

KANSAS ADJUTANT GENERAL'S DEPARTMENT

MEMORANDUM FOR ALL STATE EMPLOYEES

FROM: TAG-SHRO

SUBJECT: Leave Use and Accumulation
TAG Policy No. 034-15

EFFECTIVE DATE: April 1, 2018/amended 3/2019

POLICY STATEMENT: The Adjutant General's Department shall provide all benefits eligible employees the opportunity to utilize Leave in a manner that is fair, consistent, and in accordance with State and Federal Laws and Regulations and the policies and procedures outlined as follows.

DEFINITIONS:

Fair Labor Standards Act. The federal law that governs hour and wage requirements and employee eligibility for overtime is the Fair Labor Standards Act (FLSA).

Holiday Credit. Pay or credit for paid time off at a straight time rate is Holiday Credit.

Non-Standard Work Schedule. A work schedule that is either required by the Agency or requested by an employee as a Flexible Work Schedule is a Non-Standard Work Schedule. Examples of a Non-Standard Work Schedule are as follows:

- Four 10-hour workdays per week.
- Four nine-hour work days and one four-hour workday per week.
- Five eight-hour workdays in one week of a payroll period; and four 10-hour workdays in the other week of the same payroll period.

Standard Workweek. The seven day period beginning at 12:01 am Sunday morning, and ending at 12:00 am the following Sunday morning is a Standard Workweek. A Standard Workweek shall consist of 40 hours for a full-time employee, 20 hours or less for a part-time employee.

PROCESS GUIDELINES:

Request and Approval of Leave Time

Requests for leave time shall be made in writing using TAG form #001, "Request for Leave" to the employee's immediate supervisor prior to the date of leave requested.

In the case of sick leave, all leave must be reported to the supervisor prior to the employee's scheduled time to report for duty.

Requests for Family Medical Leave and Parental Leave shall be made by contacting the SHRO Director for the required forms and documentation prior to the need for such leave. All leave must be approved and submitted to

State Human Resources using the 'Employee Leave Request' at the end of each payroll period along with the employees Time and Leave Document.

Leave that is not requested or not approved, is Unauthorized Leave, and shall be compensated as 'Leave without Pay' unless employee provides sufficient written reason for not requesting leave approval from their supervisor.

Employees who use unauthorized leave shall be counseled and documentation of counseling shall be sent to HR for placement in the employees Personnel File. Habitual or flagrant use of unauthorized leave may be cause for termination of employment for employee.

Types of Leave

Holiday Leave: Legal Holidays for State employees are designated each year by the Governor and normally include New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When one of these Legal Holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday. When one of these Legal Holidays falls on a Sunday, the following Monday shall be the officially observed holiday. In addition, the Governor may also designate additional days in observation of a holiday or special event which shall also be recognized as a Legal Holiday.

For each designated Legal Holiday, benefits eligible employees shall receive Holiday Credit equal to the number of hours regularly scheduled to work. Benefits eligible employees who work a non-standard work week shall receive the same number of holidays in a calendar year as those who work a regular work schedule.

Managers maintain the discretion to require some or all of their employees to work on a legal holiday, an officially observed holiday, or both in order to meet critical agency needs or emergencies.

Employees required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to their regular pay for the pay period. Holiday Compensation means either pay or holiday compensatory time at a time-and-a-half rate for those hours worked on a holiday.

Benefits eligible employees who work less than full-time on a regular schedule shall receive, for each holiday that falls on a day included in the employees regular work schedule, holiday credit equal to the time the employee is regularly scheduled to work for that day.

Any employee who is on leave without pay for any amount of time either on the last working day before a holiday, or the first day following the holiday shall not receive holiday credit for that holiday.

Any employee whose last day at work prior to separating from state service is the day before a regularly scheduled holiday shall not receive holiday credit for the holiday.

Discretionary Leave: In addition to Legal Holidays, the governor may designate a Discretionary Holiday for observance of a holiday or other day of importance to the employee. Each eligible employees shall receive the number of hours equal to the number of hours that employee is regularly scheduled to work for a discretionary day. All hours for a discretionary day must be taken on the same day, and used prior to certain pay period date that occur during the last part of December or the first part of January. Specific dates will be provided each year. Discretionary Leave may not be carried over from year to year. Employees shall not be paid for the Discretionary Holiday in lieu of taking the time off.

Vacation Leave: All benefits eligible employees accrue vacation leave beginning on their first day of work. Employees are eligible to use accrued vacation leave following the first day of the next pay period.

Vacation leave for Non-exempt employees is earned based upon hours worked in a pay period and years of service. Maximum hours of vacation leave earned is based upon years of service. Non-exempt employees shall use vacation leave in increments of a quarter of an hour.

