reclassified. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reclassified.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive the greater of five (5) percent for each grade or the new grade minimum, except as **established[provided]** under **subsection (2)(b) or[subsections (2)(b) and]** (3)(b) of this section **or[, and]** paragraph (b) of this subsection.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until he or she is moved to a job classification with a higher pay grade than that from which he or she was reallocated. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reallocated.

(5) Detail to special duty.

(a) An employee who is approved for detail to special duty shall receive, during the period of detail, the greater of five (5) percent for each grade or the new grade minimum except as

established[provided] under subsection (2)(b), (3)(b), or[subsections (2)(b), (3)(b), and] (4)(b) of this section.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, if the increase is greater than the increase established[specified] in paragraph (a) of this subsection.

(c) An employee who is approved for detail to the same or lower pay grade shall receive the same salary received prior to detail except as provided under paragraph (b) of this subsection.

(6) Reversion.

(a) The salary of an employee who is reverted while serving a promotional probationary period, or following detail to special duty in a higher pay grade, shall be adjusted to:

1. The salary received prior to the promotion or detail; and
2. All salary advancements and adjustments that[which] would have been awarded if the promotion or detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and
2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(c) The increment date of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be restored to the increment date set prior to leaving the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, except as established[provided] under subsection (2)(b), (3)(b), or[subsections (2)(b), (3)(b), and] (4)(b) of this section, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade;
2. The greater of the new grade minimum or ten (10) percent per pay grade; or
3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his or her current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification if the employee's compensation[who] is below the special entrance rate to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may uniformly grant to all employees in that job classification, except those employees who are on initial probation, a salary adjustment equal to the difference between the entrance of the pay grade and the new entrance rate.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a salary adjustment to all employees in a job classification within an agency who were eligible for, but did not receive, a five (5) percent per pay grade increase or ten (10) percent per pay grade increase as a result of a grade change applicable to the job classification, on or after January 1, 1999. The total adjustment granted at the time of the grade change and under this paragraph shall equal a five (5) percent per pay grade increase or ten

(10) percent per pay grade increase to the employee's salary immediately prior to the grade change. The adjustment shall not be retroactive.

(b) If sufficient funds are available, an appointing authority may adjust the salary of one (1) or more employees with status in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

2.a. An adjustment ~~[shall be any amount]~~ that does not cause an employee's hourly rate to exceed the midpoint of the pay grade may be any amount; or

b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and one-half (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements.

(1) Initial probation increase. A full-time or part-time employee who completes an initial probationary period shall be granted a five (5) percent salary advancement on the first of the month following completion of the probationary period.

(2) Promotional probation increase. An employee shall receive a five (5) percent salary advancement on the first of the month following completion of the promotional probationary period except as established[provided] under Section[Sections] 3(2)(b), 3(3)(b), or[and] 3(4)(b) of this administrative regulation.

(3) An employee who separates prior to the first of the month following completion of a probationary period shall forfeit the five (5) percent salary advancement.

(4) Annual increment dates shall be established ~~[-as follows]~~:

(a) Upon completion of an initial probationary period;

(b) When a former employee has been probationarily appointed and has received compensation in any twelve (12) months without receiving an increment; or

(c) When an employee returns from leave without pay under the provisions of subsection (6) of this section.

(5) Annual increment dates shall not change if an employee:

(a) Is in a position ~~that[which]~~ is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of a reallocation;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified;

(j) Receives a promotional increase after completion of a promotional probationary period; or

(k) Is reemployed after layoff.

(6) Return from leave without pay. An employee returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(7) Service computation. Full-time and part-time service shall be counted in computing service for the purpose of determining increment eligibility.

(8) Order of calculating increments and other salary increases that[which] occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award.

(1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as established[specified] in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established by this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

- a. Outside of work hours;
- b. While in state service; and
- c. After establishing an increment date;

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which the course work[it] was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with the course work[it], in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new

schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available~~[,]~~ and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay **grade or grades[grade(s)]**, other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level wage of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Paid Overtime.

(1) Overtime for which pay is authorized shall be in accordance with 101 KAR 2:102, Section **6[5]**, and the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended.

(2) Eligibility for overtime pay shall be approved by the appointing authority, and **may be reviewed[shall be subject to review]** by the Secretary of Personnel.

(3) An employee who is eligible for overtime shall request permission from~~z~~ or be directed in advance~~z~~ by the supervisor to work overtime.

(4) An overtime payment shall not be added to base salary or wages.

Section 8. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 9. Supplemental Premiums.

(1) Locality premium.

