

TITLE 31 STATE PERSONNEL DEPARTMENT

Notice of First Public Comment Period

LSA Document #24-179

PURPOSE OF NOTICE

The State Personnel Department (department) is soliciting public comment on amendments to rules at 31 IAC 5 concerning terms and conditions of employment in the Executive Department Civil Service. The department seeks comment on the affected citations listed and any other provisions of Title 31 that may be affected by this rulemaking.

CITATIONS AFFECTED: 31 IAC 5-1; 31 IAC 5-2-1; 31 IAC 5-2-2; 31 IAC 5-2-3; 31 IAC 5-2-4; 31 IAC 5-2-5; 31 IAC 5-2-6; 31 IAC 5-2-7; 31 IAC 5-2-8; 31 IAC 5-2-9; 31 IAC 5-3-1; 31 IAC 5-3-2; 31 IAC 5-4; 31 IAC 5-5-1; 31 IAC 5-5-2; 31 IAC 5-6-1; 31 IAC 5-7-1; 31 IAC 5-7-2; 31 IAC 5-7-3; 31 IAC 5-7-4; 31 IAC 5-7-5; 31 IAC 5-7-6; 31 IAC 5-7-7; 31 IAC 5-7-8; 31 IAC 5-7-9; 31 IAC 5-8-1; 31 IAC 5-8-2; 31 IAC 5-8-3; 31 IAC 5-8-4; 31 IAC 5-8-5; 31 IAC 5-8-6; 31 IAC 5-8-6.1; 31 IAC 5-8-7; 31 IAC 5-8-8; 31 IAC 5-8-9; 31 IAC 5-8-10; 31 IAC 5-9-1; 31 IAC 5-9-2; 31 IAC 5-9-3; 31 IAC 5-9-4; 31 IAC 5-9-5; 31 IAC 5-9-6; 31 IAC 5-9-7; 31 IAC 5-9-8; 31 IAC 5-9-9; 31 IAC 5-9-10; 31 IAC 5-9-11; 31 IAC 5-9-12; 31 IAC 5-9-13; 31 IAC 5-9-14; 31 IAC 5-9-15; 31 IAC 5-9-16; 31 IAC 5-9-17; 31 IAC 5-9-18; 31 IAC 5-9-19; 31 IAC 5-9-20; 31 IAC 5-9-21; 31 IAC 5-9-22; 31 IAC 5-9-23; 31 IAC 5-9-24; 31 IAC 5-9-25; 31 IAC 5-9-26; 31 IAC 5-9-27; 31 IAC 5-9-28; 31 IAC 5-9-29; 31 IAC 5-9-30; 31 IAC 5-10-1; 31 IAC 5-10-2; 31 IAC 5-10-3; 31 IAC 5-10-4; 31 IAC 5-10-5; 31 IAC 5-10-6; 31 IAC 5-11-1; 31 IAC 5-12-1; 31 IAC 5-12-2; 31 IAC 5-12-3; 31 IAC 5-12-4

AUTHORITY: IC 4-15-2.2-19; IC 5-10-8-7

OVERVIEW

Basic Purpose and Background

Updates the personnel rules applicable to the Executive Department Civil Service as follows: Removes gender specific pronouns. Removes the requirement to submit a transcript certifying all postsecondary education. Permits requests for extension of intermittent appointments after the appointment has been made. Amends the salary rule to acknowledge statutory pay matrices, clarify the obligation to pay for work out of class, and reconcile provisions of the rule with the State Parks Inn Authority's statutory option to election application of the rule to tipped employees. Repeals the employee suggestion awards system. Clarifies compensation for work on a holiday. Permits vacation leave to accrue to full-time employees during the first six (6) months of employment, and to part-time employees during the first twelve (12) months of employment and corrects a cross reference. Eliminates restrictions on funeral leave, adds: community service, new parent, and emergency conditions leave. Clarifies circumstances that affect the waiting period before an employee becomes eligible for short-term disability benefits. Removes the requirement that employees on long term disability vacate their position on the employing agency's staffing report. Makes a correctional officer's base biweekly wage a function of the number of hours the officer is typically scheduled to work during a pay period, excluding premium overtime. Updates a cross reference to an amended statute. Incorporates by reference the statutory limit on retiree leave conversion. Readopts all sections not being amended.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Keith Beesley
General Counsel
Indiana State Personnel Department
402 W. Washington St., Room W161
Indianapolis IN 46204

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The department is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #24-179
Keith Beesley – General Counsel State Personnel Department
402 West Washington Street, Room W161 IGCS
Indianapolis, IN 46204

(2) By electronic mail to kbeesley@spd.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(3) Attend scheduled public hearing on July 1, 2024, at 1 p.m., at the State Personnel Department, Room W161, 402 West Washington Street, Indianapolis, or via Teams Town Hall at: <https://on.in.gov/vmicx>.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than July 1, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the State Personnel Department, 402 West Washington Street, Room W161, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the State Personnel Department office.

