

## Former KRS 18A Employees Transferred To KCTCS Under KRS 164.5805 (1) (e)

### 101 KAR 1:335. Employee actions.

RELATES TO: KRS 18A.075(1), 18A.0751(1), (4), 18A.115(4)

STATUTORY AUTHORITY: KRS 18A.075

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1) and (4) require the Personnel Board to promulgate administrative regulations for the classified service governing demotion, transfer, reinstatement and reemployment. KRS 18A.115(4) establishes requirements governing the promotion of a career employee to a position exempted from classified service. This administrative regulation establishes the method for determining an employee's work station and the requirements governing a demotion, transfer, or reinstatement of an employee.

Section 1. Definitions. "Class series" means a group of positions that are similar as to the duties performed and have:

- (1) Varying levels of:
  - (a) Discretion;
  - (b) Responsibility;
  - (c) Minimum requirements of training, experience, or skill; and
- (2) Schedules of compensation that are commensurate with minimum requirements.

Section 2. Work Station. (1) The official work station of an employee assigned to an office shall be the street address where the office is located.

(2) The official work station of a field employee shall be that address to which the employee is assigned at the time of appointment to the employee's current position.

(3) Except as provided by Sections 3, 4, and 5 of this administrative regulation, an appointing authority may assign an employee to work at a site other than his work station if the:

- (a) Site is within his county of employment; and
- (b) Assignment is not a transfer, demotion, or reinstatement.

Section 3. Demotion. (1) A demotion for cause shall be intra-agency.

(2) Voluntary demotion.

(a) A voluntary demotion shall be made if an employee with status requests a voluntary demotion on the Voluntary Transfer or Voluntary Demotion Form prescribed by the Personnel Cabinet.

(b) The form shall include:

1. A statement of the reason for the request;
2. The effective date of the demotion;
3. The position from which he requests demotion;
4. The position to which he will be demoted; and
5. A statement that the employee waives his right to appeal the demotion.

(c) The employee shall forward a copy of the request to the Commissioner of Personnel.

(3) A voluntary demotion shall be interagency or intra-agency.

Section 4. Transfers. (1) The transfer of an employee with status shall conform to the requirements established in this section.

(2)(a) A transfer shall be on a voluntary or involuntary basis.

(b) An appointing authority shall establish a reasonable basis for selecting an employee for involuntary transfer.

(c) If an employee has not requested a transfer in writing, a transfer shall be deemed involuntary.

(3) Involuntary transfer, same county.

(a) Prior to the effective date of an involuntary transfer to a position with a work station in the same county, an employee shall receive a written notice of involuntary transfer.

(b) The notice shall state the:

1. Employee has been selected for transfer;
2. New work station;
3. Reason for the transfer;

4. Employee is required to report to the new work station;

5. Effective date of the transfer; and

6. Right of the employee to appeal the transfer to the board within sixty (60) days of receipt of the notice of involuntary transfer, excluding the date the notice is received.

(c) A copy of the notice shall be forwarded to the Commissioner of Personnel.

(d) An employee shall report to the new work station upon the date specified in the notice.

(4) Involuntary transfer, out of county. If an involuntary transfer is to a position with a work station in a different county:

(a) An employee shall be entitled to travel and moving expenses as provided by 200 KAR 2:006;

(b) An employee shall receive a written notice of involuntary transfer at least thirty (30) days prior to the effective date of the transfer;

(c) The notice shall contain:

1. The information specified in subsection (3)(b) of this section; and

2. A statement that the employee is entitled to:

a. Reimbursement of travel expenses incurred within thirty (30) days of the effective date of the notice; and

b. Moving expenses, if any.

(5) An involuntary transfer shall be intra-agency.

(6) Voluntary transfer.

(a) Prior to a voluntary transfer, an employee with status shall request a voluntary transfer on the Voluntary Transfer or Voluntary Demotion Form prescribed by the Personnel Cabinet.

(b) The form shall include:

1. A statement of the reason for the request;
2. The effective date of the transfer;
3. The position, including identifying number, from which he requests a transfer;
4. The position, including identifying number, to which he requests a transfer; and
5. A statement that the employee waives his right to appeal the transfer.

(c) The employee shall forward a copy of the request to the Commissioner of Personnel.

(7) A voluntary transfer shall be interagency or intra-agency.

Section 5. Reinstatement. (1) A request for reinstatement shall be approved if it has been:

(a) Made at the request of the appointing authority; and

(b) Approved by the Commissioner of Personnel.

(2) Approval shall include a finding that the candidate for reinstatement:

(a) Meets the current qualifications for the job classification to which he is being reinstated; and

(b) Has previously held status at that grade level or higher.

(3) If the reinstatement is to a classification outside of the classification series where the employee has previously held status, the candidate shall pass the appropriate examination prior to reinstatement.

Section 6. Incorporation by Reference. (1) "Voluntary Transfer or Voluntary Demotion" form, 04-15-94, Personnel Cabinet, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Personnel Cabinet, Room 531, 5th Floor, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m. (15 Ky.R. 1715; Am. 2008; eff. 3-8-89; 17 Ky.R. 95; eff. 9-12-90; 19 Ky.R. 1633; 2234; eff. 4-7-93; 20 Ky.R. 826; 1567; eff. 12-6-93; 24 Ky.R. 1751; 2106; eff. 4-13-98.)

**101 KAR 1:345. Disciplinary actions.**

RELATES TO: KRS 18A.020, 18A.075, 18A.0751, 18A.095

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 specifies that the Personnel Board promulgate comprehensive administrative regulations for the classified service governing dismissals, suspensions, fines and other disciplinary measures. KRS 18A.095 relates specifically to dismissals, suspensions and other penalizations. KRS 18A.020 relates, in part, to written reprimands. This administrative regulation will replace 101 KAR 1:340 which includes repetition of statutory language which is being repealed.

Section 1. General Provision. Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

Section 2. Dismissal. (1) The notice required by KRS 18A.095(6) and (7) may be combined provided all requirements are satisfied.

(2) When the employee is notified, copies of the notice of intent to dismiss and the notice of dismissal or other penalization shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee.

Section 3. Demotion. When the employee is notified, copies of the notice of demotion shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee.

Section 4. Suspension. (1) A suspension shall not exceed thirty (30) working days.

(2) An employee without status may also be suspended for a period not to exceed thirty (30) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(3) When the employee is notified, copies of the notice of suspension shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee.

Section 5. Disciplinary Fine. (1) A disciplinary fine shall not exceed ten (10) days pay. The fine shall be computed on the basis of the employee's current salary.

(2) Prior to imposition of a disciplinary fine, the employee shall be notified by the appointing authority in writing of the amount of the fine.

(3) An employee without status may also be fined for a period not to exceed ten (10) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(4) When the employee is notified, copies of the notice of disciplinary fine shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee. (15 Ky.R. 1717; Am. 2009; eff. 3-8-89.)

**101 KAR 1:395. Restoration from military duty.**

RELATES TO: KRS 61.371 to 61.379

STATUTORY AUTHORITY: KRS Chapter 13A, 61.379

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.379 directs the Personnel Board to adopt administrative regulations to carry out the provisions of KRS 61.371 to 61.379. This administrative regulation will replace 101 KAR 1:390 which includes repetition of statutory language which is being repealed.

Section 1. Restoration from Military Duty. (1) If an employee advises his employer that he is leaving his position to perform military duty, the employer shall advise the employee in writing of his rights

under KRS 61.371 to 61.379.

(2) An employee who returns from military duty and is denied restoration of employment shall be advised in writing of such denial by the employer.

(3) The required notice of denial by the employer shall include the employee's right to appeal to the state personnel board within the time limits prescribed by KRS 413.160.

(4) Appeals filed under this section shall be heard by the board pursuant to 101 KAR 1:365. (15 Ky.R. 1724; Am. 2009; eff. 3-8-89.)

