

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 10—Shared Leave for Adoptive and Foster
Placement and Care**

PROPOSED RESCISSION

1 CSR 10-10.010 ShareLeave for Foster and Adoptive Placement and Care. This rule prescribed guidelines and standards regarding donated leave programs under the authorization of section 105.271, RSMo. These guidelines and standards provided a framework to agencies for the establishment of their ShareLeave for Foster and Adoptive Placement and Care program for the purpose of arranging for a foster or adopted child's placement or caring for the child after placement.

PURPOSE: This rule is being rescinded because substantially similar language is simultaneously being added to the amended 1 CSR 20-

5.025.

AUTHORITY: section 105.271, RSMo Supp. 2014. Original rule filed Jan. 12, 2015, effective July 30, 2015. Rescinded: Filed Jan. 9, 2019.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within fifty-three (53) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

1 CSR 20-5.010 Hours of Work and Holidays. The board is amending sections (1) and (2).

PURPOSE: This amendment removes duplicative statutory language and makes other minor revisions.

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

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

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

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

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

the appointing authority's designee;

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

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

(E) Employees, other than those enumerated in subsections (1)(C) and (D), *[shall]* will be compensated at the regular rate of pay for their positions or, at the discretion of the appointing authority, by allowing an equal amount of compensatory time off for those work assignments which cause the employee to exceed forty (40) hours in pay status during a workweek. An employee shall receive an additional one-half (1/2) time compensation, by pay or compensatory time off, for any hours of work which exceed forty (40) hours actually worked within the workweek. Annual leave, sick leave, holidays, and other absences with or without pay *[shall]* are not to be considered as hours of work for purposes of determining compensation at the rate of time and one-half under this rule;

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

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

of pay is determined by dividing the employee's annual salary rate by the total hours in their term of employment.

(2) Holidays *[shall be]* are governed by the following provisions:

(A) The *[following]* days or dates listed in section 9.010, RSMo and other days or dates as may be designated by law, the governor, or the President of the United States are paid holidays: *first day of January, New Year's Day; third Monday in January, Martin Luther King Jr. Day; twelfth day of February, Lincoln's Birthday; third Monday in February, Washington's Birthday; eighth day of May, Truman's Birthday; last Monday in May, Memorial Day; fourth day of July, Independence Day; first Monday in September, Labor Day; second Monday in October, Columbus Day; eleventh day of November, Veteran's Day; fourth Thursday in November, Thanksgiving Day; twenty-fifth day of December, Christmas Day;*

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

(C) An employee *[shall]* will be credited for a holiday only if it falls during the employee's period of employment and the employee is in pay status. An employee whose effective date of appointment or return to pay status is before or on the day of a holiday *[shall]* will receive credit for the holiday. An employee whose appointment or return to pay status is effective after a holiday will receive no credit for the holiday, except when the holiday occurs at the start of a month and the employee's appointment or return to pay status is effective the first scheduled working day following the holiday. An employee *[shall]* will not receive credit for a holiday which occurs after they have ceased active duty preliminary to separation from the service except that an employee who is terminating employment and who has worked the last scheduled working day before the holiday *[shall]* will receive credit for the holiday. This provision *[shall]* does not apply to an employee who has submitted a formal notice of retirement; such employee may be credited for additional holidays occurring prior to the effective date of the retirement;

(D) All full-time employees, regardless of such schedule, *[shall]* will receive credit for the same number of paid holidays as employees whose regular work schedule is Monday through Friday.

1. Part-time employees, paid on a semi-monthly pay period, who are in pay status from forty to fifty-nine (40-59) hours in a semi-monthly pay period, including one-half (1/2) credit for those eligible holidays, *[shall]* will receive one-half (1/2) credit, and those part-time employees who are in pay status from sixty to seventy-nine (60-79) hours in a semi-monthly pay period, including three-fourths (3/4) credit for those eligible holidays, *[shall]* will receive three-fourths (3/4) credit. Part-time employees who are in pay status eighty (80) or more hours in a semi-monthly pay period, including full credit for those eligible holidays, *[shall]* will receive full credit. Other part-time employees who are scheduled to work less than one-half (1/2) time in a semi-monthly pay period or who are paid on a per-diem basis are not entitled to compensation or credit for holidays not worked.