If the department does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. 31 IAC 5-2-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-2-1 Applications; verification

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 1. (a) Application for employment shall:

- (1) be made in the manner prescribed by the director; and
- (2) require information covering experience and ~~training~~ **education** and other pertinent information.

(b) An applicant may be required to furnish verification of qualifying experience.

~~(c) Any individual claiming credit for training beyond the level of high school graduation is required to submit an official transcript or other official document certifying to the validity of the training. (State Personnel Department; 31 IAC 5-2-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)~~

SECTION 2. 31 IAC 5-2-4 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-2-4 Temporary and intermittent appointments

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 4. (a) In order to prevent stoppage of public business or loss or serious inconvenience to the public during an emergency, an appointing authority may make an emergency appointment of any qualified person, but notice shall immediately be given of the appointment to the director. ~~Any such~~ **The qualified** person shall be employed only during the emergency and for a period not exceeding ten (10) days. A vacancy of which the appointing authority has had reasonable notice or an employment condition of which ~~he or she~~ **the appointing authority** had, or might with due diligence have had, previous knowledge, ~~shall be~~ **is** not ~~be~~ considered an emergency under which ~~such~~ **an** emergency appointment may be made. No emergency appointment ~~shall be~~ **is** renewed without express permission from the director.

(b) Whenever there is urgent need of an employee for a temporary period, the director may authorize a temporary appointment for a period not to exceed ninety (90) working days. Successive temporary appointments of the same person shall not be made. However, an employee may be reappointed at a later date if ~~his or her~~ **the employee's** total employment in a temporary position does not exceed ninety (90) working days in a twelve (12) month period. The period of temporary employment ~~shall be~~ **is** not be counted as part of the working test period.

(c) Whenever there is need for an employee on an irregular or as needed basis, a position may be filled by an intermittent appointment. This type of appointment is limited to one hundred eighty (180) working days in a twelve (12) month period unless an exception is:

- (1) requested by the appointing authority ~~prior to the appointment and~~ annually;

~~thereafter~~; and

(2) approved by the ~~state personnel~~ department and state budget agency.

The period of intermittent employment ~~shall is~~ not be counted as part of the working test period.
(State Personnel Department; 31 IAC 5-2-4; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 3. 31 IAC 5-2-5 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-2-5 Transfer procedures

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 5. (a) An appointing authority may at any time assign an employee from one (1) position to another position in the same class under the appointing authority's jurisdiction.

(b) An appointing authority, with the approval of the director, may at any time transfer an employee to another class with essentially the same basic qualifications and ~~the same~~ salary range.

(c) With the approval of the director, an employee may transfer from the jurisdiction of one (1) appointing authority to another appointing authority. A promotion or demotion may be simultaneous with such a transfer. The new appointing authority ~~shall assume~~ **assumes** all vacation, sick, and personal leave accrued by the transferred employee.

(d) ~~Any~~ **An** employee transferring to a position in the state classified service must be fully qualified for the class to which the employee is transferred.

(e) Whenever an employee transfers from one (1) position to another position in the same classification or with the same pay range maximum, the beginning rate of pay in the new position shall not be more than the rate of pay the employee was receiving in the position from which ~~he or she~~ **the employee** is being transferred, unless otherwise approved by the director.
(State Personnel Department; 31 IAC 5-2-5; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 4. 31 IAC 5-2-8 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-2-8 Underfilling positions in absence of qualified applicants

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 8. (a) ~~The~~ **An** appointing authority may underfill a position. ~~The~~ **An** underfilling employee must be qualified for the class to which ~~he or she~~ **the employee** is appointed, which shall be in the same job category as the vacant position.

(b) A position that is allocated to a classification that requires admission to practice law in Indiana may be underfilled by a:

- (1) student actively enrolled in an American Bar Association approved law school; or
- (2) person whose application for admission is pending.

However, an employee underfilling ~~such a~~ **the** position must be admitted to the legal profession as a prerequisite to being appointed to the classification that requires admission to practice law in Indiana. Engaging in the practice of law, prior to admission to the bar of the Indiana supreme court, is prohibited. (*State Personnel Department; 31 IAC 5-2-8; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 5. 31 IAC 5-3-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-3-1 Working test

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 1. (a) ~~The A~~ working test period ~~shall be~~ **is**:

(1) regarded as an integral part of the selection process for the state classified service; and
(2) utilized for:

- (A) closely observing ~~the an~~ employee's work;
- (B) securing the most effective adjustment of a new employee to ~~his or her~~ **their** position; and
- (C) rejecting any employee who, in the opinion of the appointing authority, is unable or unwilling to perform satisfactorily or whose habits or dependability do not merit continuance in the state classified service.

