

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) An employee shall be granted time off from duty, with compensation, by the appointing authority for any of the following reasons:

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

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

*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 AMENDMENT**

**1 CSR 20-5.025 ShareLeave.** The board is amending sections (1) and (2), adding new sections (3) and (4), and amending the purpose statement.

*PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018), moves the rule previously located at 1 CSR 10-10.010 to a more appropriate location, and removes unnecessary language.*

*PURPOSE: This rule prescribes guidelines and standards regarding donated leave programs under the authorization of section 36.350,*

*RSMo. These guidelines and standards [shall] provide a framework to agencies for the establishment of their ShareLeave programs.*

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

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

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

2. A catastrophic illness or injury is one which is life threatening, terminal, or likely to result in a substantial permanent disability; and

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

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

(C) Annual leave as defined by 1 CSR 20-5.020(1) may be donated [between] by employees **to the pool**. Overtime or compensatory time as defined by 1 CSR 20-5.010(1)(C), (D), and (E) and 1 CSR 20-5.010(2)(E) may be donated [between] by employees **to the pool**. [Sick] **Since sick leave benefits, which are a grant from the employer and in no sense the property of individuals, [may not be donated] the donation of sick leave is not allowed;**

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

(G) Donations [shall] **cannot** be made to individuals, but [shall be made] **instead** to a departmental or agency "pool" established for this purpose;

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

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

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

(2) Each appointing authority that adopts a program under **section (1) of this [program shall] rule will** submit a formal written policy and updates to the [Personnel Advisory Board] **director** for review.

(3) **ShareLeave for Foster and Adoptive Placement and Care.** The state agencies that are covered under section 105.271, RSMo, will establish a leave-sharing program within their agencies for employees to donate annual leave, overtime, or compensatory time to an employee who is arranging for a foster or adopted child's placement or caring for the child after placement. **Nothing in this section prohibits a leave-sharing program**

for other purposes. This program will be established under the conditions set out within the following guidelines:

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

1. "ShareLeave for Foster and Adoptive Placement and Care" means a pool of leave hours donated by eligible employees that may be conveyed from the pool to other eligible employees for the purpose of arranging for a foster or adopted child's placement or caring for the child after placement;

2. "State ShareLeave Pool" means a statewide repository of eligible leave hours that is maintained by the Commissioner of Administration or designee for the purposes set forth under the 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;

3. "Department ShareLeave Pool" means a repository of eligible leave hours that is maintained by a department or agency of state government for the purposes set forth under the ShareLeave 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; and

4. "Foster or adoptive parent" means both those pursuing to foster or adopt a child and those who have a foster or adopted child placed in the home;

(B) Employees eligible to donate leave are those employees who are employed full time in benefit-eligible positions of a permanent or continuing nature. Employees eligible to receive ShareLeave pool benefits are those employees who are employed full time in benefit-eligible positions of a permanent or continuing nature;

(C) Annual leave as defined by 1 CSR 20-5.010(1) may be donated by employees to a pool. Overtime or compensatory time as defined by 1 CSR 20-5.010(1)(C), (D), and (E) and 1 CSR 20-5.010(2)(E) may be donated by employees to a pool. Since sick leave benefits are a grant from the employer and in no sense the property of individuals, the donation of sick leave is not allowed;

1. Departments or agencies which opt in to the State ShareLeave Pool will send a letter and copy of agreement which indicates cross agency acceptance to the Commissioner of Administration. The State ShareLeave Pool is the only program allowed for multi-agency ShareLeave for Foster and Adoptive Placement and Care purposes.

2. Any department or agency which chooses to participate in the State ShareLeave Pool will designate one (1) employee to serve on a Statewide ShareLeave for Foster and Adoptive Placement and Care Committee, chaired by the Commissioner of Administration or designee;

(D) Any donated leave is only to be used by the recipient employee for purposes of arranging for the foster or adopted child's placement or caring for the child after placement, which includes, but is not limited to:

1. Appointments with state officials, child placing agencies, social workers, health professionals, or attorneys;

2. Court proceedings;

3. Necessary travel;

4. Training and licensure as a foster parent;

5. Any periods of time during which foster or adoptive parents are ordered by the state, a child placing agency, or by a court to take time off from work to care for the foster or adopted child; or