Vacation leave and maximum hours of leave earned for Exempt employees is based upon years of service. Exempt employees shall use vacation leave in either half-day or full-day increments.

If a holiday on which state offices are closed occurs during an employee's vacation, the holiday shall not be charged against the employee's vacation leave.

At the end of the last payroll period paid in each fiscal year, up to 40 hours of any accrued vacation leave that exceeds an employee's maximum accumulation of hours shall be converted to sick leave. After this conversion, all remaining vacation leave over the maximum accumulation of hours shall be forfeited at the end of the last payroll period paid in that fiscal year.

Employees who leave employment with more than the maximum vacation leave accumulation of hours shall forfeit any vacation leave in excess of the maximum accumulation to which that employee is entitled.

Managers and supervisors shall not be arbitrary in the approval or rejection of requests for vacation leave.

Sick Leave. The maximum amount of sick leave a benefits eligible employee may accrue in any payroll period shall be 3.7 hours.

Non-exempt employees shall earn sick leave based upon hours worked in a pay period. Non-exempt employees shall use sick leave only in increments of a quarter of an hour.

Exempt employees shall use sick leave in either half-day or full-day increments. Sick leave earned during a pay period shall be available for use on the first day of the following pay period.

Sick leave with pay shall be granted only for the following reasons:

- a) Illness or disability of the employee, including recovery time, and personal appointments with a physician, dentist, or other recognized healthcare practitioner.
- b) Illness or disability of an immediate family member, including recovery time, and a family member's personal appointments with a physician, dentist, or other recognized healthcare practitioner, when the illness, disability, or appointment requires the employee to be absent from work.
- c) Legal quarantine of the employee.

Any employee may be required to provide evidence necessary to establish that the employee is entitled to use sick leave under the circumstances of the request. If the employee fails to provide this evidence, the requested use of sick leave may be denied.

If the Director has evidence that an employee cannot perform the employee's duties because of illness or disability, he/she may require the employee to use sick leave, require a written release by a licensed health care or mental health care professional, ultimately responsible for the patients' health care, before the employee is allowed to return to work.

Employees leaving employment with the State shall not be paid for unused sick leave at the time of separation; however, employees who return to state service in a benefits eligible position within one (1) year shall have the unused sick leave returned to their credit.

Only employees retiring from State service who meet eligibility in accordance with KSA 75-5517, shall be paid for accumulated sick leave.

Shared Leave. Employees in positions eligible for benefits may apply to receive or donate shared leave credits. To be eligible to request approval to receive shared leave, an employee must:

- Be unable to perform regular work duties because the employee or employees relative is experiencing a qualifying medical condition;
- Have used or expect to use all available paid leave including vacation and sick leave, discretionary and compensatory time credits earned for overtime or time worked on holidays;
- Have six months of continuous State service; and
- Have a satisfactory attendance record.

Employees who have applied for or are receiving worker's compensation payments for the same injury are not eligible to receive shared leave. This includes claims that have pending litigation.

To be eligible to donate leave to another employee, the employee must be left with a minimum of :

- 80 hours of vacation leave after vacation leave has been donated; and
- 480 hours of sick leave after sick leave has been donated.

An employee who is separating from State service may donate leave of any amount with no required balance; however, donated hours will not be restored should the employee return to State service within one year.

Employees who are retiring and donation excess sick leave must keep enough sick leave to be paid for the sick leave payment for which they are eligible.

Requests to receive shared leave credits shall be submitted by completing Form DA-325, "Shared Leave Request Form" and send to the State Human Resource Director. If an employee is unable to complete the request form due to the medical condition, a family or household member or other responsible person may make the request on behalf of the employee. All requests must include a completed Licensed Health Care Provider Statement, signed by the licensed health care provider of the ill or injured person.

Once an employee is determined to meet the eligibility requirements the request will be sent to the State Shared Leave Committee at the Division of Personnel Services at the Department of Administration for a determination.

If approved, shared leave credits shall be used within the time frame approved by the State Shared Leave Committee and only for the current condition for which shared leave was approved. The employee shall no longer be able to use shared leave credits when:

- The employees Licensed Health Care Provider furnishes a statement that the employee is able to return to work.
- The employee can no longer furnish evidence that the relative's medical condition keeps the employee from performing regular work duties.
- The employee meets the eligibility requirements for disability benefits through the Kansas Public Employee Retirement System (KPERs).
- The employee separates or retires from State service.