**101 KAR 1:400. Promotion.**

RELATES TO: KRS 18A.075, 18A.0751, 18A.115

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.075

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.057 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 directs that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing promotion. KRS 18A.115 relates to promotion of career employees. The amendment to this administrative regulation is required to conform to Senate Bill 61 (1994 session), and to the requirements of KRS 18A.112, 13A.200, and 13A.222.

Section 1. Promotion. (1) Agencies shall consider an applicant's qualifications, record of performance, conduct, seniority and performance evaluations in the selection of an employee for a promotion.

(2) Promotions may be interagency or intra-agency.

(3)(a) An employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service.

(b) He shall not have reversion rights to a position in the classified service.

(c) An employee who was promoted or changed as a result of other action, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain the reversion rights he held at the time of promotion or other action. (17 Ky.R. 156; eff. 9-12-90; Am. 21 Ky.R. 463; eff. 9-14-94.)

**101 KAR 2:020. Classification plan.**

RELATES TO: KRS 18A.005, 18A.110

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the classification plan for all positions in the classified service so that the same qualifications may reasonably be required for and the same schedule of pay equitably applied to all positions in the same job classification. This administrative regulation is to assure uniformity and equity in administering the plan, in accordance with requirements of the statutes.

Section 1. Interpretation of Class Specifications. (1) Class specifications are descriptive and explanatory. They are designed to indicate the kinds of positions which should be allocated to the various job classifications as determined by their characteristics and duties or responsibilities.

(2) Characteristics of a class are general statements indicating the level of responsibility and discretion of positions in that job classification.

(3) Examples of duties or responsibilities are not to be construed as describing what the duties or responsibilities of any position shall be and are not to be construed as limiting the appointing authorities' ability to take, add to, or otherwise alter the duties and responsibilities

of a position. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignment of others not mentioned which are of similar kind or quality.

(4) Minimum requirements are comprehensive statements of the minimum background as to education, experience and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly.

**Section 2. Official Copy of Class Specifications.** (1) The Department of Personnel shall maintain a master set of all approved class specifications. Such specifications shall constitute the official class specifications in the classification plan. The copies of the specification for each job classification shall indicate the date of adoption or the last revision of the specification.

(2) The Department of Personnel shall provide each appointing authority with a set of the class specifications of those job classifications to which positions in his department are allocated and such other job classifications as it sees fit. Class specifications shall be available for inspection by any employee or the public under reasonable conditions during business hours.

**Section 3. Title of Position.** The title of the job classification to which a position has been allocated shall be used to designate such position in all payrolls and other official records, documents, vouchers, and communications in connection with all personnel processes. For purposes of internal administration or for any other purposes not involving the personnel processes, any office title, abbreviation, or code symbol may be used in lieu of the class title. (13 Ky.R. 410; eff. 9-4-86; Am. 16 Ky.R. 568; 1575; eff. 1-9-90.)

#### 101 KAR 2:036. Compensation plan and pay incentive systems.

RELATES TO: KRS 18A.030, 18A.110, 18A.165

STATUTORY AUTHORITY: KRS 18A.110(1)(c), (d), (g), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapter 18A, which govern the pay plan for all employees in the classified service. This administrative regulation is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

**Section 1. Appointments.** (1) Initial appointment shall be made at the minimum rate of the pay grade established for the job classification unless the commissioner authorizes a higher rate due to recruitment difficulties or the appointment of a highly qualified applicant at a rate above the minimum.

(2) An appointing authority may, due to difficulty in recruiting a specifically qualified applicant or applicants, request the appointment of an applicant at a salary not to exceed the midpoint provided all other agency employees with the similar qualifications in the same job class and work county shall have their salaries adjusted by the appointing authority to that rate.

(3) An appointing authority may also request that a highly qualified applicant be given increased credit for relevant education and experience that is beyond the minimum requirements established for the job classification. The maximum allowable rate shall be five (5) percent for each year the applicant's education and experience exceeds the minimum requirements but the maximum number of years for which credit may be allowed shall not exceed four (4) years of relevant education or experience in excess of the minimum requirements. If approved by the commissioner, the appointing authority shall raise the salaries of all agency employees in the same job classification and work county to the same rate if they possess qualifications similar to those of the applicant.

**Section 2. Reentrance to State Service.** (1) Appointing authorities, with the approval of the commissioner, may place reemployed, reinstated, or former employee probationally appointed at a salary:

(a) Which is the same as that paid at the time of separation from state service if such salary is within the current pay grade;

(b) Higher than that paid at the time of separation from state service due to salary schedule or pay grade adjustments;

(c) In accordance with the standards used for making new appointments; or

(d) Lower than that paid at the time of separation from the classified service if such salary is within the current pay grade.

(2) Former employees who were separated from state service by layoff and who are reinstated or reemployed in the same or a similar job classification within five (5) years from the date of layoff may receive the salary they were receiving at the time of layoff, even if such salary is above the maximum of the pay grade.

(3) Former employees reemployed, reinstated or probationally appointed to a salary:

(a) Below the midpoint of the pay grade shall be considered for a probationary increment at the time of completion of the probationary period;

(b) Which equals or exceeds the midpoint of the pay grade may be considered for a probationary increment at the time of completion of the probationary period. If such employee is not considered for an increment upon completion of the probationary period, he shall be considered for an increment at the beginning of the month following completion of twelve (12) months service from the date of reemployment, reinstatement or appointment.

**Section 3. Salary Adjustments.** (1) Promotion. An employee who is promoted shall receive a salary increase of not less than five (5) percent upon promotion. In no case shall the employee's salary be below the minimum of the higher grade following promotion. Employees completing a promotional probationary period may receive a five (5) percent promotional increase at the beginning of the month following completion of the probationary period. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the commissioner, may grant upon promotion a ten (10) percent or fifteen (15) percent salary increase over the employee's previous salary. A promotional increase shall not change the employee's regular increment date.

(2) Demotion. An employee who is demoted may have his salary changed to a rate which is in the pay grade for the new class; this rate shall not exceed the rate which the employee was receiving prior to the demotion.

(3) Reclassification. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five (5) percent except, that in no case shall the employee's salary after such increase be below the minimum of the new pay grade. An employee who is placed in a lower pay grade through reclassification shall receive the same salary he was receiving prior to reclassification.

(4) Reallocation. An employee who is advanced to a higher pay grade through a reallocation of his position may receive a salary increase of five (5) percent except, that in no case shall the employee's salary after such increase be below the minimum of the higher pay grade. An employee who is placed in a lower pay grade through reallocation shall receive the same salary he was receiving prior to reallocation.

(5) Detail to special duty. An employee who is approved for detail to special duty as provided by 101 KAR 2:070, Section 2, may receive a five (5) percent increase upon detail to a higher job classification, except that in no case shall the employee's salary after such increase be below minimum of the higher pay grade.

(6) Reversion.

(a) An employee who is reverted while serving a promotional probationary period following promotion, or following detail to special duty to a higher job classification, shall have his salary changed to the

rate received prior to such promotion or detail to special duty and is entitled to all salary advancements and adjustments he would have received had he not left the job classification.

(b) An employee who is reverted to a position in the classified service from a position in the unclassified service shall have his salary changed to the rate received at the time he left the classified service and is entitled to all salary advancements and adjustments he would have received had he not left the classified service.

(c) If an employee's salary is adjusted as the result of participation in a pilot program authorized by KRS 18A.400 through 18A.445, that salary shall not be reduced as long as he is employed by the agency, except as authorized by an action for demotion or reversion.

(7) Pay grade changes. An employee who is advanced to a higher pay grade through a class reevaluation and grade adjustment under Section 7 of this administrative regulation may receive a salary increase as outlined below except that after the salary increase the employee's salary shall not be below the minimum of the new pay grade:

(a) Five (5) percent uniformly applied within the agency;

(b) Ten (10) percent uniformly applied within the agency;

(c) A dollar amount determined by the Commissioner of Personnel uniformly applied in the class within the same agency.