(a)1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit if the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or

2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit if there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion~~z~~ or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

- (a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.
- (b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.
- (c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion, or demotion to a position that is ineligible for a shift differential premium.
- (d) The secretary may rescind authorization to pay shift premium for a job classification at any time.
- (e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

- (a) Upon request by an appointing authority, the secretary may~~shall~~ authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.
- (b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of **those employees' [their]** usual work week.
- (c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.
- (d) The secretary may rescind authorization to pay weekend premium at any time.
- (e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.
- (f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

- (a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.
- (b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.
- (c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:
 - 1. An explanation of the reason or reasons for granting the multilingual premium;
 - 2. The percentage of time the employee will use multilingual skills; and
 - 3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.
- (d) Once authorized **and once the employees are individually approved in accordance with this subsection**, the multilingual hourly premium shall apply to all employees in that agency who are

regularly assigned to complete work in a specified foreign language[~~once the employees are individually approved in accordance with this subsection~~].

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least three (3)~~one (1)~~ full-time filled positions~~position~~ in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire if~~when~~ the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time classified positions if:

1. The positions are in the same job classification, work county, and department or office if the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;

2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and

3. Eligibility for the sign-on bonus is limited to a probationarily appointed, rehired, or reinstated employee who:

a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment, rehire, or reinstatement;

b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and

c. Is working or on approved leave at the time payment is scheduled to be issued.

(b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:

1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment, rehire, or reinstatement;
 2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed, rehired, or reinstated; and
 3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service in the position into which the employee was appointed, rehired, or reinstated.
- (c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a position in a job classification, department or office, or work county other than the position into which the employee was appointed, rehired, or reinstated.
- (d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.
- (e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment, rehire, or reinstatement.
- (f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 10. Employee Recognition Award (ERA).

(1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the grade midpoint **if[under the following conditions]:**

- (a) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and
- (b)1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and **the Commonwealth's[its]** citizens;
2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or
3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing~~[i]~~ and placed in the employee's personnel files.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

- (a) Explain the reason or reasons for the granting of the award; and
- (b) Include a certification by the appointing authority that:
 1. Sufficient funds are available within the department or office; and
 2. The criteria and limitations established in this section have been met.

Section 11. Adjustment for Continuing Excellence (ACE) Award.

(1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the grade midpoint of the position in which the employee

holds status to a full-time employee's base pay as an ACE award if the employee has~~[under the following conditions]:~~

- (a) ~~[The employee has]~~ An established annual increment date;
 - (b) ~~[The employee has]~~ Worked at least the immediately preceding twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;
 - (c) ~~[The employee has]~~ Not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and
 - (d) 1. ~~[The employee has]~~ Demonstrated a sustained level of exceptional job performance;
2. ~~[The employee has]~~ Assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification~~[,]~~ and has performed them in an exceptional manner; or
3. ~~[The employee has]~~ Acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.
- (2) An employee shall not be eligible for an ACE award under this section if:
- (a) An educational achievement award has been granted for the same training; or
 - (b) The employee received either of the two (2) lowest possible evaluation ratings on the most recent performance evaluation.
- (3) The granting of an ACE award shall be within the sole discretion of the appointing authority.
- (4) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:
- (a) Explain the reason or reasons for the granting of the award; and
 - (b) Include a certification by the appointing authority that:
 - 1. The criteria and limitations established in this section have been met; and
 - 2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 12. Voluntary Actions. An employee request for transfer, demotion, or promotion shall be documented on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form in Accordance with 101 KAR 1:335 and 101 KAR 1:400.

Section 13. Incorporation by Reference.

- (1) "Voluntary Transfer/Demotion/Promotion Employee Agreement Form", November 2024~~[September 2017]~~, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site at: <https://personnel.ky.gov/Pages/mir.aspx>.

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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June 4, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 2:102. Classified leave general requirements.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 2:102, the Personnel Cabinet proposes the attached amendment to 101 KAR 2:102.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

SUGGESTED SUBSTITUTE

PERSONNEL CABINET

101 KAR 2:102. Classified leave general requirements.

RELATES TO: KRS 18A.020, 18A.030, 18A.095, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, 344.030, 337, 29 C.F.R. 825, 29 U.S.C. [~~8, 29 U.S.C.~~] 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of the Personnel Cabinet to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(7)(~~f~~)(~~g~~) requires the secretary, with the approval of the Governor, to promulgate administrative regulations that govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for classified employees.

Section 1. Annual Leave.

(1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as established~~[provided]~~ in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency allow~~[permit]~~.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, the leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work-days	277.50 hours	296 hours
120-179 months	45 work-days	337.50 hours	360 hours
180-239 months	52 work-days	390 hours	416 hours
240 months and over	60 work-days	450 hours	480 hours

(j) Leave in excess of the maximum amounts established[specified] in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)1. If an employee is separated by proper resignation or retirement, or terminated from initial probation other than for cause, the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

- Not be paid to the employee or converted to sick leave; and
- Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as established[described] in 101 KAR

2:095 Section 4, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.

