

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 Personnel Advisory Board is amending sections (2) and (7).

PURPOSE: This amendment updates the permitted uses for sick leave, clarifies provisions regarding adoption leave, and modifies requirements regarding Family Medical Leave Act (FMLA) eligibility.

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

(A) Employees who are employed on a full-time basis in positions of a continuing or permanent nature shall be entitled to annual leave or vacation with full pay as follows:

1. If they are paid on a semi-monthly pay period, computed at the rate of five (5) hours for each semi-month of service, in which they are in pay status for eighty (80) or more hours, until they complete ten (10) years of total state service. Employees who have completed ten (10) years of total state service shall earn annual leave at the rate of six (6) hours per semi-month. Employees who have completed fifteen (15) years of total state service shall earn annual leave at the rate of seven (7) hours per semi-month;

2. For the purposes of this rule—

A. For employees paid on a semi-monthly pay period, any semi-month during which an employee is eligible to earn any annual leave credit under this and subsequent sections shall be a semi-month of state service. For employees paid on a semi-monthly pay period annual leave will be credited at the rate of one-half (1/2) the full-time accrual rate for semi-months in which the employee is in pay status from forty (40) hours and pro-rated for all hours in which they are in pay status from forty to eighty (40–80) hours;

B. Personnel whose normal duties require them to remain on duty at their workstation for shifts of twenty-four (24) hours or longer shall be exempt from the provisions of this section. Their annual leave compensation shall be as 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;

3. Annual leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service except that this provision shall not apply to an employee who has submitted a formal notice of retirement;

4. Except when granted in accordance with subsection (1)(E), annual leave or vacation with pay shall be granted at the times public service will best permit and only on written application approved by the appointing authority;

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

6. Notwithstanding any other provisions to the contrary, any employee placed on a furlough without pay, pursuant to 1 CSR 20-3.070(8), or who voluntarily requests a leave of absence without pay in lieu of being furloughed, shall continue to earn annual leave as if the employee had actually been working during the time of the furlough. Upon approval of the appointing

authority, an employee in a position subject to a furlough may take a voluntary leave of absence without pay in lieu of being furloughed;

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

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

(D) The maximum allowable accumulation of annual leave shall not exceed forty-eight (48) times an employee's current full-time semi-monthly accrual rate. This maximum accrual shall apply in the following manner:

1. At the close of business on October 31 of any calendar year, unliquidated accumulation of annual leave which exceeds the maximum allowable accumulation shall lapse and credit for the excess leave shall not be carried forward to the month of November;

2. An employee entitled to annual leave who has resigned or otherwise separated from the service shall be entitled to receive reimbursement for the amount of this accrued leave which does not exceed the maximum allowable accumulation;

3. An employee who transfers to another department or who is appointed to a position in another department without break in service shall be entitled to receive reimbursement, under the provisions of subsection (1)(G), for the amount of this accrued leave which does not exceed the maximum allowable accumulation;

4. If, in the initial year of transition to the annual application of the annual leave maximum, an appointing authority finds that there has been a serious reduction in contributions by employees to a ShareLeave program as defined by 1 CSR 20-5.025, the appointing authority may request from the board a temporary authorization to add leave with pay as defined by 1 CSR 20-5.020(8)(B)5. to the ShareLeave balance as a means to maintain the program;

(E) When applicable, reimbursement for accumulated annual leave shall be based on the employee's rate of pay at the time of separation and shall be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080);

(F) Annual leave shall be granted and liquidated in multiples of one-quarter (1/4) hour except that this provision shall not apply in the case of an employee required to exhaust all appropriate leave balances in accordance with 1 CSR 20-5.020(7)(A)2.F. or when it is appropriate and necessary for an employee to exhaust balances in one leave category prior to using another leave category;

(G) An employee who transfers to another department or who is appointed to a position in another department without break in service shall be reimbursed for all his/her accrued leave which does not exceed the maximum allowable accumulation by the department which the employee is leaving, except that on the employee's request and with the approval of the appointing authority of the receiving department the employee may carry all or part of accrued annual leave to that department. Accrued annual leave under this subsection shall be reimbursed in the manner prescribed in subsection (1)(E). Each department will establish a policy providing for the consistent transfer reimbursement of accumulated annual leave when employees transfer or are appointed to positions in another division of service within the department;

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

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

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

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

(L) 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 exempt from the provisions of this section. In lieu of annual leave or vacation with pay as provided in 1 CSR 20-5.020(1)(A), annual leave and annual leave compensation for these employees shall be as 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.

