

**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, 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)(g), 18A.155, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of Personnel 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)(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 does 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 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 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 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:

- a. Not be paid to the employee or converted to sick leave; and
- b. 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 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 does 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 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 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 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 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 which resembles the former position as closely as circumstances 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 which resembles the former position as closely as circumstances 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) A medical certificate may be required, signed by a licensed 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 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) 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. If an employee reserves accumulated sick leave, the remaining FMLA leave will be unpaid. The employee shall satisfy any procedural requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of such payment.

### Section 4. Court Leave.

- (1) With prior notice to 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 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 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 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 ~~The~~ 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. The employee's election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election. 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 ~~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 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. In the event a work week is split between pay periods, then the 240 hours of compensatory leave required for payment must 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 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 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 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 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 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 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 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 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 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 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 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 11. Absences Due to Adverse Weather.

- (1) An employee, 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) Deferred in accordance with subsections (4)~~((3))~~ and (5)~~((4))~~ 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) 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) ~~((4))~~ 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~~[four (4) months]~~ of the occurrence of the absence. If it is not made up within 123 calendar days~~[four (4) months]~~, 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.
- (6) ~~((5))~~ 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 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

#### Section 12. Blood Donation Leave.

- (1) An employee who, during scheduled work~~[regular working]~~ 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 when the blood is donated, unless circumstances as 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 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/>.

*GERINA D. WHETHERS, Secretary*  
*ANDY BESHEAR, Governor*

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Rosemary Holbrook, Assistant General Counsel, 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](mailto:RosemaryG.Holbrook@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Rosemary Holbrook**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This regulation details the various types of leave available to KRS Chapter 18A unclassified employees.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to establish the various types of leave available to KRS Chapter 18A unclassified employees, and the requirements for these types of leave.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This regulation assists in the consistent application and treatment for unclassified employees on all employment leave matters.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

In the annual leave section, a provision is added to clarify circumstances for payout of annual leave upon termination other than for cause. A provision is also added to clarify character of service upon resignation. The court leave section is amended to address the responsibility of an employee to provide prior notice to qualify for paid leave eligibility. The compensatory leave section is amended to clarify that a non-exempt employee's election of compensatory leave or overtime pay is solely the choice of the employee. The amount of compensatory leave that may be carried to the next pay period is changed to 480 hours for employees in policy-making positions. The voting leave section is amended to clarify when to record leave for absentee voting. In the special leave section, the subsection for investigative leave is amended to allow for the appointing authority to temporarily remove an employee from the workplace while an investigation of alleged lack of good behavior or unsatisfactory performance of duties is being conducted. A new subsection is added to provide that 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. A new subsection is added for discretionary leave with pay to address instances where an employee is exposed to a situation that requires leave from work for the employee's welfare, such as a social worker who experiences a threat of physical harm in the course of employment. The adverse weather leave section is amended to clarify eligibility and the length of time to make up work. The blood donation leave section is amended to clarify eligibility for leave.

**(b) The necessity of the amendment to this administrative regulation:**

This amendment is necessary to ensure the continued consistent application and handling of the multiple types of leave for KRS Chapter 18A unclassified service.

**(c) How the amendment conforms to the content of the authorizing statutes:**

Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

**(d) How the amendment will assist in the effective administration of the statutes:**

This amendment updates provisions to assist with the continued consistent application and handling of paid and unpaid leave for KRS Chapter 18A unclassified service.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

All KRS Chapter 18A unclassified employees and their agencies are affected.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

No additional action is required.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

No additional benefits will accrue, though a subset of employees may receive discretionary leave with pay related to specific events.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

This regulation, as amended, is not anticipated to generate any new or additional costs.

**(b) On a continuing basis:**

This regulation, as amended, is not anticipated to generate any new or additional costs.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

This regulation, as amended, is not anticipated to generate any new or additional costs.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

**(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:**

This regulation, as amended, is not anticipated to generate any new or additional fees.

**(9) TIERING: Is tiering applied?**

No. This regulation, as amended, treats all impacted entities the same.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

**(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

All state agencies with employees covered under KRS Chapter 18A.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

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

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

No revenue will be generated.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

No revenue will be generated.

**(c) How much will it cost to administer this program for the first year?**

Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

**(d) How much will it cost to administer this program for subsequent years?**

Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**N/A

**Expenditures (+/-):**Unknown

**Other Explanation:**

Specific dollar estimates cannot be determined. The cost of discretionary leave with pay will depend on the number of employees approved for leave, their salaries, and the number of days for each incident.