(f) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and
2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

Section 2. Sick Leave.

(1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service~~[i]~~ and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;
2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee ~~may~~**[is permitted to]** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or communicable condition. Before an employee ***may[is permitted to]*** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee ***may[is permitted to]*** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for ***an immediate family member[a member of the immediate family]***, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and ***that[which]*** resembles the former position as closely as circumstances ***allow[permit]***. The appointing authority shall notify the employee in writing of the ***following***:

1. ***[The-]***Effective date of the employee's return;
2. ***[The-]***Position to which the employee is being returned;
3. ***[The-]***Employee's salary upon return to work; and
4. ***[The-]***Employee's new annual increment date, if applicable.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
3. Is unable to return to the employee's former position or to a position for which the employee is qualified and ***that[which]*** resembles the former position as closely as circumstances ***allow[permit]***;
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and
5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee with status who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, the employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) ***If requested by the appointing authority, the employee shall submit*** a medical certificate ***[may be required-]*** signed by a licensed ***medical provider[practitioner]*** and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence, but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave.

(1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for up to twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) ~~Except as established in~~ provided by Section 4 of this administrative regulation, an employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave.

(a) If an employee reserves accumulated sick leave, the remaining FMLA leave shall be unpaid.

(b) The employee shall satisfy ~~all~~ any procedural requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of ~~[such-]~~ payment.

Section 4. Employer Paid Leave.

(1) ~~[Notwithstanding the eligibility requirements of the FMLA,]~~ A full-time employee shall be entitled to a maximum of six (6) weeks of continuous employer paid leave for one (1) or more of the following reasons:

(a) For the birth of a child~~[;]~~ and to care for the newborn child if the leave is taken within one (1) year of the child's birth;

(b) For placement with the employee of a child for adoption or foster care if the leave is taken within one (1) year of the child's placement; or

(c) Because of a serious health condition that makes an employee unable to perform the functions of the employee's job.

(2) Employer paid leave shall comply with the requirements of the FMLA of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825. Any leave entitlements provided by the FMLA that are not specifically listed in this section shall not qualify for employer paid leave.

(3) Leave that qualifies as employer paid leave shall be so designated and shall be exhausted prior to the employee's use of other accrued leave for an employer paid leave qualifying condition.

(4) Upon exhaustion of employer paid leave, additional leave usage shall comply with the other provisions of this administrative regulation, **including the requirement for**~~[to include provision of]~~ medical documentation signed by a licensed **medical provider**~~[practitioner]~~ certifying the employee's continued need for leave.

(5) Employer paid leave shall be used only on a continuous basis for absences of three (3) or more consecutive days.

(6) An employee shall be eligible for six (6) weeks of employer paid leave upon appointment.

(7) An employee shall request advance approval to use employer paid leave.

(8) Employer paid leave shall renew for a new six (6) week period following the completion of 120 months of service and following the completion of 240 months of service. Renewal shall void the remaining employer paid leave allotment so that the maximum amount of leave available pursuant to this section shall not exceed six (6) weeks.

(9) If an employee returns to work from employer paid leave but does not use the entire six (6) weeks of continuous employer paid leave, the remaining leave allotment may be utilized by the employee until renewal at 120 months of service or 240 months of service as **established**~~[described]~~ in subsection (8) of this section.

(10) If an employee returns to state service following a break in service, the leave allotment authorized in subsection (6) of this section shall not renew. The allotment schedule **established**~~[outlined]~~ in subsection (8) of this section shall not reset after a break in service.

(11) Upon separation from state service, an employee shall not be paid for any unused employer paid leave, and the unused balance of leave shall not be converted to any other type of leave or transfer to the employee's retirement account.

(12) ~~If~~**[When]** FMLA is applicable, an employee shall use employer paid leave concurrently with FMLA leave.

(13) ~~[On the effective date of this administrative regulation,]~~An incumbent full-time employee shall be granted six (6) weeks of employer paid leave, **which shall**~~[that may]~~ be used in accordance with this section.

Section 5.~~[Section 4.]~~ Court Leave.

(1) With prior notification to **his or her**~~[their]~~ supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

Section 6.~~[Section 5.]~~ Compensatory Leave and Overtime.

(1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty, shall be granted compensatory leave and paid overtime **in accordance with**~~[subject to the provisions of]~~ the Fair Labor Standards Act, 29 U.S.C. Chapter 8, **KRS Chapter 337**~~[the Kentucky Revised Statutes]~~, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as **established**~~[provided]~~ by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months.

a. The employee's election shall be changed by the submission of a new form.

b. The effective date of a change shall be the first day of the next work week following receipt of the election.

c. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position; or

2. 240 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon accumulation of 240 hours of compensatory leave at the end of a pay period. If a work week is split between pay periods, then the 240 hours of compensatory leave required for payment shall be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

Section 7.~~[Section 6.]~~ Military Leave.