2. Personnel whose normal duties require them to remain on duty at their workstation for shifts of twenty-four (24) hours or longer *[shall be]* are exempt from the provisions of this section. Their holidays and holiday compensation *[shall be as]* are established by the appointing authority, subject to review and approval by the personnel advisory board, consistent with the work schedule necessary to accommodate the safety and convenience of the public;

(E) When it is impracticable to give time off to employees regularly scheduled to work on any of the previously mentioned holidays because of the necessity of continuing essential service in a state institution or division of service, the appointing authority may require employees to remain on duty and to perform their assigned work. The employee who has worked on a holiday *[shall]* will be granted equal compensatory time off from duty at the time(s) the

appointing authority [shall] designates or, at the discretion of the appointing authority, the employee may receive straight-time cash compensation, providing the actual time worked does not fall within the definition of overtime to be paid at the rate of time and one-half as provided for by these rules. This compensation [shall] will be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf, and State Schools for the Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in his/her term of employment;

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

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

(H) Employees of the Missouri School for the Blind, Missouri School for the Deaf, and State Schools for the Severely Handicapped who are employed for the academic year established for those schools and whose work schedule and attendance are regulated by the class calendar of those schools, [shall be] are exempt from the provisions of this section. In lieu of the holidays as provided in 1 CSR 20-5.010(2)(A), holidays and holiday compensation for these employees [shall be as] are established by the appointing authority in a comprehensive leave policy consistent with the work schedule necessary to accommodate the annual academic calendar of their schools.

AUTHORITY: section 36.070, RSMo [2000] Supp. 2018. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 9, 2019.

PUBLIC COST: This proposed amendment will not cost public entities more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, April 9, 2019, which is fifty-three (53) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, April 9, 2019, at the Harry S. Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

1 CSR 20-5.015 Definition of Terms. This rule defined the meaning of specific words and terms pertaining to leaves of absence.

PURPOSE: This rule is being rescinded because its definitions have been moved to 1 CSR 20-1.020.

AUTHORITY: section 36.060, RSMo Supp. 2013, and section 36.070, RSMo 2000. Original rule filed July 21, 1994, effective Feb.

26, 1995. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2013, effective March 30, 2014. Rescinded: Filed Jan. 9, 2019.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Personnel Advisory Board, Attn: Melissa K. Theis, Secretary, 301 W. High St., Room 430, Jefferson City, MO 65101. To be considered, comments must be received no later than the date of the public hearing, April 9, 2019, which is fifty-three (53) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 AM, April 9, 2019, at the Harry S. Truman State Office Building, 301 W. High St., Room 430, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The board is amending sections (2), (7), and (8).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018), and makes other minor revisions.

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

(A) Except to the extent restricted below, sick leave under these rules is defined to mean a period in which the employee is incapacitated for the performance of assigned duties by sickness or injury, or by pregnancy, childbirth, and recovery from them, or periods of time required for medical, surgical, dental, or optical examination or treatment, or where through exposure to contagious disease the presence of the employee on duty would jeopardize the health of others, and shall also include leave requested and approved for the specific purpose of Personal Wellness Leave under specific conditions set forth in [1 CSR 20-5.020(2)(O)] **1 CSR 20-5.020(2)(O)**;

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

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

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

A. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under eighteen (18) years of age or eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability;

B. Eligible employee means an employee who has been employed for at least twelve (12) months and who has worked at least one thousand two hundred and fifty (1,250) hours within that time is eligible for a maximum of twelve (12) work weeks of unpaid leave during the year;