(b) All appointments and promotions in the state classified service, other than temporary and intermittent, ~~shall be~~ **are** subject to a working test period. The length of ~~such the~~ working test period ~~shall be~~ **is** a minimum of six (6) months.

(c) During ~~the a~~ working test period, the appointing authority ~~should~~ **shall** complete at least one (1) full performance appraisal of the employee's work.

(d) Prior to the end of ~~the a~~ working test period, the appointing authority ~~should~~ **shall** complete a performance appraisal, with the signature of the employee:

- (1) recommending permanent status;
- (2) indicating separation of the employee; or
- (3) recommending a working test extension.

Specific reasons for ~~such an~~ extension request must be specified.

(e) A person in the state classified service ~~shall be deemed~~ **is considered** to have permanent status if:

- (1) the appointing authority has submitted a written recommendation to the director that ~~such the~~ person be granted permanent status; or
- (2) ~~the~~ person has been continued in a position for longer than one (1) year.

(f) Whenever positions are made subject to the classified service, persons in those same or similar positions six (6) months or more ~~shall be deemed~~ **are considered** to have successfully completed the working test period.

(g) The requirements of a working test period ~~shall be~~ **are** waived in the case of recall from layoff. (*State Personnel Department; 31 IAC 5-3-1; filed May 10, 2012, 2:32 p.m.:*

20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 6. 31 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-3-2 Service ratings

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 2. Each appointing authority is to report, at periodic intervals, service ratings for employees under ~~his or her~~ **the appointing authority's** jurisdiction. The director may:

- (1) require that ~~any or all~~ ratings be substantiated; and
- (2) prescribe the manner of making ~~such a~~ substantiation.

Employees shall be informed of their service ratings. (*State Personnel Department; 31 IAC 5-3-2; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 7. 31 IAC 5-5-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-5-1 Salaries; changes

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2; IC 14-19-11-8

Sec. 1. (a) The established minimum for a class ~~normally shall be~~ **is** paid upon appointment to the class. However, employment at a salary above the established rate may be approved by the director and the state budget agency.

(b) Salary advancement within the established range ~~shall be~~ **is:**

- (1) dependent upon specific written recommendation; ~~and~~
- (2) based upon meritorious service as indicated by service ratings and other pertinent data; ~~or~~
- (3) pursuant to an approved time-in-grade matrix.**

(c) Each change in status and ~~each~~ salary increase:

- (1) shall be submitted, in a prescribed manner, prior to the effective date; and
- (2) is subject to approval by the director.

(d) ~~Any~~ **The** salary paid to an employee ~~shall represent~~ **represents** the total remuneration for the employee, not including reimbursements for official travel.

(e) Whenever an employee works for a period less than the regularly established number of hours a day or days per pay period, the amount paid shall be:

- (1) governed by the rate of full-time work; and
- (2) proportionate to the time actually worked.

(f) The payment of a separate salary from two (2) or more agencies for duties performed in each of ~~such~~ **those** employments is permissible if the salaries received are in proper proportion to the percentage of full time worked in each agency.

(g) No employee shall supplement ~~any~~ a state salary through activities engaged in on state property, such as:

- (1) collecting commissions;
- (2) owning and operating concessions; or
- (3) rendering personal or other service;

to patients, inmates, clients, wards, the public, or other employees.

(h) ~~Employees~~ **An employee** whose substitution on unrelated positions does not involve working compensable overtime ~~shall is not be~~ entitled to additional compensation for the additional duties. ~~No such substitution~~ **Substitutions** shall **not** exceed four (4) consecutive calendar weeks, unless the employee is compensated for ~~any higher level duties~~ **at or above the pay range minimum for the work performed.**

(i) If the state park inns authority becomes subject to IC 4-15-2.2 by operation of IC 14-19-11-8, state park inns employees receiving tips are excepted from subsections (d) and (g)(3). *(State Personnel Department; 31 IAC 5-5-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 8. 31 IAC 5-7-9 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-7-9 Record keeping

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 9. The following are requirements for record keeping:

(1) ~~Every appointing authority shall keep and preserve~~ **The state shall keep and preserve**, for at least three (3) years, payroll or other records containing the following information and data ~~with respect to~~ **for** each ~~and every~~ employee:

(A) Name in full and, on the same record, the employee's identifying symbol or number, if ~~such is~~ used in place of **the employee's** name, on any time, work, or payroll records. This ~~shall~~ **must** be the same name as ~~that~~ used for Social Security record purposes.

(B) Home address, including zip code.

(C) Date of birth, if under nineteen (19) years of age.