(8) Other salary adjustments.

(a) An appointing authority, with the approval of the commissioner, may grant a salary adjustment to an employee who was eligible for but did not receive at least a five (5) percent salary advancement due to reallocation to a higher grade, implementation of a special entrance rate, class grade changes, effective on or after January 3, 1986 or completion of a promotional probationary period. In no case may the salary adjustment be more than five (5) percent nor be made retroactive to the original effective date but shall be made effective on the first of the month following approval of the commissioner.

(b) Subject to approval by the commissioner, an appointing authority may request a five (5) percent salary adjustment when a special entrance rate is established under Section 7(3) of this administrative regulation.

**Section 4. Salary Advancements.** (1) Probationary increments. Full-time and part-time employees who complete an initial probationary period with satisfactory performance shall be granted an increment at the beginning of the month following completion of the probationary period, except as specified under Section 2(3) of this administrative regulation. The service may be provisional or probationary.

(2) Annual increment dates shall be established:

(a) Following completion of an initial probationary period, with satisfactory performance, or following completion of twelve (12) months service from the date of appointment, reinstatement, or reemployment, pursuant to Section 2(3) of this administrative regulation.

(b) When an employee returns from leave without pay pursuant to subsection (4) of this section.

(3) Annual increment dates will not change when an employee:

(a) Is in a position which is assigned a new or different salary grade;

(b) Receives a salary adjustment as a result of his position being reallocated;

(c) Is transferred;

(d) Receives a demotion;

(e) Is approved for detail to special duty;

(f) Receives an educational achievement award;

(g) Returns from military leave;

(h) Is reclassified; or

(i) Is promoted or receives a promotional increase after completion of a promotional probationary period.

(4) Return from leave without pay. Employees returning to duty from leave without pay shall receive an annual increment when they have completed twelve (12) months of service since the date they last

received an annual increment.

(5) Service computation. In computing service for the purpose of determining annual increment eligibility, in those cases where an employee is changed from part time to full time, part-time service shall be counted in determining increment eligibility for a full-time employee. In those cases where an employee is changed from full time to part time, full-time service shall be counted in determining increment eligibility for a part-time employee.

**Section 5. Educational Achievement Award.** The participation of an appointing authority in the program for educational achievement awards is contingent upon adequate funding, to be determined by the appointing authority through the budgetary process, for all eligibles within the agency. Upon request of the appointing authority and subject to the approval of the commissioner, a permanent employee, with status may receive one (1) lump sum educational achievement award per fiscal year:

(1) For satisfactorily completing outside of work hours 260 classroom hours (or the equivalent as determined by the commissioner) of job related instruction in approved courses. Approved courses, must have been completed after a merit employee initially gained permanent status in state government. Employees shall not receive credit for courses taken while on educational leave, for hours paid for by the agency through tuition assistance, or for courses which previously counted toward an educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than \$2,500. The lump sum payment shall be granted only if the 260 classroom hours (or equivalent) have been completed within the past five (5) years prior to the effective date of the increase; or

(2) For receiving outside of work hours an approved high school diploma, high school equivalency certificate, or a passing score on the GED test. The approved diploma, certificate, or passing score must have been obtained on or after January 1, 1984 while in state service. Employees receiving an approved high school diploma, high school equivalency certificate, or a passing score on the GED test shall receive a lump sum educational achievement award of ten (10) percent of their annual base salary but not more than \$2,500. A high school level educational achievement award shall not be granted to employees who present new credentials but have previously:

(a) Received a high school diploma, high school equivalency certificate, or a passing score on the GED test; or

(b) Completed college course work on the undergraduate or graduate level.

(3) An employee who has successfully completed the Kentucky Certified Public Manager Program offered by Governmental Services Center at Kentucky State University shall receive one (1) lump sum educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than \$2,500.

(4) To apply for an educational achievement award an employee shall submit the educational achievement request form DPT-10 or its equivalent, demonstrating completion of 260 classroom hours (or the equivalent together with official transcripts or grade reports for the courses completed) to the appointing authority or his designee. In compliance with the standards set forth in this administrative regulation, the appointing authority may recommend the application for approval and may forward the documentation to the Commissioner of the Department of Personnel for final approval. A lump sum educational achievement award shall not be added to the employee's base salary or wages.

**Section 6. Salary Schedule Adjustment.** When the commissioner authorizes an adjustment of all grades in the pay schedule, employees who are below the new minimum rates shall have their salaries adjusted at least to the minimum rates of their grades. The commissioner may authorize a salary increase for those employees who are at or above the minimum rate based upon the availability of funds. Such increase shall be determined by the commissioner by pay

grade, and shall be uniform for all eligible employees within each pay grade.

Section 7. Class Reevaluation and Grade Adjustment. (1) Class reevaluation is the assignment of a different pay grade to a class based upon a change in relation to other classes or to labor market conditions.

(2) Change in pay grade. Whenever it becomes necessary to assign a class a different pay grade due to changes defined in subsection (1) of this section, the commissioner may make a new or different pay grade applicable to a class of positions. Persons currently employed in positions of that class at the effective date of the change in pay grade shall have their salary placed at least at the minimum salary of the higher grade, and may be eligible for a salary adjustment under Section 3(7) of this administrative regulation. In no event shall an employee's salary be placed at a rate less than he received prior to the change in the pay grade. Employees in a class assigned to a lower pay grade through class reevaluation shall retain their current salary.

(3) Recruitment difficulties. Whenever the commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area or for a specific class, he may, at the request of the appointing authority, authorize the recruitment for a class of position at a higher rate in the pay grade, provided that all other employees in the same class of position in the same agency in the same county are adjusted in salary to the same rate.

Section 8. Paid Overtime. Overtime for which pay is authorized shall be in accordance with 101 KAR 2:100, Section 4, and the Fair Labor Standards Act 29 USC \*201, et seq. and have the approval of the Commissioner of Personnel and the Secretary of the Finance and Administration Cabinet. Overtime payments shall not be added to base salary or wages.

Section 9. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, such maintenance shall be treated as part payment. The value of these services shall be deducted from the appropriate salary rate in accordance with a maintenance schedule developed by the commissioner after consultation with the appointing authority and the Secretary of the Finance and Administration Cabinet.

Section 10. Supplemental Shift Premium. Upon request of the appointing authority, the commissioner may authorize the payment of a supplemental shift premium for those job classifications in which employees are directed to work an evening or night shift. Once authorized, this premium shall apply to those employees directed to work an evening or night shift in a job classification in the agency for which the shift premium was approved. An employee shall not receive a supplemental shift premium subsequent to shift reassignment or to a transfer, promotion or demotion to a position that is ineligible for a shift differential premium payment.

Section 11. Distinguished Service Award. (1) Appointing authorities may utilize up to fifty (50) percent of funds saved through a combination of high performance levels and staff reduction to grant distinguished service awards to employees. No more than twenty-five (25) percent of the employees in an agency shall be eligible for a distinguished service award in a fiscal year. Distinguished service awards shall also be contingent upon the availability of surplus funds within the appointing authority's budget and shall be within the sole discretion of the appointing authority. A distinguished service award shall equal three (3) percent of the midpoint of the grade level of the employee and shall be added to the employee's base salary, if that salary is below the midpoint, or paid in a lump sum if the employee's salary exceeds the midpoint.

(2) An employee may be eligible for a distinguished service award if:

(a) The employee has at least forty-eight (48) months service, twenty-four (24) of which must be current; and

(b) Has demonstrated a sustained level of exceptional job performance; or

(c) Has assumed a significant level of additional job responsibilities or duties and performed them in an acceptable manner; or

(d) The appointing authority feels that the employee's acts or ideas have resulted in a significant financial savings or improvement in services to the Commonwealth and its citizens.