(1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days **established[specified]** in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days **established[specified]** in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 8.~~[Section 7.]~~ Voting and Election Leave.

(1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for election day does not exceed a regular workday.

(4) The absence shall not be charged against leave.

(5) An employee who is **allowed[permitted]** or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 9.~~[Section 8.]~~ Funeral and Bereavement Leave.

(1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 10.~~[Section 9.]~~ Special Leave of Absence.

(1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months.

- (b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.
- (c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.
- (2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than established[specified] in this administrative regulation that are of tangible benefit to the state.
- (3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or pending an investigation of an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.
 - (a) Leave shall not exceed sixty (60) working days.
 - (b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.
 - (c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).
 - (d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.
- (4) An appointing authority may place an employee on administrative leave with pay upon the employee's receipt of an intent to dismiss letter as authorized by KRS 18A.095(2)(c).
- (5) Discretionary leave with pay.
 - (a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.
 - (b) Reasons for discretionary leave with pay shall be[are] limited to work-related events.
 - (c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.
 - (d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

Section 11.~~[Section 10.]~~ Absence Without Leave.

- (1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.
- (2) Unauthorized or unreported absence shall:
 - (a) Be considered absence without leave;
 - (b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and
 - (c) Constitute grounds for disciplinary action.
- (3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

Section 12.~~[Section 11.]~~ Absences Due to Adverse Weather.

- (1) With supervisor approval, an employee who is unable~~[who is not designated for mandatory operations and chooses not]~~ to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:
 - (a) Charged to annual or compensatory leave;

- (b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or
 - (c) Charged to paid adverse weather leave in accordance with subsection (4) of this section~~[Deferred in accordance with subsections (4) and (5) of this section].~~
- (2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.
- (3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.
- (4) An employee, including an employee in a mandatory operation, who has supervisor approval, shall be eligible to use paid adverse weather leave **if[subject to the following conditions]:**
- (a) The amount of adverse weather leave shall not exceed one **(1)** working day in a calendar year based on the employee's weekly work schedule;
 - (b) The leave shall be used in increments of one-quarter (1/4) hours; and
 - (c) The unused portion of the **one (1) day[one-day]** allotment for paid adverse weather leave shall expire upon separation from employment or at the end of the calendar year, whichever comes first.~~[If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.]~~
- ~~[(5)] [An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.]~~
- ~~[(a)] [Time lost shall be made up within 123 calendar days of the occurrence of the absence. If it is not made up within 123 calendar days, leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.]~~
 - ~~[(b)] [If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.]~~
- ~~(5)[(6)]~~ If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.
- (a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.
 - (b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 6~~[5]~~ of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 13.~~[Section 12.]~~ Blood Donation Leave.

- (1) An employee who, during scheduled work hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.
- (2) Leave granted pursuant to this section shall be used **if[when]** the blood is donated unless circumstances as **established[specified]** by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.
- (3) An employee shall request leave in advance to qualify for blood donation leave.
- (4) An employee who is deferred from donating blood shall not:

- (a) Be charged leave time for the time spent in the attempted donation; and
 - (b) Qualify for the remainder of the blood donation leave.
- (5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

Section 14.~~[Section 13.]~~ Incorporation by Reference.

- (1) "Overtime Compensation Form", May 2013, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Documents in Demand page at: <https://personnel.ky.gov/>.

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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June 4, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 3:015. Leave requirements for unclassified service.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 3:015, the Personnel Cabinet proposes the attached amendment to 101 KAR 3:015.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

SUGGESTED SUBSTITUTE
Final Version: 5/28/2025 11:05 AM

PERSONNEL CABINET
(Amendment)

101 KAR 3:015. Leave requirements for unclassified service.

RELATES TO: KRS 18A.020, 18A.030, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, **Chapter 337**, 344.030, 29 C.F.R. 825, 29 U.S.C. [~~8~~, ~~29 U.S.C.~~] 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110(2), (7) [~~f~~] [~~g~~], 18A.155 [~~29 U.S.C. 201 – 219, 2601 – 2654~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of ~~the~~ **Personnel Cabinet** to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(2) and 18A.155 require the secretary to promulgate administrative regulations for the unclassified service. KRS 18A.110(7) [~~f~~] [~~g~~] requires the secretary, with the approval of the Governor, to promulgate administrative regulations to govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for unclassified employees.

Section 1. Annual Leave.

(1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as **established** [~~provided~~] in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the

calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency allow[permit].

