
Emergency Rule

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

EMERGENCY AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The Personnel Advisory Board is amending section (1).

PURPOSE: This amendment delays by two (2) months the date on which the unliquidated accumulation of annual leave by state employees which exceeds the maximum allowable accumulation shall lapse.

EMERGENCY STATEMENT: This emergency amendment delays by two (2) months the date on which the unliquidated accumulation of annual leave by state employees which exceeds the maximum allowable accumulation shall lapse. Many employees have been and/or are currently unable to use their accumulated annual leave because it has been and/or is necessary that they report to work to perform critical functions during the COVID-19 pandemic. This recent inability to use accumulated annual leave would result in the lapse of significant annual leave over the maximum or the concentration of leave usage in October 2020 with an attendant absence from work by employees whose presence is necessary to perform critical functions during the COVID-19 pandemic. Under the current rule, the lapse would occur at the close of business on October 31, 2020, and a regular rule cannot be effective by that date. Delaying the date on which the lapse will occur by two (2) months will allow employees additional time in which to use their accumulated annual leave while also allowing for a lesser concentration of annual leave usage for the remainder of 2020, assisting state agencies in performing critical functions during the COVID-19 pandemic. The Personnel Advisory Board therefore finds that an immediate danger to the public health, safety, or welfare requires emergency action and that this emergency rule amendment is necessary to preserve a compelling governmental interest that requires an early effective date. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. This emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 9, 2020, becomes effective October 30, 2020, and expires January 31, 2021.

(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

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]* **December** 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]* **January**;

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

Emergency Rule

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.

will be published in the Oct. 15, 2020 issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

AUTHORITY: section 36.070, RSMo Supp. [2018] 2020 and section 36.350, RSMo 2016. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 9, 2020, effective Oct. 30, 2020, expires Jan. 31, 2021. This emergency amendment