(3) An employee shall be eligible for only one (1) distinguished service award in a twenty-four (24) month period.

(4) In order to grant a distinguished service award the appointing authority shall submit the personnel action form and written justification. The award shall not be granted until the request is approved by the Commissioner of Personnel. (18 Ky.R. 3549; eff. 8-1-92; Am. 21 Ky.R. 1739; 2091; eff. 2-8-95; 22 Ky.R. 1663; eff. 5-16-96.)

101 KAR 2:076. Vacancies, detail to special duty and temporary overlap.

RELATES TO: KRS 18A.005, 18A.110, 18A.115, 18A.120  
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern the various types of appointments, such as probationary, emergency, provisional, reinstatement, and for such other administrative regulations, not inconsistent with KRS Chapter 18A, as may be proper and necessary. This administrative regulation is necessary to comply with these statutory requirements and replaces 101 KAR 2:070.

Section 1. Filling of Vacancies. All vacancies in the classified service which are not filled by promotion, transfer, or demotion, shall be filled by probationary appointment, reemployment of career employees or of laid-off employees, reversion, reinstatement, emergency appointment or provisional appointment.

Section 2. Detail to Special Duty. When the services of a permanent employee are needed in a position within an agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner. For detail to special duty the commissioner may waive the minimum requirements when requested by the appointing authority in writing.

Section 3. Temporary Overlap. With the prior approval of the commissioner, an agency may place an employee for training purposes or in the best interest of the state service, in a position currently occupied by another employee for a period not to exceed sixty (60) calendar days. (18 Ky.R. 3555; eff. 8-1-92.)

101 KAR 2:095. Classified service administrative regulations.

RELATES TO: KRS 18A.030, 18A.110  
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations consistent with KRS Chapter 18A, which govern for the maintenance of employee records, the maintenance of other records and reports in the department, and for other conditions of employment. This administrative regulation is

necessary to comply with these statutory requirements and replaces 101 KAR 2:090.

Section 1. Attendance; Hours of Work. (1) The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified otherwise by the appointing authority or the statutes.

(2) The normal work day shall be from 8 a.m. to 4:30 p.m., local time, Monday through Friday.

(3) An appointing authority may require employees to work hours and work days other than normal including inclement weather schedules if it is in the best interest of the agency.

(4) Employees who work for agencies which require more than one (1) shift or seven (7) days a week operation may be reassigned from one shift to another and from one post to another or alternate days off by the agency to meet staffing requirements or to maintain security or provide essential services of the agency. The employee is required to give reasonable notice in advance of absence from a work station.

Section 2. Work Station. Each employee shall be assigned a work station by the appointing authority. A work station may be changed to better meet the needs of the agency. An employee may be temporarily assigned to a different work station in a different county for a period of up to sixty (60) calendar days, provided that such employee is reimbursed for his travel expenses in accordance with regulatory provisions and the appointing authority notifies the employee in writing prior to the effective date of the action. Nothing within this administrative regulation shall be construed as prohibiting an appointing authority from assigning an employee to work in a different site within the county of employment.

Section 3. Dual Employment. No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the commissioner. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

Section 4. Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 5. Records and Reports. (1) The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him. The appointing authority shall provide a copy of a personnel action form to the employee affected by such action.

(2) The commissioner shall maintain a leave record showing for each employee:

- (a) Annual leave earned, used and unused;
- (b) Sick leave earned, used and unused;
- (c) Compensatory leave earned, used and unused; and
- (d) Special leave or any other leave with or without pay. Such record shall be documentary evidence to support and justify authorized leave of absence with pay. (17 Ky.R. 1246; Am. 1972; eff. 12-6-90.)

101 KAR 2:100. Leave administrative regulations.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, PL 103-3

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, PL 103-3

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern annual leave, sick leave, special leaves of absence, and for other conditions of leave. This administrative regulation establishes policies governing these subject matters.

Section 1. Annual Leave. (1)(a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee, and a part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

(b) A full-time employee shall have worked more than half of the workdays in a month to qualify for annual leave. An employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.

(c) In computing months of total service for the purpose of earning annual leave, only the months:

1. For which a full-time employee earned annual leave shall be counted; or

2. In which a part-time employee worked at least 100 hours shall be counted.

(d) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.

(e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, unless the dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) If an employee is changed from full time to part time, the months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

(g) A part-time employee who works less than 100 hours a month shall not be entitled to annual leave.

(2)(a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next as provided in this paragraph:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(b) Leave in excess of the amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(c) The amount of annual leave that may be accumulated, and the amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

(3) Absence due to sickness, injury, or disability in excess of the amount authorized for such purposes may, at the request of the employee be charged against annual leave.

(4)(a) Accumulated annual leave shall be granted by the

appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request.

(b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) An employee shall be charged with annual leave for absence only on days on which he would otherwise work and receive pay.

(6)(a) Annual leave shall accrue if an employee is working or on authorized leave with pay.

(b) Annual leave shall not accrue if an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he shall have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) An employee who is eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.

(10)(a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.

(b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.

(d) The effective date of a separation shall be the last work day.

(e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and

2. The successor employer has agreed to credit him with an equal amount of annual leave.

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation shall be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 2(2) of this administrative regulation.

(12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1)(a) An employee in the state service, except an emergency, per diem and part-time employee who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(b) An employee shall have worked more than half of the workdays in a month to qualify for sick leave with pay.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A part-time employee who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(e) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave was earned.

(2)(a) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only the months for which an employee earned sick leave shall be used.

(c) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.

(d) A part-time employee who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service.

(e) In computing months of total service for a part-time employee who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only the months in which the employee worked at least 100 hours shall be used.

(f) If an employee is changed from full time to part time, the months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.

(g) The total service shall be verified before the leave is credited to the employee's record.

(h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4)(a) Sick leave shall accrue if an employee is working or on authorized leave with pay.

(b) Sick leave shall not accrue if an employee is on educational leave with pay.

(5) An appointing authority shall grant or require the use of accrued sick leave with pay if an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care by the employee;

(d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be limited to three (3) days, and may be extended for good cause at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding



six (6) months, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7)(a) An appointing authority shall grant sick leave without pay for the duration of an employee's impairment by sickness, or illness, or pregnancy, if the total continuous leave does not exceed one (1) year.

(b) The appointing authority may require periodic doctor's statements during the year attesting to the employee's continued inability to perform the essential functions of his duties with or without reasonable accommodation.

(c) If an employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(d) If the reasonable accommodation is necessary, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(e) An employee shall be considered to have resigned if he:

1. Has been on one (1) year continuous sick leave without pay; and
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and
3. Is unable to return to work; or
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and
5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(g) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and
2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

(c) An employee who has exhausted paid leave shall qualify for state contribution for life insurance and health benefits if he works for more than half of the workdays in a month.

(d) If an employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(e) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11)(a) An employee shall be credited for accumulated sick leave

if he is:

1. Separated by proper resignation, layoff, retirement; or
2. Granted leave without pay.

(b) A former employee who is reinstated or reemployed shall be credited with the unused sick leave balance credited to him upon separation.

(12)(a) If an absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used to maintain regular full salary.

(b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned to the state for the period of time the employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that Workers Compensation Benefits were assigned.

(13) Application for sick leave.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.

(c) If he is ill, an employee shall notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

Section 3. Family Leave. (1)(a) An employee in state service shall qualify for twelve (12) weeks of family leave if he has:

1. Completed twelve (12) months of service; and
2. Worked at least 1,250 hours in the preceding year.

(b) Unused family leave shall not be carried over from year to year. This section shall be construed in a manner consistent with the Family and Medical Leave Act of 1993, 20 USC 2601, et seq. and 29 CFR Part 825.

(2)(a) A week of family leave shall be the amount of time an employee normally works each week.

(b) If an employee's schedule varies from week to week, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the family leave shall be used for calculating the employee's normal work week.