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work- days	277.50 hours	296 hours
120-179 months	45 work- days	337.50 hours	360 hours
180-239 months	52 work- days	390 hours	416 hours
240 months and over	60 work- days	450 hours	480 hours

(j) Leave in excess of the maximum amounts established[specified] in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)

1. If an employee is separated by proper resignation or retirement, or terminated other than for cause, the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

- Not be paid to the employee or converted to sick leave; and
- Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as established~~[described]~~ in 101 KAR 3:050, Section 8, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.

(f) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and
2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

Section 2. Sick Leave.

(1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service~~[,]~~ and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee ~~may~~**[is permitted to]** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or communicable condition. Before an employee ~~may~~**[is permitted to]** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee ~~may~~**[is permitted to]** return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

(h) The duration of an interim employee's appointment shall not be extended by the use or approval for sick leave with or without pay.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for ~~an immediate family member~~**[a member of the immediate family]**, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and **that[which]** resembles the former position as closely as circumstances **allow[permit]**. The appointing authority shall notify the employee in writing of the **following**:

1. **[The]**Effective date of the employee's return;
2. **[The]**Position to which the employee is being returned;
3. **[The]**Employee's salary upon return to work; and
4. **[The]**Employee's new annual increment date, if applicable.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
3. Is unable to return to the employee's former position or to a position for which the employee is qualified and **that[which]** resembles the former position as closely as circumstances **allow[permit]**;
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and
5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, an employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) ***If requested by the appointing authority, the employee shall submit*** a medical certificate ***[may be required,]*** signed by a licensed ***medical provider[practitioner]*** and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave.

(1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for ***up to*** twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) ***Except as established in[provided by]*** Section 4 of this administrative regulation, an employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave.

(a) If an employee reserves accumulated sick leave, the remaining FMLA leave shall be unpaid.

(b) The employee shall satisfy ***all[any procedural]*** requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of ***[such-]*** payment.

Section 4. Employer Paid Leave.

(1) ***[Notwithstanding the eligibility requirements of the FMLA,]*** A full-time employee shall be entitled to a maximum of six (6) weeks of continuous employer paid leave for one ***(1)*** or more of the following reasons:

(a) For the birth of a child~~*[,]*~~ and to care for the newborn child if the leave is taken within one (1) year of the child's birth;

(b) For placement with the employee of a child for adoption or foster care if the leave is taken within one (1) year of the child's placement; or

(c) Because of a serious health condition that makes an employee unable to perform the functions of the employee's job.

(2) Employer paid leave shall comply with the requirements of the FMLA of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825. Any leave entitlements provided by the FMLA that are not specifically listed in this section shall not qualify for employer paid leave.

(3) Leave that qualifies as employer paid leave shall be so designated and shall be exhausted prior to the employee's use of other accrued leave for an employer paid leave qualifying condition.

(4) Upon exhaustion of employer paid leave, additional leave usage shall comply with the other provisions of this administrative regulation, ***including the requirement for[to include provision of]*** medical documentation signed by a licensed ***medical provider[practitioner]*** certifying the employee's continued need for leave.

(5) Employer paid leave shall be used only on a continuous basis for absences of three (3) or more consecutive days.

(6) An employee shall be eligible for six (6) weeks of employer paid leave upon appointment.

(7) An employee shall request advance approval to use employer paid leave.

(8) Employer paid leave shall renew for a new six (6) week period following the completion of 120 months of service and following the completion of 240 months of service. Renewal shall void the remaining employer paid leave allotment so that the maximum amount of leave available pursuant to this section shall not exceed six (6) weeks.

(9) If an employee returns to work from employer paid leave, but does not use the entire six (6) weeks of continuous employer paid leave, the remaining leave allotment may be utilized by the employee until renewal at 120 months of service or 240 months of service as **established[described]** in subsection (8) **of this section**.

(10) If an employee returns to state service following a break in service, the leave allotment authorized in subsection (6) **of this section** shall not renew. The allotment schedule **established[outlined]** in subsection (8) **of this section** shall not reset after a break in service.

(11) Upon separation from state service, an employee shall not be paid for any unused employer paid leave, and the unused balance of leave shall not be converted to any other type of leave or transfer to the employee's retirement account.

(12) **If[When]** FMLA is applicable, an employee shall use employer paid leave concurrently with FMLA leave.

(13) **[On the effective date of this administrative regulation,]** An incumbent full-time employee shall be granted six (6) weeks of employer paid leave, **which shall[that may]** be used in accordance with this section.

Section 5.~~[Section 4.]~~ Court Leave.

(1) With prior notice to **his or her[their]** supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

Section 6.~~[Section 5.]~~ Compensatory Leave and Overtime.