(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 for bonding time with a child within twelve (12) months of the birth or adoption placement of the employee's child**, 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)(0);

(B) Employees who are employed on a fulltime basis in positions of a continuing or permanent nature shall be allowed sick leave with full pay as follows:

1. If they are paid on a semi-monthly pay period, computed at the rate of five (5) hours for each semi-month of service in which they are in pay status for eighty (80) or more hours. For employees paid on a semi-monthly pay period, sick leave will be credited at the rate of one-half (1/2) the full-time accrual rate for semi-months in which the employee is in pay status for forty (40) hours and prorated for all hours in which they are in pay status from forty to eighty (40-80) hours. Sick leave will be credited for semi-months in which they are in pay status;

2. Sick leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service except that this provision shall not apply to an employee who has submitted a formal notice of retirement;

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

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

5. Notwithstanding any other provisions to the contrary, any employee placed on a furlough without pay, pursuant to 1 CSR 20-3.070(8), or who voluntarily requests a leave of absence without pay in lieu of being furloughed, shall continue to earn sick leave as if the employee had actually been working during the time of the furlough. Upon approval of the appointing authority, an employee in a position subject to a furlough may take a voluntary leave of absence without pay in lieu of being furloughed;

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

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

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

(F) Sick leave shall be granted and liquidated in multiples of one-quarter (1/4) hour except that this provision shall not apply in the case of an employee required to exhaust all appropriate leave balances in accordance with 1 CSR 20-5.020(7)(A)2.F. or when it is appropriate and necessary for an employee to exhaust balances in one leave category prior to using another leave category;

(G) Personnel whose normal duties require them to remain on duty at their workstation for shifts of twenty-four (24) hours or longer shall be exempt from the provisions of this section. Their sick leave compensation shall be as 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;

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

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

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

(K) Loss of time due to an illness of the employee's spouse, children, other relatives or members of the employee's household, which requires the employee's personal care and attention shall be charged against the employee's accumulated sick leave. The final decision concerning the granting of leave under this section shall rest with the appointing authority and shall be based upon the degree to which the employee is responsible for providing personal care and attention;

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

(M) When an employee's personal care and attention is required in connection with the adoption of a child, loss of time that is supported by appropriate documentation will be referred to as adoption leave. **An employee's opportunity to use adoption leave expires at the end of the twelve (12) month period beginning on the date of placement of the child.** Such leave will be charged against the employee's accumulated sick leave unless the employee elects to use annual leave or compensatory time. The final decision concerning the granting of leave under this section shall rest with the appointing authority and shall be based upon the degree to which the employee is responsible for providing personal care and attention;

(N) 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 exempt from the provisions of this section. In lieu of sick leave with pay as provided in 1 CSR 20-5.020(2)(A), sick leave and sick leave compensation for these employees shall be as 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; and

(O) Employees will be permitted to use only one (1) hour of accrued sick leave per month for Personal Wellness Leave. Personal Wellness Leave shall not accrue or accumulate. Personal Wellness Leave shall only be used for a program or activity directly related to health promotion or disease prevention for the individual employee. Qualifying activities include, but are not limited to: attending a gym or a fitness class; taking a walk, jogging, bicycling; attending a class, seminar or webinar on diet, exercise, or wellness-related topics; participating in an event or

activity facilitated by a Department Wellness Team; attending yoga, aerobics, kickboxing, or other health related course; participating in a tobacco cessation, weight management, stress management, or other related disease management session. Examples of inappropriate use of Personal Wellness Leave include, but are not limited to: shopping; running errands; visiting family members and friends; taking extended lunch periods wherein health and wellness is not the focus of the lunch. The final decision concerning the granting of leave under this section shall rest with the appointing authority and can be denied if operational needs of the employer would be hindered by granting said leave or if the leave is not properly requested or used for permissible purposes under this rule.