(c) If there has been a permanent or long-term change in the employee's schedule (for reasons other than family leave), the hours worked under the new schedule shall be used for calculating the employee's normal work week.

(3) An employee who has requested family leave shall be notified of the family leave designation, in writing, within two (2) business days of the date on which the request was made.

(b) An employee shall request family leave as far in advance as reasonable.

(c) The appointing authority shall require the employee to utilize accumulated sick and annual leave prior to granting unpaid family leave, provided that the employee may request to reserve ten (10) days of paid sick leave and annual. The amount of available family leave shall be reduced by the amount of paid leave used.

(d) An appointing authority shall grant family leave because of:

1. A serious health condition, of the employee, that makes the employee temporarily unable to perform the essential functions of his



position;

2. The birth of a child of an employee, adoption of a child by an employee, or the placement of a foster child under an agreement with an agency of the Commonwealth or other state government;

3. The care of a newborn child of the employee, adoption of a child by the employee, or placement of a foster child with the employee, within one (1) year of the birth, adoption or placement;

4. The care of an employee's spouse, parent, child, or other family member who has:

a. Resided with the employee for not less than thirty (30) days prior to the request; and

b. A serious medical condition.

(e) A medical condition shall be deemed a serious medical condition if it:

1. Requires the employee to receive inpatient care or continuing treatment by a health provider; and

2. Renders the employee incapable of performing the duties of his position.

(f) A child shall include a person who is:

1. Under eighteen (18) years old; or

2. Is incapable of self-care because of a mental or physical disability.

(4)(a) An employee who requests family leave for a serious medical condition shall supply a certification on "Family And Medical Leave Request Form" from a health care provider that states that the:

1. Employee is in need of care; or

2. Employee is needed to care for a family member; or

3. Presence of the employee would be beneficial to the family member in need of care.

(b) If an employee requests intermittent leave, or leave on a reduced leave schedule due to a serious medical condition of the employee or family member, he shall supply a certification from a licensed health care provider that states:

1. That leave is medically necessary; and

2. Specifies the expected duration and schedule of the leave.

(c) A licensed health care provider shall be a:

1. Doctor of medicine;

2. Doctor of osteopathy;

3. Podiatrist;

4. Dentist;

5. Clinical psychologist;

6. Optometrist;

7. Chiropractor;

8. Nurse practitioner;

9. Nurse midwife; or

10. Certified Christian Science practitioner.

(d) If an employee submits a complete certification signed by the health care provider, the appointing authority shall not request additional information from the employee's health care provider. If the appointing authority has reason to doubt the validity of a medical certification the appointing authority may require the employee to obtain a second opinion at the agency's expense. The appointing authority shall designate the health care provider to furnish the second opinion. The designated health care provider shall not be employed on a regular basis by the agency.

(e) If the opinions of the employee's health provider and the designated health care provider differ, the appointing authority may request the employee to obtain certification from a third health care provider who is approved by the employee. This third opinion shall be final and binding. If the appointing authority does not act in good faith to attempt to reach an agreement on the third health care provider, the appointing authority shall be bound by the original certification. If the employee does not act in good faith to attempt to reach an agreement on the third health care provider, the employee shall be bound by the opinion of the second health care provider. An appointing authority may require recertification of the need for family leave every thirty (30) working days.

(f) All documents relating to family leave shall be maintained separate from the personnel file and shall be confidential.

(5) An appointing authority may temporarily reassign an employee to an available alternative position with equivalent pay and benefits, if the:

(a) Employee requests intermittent leave, or a reduced work schedule to care for a seriously ill family member or because of his own serious medical condition;

(b) Need for the leave is reasonably based on planned medical treatment;

(c) Employee is qualified for the position; and

(d) Temporary assignment better accommodates recurring periods of leave than the employee's regular job.

(6) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave or shall have been on family leave during the previous month subject to the following conditions:

(a) Any combination of work days, paid leave and family leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month;

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Elects to use paid leave to qualify for state contributions for life insurance and health benefits.

(c) An employee shall utilize his family leave days consecutively if he:

1. Is unable to work; and

2. Elects to use family leave as the sole qualification for state contributions for life insurance and health benefits.

(d) An employee who has exhausted paid leave and family leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the work days in a month. If the employee is unable to work for more than half of the work days in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contribution and the employee contributions for such benefits.

(e) Except as provided by paragraph (f) of this subsection, an employee shall reimburse the Commonwealth for state contributions paid on his behalf if he:

1. Uses family leave as the sole qualification for state contributions for life insurance and health benefits; and

2. Fails to return to work for thirty (30) calendar days after his family leave is exhausted.

(f) The employee shall not be required to reimburse the Commonwealth if the reason the employee does not return is:

1. Due to the continuation, recurrence or onset of a serious health condition which would entitle the employee to family leave under this administrative regulation; or

2. Other circumstances beyond the employee's control, such as:

a. A relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; or

b. The employee is laid off while on leave.

(g) Circumstances are not beyond the employee's control if:

1. An employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care; or

2. A parent decides not to return to work to stay with a newborn child.

(h) An employee on family leave shall be responsible for the employee's share of contributions for life insurance and health benefits. The contributions shall be due at the same time the contributions would be made by payroll deduction. An employee shall be granted a thirty (30) calendar day grace period to make an employee contribution for life insurance and health benefits and shall be notified by the agency, in writing, fifteen (15) calendar days before benefits expire.

(i) If the employee does not make the contribution within the thirty (30) day grace period, the employee's life insurance and health

benefits shall cease on the date the grace period ends. Life insurance and health benefits shall be restored thirty (30) calendar days after his return to work. Effective the first day of the employee's return, benefits shall be restored to the same level of coverage that existed when leave commenced.

(7) At the conclusion of the family leave, an employee shall be restored to the same job that the employee held before going on leave. The employee shall be returned to the same shift or equivalent schedule. If special qualifications are required for a position and said qualifications have lapsed during the employee's leave, the employee may be reassigned to different duties and given a reasonable opportunity to fulfill the requirements after returning to work.

Section 4. Court Leave. (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with subpoenas by a court, or administrative agency or body of the federal or state government or any political subdivision thereof;

(b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the proceeding.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

Section 5. Compensatory Leave and Overtime. (1)(a) Appointing authorities shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA).

(b) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

(c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.

(d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 hours.

(2) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(3) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of his:

(a) Regular hourly rate of pay; or

(b) Average regular rate of pay for the final three (3) years of employment.

(4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency.

(5) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by paragraphs (a) to (c) of this subsection.

(a) An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

(b) The election to receive compensatory leave in lieu of paid overtime shall be in writing and shall remain in force for a minimum of six (6) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election.

(c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(6) An employee deemed to be "exempt" under the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of his regular work schedule.

(7)(a) An employee except one who is in a policy making position may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.

(b) If the appointing authority or his designee approves the payment, an employee's leave balance shall be reduced accordingly.

(8)(a) An employee who is not in a policy making positions, shall be paid for fifty (50) hours at his regular hourly rate of pay upon accumulating at the end of the pay period, 240 hours of compensatory leave.

(b) The employee's leave balance shall be reduced accordingly.

(9) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:

(a) Exceed the number of normally prescribed hours of duty; and  
(b) Do not exceed:

1. The maximum amount of compensatory time that is permitted; and

2. Forty (40) hours.

(10) Compensatory leave used during the workweek in which it is earned shall not constitute hours worked for computing paid overtime or time and one-half (1 1/2) compensatory time.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds ten (10) working days in a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.

(4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee, upon receiving this leave.

Section 7. Voting Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.

(2) The absence shall not be charged against leave.

(3) An employee who is not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

Section 8. Special Leave of Absence. (1) An appointing authority may grant special leave for education or training.

(2)(a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.

(b) Leave may be granted for a period not to exceed twenty-four (24) months.

(c) Leave may be granted with or without pay.