(1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty, shall be granted compensatory leave and paid overtime **in accordance with[subject to the provisions of]** the Fair Labor Standards Act, 29 U.S.C. Chapter 8, KRS Chapter 337, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as established in~~[provided by]~~ subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months.

- a. The employee's election shall be changed by the submission of a new form.

- b. The effective date of a change shall be the first day of the next workweek following receipt of the election.

- c. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position; or

2. 480 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who is not in a policy-making position and has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon accumulation of 240 hours of compensatory leave at the end of a pay period. If a work week is split between pay periods, then the 240 hours of compensatory leave required for payment shall be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

- (f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.
- (g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:
1. Regular hourly rate of pay; or
 2. Average regular rate of pay for the final three (3) years of employment.

Section 7.~~[Section 6.]~~ Military Leave.

- (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days **established[specified]** in KRS 61.394 for a federal fiscal year.
- (2) The absence shall not be charged to leave.
- (3) Absence that exceeds the number of working days **established[specified]** in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.
- (4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.
- (5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 8.~~[Section 7.]~~ Voting and Election Leave.

- (1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.
- (2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.
- (3) An election officer shall receive additional leave if the total leave for Election Day does not exceed a regular workday.
- (4) The absence shall not be charged against leave.
- (5) An employee who is **allowed[permitted]** or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 9.~~[Section 8.]~~ Funeral and Bereavement Leave.

- (1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.
- (2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 10.~~[Section 9.]~~ Special Leave of Absence.

(1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months or the conclusion of the administration in which the employee is serving, whichever comes first.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than **established**~~[specified]~~ in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or pending an investigation of an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).

(d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.

(4) An appointing authority may place a career unclassified employee on administrative leave with pay upon the employee's receipt of an intent to dismiss for cause letter.

(5) Discretionary leave with pay.

(a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.

(b) Reasons for discretionary leave with pay **shall be**~~[are]~~ limited to work-related events.

(c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.

(d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

Section 11.~~[Section 10.]~~ Absence Without Leave.

(1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

- (c) Constitute grounds for disciplinary action.
- (3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

Section 12.~~[Section 11.]~~ Absences Due to Adverse Weather.

- (1) With supervisor approval, an employee who is unable~~[who is not designated for mandatory operations and chooses not]~~ to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:
- (a) Charged to annual or compensatory leave;
 - (b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or
 - (c) Charged to paid adverse weather leave in accordance with subsection (4) of this section~~[Deferred in accordance with subsections (4) and (5) of this section].~~
- (2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.
- (3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.
- (4) An employee, including an employee in a mandatory operation, who has supervisor approval, shall be eligible to use paid adverse weather leave ~~if~~**[subject to the following conditions]:**
- (a) The amount of adverse weather leave shall not exceed one (1) working day in a calendar year based on the employee's weekly work schedule;
 - (b) The leave shall be used in increments of one-quarter (1/4) hours; and
 - (c) The unused portion of the one (1) [-]day allotment for paid adverse weather leave shall expire upon separation from employment or at the end of the calendar year, whichever comes first.~~[If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.]~~
- ~~[(5)] [An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.]~~
- ~~[(a)] [Time lost shall be made up within 123 calendar days of the occurrence of the absence. If it is not made up within 123 calendar days, leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.]~~
 - ~~[(b)] [If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.]~~
- ~~(5)~~~~[(6)]~~ If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.
- (a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.
 - (b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section ~~6~~[5] of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 13.~~[Section 12.]~~ Blood Donation Leave.

- (1) An employee who, during scheduled work hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.
- (2) Leave granted pursuant to this section shall be used ***if[when]*** the blood is donated, unless circumstances as ***established[specified]*** by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.
- (3) An employee shall request leave in advance to qualify for blood donation leave.
- (4) An employee who is deferred from donating blood shall not:
 - (a) Be charged leave time for the time spent in the attempted donation; and
 - (b) Qualify for the remainder of the blood donation leave.
- (5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

Section 14.~~[Section 13.]~~ Incorporation by Reference.

- (1) "Overtime Compensation Form", May 2013, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Documents in Demand page at: <https://personnel.ky.gov/>.

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.



Andy Beshear
GOVERNOR

PERSONNEL CABINET

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June 4, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 83, State Capitol Annex
Frankfort, KY 40601

Re: 101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 3:045, the Personnel Cabinet proposes the attached amendment to 101 KAR 3:045.