6. Any other activities necessary to allow the foster care or adoption to proceed;

(E) The final decision concerning the granting of leave under this section rests with the chief administrative officer in the case of leave benefits from a Department ShareLeave Pool, and with the Statewide ShareLeave for Foster and Adoptive Placement and Care Committee in the case of leave benefits from the State ShareLeave Pool, and is based upon the degree to which the

employee is responsible for providing care and attention in connection with the adoption or fostering of the child(ren);

(F) Recipient employees are to exhaust all of their own applicable paid leave and compensatory time prior to using donated leave;

(G) Donation of leave cannot be made for the benefit of specific individuals, but to the Department ShareLeave Pool. Donations may be transferable between different departments or agencies, with the agreement of the chief administrative officer of such departments or agencies. Such leave is deposited into the State ShareLeave Pool;

(H) The chief administrative officer will establish a method for determining the eligibility of persons who apply for leave benefits from the Department ShareLeave Pool;

(I) The Statewide ShareLeave for Foster and Adoptive Placement and Care Committee will meet as necessary to determine the eligibility of persons who apply for leave benefits from the State ShareLeave Pool;

(J) All eligible recipients will receive an equitable share of leave from that available in the applicable donation pool;

(K) The maximum benefit for any one (1) employee for any one (1) instance of eligibility cannot exceed the equivalent of four (4) months of regular salary;

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

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

(4) Each appointing authority that adopts a program under section (3) of this rule will submit a formal written policy and updates to the director for review.

*AUTHORITY: section 105.271, RSMo 2016, and sections 36.060 and 36.070, RSMo Supp. [1998] 2018. Original rule filed Oct. 31, 1996, effective May 30, 1996. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Jan. 9, 2019.*

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

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## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

### Division 20—Division of Learning Services Chapter 100—Office of Quality Schools

#### PROPOSED AMENDMENT

**5 CSR 20-100.230 Virtual Instruction Program.** The State Board of Education is proposing to amend sections (1)-(7) and adding sec-

tion (8).

*PURPOSE: This amendment is necessary to align the virtual instruction rule to recently passed legislation.*

(1) General information. Missouri[’s] **Course Access and Virtual [Instruction] School Program** [(MoVIP)offers online courses to] **(MOCAP) publishes a course catalog of MOCAP approved courses on its website for any kindergarten through grade twelve (K-12) students residing in Missouri[,subject to appropriations]. All [MoVIP] MOCAP teachers are Missouri appropriately certified [in the subjects they teach]. All courses offered through [MoVIP] MOCAP are aligned with Missouri [Show-Me] Learning Standards.**

(2) Access. *[A school district shall not limit a student’s access to MoVIP state-funded courses, even if the district offers the same course titles.] School officials [are encouraged to] will advise students who are considering [MoVIP] MOCAP courses about whether those courses are appropriate, based on academic prerequisites and each student’s age and academic readiness.*

*[(A) State appropriations will pay for no more than six (6) virtual credits per school year for any one (1) student. A credit consists of two (2) semesters of work for a school year.*

*(B) A school district cannot limit the number of credits a student may earn through MoVIP during a single or multiple school years.*

*(C) Students may be allowed to take MoVIP courses during the regular school day as allowed by local district policies.]*

*[(3) Selection. In any fiscal year, the number of students seeking to enroll in courses through MoVIP may exceed the level of state funding appropriated to support the program. The Department of Elementary and Secondary Education (DESE) will use a selection process to assure that students in all parts of the state have an equal opportunity to participate in the MoVIP program.]*

*[(4)](3) Credit. Course credit [issued] earned through [the MoVIP program] MOCAP shall be recognized by all [public school districts] local education agencies in Missouri [regardless of who paid for the MoVIP course (state reimbursement or private tuition)].*

*(A) [All courses offered by MoVIP must use course numbers established by DESE.*

*(B) MoVIP will officially notify school districts and parents about the completion of each course and about any change in a student’s status (moving, dropping a course, etc.). When a course is completed, the notification will be in the form of a percentage of work satisfactorily completed, as opposed to a letter grade.] Courseware providers will notify local education agencies of the percentage complete and the grade percentage earned in each course.*

*[(C) School district policies governing how grades and credits are awarded must be applied to MoVIP courses and credits the same way they are applied to courses offered by the school district. Once a grade has been assigned for a course credit that was taken through the MoVIP program that credit shall be treated the same as any other course offered by the district.]*

*(B) Local Education Agencies will accept all transfer credit earned from any MOCAP course.*

*(C) Local Education Agencies will ensure transcripts specify which credits were earned through MOCAP courses.*

*[(5) Special Education. MoVIP shall provide the*