(D) Sex and occupation in which employed. ~~(sex may be indicated by use of the prefixes, Mr., Mrs., Ms., or Miss)~~

(E) Time of day and day of **the** week on which the employee's work period begins. If the employee is part of a work force or employed in or by an establishment **in which** all ~~of whose~~ workers have a work week beginning at the same time on the same day, a single notation of the time of the day and beginning day of the work week for the whole work force or establishment will suffice. If, however, ~~any~~ **an** employee or a group of employees has a work week beginning and ending at a different time, a separate notation ~~shall then be~~ **is** kept for that employee or group of employees.

(F) **Pay For wages, the:**

- (i) regular hourly rate of pay for any week when overtime is worked and overtime excess compensation is due;

- (ii) basis on which wages are paid; and
- (iii) ~~the~~ amount and nature of each payment that is excluded from the regular rate. These records may be in the form of vouchers or other payment data.

(G) Hours worked each work day and total hours worked each work week. As used in this section, "work day" means any consecutive twenty-four (24) hours.

(H) Total daily or weekly straight-time earnings or wages, ~~that is,~~ **which are** the total earnings or wages due for hours worked during the work day or work week, including all earnings or wages due during any overtime worked, but exclusive of overtime excess compensation.

(I) Total overtime excess compensation for the work week, ~~that is,~~ **which is** the excess compensation for overtime worked which amount is over ~~and above~~ all straight-time earnings or wages also earned during overtime worked.

(J) Total additions to or deductions from wages paid each pay period. ~~Every~~ **Each** employer making additions to or deductions from wages shall also maintain, in individual employee accounts, a record of the dates, amounts, and nature of the items that make up the total additions and deductions.

(K) Total wages paid each pay period.

(L) Date of payment and the pay period covered by **the** payment.

(2) ~~With respect to~~ **For** employees working on fixed schedules, ~~an employer~~ **the state** may maintain records showing, instead of the hours worked each day and ~~each~~ week, the schedule of daily and weekly hours the employee normally works, and:

(A) in weeks in which an employee adheres to this schedule, indicates by check mark, statement, or other method that ~~such~~ **the** hours were ~~in fact~~ actually worked by ~~him or her~~ **the employee**; and

(B) in weeks in which more or less than the scheduled hours are worked, shows the exact number of hours worked each day and each week.

(3) ~~With respect to~~ **For** persons employed in job categories or classifications other than those enumerated in section 3(1) of this rule and who did not work overtime that is compensable, as determined by this rule, records containing all the information and data required by subdivision (1) shall be maintained and preserved, except data required by subdivision (1)(F) through (1)(J) and, in addition, ~~thereto~~ the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment, including fringe benefits.

(State Personnel Department; 31 IAC 5-7-9; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 9. 31 IAC 5-8-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-8-1 Holidays

Authority: IC 4-15-2.2-19

Affected: IC 1-1-9; IC 4-15

Sec. 1. (a) Employees shall be compensated for holidays established by statute or officially proclaimed by the governor.

(b) Notwithstanding subsection (a), teachers employed by the Indiana School for the Blind and Visually Impaired (ISBVI) or Indiana School for the Deaf (ISD) ~~shall~~ accrue holidays

~~in accordance with~~ **under** the holiday policy of Indianapolis Public Schools. ISBVI and ISD teachers are not eligible for additional holidays set for state employees under IC 1-1-9, IC 4-15, or this rule.

(c) ~~The first day of week, commonly called Sunday shall~~ **is not be considered** a holiday within the meaning of this rule.

(d) ~~Any An employee who is required to work on a holiday shall be paid for such work at a straight-time rate, with the regular payment for that pay period in which the holiday occurs~~ **together with pay for the holiday**, or, at the option of the appointing authority, may be credited with compensatory time off. Unless otherwise authorized by the director and the state budget agency, all ~~such~~ **compensatory time off earned for work on a holiday**:

(1) shall be scheduled by the appointing authority; and

(2) must be taken within the pay period in which the holiday occurs.

(State Personnel Department; 31 IAC 5-8-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 10. 31 IAC 5-8-2 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-8-2 Vacation leave

Authority: IC 4-15-2.2-19

Affected: IC 4-15; IC 5-10.3-8-14

Sec. 2. (a) Vacation leave with pay ~~shall be~~ **is** earned by full-time employees at the rate of seven and one-half (7.5) hours for each full month of employment. Employees working at least half time, but less than a full-time basis, shall earn vacation at the rate of three and three-fourths (3.75) hours a month. Vacation ~~will~~ **is not be** credited to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(b) Notwithstanding subsection (a), teachers employed by the Indiana School for the Blind and Visually Impaired (ISBVI) or Indiana School for the Deaf (ISD) accrue vacation leave ~~in accordance with~~ **under** the vacation leave policy of Indianapolis Public Schools. ISBVI and ISD teachers are not eligible for vacation leave set for state employees under IC 4-15 or this rule.