Sincerely,

Rosemary G. Holbrook
Assistant General Counsel
Office of Legal Services

SUGGESTED SUBSTITUTE
Final Version: 5/28/2025 11:05 AM

PERSONNEL CABINET
(Amendment)

101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

RELATES TO: KRS 18A.020, 18A.110, 18A.155, 18A.202, 199.555

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(2), 18A.155(1)(b), (e), 18A.202(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary of the Personnel **Cabinet** to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). KRS 18A.110(2) requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees. This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

Section 1. New Appointments. An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

Section 2. Reentrance to State Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A, while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees. An appointing authority shall set the salary of a former classified or unclassified employee, other than a returning retiree:

- (a) In accordance with the standards used for making new appointments in this administrative regulation; or
- (b) Up to an hourly rate~~[a salary]~~ formerly paid in the classified or unclassified service.

Section 3. Salary Adjustments.

(1) Promotion.

(a)

1. An employee who is promoted shall receive a five (5) percent increase or an increase to the minimum of the new grade, whichever is greater; or

2. An appointing authority may grant a salary increase of five (5) percent per grade upon promotion.

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade as long as the increase is greater than the increase established~~[specified]~~ in subparagraph 1. of subsection (1)(a) of this section.

(2) Demotion. If an employee is demoted,~~[the appointing authority shall determine]~~ the salary shall be determined in one (1) of the following ways:

(a) The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced~~[to a rate that is not below the minimum for the job classification to which the demotion is made]~~;

(b) If requested in writing by the appointing authority and approved by the secretary, the employee shall retain the salary received prior to the demotion. If approved by the secretary, the written request and notice of approval shall be placed in the employee's agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a) [If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files]; or

(c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent or the new grade minimum;
2. The greater of five (5) percent for each grade or the new grade minimum; or
3. If sufficient funds are available, up to the midpoint of the pay grade as long as the increase is greater than the increase **established[specified]** in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive a five (5) percent increase or an increase to the new grade minimum, whichever is greater. An appointing authority may grant a five (5) percent increase per grade upon reallocation to a higher grade.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation.

(5) Detail to special duty.

(a) An employee who is detailed to special duty in a higher grade shall receive a five (5) percent increase or an increase to the minimum of the grade, whichever is greater, for the duration of the period of the detail. An appointing authority may grant a salary increase of five (5) percent per grade for the duration of the detail.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, as long as the increase is greater than the increase **established[specified]** in paragraph (a) of this subsection.

(c) An employee who is detailed to special duty to the same or lower grade shall continue to receive the same salary except as provided under paragraph (b) of this subsection.

(6) Reversion.

(a) The salary of an employee who is reverted following detail to special duty in a higher pay grade shall be adjusted to:

1. The salary received prior to the detail; and
2. All salary advancements and adjustments that[which] would have been awarded if the detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and
2. All salary advancements and adjustments that[which] would have been awarded if the individual had remained in the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade;
2. The greater of the new grade minimum or ten (10) percent per pay grade; or
3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his or her current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification, who is below the special entrance rate, to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may also grant a salary adjustment equal to the difference between the entrance of the pay grade and the new special entrance rate to other employees in that job classification, except those employees who are on initial probation.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a five (5) percent salary adjustment to an employee who was eligible for, but did not receive, an increase upon the completion of six (6) months service following promotion.

(b) On the 16th of a month, an appointing authority may grant a salary adjustment to an employee within an agency who was eligible for, but did not receive, at least a five (5) percent per pay grade increase or ten (10) percent per pay grade increase as a result of a grade change on or after January 1, 1999. The total adjustment under this provision when combined with an increase at the time of the grade change shall equal a five (5) percent per pay grade increase or ten (10) percent per pay grade increase to the employee's salary immediately prior to the grade change. The adjustment shall not be retroactive.

(c) If sufficient funds are available, an appointing authority may adjust the salary of one (1) or more unclassified employees in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

2.

a. An adjustment [shall be any amount] that does not cause an employee's hourly rate to exceed the midpoint of the pay grade may be any amount; or

b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and one-half (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements.

(1) Initial appointment increase. An appointing authority may grant a five (5) percent increase to an employee, except an interim employee, on the first day of the month following completion of the greater of six (6) months of service or the months of service required by 101 KAR 1:325, Section 1(2).

(2) Six (6) month promotional increase. An employee may receive a five (5) percent increase following the completion of the greater of six (6) months service after promotion or the months of service required by 101 KAR 1:325 Section 1(2).

(3) Annual increment dates shall be established ~~[-as follows]:~~

(a) On the first day of the month following completion of the initial probation period; or

(b) On the first day of the month following completion of twelve (12) months service since receiving the last annual increment for an employee, other than an interim employee, who returns from leave without pay.

(4) Annual increment dates shall not change if an employee:

(a) Is in a position ~~that~~**[which]** is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of his or her position being reallocated;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified; or

(j) Receives an increase six (6) months following promotion.