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

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

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

(C) Employees will be paid for compensatory time balances in effect at the time of separation from the state service or upon transferring to or being appointed to a position in another department. This payment shall be based on the employee's rate of pay at the time of separation, transfer, or appointment and shall be computed uniformly on the basis of the standard annual hourly rate of pay of the employee as determined by dividing the employee's annual full-time salary rate by two thousand eighty (2080). For employees of the Missouri School for the Blind, Missouri School for the Deaf, and State Schools for the Severely Handicapped who are employed on a school-term or on a part-time basis, the standard annual hourly rate of pay is determined by dividing the employee's annual salary rate by the total hours in his/her term of employment. For employees subject to the overtime provisions of the Fair Labor Standards Act, compensation for accumulated compensatory time shall be made on the basis of the employee's current rate of pay as defined in this section, or his/her average rate of pay for the last three (3) years, whichever is higher. Each department will establish a policy providing for the consistent transfer or reimbursement of accumulated leave credits, or both, when employees transfer or are appointed to positions in another division of service within the department.

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

(A) Employees who are members of the national guard or any of the reserve components of the armed forces of the United States shall be entitled to leaves of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled, for all periods of military service during which they are engaged in the performance of duty under competent orders for a period not to exceed a total of one hundred twenty (120) work hours in any federal fiscal year (October 1 through September 30). Any employee entitled to military leave shall only be charged military leave for any hours which that employee would otherwise have been required to work had it not been for such

military leave. The minimum charge for military leave shall be one (1) hour and additional charges for military leave shall be in multiples of the minimum charge. The one hundred twenty (120) work hour limitation shall not apply to periods of military service during which employees are engaged in the service of this state at the call of the governor and as ordered by the adjutant general. Other absences required by military duty, not elsewhere provided for in these rules, may be charged to accrued annual leave, compensatory time, or leave of absence without pay;

(B) As evidence of military duty for which leave with pay is granted, the employee shall provide to the appointing authority an advance notice, either orally or in writing, of an official order from competent military authorities. When either military necessity prevents the employee from giving advance notice or circumstances make it impossible or unreasonable for the employee to provide advance notice, the notice requirement can be delayed or excused;

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

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

2. Because of an order issued by a military authority calling an employee to active duty from organized units of the national guard, any component of the armed forces of the United States or the public health service reserve, for a period of time in excess of the one hundred twenty (120) work hours of federal military leave covered by subsection (4)(A);

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

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

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

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

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

1. The time frame for an employee's return to employment depends on the length of military service performed by the employee. If military service was from one to thirty (1-30) days, the employee shall report at the beginning of the first regularly scheduled workday or eight (8) hours after the end of the military duty; if military service was between thirty-one (31) and one hundred eighty (180) days, application for return to employment must be submitted not later than fourteen (14) days after completion of military duty; if military service was more than one hundred eighty-one (181) days, application for return to employment must be submitted not later than ninety (90) days after completion of military duty. The application for return to employment may be extended to a period of not more than two (2) years when an employee suffers service-related injuries and continues to be hospitalized after discharge. An appointing authority may require the returning employee to provide documentation of the length and character of his/her

military service to assist in determining eligibility for and timeliness of return to employment; however, when such documentation is unavailable to the returning employee, he/she must be returned to employment until the documentation is available;

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

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

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

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

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

2. An employee who is restored to or employed in a position in accordance with the provisions of subsection (4)(D) shall not be discharged from that position without cause within one (1) year after that restoration if such employee served in the military for a period of more than six (6) months; if the employee served in the military between one (1) and six (6) months, they shall not be discharged without cause within six (6) months after restoration; employees who serve for thirty (30) days or less are given no protection from discharge without cause;

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

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

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

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

(A) Leave under this section shall be limited to persons who have completed the necessary training for, and have been certified as, disaster service specialists by the American Red Cross or certified by a volunteer organization with a disaster service commitment recognized by the State Emergency Management Agency;

(B) Employees who are certified in accordance with subsection (5)(A) may, with appointing authority approval, be granted leave of absence from their respective duties, without loss of pay or leave, impairment of performance appraisal, or loss of any rights or benefits to which otherwise entitled. This will cover all periods of disaster service during which they are engaged in the performance of duty under an applicable letter of agreement for a period not to exceed a total of one hundred twenty (120) work hours in any state fiscal year. Other absences for service for the Red Cross or other volunteer organization, not elsewhere provided for in these rules, may be charged to accrued annual leave, compensatory time, or leave of absence without pay;

(C) In the event of a need for the specialist's services, the local Red Cross or the State Emergency Management Agency will send a service agreement for disaster operations to the employee. The employee will present the service agreement to their supervisor and appointing authority for approval. Upon approval, the employee will return the signed service agreement to the American Red Cross or the State Emergency Management Agency who will provide a copy to the Office of Administration, Division of Personnel;

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

(E) No more than twenty-five (25) full-time state employees may be absent in any state fiscal year. Each employee is subject to a cap of one hundred twenty (120) work hours per fiscal year of disaster relief leave; and

(F) Upon written order of the governor, additional employees, who have not been absent on other disaster leave this fiscal year, not to exceed twenty-five (25) full-time equivalent state employees, may be granted leave pursuant to this section to participate in specialized disaster relief services for disasters occurring within the state.