(c) Eligibility for additional vacation days ~~shall be~~ **is** as follows:

(1) Employees who have completed five (5) years or more of full-time employment, or ten (10) years or more of **part-time half-time** employment, shall accrue twenty-two and one-half (22.5) additional hours of vacation leave with pay annually on their accrual date.

(2) Employees who have completed ten (10) years or more of full-time employment, or twenty (20) years or more of **part-time half-time** employment, shall accrue thirty-seven and one-half (37.5) additional hours of vacation leave with pay (~~twenty-two and one-half (22.5) plus thirty-seven and one-half (37.5)~~ for a total of sixty $22.5 + 37.5 = 60$ additional hours) annually on their accrual date.

(3) Employees who have completed twenty (20) years or more of full-time employment, or forty (40) years or more of **part-time half-time** employment, shall accrue thirty-seven and one-half (37.5) additional hours of vacation leave with pay (~~twenty-two and one-half (22.5) plus thirty-seven and one-half (37.5) plus thirty-seven and one-half (37.5)~~ for a total of ninety-seven and one-half ($22.5 + 37.5 + 37.5 = 97.5$) additional hours)

annually on their accrual date.

(4) Time spent in out-of-pay status, except for military service, shall be is deducted from total service time in computing eligibility for additional vacation leave.

(5) Noncontinuous service prior to June 30, 1982, shall is not be considered in determining eligibility for additional vacation leave.

~~(d) No vacation shall accrue to full-time employees during the first six (6) months of employment, or to part-time employees during the first twelve (12) months of employment, but, upon completion thereof, regular vacation leave shall be allowed for time served during such periods.~~

~~(e) (d)~~ Appointing authorities shall determine the time and amount of vacation that shall be taken at any one (1) time. Employees shall be are limited to four (4) calendar weeks of vacation at any one (1) time:

(1) unless a longer period is recommended by the appointing authority and approved by the director;

(2) except as provided in ~~31 IAC 5-9-29~~(e) **31 IAC 5-9-28**.

~~(f) (e)~~ For the good of the service in arranging vacation schedules, the director may approve the request of an appointing authority for a full-time employees **employee** to anticipate and take vacation leave not to exceed twenty-two and one-half (22.5) hours.

~~(g) (f)~~ Compensation for unused vacation on separation shall be is as follows:

(1) Except as otherwise provided in 31 IAC 5-10 or IC 5-10.3-8-14, upon separation from the service, in good standing, an employee shall be is paid for unused vacation for a maximum of two hundred twenty-five (225) hours.

(2) Compensation for unused vacation in excess of two hundred twenty-five (225) hours is only permitted in cases involving the retiree leave conversion program described in 31 IAC 5-10.

(3) Payment for unused vacation leave not to exceed two hundred twenty-five (225) hours shall be is paid to beneficiaries of a deceased employees **employee**.

(4) If the an employee has anticipated vacation leave in accordance with under subsection ~~(f) (e)~~ and is separated from the service before actually earning such that leave, payment for leave used but unearned shall be is deducted from the final payment of salary.

(5) A full-time employees **employee** who resign resigns before they have completed **completing** six (6) months of employment, or a part-time employees **employee** who resign resigns before completing one (1) year of employment, will is not be paid for any vacation leave on separation.

~~(h) (g)~~ Vacation leave shall be is charged in fifteen (15) minute increments.

~~(i) (h)~~ An employee who resigns in good standing and is subsequently rehired shall have **has** reinstated any vacation leave that was accrued but was unused and uncompensated at the time of resignation. However, vacation leave that was compensated under 31 IAC 5-10 shall is not be reinstated.

~~(j) (i)~~ In recognition of the fact that certain police officers have a standard work day of

eight and one-half (8.5) hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be converted for those police officers who are subject to 31 IAC 5-7-8(b) as follows:

Hours Stated in this Section	Hours Converted for Police Officers
3.75	4.25
7.5	8.5
22.5	25.5
37.5	42.5
60.0	68.0
97.5	110.5
225.0	255.0

If an employee transfers into or out of affected police officer positions, the employee's leave balances will be adjusted proportionately to reflect the change in the number of hours of the standard work day. (State Personnel Department; 31 IAC 5-8-2; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 11. 31 IAC 5-8-4 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-8-4 Personal leave

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 4. (a) **For purposes of this article**, "personal leave" means an absence from duty with pay for personal reasons.