Donations shall not be solicited or accepted for an employee unless the employee's request for shared has been approved by the Shared Leave Committee. No employee shall coerce, intimidate, financially induce, or in any other way pressure another employee to donate leave. Any employee who participates in such action will be disqualified from receiving Shared Leave and subject to disciplinary action up to and including termination. Donations of Shared Leave credits must be made for a specific person in one- hour increments using Form DA-223 "Shared Leave Donation Form." The records of shared leave donations shall remain confidential. Any unused leave credits shall be returned to the donating employee in one-hour increments.

Employees using shared leave are considered to be on paid leave and shall continue to be on the payroll. Shared leave shall be paid at the receiving employee's current rate of pay. Employees on shared leave shall be eligible for the same benefits, pay increases and leave accruals as if they were at work.

Paid Parental Leave. Effective November 21, 2018, all benefits eligible State of Kansas employees, whether employed in a classified or unclassified, full or part time position, shall be eligible to receive paid Parental Leave **following** the birth or adoption of a child that occurs after November 21, 2018.

Parents designated as the primary caregiver shall receive six (6) weeks of paid Parental Leave and parents designated as the secondary caregiver shall receive three (3) weeks of paid Parental Leave. If both parents are eligible State of Kansas employees, one must be designated as primary caregiver and one must be designated the secondary caregiver. Parents in this situation may utilize paid Parental Leave concurrently, consecutively, or at different times.

Employees using paid Parental Leave shall receive their regular salary and shall continue to accrue vacation and sick leave in accordance with State rules and regulations. Official and observed holidays shall not be counted against Parental Leave.

Paid Parental Leave must be taken within the 12 weeks **immediately** following the birth or adoption of a child and shall run concurrently with the 12-week period covered by the Family Medical Leave Act (FMLA), if the employee is eligible for FMLA coverage.

Paid Parental Leave cannot be donated through the State of Kansas Shared Leave Program, or in any other way. Any unused leave not utilized by the eligible employee in the allowed 12 week period shall be forfeited.

Use of the Paid Parental Leave Program shall meet guidelines and procedures established by Bulletin No. 18-01, regarding the administration of Executive Order 18-19.

Requests shall be made by completing DA 332, "Paid Parental Leave Request Form" and submitting to the State Human Resource Director for review and coordination prior to the birth or adoption of a child, to provide the Supervisor and employee the opportunity to discuss and plan for when leave will be used.

Administrative Leave. Paid leave may only be approved by the State Human Resource Director to remove an employee from the worksite with pay, pending the outcome of an investigation of the employee, or in other situations when it is determined that Administrative Leave with Pay would be in the best interest of the Agency or State.

Effective January 6, 2017, The TAG has the authority to provide Administrative Leave as a reward for an employee or group of employees whose actions advanced the mission of the Agency and were either:

- Outside the scope of the employees' regular duties; or
- Completed in a time, manner, or with a result that exceeded the normal expectations for the employees' regular duties.

Administrative Leave shall not be provided as a reward in excess of the equivalent of three (3) of the recipient's working days per situation being rewarded. If the reward of Administrative Leave is provided as a reward due to the efforts of more than one employee, each employee who contributed to the action shall receive the same amount of Administrative Leave.

Requests for Administrative Leave as a reward shall be requested in writing to the State Human Resource Director.

Leave without Pay. Requests for Leave without Pay shall be made to the State Human Resource Director who will determine whether the approval of the request is in the best interest of the Agency.

Leave without Pay request will not be approved until all accumulated vacation, sick, and compensatory leave balances are exhausted. Leave without pay may be granted for a reasonable period of time consistent with the effective fulfillment of the agency's duties, but not to exceed 30 days. If the interests of the agency make it necessary, the TAG may terminate a leave of absence without pay by providing written notice to the employee at least two weeks prior to the end date. Employees who fail to return to work at the end of an authorized leave of absence or upon notice that the leave has terminated, will be terminated.

Responsibilities

It is the responsibility of all employees to request leave as far in advance as possible and to request leave on the form designated for requesting Leave Time. (TAG Form #001, 'Leave Request Form')

Employees eligible for the Paid Parental Leave Program shall make request to utilize said program as far in advance as possible by completing DA 332, "Paid Parental Leave Request Form" and communicating with their Supervisor how they will be using leave time allowed by the guidelines of the program.

It is also the responsibility of all employees to accurately report all Leave Time used on their Time and Leave Document.

AUTHORATIVE REFERENCES:

K.A.R. 1-9-4 "Vacation Leave".

K.A.R. 1-9-4 "Sick Leave".

K.A.R. 1-9-6 "Leave Without Pay"

K.A.R.1-2-74 "Administrative Leave

Personnel Bulletin 17-01 – Administrative Leave

Executive Order 18-19 - "Paid Parental Leave for State of Kansas Employees"

Bulletin No. 18-01 – "Paid Parental Leave for State of Kansas Employees"