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

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

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

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

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

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

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

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

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

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

A. Because of medical disability of the employee which is not covered by the provisions in subsection (7)(B);

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

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

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

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

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

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

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

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

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

(B) **Except to the extent modified in these rules, [Leaves] 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]* **six (6) months** and who has worked at least *[one thousand two hundred and fifty (1,250)]* **six hundred and twenty-five (625)** hours within that time is eligible for a maximum of twelve (12) work weeks of unpaid leave during the year;

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) In the event that both parents are employees of Missouri, leaves for the birth or adoption of a child shall **not** be limited *[to a period of twelve (12) weeks between parents/employees]* **only because both parents are employees of Missouri. Each parent/employee may take FMLA leave, in accordance with the FMLA and these rules, up to the maximum FMLA entitlement under the law and these rules;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Leaves of absence for five (5) workdays to serve as a bone marrow donor and leaves of absence for thirty (30) workdays to serve as a human organ donor as defined in section 105.266, RSMo. Leave is authorized under these circumstances only when the employee is serving as the donor and written verification is provided to the appointing authority; and

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

*AUTHORITY: section 36.070, RSMo 2000.*Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. Amended: Filed Sept. 20, 1947, effective Sept. 30, 1947. Amended: Filed Dec. 23, 1947, effective Jan. 2, 1948. Amended: Filed March 25, 1948, effective April 4, 1948. Amended: Filed Sept. 15, 1948, effective Sept. 25, 1948. Amended: Filed Aug. 13, 1949, effective Aug. 23, 1949. Amended: Filed June 1, 1954, effective June 11, 1954. Amended: Filed Nov. 18, 1957, effective Nov. 28, 1957. Amended: Filed Aug. 22, 1958, effective Sept. 1, 1958. Amended: Filed Dec. 22, 1960, effective Jan. 1, 1961. Amended: Filed July 21, 1967, effective July 31, 1967. Amended: Filed Aug. 28, 1967, effective Sept. 7, 1967. Amended: Filed June 20, 1969, effective June 30, 1969. Amended: Filed Feb. 2, 1971, effective Feb. 12, 1971. Amended: Filed June 12, 1972, effective July 1, 1972. Amended: Filed Dec. 21, 1972, effective Jan. 1, 1973. Amended: Filed Feb. 27, 1973, effective March 9, 1973. Amended: Filed June 18, 1973, effective July 1, 1973. Amended: Filed April 23, 1974, effective May 2, 1974. Amended: Filed Feb. 28, 1975, effective March 10, 1975. Amended: Filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Dec. 13, 1978, effective April 12, 1979. Amended: Filed Sept. 29, 1989, effective Jan. 1, 1990. Amended: Filed Sept. 27, 1990, effective Feb. 14, 1991. Amended: Filed July 6, 1993, effective Jan. 31, 1994. Amended: Filed Nov. 16, 1993, effective July 30, 1994. Amended: Filed July 21, 1994, effective Feb. 26, 1995. Amended: Filed Oct. 31, 1995, effective May 30, 1996. Amended: Filed July 9, 1997, effective Jan. 30, 1998. Amended: Filed Sept. 15, 1998, effective March 30, 1999. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed April 12, 2000, effective Oct. 30, 2000. Amended: Filed Nov. 15, 2000, effective May 30, 2001. Emergency amendment filed May 22, 2002, effective June 1, 2002, expired Nov. 27, 2002. Amended: Filed Sept. 16, 2002, effective March 30, 2003. Amended: Filed Aug. 15, 2003, effective Feb. 29, 2004. Amended: Filed June 15, 2006, effective Dec. 30, 2006. Amended: Filed Sept. 11, 2013, effective March 30, 2014. Amended: Filed September 27, 2016.*

**Original authority: 36.070, RSMo 1945, amended 1979, 1995.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions 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, Nancy Johnston, Director of Personnel, P.O. Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 9:30 a.m., December 13, 2016, in the Board Room, Room 430 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.