(b) Personal leave shall accrue ~~accrues~~ to full-time employees at the rate of seven and one-half (7.5) hours for every four (4) months of full-time employment, and to part-time employees working at least half time at the rate of three and three-fourths (3.75) hours for every four (4) months of service. Personal leave shall ~~is not be~~ granted to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(c) No employee may accrue a personal leave balance in excess of twenty-two and one-half (22.5) hours. If an employee is otherwise eligible to accrue personal leave, but the accrual thereof would increase ~~his or her~~ **the employee's** account balance beyond the twenty-two and one-half (22.5) hour limit, the personal leave shall ~~be~~ **is** credited to the employee's accrued sick leave balance.

(d) ~~The~~ **An** appointing authority may establish procedures for employees to follow in securing authorization for absence on personal leave.

(e) On separation, compensation for unused personal leave is only permitted under the retiree leave conversion program described in 31 IAC 5-10.

(f) An employee who resigns in good standing and is subsequently rehired shall ~~have~~ **has** reinstated any personal leave that was accrued but unused and uncompensated at the time of resignation.

(g) In recognition of the fact that certain police officers have a standard work day of eight and one-half (8.5) hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be ~~are~~ converted for those police officers who are subject to 31 IAC 5-7-8(b) as follows:

Hours Stated in this Section	Hours Converted for Police Officers
3.75	4.25
7.5	8.5
22.5	25.5

If an employee transfers into or out of affected police officer positions, the employee's leave balances will be ~~are~~ adjusted proportionately to reflect the change in the number of hours of the standard work day. (State Personnel Department; 31 IAC 5-8-4; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 12. 31 IAC 5-8-6 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-8-6 Paid leave

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2; IC 20-24; IC 35-44.1-1-3

Sec. 6. (a) Subject to prior approval by the director, an appointing authority may authorize leave with pay for an employee for the purpose of securing special education or training, other than departmental in-service, directly appropriate to the employee's position, and which will result in benefit to the state.

(b) ~~The An~~ appointing authority may allow leave with pay not to exceed ~~the employee's next three (3) regularly scheduled work days in the event of the death of any relative specified in this section. The amount of time granted ordinarily will depend upon the closeness of relationship to the deceased and amount of travel necessitated by attendance at the funeral. Such leave may be granted upon the death of a:~~ **of the following individuals:**

- (1) Husband.
- (2) Wife.
- (3) Father.
- (4) Mother.
- (5) Son.
- (6) Daughter.
- (7) Brother.
- (8) Sister.
- (9) Grandparent.
- (10) Grandchild.
- (11) **The spouse of any of these, or a relative listed in subdivisions (3) through (10).**
- (12) **A person living in the same household with the employee.**

~~For a married employees~~ **employee**, these members of the spouse's family, **listed in subdivisions (3) through (10)**, are included.

(c) ~~Employees;~~ **An employee**, except ~~employees~~ **an employee** paid by the hour or day, who are lawfully required to report for jury duty or to serve as ~~witnesses~~ **a witness** before any body or agency having subpoena powers, shall be granted ~~leaves~~ **a leave** of absence by their

appointing ~~authorities~~ **authority** from their ~~positions~~ **position** during the required absence for such ~~that~~ duty. When such ~~leaves of a leave~~ absence ~~are~~ **is** granted for jury duty or to serve as witnesses ~~a witness~~ in matters relating to employment with the state, ~~they shall receive the~~ **employee receives** that portion of their regular salary from the state which will, together with the compensation for such court service, equal their total regular salary for the same period.

(d) ~~Employees~~ **An employee** who ~~are members~~ **is a member** of the Armed Forces Reserves or the National Guard ~~shall be~~ **is** entitled to a leave of absence, not to exceed fifteen (15) work days in ~~any a~~ calendar year, without loss of pay or vacation time. The employee ~~shall be~~ **is** required to submit a written order or official statement requiring the military duty.

(e) **Each full-time or part-time state employee is allowed leave with pay to voluntarily participate in activities that benefit another governmental entity or a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. Community service leave time is not to exceed a combined total of fifteen (15) hours for full-time employees and seven and one-half (7.5) hours for part-time employees each calendar year. Voluntary activities must not promote religion or attempt to influence legislation, governmental policy, or elections to public office.**

(f) **Once annually, agencies may organize and participate in an agency sponsored volunteer event that benefits another governmental entity or a charitable organization that is exempt from federal income taxation under Section 501(c)(3) that complies with IC 35-44.1-1-3. Employee participation at the event is voluntary and shall not exceed seven and one-half (7 ½) hours of paid time. Time spent volunteering at an agency sponsored event counts toward an employee's use of the combined total cap of community service leave time established in subsection (c). For purposes of this subsection, "governmental entity" means an agency, a department, a division of a federal, state, or local government or a separate body corporate and politic, or public schools, including charter schools established under to IC 20-24.**