(d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:

1. Relate to the employee's work; and

2. Will benefit the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period

not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(4)(a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee misconduct.

(b) Leave shall not exceed thirty (30) working days.

(c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(d) If the investigation reveals no misconduct by the employee:

1. He shall be made whole for the period of the leave; and

2. Records relating to the investigation shall be purged from agency and department files.

(e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. (1) An employee who is absent from duty without approval shall report the reason for his absence to his supervisor immediately.

(2) Unauthorized and unreported absence shall be considered absence:

(a) Without leave; and

(b) Absence may constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certification of Health Care Provider (1996)";

(b) "Letter for Designation of FMLA (1996)"; and

(c) "Application for Family Leave (1996)".

(2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (13 Ky.R. 425; eff. 9-4-86; Am. 15 Ky.R. 824; 1457; eff. 11-9-88; 2090; 2220; 16 Ky.R. 6; eff. 6-14-89; 1208; 1586; eff. 2-3-90; 17 Ky.R. 1115; eff. 12-6-90; 20 Ky.R. 567; 972; 1568; eff. 12-6-93; 21 Ky.R. 465; eff. 9-14-94; 22 Ky.R. 1089; 1610; 1814; eff. 4-5-96.)

## 101 KAR 2:120. Incentive programs.

RELATES TO: KRS 18A.110, 18A.202

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.202

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110

requires the Commissioner of Personnel to promulgate comprehensive administrative regulations consistent with KRS Chapter 18A, to implement work related incentive programs for state employees. This administrative regulation is necessary to comply with these statutory provisions.

Section 1. Definitions. (1) Suggestion system coordinator means a designee of the appointing authority who reviews and processes evaluations from the cabinet or agency and brings suggestions approved by the agency to the attention of the suggestion council.

(2) Employee suggestion council means a group comprised of cabinet or agency suggestion system coordinators.

(3) Chairman of the employee suggestion council means a designee of the Commissioner of Personnel who shall provide administrative support to the council.

Section 2. Employee Suggestion System. (1) Employees in the classified service may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state.

(2) An employee suggestion system council shall develop procedures to ensure proper evaluation of each suggestion, review and act upon, by approval or rejection, any suggestion presented to the council by a cabinet or agency, and review denials as set forth in Section 5 of this administrative regulation. Only designated coordinators shall have the right to present recommended suggestions to the council and to vote on them. The employee suggestion system council may defer action on a suggestion in order to obtain additional information or may defer action up to one (1) year and one (1) month pending documentation of cash savings. The employee suggestion system council shall prepare an annual report to be submitted to the commissioner that shall include the number of suggestions received and the status of each suggestion. The council shall meet at a minimum on a quarterly basis or upon the request of the council chairman.

(3) Each cabinet secretary or agency head shall designate, in writing, the appointment of an employee suggestion system coordinator who shall also serve on the employee suggestion system council. The coordinator shall receive suggestions and establish and maintain internal procedures to ensure appropriate evaluation of suggestions made by employees of his cabinet or agency and such suggestions that may be forwarded from other cabinet coordinators that affect his agency. The coordinator shall present suggestions recommended for approval by his cabinet or agency to the council for consideration.

Section 3. Eligibility. (1) A suggestion is a positive idea which explains how to improve methods, equipment or procedures; reduces time and/or cost of a work operation; creates a safer work environment; increases revenue; or improves relationships with or services to the public.

(2) The suggestion must present an improvement in state service or function and must explain how the change would be accomplished and what benefits would result to the state, particularly in terms of efficiency, effectiveness, safety, economy, conservation of energy resources, or public relations. The suggestion shall be submitted on the form designated by the council and be accompanied by exhibits or illustrations as needed.

(a) Suggestions must be practicable, useful and constructive.

(b) A suggestion that requires legislative or regulatory changes for implementation may be submitted. However, it is the responsibility of the agency that desires to implement the suggestion to request the

necessary legislative or regulatory changes. Upon appropriate legislative action or administrative regulation changes, the suggestion may be considered for an award.

(3) The following suggestions are not eligible for a cash award:

(a) A suggestion that falls within the scope of the duties of the suggester and which the suggester has the authority to initiate or implement without other administrative approval. Scope of duties shall be defined as a specific set of tasks as set forth in the position description of the suggester at the time the suggestion is submitted. Authority is defined as the power to implement the suggestion.

(b) Suggestions related to a particular problem given to an employee to solve within the scope of his duties and responsibilities.

(c) Suggestions made by members of the council or a cabinet/agency suggestion review committee.

(d) Suggestions which include proposals to perform routine maintenance operations.

(e) Suggestions to make a change which has been documented as already under consideration by those administratively responsible.

(f) Suggestions which correct a condition that exists only because established procedures are not followed.

(4) If more than one (1) suggester makes significant contributions to the idea, the suggestion may be submitted jointly with any award being divided equally between or among the suggesters.

(5) The first suggestion received takes precedence over all future suggestions having the same purpose. If two (2) or more suggestions deemed similar are received on the same day, any award granted will be divided equally between or among the suggesters.

(6) Suggestions shall be considered confidential communications among the suggesters and the employee and officers whose responsibility it is to process, investigate, review or evaluate suggestions.

Section 4. General Provisions. (1) The cabinet or agency head shall establish an internal system for receipt, evaluation, and reconsideration of employee suggestions. This system shall, at a minimum, include the following:

(a) A method to notify the suggester, in writing, that the suggestion has been received, and to periodically notify the suggester, in writing, of the status of the suggestion.

(b) A method to document the original suggestion, evaluation and action taken.

(c) A method to prepare and present documentation of suggestions for recommendation to the employee suggestion system council.

(2) Eligibility of a suggestion shall be evaluated according to the circumstances existing at the time the suggestion was made. An evaluation shall be completed by a person with expertise in the area under consideration. The results of the evaluation shall be recorded on the form designated by the council, and the form shall be dated and signed by the individual making the evaluation.

(3) Suggesters shall be notified in writing of the disposition of their suggestion within ninety-five (95) calendar days of receipt by the coordinator. If all parties involved agree, an extension of time may be granted when extenuating circumstances exist.

(a) A suggestion shall be considered to be active and eligible for an award until the suggester is notified, in writing, that the suggestion has been approved or denied.

(b) When it is determined that a suggestion will not be implemented, the coordinator shall notify the suggester, in writing, stating the reason it was not implemented.

(c) When an eligible suggestion is not adopted and conditions under which it was originally considered have changed, the suggester may request reevaluation by the cabinet or agency. Such request shall be in writing and shall be received by the agency within one (1) year from the date of rejection. The request shall be accompanied by information of the change of circumstances.

(4) When a suggestion is determined to be of benefit as set forth in Section 2(1) of this administrative regulation, the cabinet coordinator shall recommend approval of the suggestion to the

council.

(a) The recommendation shall contain:

1. The suggestion as completed by the suggester on the form designated by the council;

2. The evaluation forms completed according to the criteria as set forth in this administrative regulation; and

3. A statement of actual or projected cost savings using generally accepted accounting principles.

(b) The chairman of the council shall send written notification to the cabinet coordinator of the council's action.

(c) Upon receipt of the council's decision, the coordinator shall notify the employee, in writing, of the decision.

(d) When an eligible suggestion is denied by the council, the suggestion shall remain on active file with the council for a period of one (1) year from the date of denial.

(5) Award of cash payment shall be in accordance with KRS 18A.202.

(a) The calculation of cash payment represents the amount saved over the period of one (1) year, less implementation costs, to be determined according to generally accepted accounting principles.

(b) The award check shall be issued by the agency where the suggester is employed. Funds for payment shall come from the agency or agencies implementing the suggestion. The agency issuing the check may interaccount other agencies implementing the suggestion for a proportionate share of the total amount of the award.