(5) Return from leave without pay. An employee, other than an interim employee, returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(6) Service computation. Full-time and part-time service shall be counted when computing service for purposes of determining increment eligibility. Service as an interim employee, or in the former seasonal, temporary, or emergency categories shall not be considered.

(7) Order of calculating increments and other salary increases ~~that~~**[which]** occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award.

(1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as ~~established~~**[specified]** in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established in subsection (5) of this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

- a. Outside of work hours;
- b. While in state service; and
- c. After establishing an increment date.

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which **the course work[it]** was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with **the course work[it]**, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of **the** Personnel **Cabinet** determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay **grade or grades[grade(s)]**, other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a

maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 8. Supplemental Premiums.

(1) Locality premium.

(a)

1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit where the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or

2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit where there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion, or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary ~~may~~**[shall]** authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of **those employees' [their]** usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;
2. The percentage of time the employee will use multilingual skills; and
3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized **and once the employees are individually approved in accordance with this subsection**, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language~~[once the employees are individually approved in accordance with this subsection]~~.

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position **that[which]** no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least three (3)~~[one (1)]~~ full-time filled positions~~[position]~~ in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire **if[when]** the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time unclassified positions if:

1. The positions are in the same job classification, work county, and department or office where the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;

2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and

3. Eligibility for the sign-on bonus is limited to a newly appointed or rehired employee who:

a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment or rehire;

b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and

c. Is working or on approved leave at the time payment is scheduled to be issued.

(b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:

1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment or rehire;

2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed or rehired; and

3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service in the position into which the employee was appointed or rehired.

(c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a position in a job classification, department or office, or work county other than the position into which the employee was appointed or rehired.

(d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.

(e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment or rehire.

(f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 9. Employee Recognition Award (ERA).

(1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary ***if[under the following conditions]:***

(a) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

(b)

1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and its citizens;

2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or

3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing~~[,]~~ and placed in the employee's personnel files.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. Sufficient funds are available within the department or office; and

2. The criteria and limitations established in this section have been met.

Section 10. Adjustment for Continuing Excellence (ACE) Award.

(1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary to a full-time employee's base pay as an ACE award ***if the employee has***~~[under the following conditions]:~~

(a) ~~[The employee has]~~An established annual increment date;

(b) ~~[The employee has]~~Worked at least the immediately preceding twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;

(c) ~~[The employee has]~~Not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and

(d)

1. ~~[The employee has]~~Demonstrated a sustained level of exceptional job performance;

2. ~~[The employee has]~~Assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification~~[,]~~ and has performed them in an exceptional manner; or

3. ~~[The employee has]~~Acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if an educational achievement award has been granted for the same training.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. The criteria and limitations established in this section have been met; and

2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 11. Adoption Benefit Program. The provisions of the Adoption Benefit Program established in 101 KAR 2:120 shall apply to an employee in the unclassified service.

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.

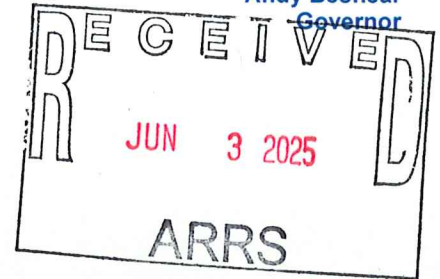
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KENTUCKY BOARD OF NURSING

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Andy Beshear
Governor



June 3, 2025

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Complier
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 201 KAR 20:600. Standards for training programs for licensed certified professional midwives

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:600, the Kentucky Board of Nursing proposes the attached Staff suggested Amendment to 201 KAR 20:600.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey R. Prather".

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 5-27-2025

STAFF-SUGGESTED AMENDMENT

BOARDS AND COMMISSIONS

Board of Nursing

201 KAR 20:600. Standards for training programs for licensed certified professional midwives.

Page 4

Section 6(1)(b)

Line 21

After "MEAC", insert the following:

, including the standards established in the Midwifery Education Accreditation Council Standards for Accreditation Handbook, Section B: Standards for Accreditation Version 2

Page 5

Section 6(1)(d)

Line 7

After "Section 7 of this", insert "administrative".

Page 6

Section 7

Line 9

After "(NARM)", insert the following:

, including the standards established in the North American Registry of Midwives (NARM) Certified Professional Midwife (CPM) Candidate Information Booklet (CIB)

Page 8

Section 10(1)(a)

Line 5

After "Accreditation Council", insert "Standards for Accreditation".

After "Handbook", insert a comma.

After "Section B", insert the following:

: Standards for Accreditation Version 2

After the closing quotation marks, insert the following:

, Midwifery Education Accreditation Council,

After "(", delete "MM/".

Page 8

Section 10(2)

Line 11

After "Board of", capitalize the first letter of "nursing".