(g) **Upon the:**

- (1) birth of the employee's child;**
- (2) birth of a child to the employee's spouse; or**
- (3) placement of a child for adoption with the employee;**

a full-time or part-time employee employed six (6) consecutive months or more in a permanent position may request and receive paid leave. An eligible full-time employee may receive up to one hundred fifty (150) hours of paid leave. An eligible part-time employee may request up to seventy-five (75) hours of paid leave. New parent leave not taken:

- (1) within six (6) months after a birth or placement for adoption; or**
- (2) prior to separation from employment in state service;**

is forfeited. New parent leave runs concurrently with family medical leave (FML) for eligible employees charged FML for absences due to childbirth or parenting. (State Personnel Department; 31 IAC 5-8-6; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 13. 31 IAC 5-8-6.1 IS ADDED TO READ AS FOLLOWS:

31 IAC 5-8-6.1 Emergency conditions leave

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

(a) For purposes of this section, "emergency conditions" means circumstances that necessitate the closing of a state worksite due to conditions at that location that adversely affect the health or safety of employees or clients and customers, or all, or the ability of employees to perform required duties (e.g., water main breaks, sewage back-ups, power outages, or bomb threats), and where there is no reasonable alternative site for employees to perform the work. The director may authorize the closing of a state operation due to emergency conditions occurring at a worksite, and employees affected by that closure will not lose wages for the time the worksite is unusable.

(b) When the director declares a state worksite closed due to emergency conditions, employees scheduled to work at that worksite during that time and not required to work are given leave with pay. Employees required to work at the worksite under emergency conditions are granted compensatory time on an hour for hour basis for hours worked.

(c) Only the director may authorize the closing of a state worksite or operation due to emergency conditions. Reports of emergency conditions at a worksite must be submitted through designated chains of authority to the employee relations division of the department as soon as possible.

(d) An appointing authority may only authorize unpaid leave or an employee's request to use accrued leave, but may not authorize paid emergency conditions leave or compensatory time for work during emergency conditions.

(e) Employees engaged in emergency response duties or on previously approved leaves, and employees appointed on a temporary or intermittent basis, are not eligible for emergency conditions leave.

(f) Emergency conditions leave does not apply to employees on sick leave or any other leave approved prior to the declaration of an emergency condition, or to employees engaged in emergency response activities, such as, but not limited to, snow removal, radio operations, or emergency management.

(g) Weather conditions affecting only the ability to commute are not considered emergency conditions necessitating the closing of a state worksite or paid leave.

(h) For purposes of this subsection, "conditions of a serious nature" means circumstances that may:

- (1) affect the ability of employees to report to work; or**
- (2) necessitate the curtailing of operations by reducing staffing to minimum levels or reassigning staff to another location or other locations;**

or both. If conditions of a serious nature exist, an appointing authority may curtail operations by reassigning employees to another worksite or other worksites, or authorizing leave without pay for affected employees, or both. Employees may elect to use vacation leave, personal leave, or compensatory time to cover absences. (State Personnel Department; 31 IAC 5-8-6.1)

SECTION 14. 31 IAC 5-8-8 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-8-8 Military leave without pay

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 8. (a) ~~Any An~~ An employee, upon request, ~~shall be is~~ granted a leave of absence without pay to cover the length of his or her ~~the employee's~~ services in the ~~armed forces~~ **uniformed services** of the United States, **as required by the Uniformed Services Employment and Reemployment Rights Act.**

(b) No sick leave, personal leave, or vacation leave credits will accrue during military leave.

(c) An employee granted a military leave of absence ~~shall be is~~ reinstated according to the dictates of federal law.

(d) If there is no vacancy, a vacancy ~~shall be is~~ created by utilizing the layoff procedure.

(e) If ~~the an~~ an employee on military leave fails to make application for return from leave in compliance with applicable federal law, ~~such the~~ failure ~~will be is~~ considered as an automatic resignation. *(State Personnel Department; 31 IAC 5-8-8; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 15. 31 IAC 5-9-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-1 Short term disability; eligibility

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 5-10-8-7; IC 22-3-2

Sec. 1. An employee who meets ~~all~~ the following criteria is entitled to short term disability benefits under this rule:

(1) The employee ~~must be is~~ employed on a full-time basis and ~~have has~~ worked a minimum period of six (6) consecutive months of continuous full-time employment, during which time the employee is actively working without a break in service due to:

- (A) resignation;
- (B) retirement;
- (C) a layoff;
- (D) **an unauthorized** leave of absence; or
- (E) termination;

prior to the beginning of the elimination period. **Authorized leave of absence without pay, while not considered a break in service, is not counted toward the six (6) months of active work requirement; such that the length of authorized leave without pay is added to the period of time before the employee becomes eligible.**

(2) The employee ~~must be is~~ absent due to illness, injury, or legal quarantine as evidenced by a physician's signed statement.