(c) When a suggestion is made promoting financial savings to the state for which proper documentation of cost savings has not yet been obtained, the council may request that each agency implementing the suggestion maintain records documenting the cost savings for a period not to exceed one (1) year from the date of implementation. Documentation shall be carried out according to generally accepted accounting principles and shall be forwarded within thirty (30) work days of completion by the coordinator to the chairman of the council.

(6) When an employee suggestion has been approved by the council and has resulted in a financial savings to the state, the employee who submitted the suggestion shall be compensated in an amount of ten (10) percent of the amount saved over one (1) calendar year, with a minimum of \$100, and with a maximum of \$2,500. When an employee suggestion has been approved by the council and has resulted in an intangible improvement in state service, the employee shall be compensated in the amount of \$100. Upon employee's receipt of compensation, the suggestion becomes the property of the state.

Section 5. Reconsideration. (1) A suggester may request reconsideration of a suggestion that has not received approval from the cabinet or agency within ten (10) work days of the date that written notice of disapproval is received by the employee.

(2) The suggester shall request reconsideration, in writing, and shall set forth the basis for the request. The request shall be filed with the coordinator within the aforementioned ten (10) day period. When the tenth day falls on a day that the cabinet or agency office is closed during normal work hours, the request may be filed on the next work day.

(3) The cabinet or agency shall act on the request for reconsideration within thirty (30) work days and respond to the employee, in writing, setting forth the reason for the decision.

Section 6. Council Review. (1) A suggestion may be reviewed by the council on its own motion, or upon request of the suggester. When a suggestion has been reconsidered and denied by the cabinet or agency, the suggester may request a review by the council. The suggester may request review within thirty (30) days of receipt of the written notification of the outcome of the reconsideration and shall set forth, in writing, the basis for his request. The request shall be filed in the office of the employee suggestion system chairman within the aforementioned thirty (30) day period. When the 30th day falls on a day that the chairman's office is closed during normal work hours, the request may be filed on the next work day.

(2) The council shall complete the review within ninety (90) days of the date that the request for review is received by the chairman.

(3) The chairman of the council shall notify the agency head of the findings of the council's review and its recommendation concerning the suggestion to be implemented or denied. (13 Ky.R. 430; eff. 9-4-86; Am. 15 Ky.R. 830; eff. 10-12-88.)

**101 KAR 3:010. Leave administrative regulations for unclassified service.**

RELATES TO: KRS 18A.155, 61.394, PL 103-3

STATUTORY AUTHORITY: KRS 18A.155, 18A.195, PL 103-3

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for the unclassified service persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these administrative regulations shall be approved by the Governor. This administrative regulation adopts and applies 101 KAR 2:100 governing leave policies to the unclassified service.

**Section 1. Annual leave.** (1)(a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee, or a part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

(b) A full-time employee shall have worked more than half of the workdays in a month to qualify for annual leave. An employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.

(c) In computing months of total service for the purpose of earning annual leave, only the months:

1. For which a full-time employee earned annual leave shall be counted; or
2. In which a part-time employee worked at least 100 hours shall be counted.

(d) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.

(e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, unless the dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) If an employee is changed from full time to part time, the months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

(g) A part-time employee who works less than 100 hours a month shall not be entitled to annual leave.

(2)(a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next as provided in this paragraph.

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(b) Leave in excess of the amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the

calendar year or upon retirement.

(c) The amount of annual leave that may be accumulated, and the amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

(3) Absence due to sickness, injury, or disability in excess of the amount authorized for such purposes may, at the request of the employee be charged against annual leave.

(4)(a) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request.

(b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) An employee shall be charged with annual leave for absence only on days on which he would otherwise work and receive pay.

(6)(a) Annual leave shall accrue if an employee is working or on authorized leave with pay.

(b) Annual leave shall not accrue if an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he shall have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) An employee who is eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.

(10)(a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.

(b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.

(d) The effective date of a separation shall be the last work day.

(e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and
2. The successor employer has agreed to credit him with an equal amount of annual leave.

(11) An employee who has been dismissed for cause or who has

failed to give proper notice of resignation shall be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 1(2) of this administrative regulation.

(12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1)(a) An employee in the state service, except an emergency, per diem and part-time employee who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(b) An employee shall have worked more than half of the workdays in a month to qualify for sick leave with pay.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A part-time employee who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(e) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave was earned.

(2)(a) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only the months for which an employee earned sick leave shall be used.

(c) If an employee is changed from part time to full time, the months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.

(d) A part-time employee who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service.

(e) In computing months of total service for a part-time employee who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only the months in which the employee worked at least 100 hours shall be used.

(f) If an employee is changed from full time to part time, the months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.

(g) The total service shall be verified before the leave is credited to the employee's record.

(h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4)(a) Sick leave shall accrue if an employee is working or on authorized leave with pay.

(b) Sick leave shall not accrue if an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay if the employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care;

(d) Would jeopardize the health of others at his duty post,

because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be limited to three (3) days, and may be extended for good cause at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7)(a) An appointing authority shall grant sick leave without pay for the duration of an employee's impairment by sickness, or illness, or pregnancy, if the total continuous leave does not exceed one (1) year.

(b) The appointing authority may require periodic doctor's statements during the year attesting to the employee's continued inability to perform the essential functions of his duties with or without reasonable accommodation.

(c) If an employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(d) If the reasonable accommodation is necessary, the employee shall:

1. Inform the employer; and

2. Upon request, provide supportive documentation from a certified professional.

(e) An employee shall be considered to have resigned if he:

1. Has been on one (1) year continuous sick leave without pay; and

2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and

3. Is unable to return to work; or

4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and

5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(8) An employee eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

(c) An employee who has exhausted paid leave shall qualify for state contribution for life insurance and health benefits if he works for more than half of the workdays in a month.

(d) If an employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(e) An employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state



contribution for life insurance and health benefits in the following month.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11)(a) An employee shall be credited for accumulated sick leave if he is:

1. Separated by proper resignation, layoff, retirement; or
2. Granted leave without pay in excess of thirty (30) working days.

(b) A former employee who is reinstated or reemployed shall be credited with the unused sick leave balance credited to him upon separation.

(12)(a) If an absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used to maintain regular full salary.

(b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned to the state for the period of time the employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that Workers' Compensation Benefits were assigned.

(13) Application for sick leave.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.

(c) If he is ill, an employee shall notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

Section 3. Family Leave. It shall be the responsibility of the appointing authority to administer family leave in compliance with the Federal Family and Medical Leave Act of 1993 and regulations promulgated thereunder found in 29 CFR Part 825. Each employee in a nonexempt, nonpolicy making position shall be entitled to family leave as set out in 101 KAR 2:100, Section 3.

Section 4. Court Leave. (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with subpoenas by a court, or administrative agency or body of the federal or state government or any political subdivision thereof;

(b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the proceeding.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

Section 5. Compensatory Leave and Overtime. (1)(a) Appointing authorities shall comply with the overtime and compensatory leave provisions of this section and the Fair Labor Standards Act (FLSA).

(b) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

(c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.

(d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 hours.

(2) An employee who is transferred or otherwise moved from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(3) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of his:

(a) Regular hourly rate of pay; or

(b) Average regular rate of pay for the final three (3) years employment.

(4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency.

(5) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for all hours worked in excess of forty (40) per week as provided by paragraphs (a) to (c) of this subsection.

(a) An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

(b) The election to receive compensatory leave in lieu of paid overtime shall be in writing and shall remain in force for a minimum of six (6) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election.

(c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(6) An employee deemed to be "exempt" under the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of his regular work schedule.

(7) An employee except one who is in a policy making position may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.

(b) If the appointing authority or his designee approves the payment, an employee's leave balance shall be reduced accordingly.

(8)(a) An employee who is not in a policy making position, shall be paid for fifty (50) hours at his regular hourly rate of pay upon accumulating, at the end of the pay period, 240 hours of compensatory leave.

(b) The employee's leave balance shall be reduced accordingly.

(c) An employee in a policy making position shall be paid for all accrued compensatory leave, not to exceed 240 hours, only upon termination from the unclassified service. An employee who reverts to a position in the classified service or an employee who resigns one day and is employed the next day shall retain his accrued compensatory leave in the receiving agency.

(9) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:

(a) Exceed the number of normally prescribed hours of duty; and

(b) Do not exceed:

1. The maximum amount of compensatory time that is permitted; and

2. Forty (40) hours.

(10) Compensatory leave used during the work week in which it is earned shall not constitute hours worked for computing paid overtime or time and one-half (1 1/2) compensatory time.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds ten (10) working days in a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.

(4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee, upon receiving this leave.

Section 7. Voting Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.

(2) The absence shall not be charged against leave.

(3) An employee who is not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

Section 8. Special Leave of Absence. (1) An appointing authority may grant special leave for education or training.

(2)(a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.

(b) Leave may be granted for a period not to exceed twenty-four (24) months.

(c) Leave may be granted with or without pay.

(d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:

1. Relate to the employee's work; and
2. Will benefit the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(4)(a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee misconduct.

(b) Leave shall not exceed thirty (30) working days.

(c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(d) If the investigation reveals no misconduct by the employee:

1. He shall be made whole for the period of the leave; and

2. Records relating to the investigation shall be purged from agency and department files.

(e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.

(5) Employees eligible for state contributions for life insurance and

health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. (1) An employee who is absent from duty without approval shall report the reason for his absence to his supervisor immediately.

(2) Unauthorized and unreported absence shall be considered absence:

- (a) Without leave; and

(b) Absence may constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Certification of Health Care Provider (1996)";
- (b) "Letter for Designation of FMLA (1996)"; and
- (c) "Application for Family Leave (1996)".

(2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (13 Ky.R. 434; eff. 9-4-86; Am. 15 Ky.R. 833; 1461; eff. 11-9-88; 16 Ky.R. 1215; 1580; eff. 2-3-90; 17 Ky.R. 1121; eff. 12-6-90; 20 Ky.R. 572; 1573; eff. 12-6-93; 21 Ky.R. 470; eff. 9-14-94; 22 Ky.R. 1094; 1616; 1821; eff. 4-5-96.)

101 KAR 3:045. Compensation plan and compensation incentive systems.

RELATES TO: KRS 18A.155

STATUTORY AUTHORITY: KRS 18A.155(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155

requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v).

Section 1. Classification Plan. The principles and provisions of 101 KAR 2:020 shall apply to positions in the unclassified service.

Section 2. Compensation Plan. (1) With the exception of the provisions of Section 3 of this administrative regulation relating to probationary increments, the principles and provisions of 101 KAR 2:036 shall apply to employees and positions in the unclassified service. An employee in the unclassified service who completes the initial six (6) month period following appointment with satisfactory

performance may be granted a statutory increment at the beginning of the month following completion of such period.

(a) An employee who was eligible for but did not receive a five (5) percent salary advancement as the result of any of the following actions: promotional increase, reallocation, or class grade changes, on or after January 3, 1986, may have his salary adjusted upon request by the appointing authority and approval by the commissioner. In no case may the salary adjustment be made retroactive to the original effective date but shall be granted on the first of the month following approval of the increase.

(b) Inasmuch as the appointing authority has the option of not providing salary increases under this section, an eligible employee whose salary is not adjusted is not considered to have been penalized and therefore shall have no basis for appeal.

(c) An appointing authority, with the approval of the commissioner, may grant a salary adjustment, equivalent to the budgeted annual increment for classified employees, to seasonal, temporary, FFTL and other unclassified employees who have completed twelve (12) months total full-time employment in the classified or unclassified service without a salary increase. The salary adjustment, if granted, shall be effective on the first day of the month following approval of the increase.

(2) Physicians, employed as such and pursuant to KRS 64.655, shall be exempt from the provisions of 101 KAR 2:036, Section 1, and may be appointed to any rate within the pay range when justified in writing by the appointing authority and approved by the commissioner.

Section 3. Educational Achievement Award. Upon request of the appointing authority and subject to the approval of the commissioner:

(1) An employee may receive one (1) lump sum educational achievement award per fiscal year for satisfactorily completing outside of work hours, 260 classroom hours (or the equivalent as determined by the commissioner) of job related instruction in approved courses. Approved courses must have been completed after an employee initially served six (6) months in state government. Employees shall not receive credit for hours taken while on educational leave, for hours paid for by the agency through tuition assistance, or for hours which previously counted toward an educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than \$2,500. The lump sum payment shall be granted only if the 260 classroom hours (or equivalent) have been completed within the past five (5) years prior to the effective date of the increase; or

(2) An employee may receive one (1) lump sum educational achievement award for earning an approved diploma, high school equivalency certificate, or a passing score on the G.E.D. test. The approved high school diploma, certificate, or passing score shall have been obtained by the state employee on or after January 1, 1984 while in state service. Employees receiving an approved high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test shall receive a lump sum educational achievement award of ten (10) percent of their annual base salary but not more than \$2,500. A high school level educational achievement award shall not be granted to employees who present new credentials but have previously:

(a) Received a high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test; or

(b) Completed college course work on the undergraduate or graduate level.

(3) An employee who has successfully completed the Kentucky Certified Public Manager Program offered by Governmental Services Center at Kentucky State University shall receive one (1) lump sum educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than \$2,500.

(4) To apply for an educational achievement award an employee shall submit supporting documentation to the appointing authority or his designee on a DPT Form 10 or its equivalent, demonstrating completion of 260 classroom hours (or the equivalent) together with

official transcripts or grade reports for the courses completed. As provided by this section, the appointing authority may recommend the application for approval and may forward the documentation to the Commissioner of the Department of Personnel for final approval. (17 Ky.R. 1248; Am. 2173; eff. 12-6-90; 21 Ky.R. 1742; 2094; eff. 2-8-95; 22 Ky.R. 1666; eff. 5-16-96.)

101 KAR 3:050. Unclassified service; promotion, transfer and disciplinary actions.

RELATES TO: KRS 18A.155

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these administrative regulations shall be approved by the Governor. Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.155 and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This administrative regulation complies with and implements this statutory provision.

Section 1. Promotion. (1) Vacancies may be filled by promotion whenever practicable and in the best interest of the service. Employees in the executive policy-making positions serve at the pleasure of the appointing authority.

(2) Any career employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the statutes (KRS 18A.113 and 18A.1132) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to KRS 18A.130 and 18A.135.

(3) An employee's promotion to a different agency must be approved by the appointing authority and the commissioner.

Section 2. Transfer. (1) The movement of an employee from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility shall be deemed a transfer. An employee appointed in accordance with KRS 12.050 cannot be transferred. A transfer may be an interagency or intra-agency action. An appointing authority, with written notice, may transfer an employee from one (1) position to another in the unclassified service. An employee may request a transfer. The employee must meet the minimum requirements of the job class to which transferred.

(2) An employee may be transferred between agencies to a position having the same salary range and level of responsibility, with the approval of the commissioner.

Section 3. Demotion. If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Involuntary demotions shall be intra-agency only.

Section 4. Detail to Special Duty. When the services of an employee are needed in a position within the agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Commissioner of Personnel. For detail to special duty the Commissioner of Personnel may waive the minimum requirements when requested by the appointing authority in writing.

Section 5. Temporary Overlap. With the prior approval of the commissioner, an agency may place an employee for training purposes, in a position currently occupied by another employee for a period not to exceed sixty (60) calendar days.

Section 6. Separations. (1) Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

(2) Retirement. If an employee is retired, he is considered as separated without prejudice. (13 Ky.R. 439; eff. 9-4-86; Am. 15 Ky.R. 2101; 16 Ky.R. 590; 1221; 1585; eff. 2-3-90.)