(3) The employee ~~must have been~~ is absent thirty (30) consecutive calendar days due to the disability.

(State Personnel Department; 31 IAC 5-9-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 16. 31 IAC 5-9-2 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-2 Short term disability; elimination period

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 2. To be eligible for short term disability benefits, ~~the an~~ employee must be absent from work for an elimination period of thirty (30) consecutive calendar days. Authorization for absence and salary continuation during the elimination period ~~should be~~ is sought under the rules relating to:

- (1) vacation leave;
- (2) sick leave;
- (3) personal leave;
- (4) compensatory time;
- (5) previously accrued special sick leave;
- (6) new parent leave;**
- ~~(6) (7)~~ leave without pay; or
- ~~(7) (8)~~ worker's compensation.

The employee may choose the order in which vacation, sick leave, personal leave, or compensatory time is charged during the elimination period. On the thirty-first calendar day of absence due to disability, the employee becomes eligible for short term disability benefits. *(State Personnel Department; 31 IAC 5-9-2; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 17. 31 IAC 5-9-4 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-4 Short term disability; augmentation of basic benefit

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 4. The basic short term disability benefit may be augmented up to eighty percent (80%) of the-employee's base biweekly wage by pro rata charge against accrued leave balances. For example, an employee entitled to the short term disability benefit may receive eighty percent (80%) of ~~his or her~~ **their** base biweekly wage by subtracting one (1) day each week from the accrued leave balance. *(State Personnel Department; 31 IAC 5-9-4; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 18. 31 IAC 5-9-9 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-9 Long term disability

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 9. (a) Except as provided in sections 20(4) and 27 of this rule, for the first and second year, the long term disability benefit is available if ~~the~~ **an** employee is unable to perform work consistent with ~~his or her~~ **their** classification.

(b) The long term disability benefit is available for a third and fourth year if ~~the~~ **an** employee is unable to perform the work of ~~any~~ **an** occupation for which ~~he or she is~~ **they are** reasonably qualified by reason of education, training, or experience. (*State Personnel Department; 31 IAC 5-9-9; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 19. 31 IAC 5-9-14 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-14 Long term disability; return to work

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 14. (a) If an employee, having recovered from ~~the~~ **a** long term disability, desires to return to work and the agency in which ~~he or she~~ **the employee** was employed before the onset of the disability has no vacant position in their classification, or a similar classification with the same basic qualifications and salary range, then the layoff procedure ~~shall be~~ **is** utilized to determine which employee is ~~to be~~ laid off.

(b) When benefits cease because ~~the~~ **a** disability does not meet the standard set forth in section 9(b) of this rule, the last appointing authority for whom ~~the~~ **an** employee worked before the onset of the disability shall offer the employee the next available position, within thirty (30) miles of ~~his or her~~ **the employee's** designated work station before the onset of the disability, at the same or a lower skill level, that ~~he or she~~ **the employee** is legally qualified to fill and physically capable of performing. The appointing authority's obligation under this subsection ends and employment ~~will be~~ **is** terminated, upon the earlier of the:

(1) third declination of ~~such~~ an offer; or

(2) expiration of the maximum analogous time period, applicable to the employee, set forth in section 12 of this rule.

(*State Personnel Department; 31 IAC 5-9-14; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 20. 31 IAC 5-9-16 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-16 Administration

Authority: IC 4-15-2.2-19

Affected: IC 4-15; IC 5-10-8-7; IC 22-3-2

Sec. 16. (a) ~~The~~ **An** application for benefits must:

(1) be submitted by ~~the~~ **an** employee, or ~~some~~ **a** person acting on ~~his or her~~ **the employee's** behalf, to the ~~state personnel~~ department or, if a third party administrator is contracted by the state, to the third party administrator; and

(2) include a request for benefits and a signed physician's statement evidencing the nature, extent, and probable duration of the disability.

(b) The effective date of benefit payments shall not precede the date on which application is made by ~~the an~~ employee, or ~~some a~~ person acting on ~~his or her~~ **the employee's** behalf, to the state personnel department or, if a third party administrator is contracted by the state, to the third party administrator.

(c) An employee must apply for Social Security and pension benefits simultaneously with or prior to application for long term disability benefits. The employee must exercise due diligence in attempting to secure an award of Social Security and pension benefits.

(d) Determination of disability and eligibility for benefits ~~shall be~~ **is** made by the ~~state personnel~~ department in coordination with the disability determination bureau of the division of disability and rehabilitative services or by a third party administrator contracted by the state. *(State Personnel Department; 31 IAC 5-9-16; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 21. 31 IAC 5-9-17 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-17 Medical examinations

Authority: IC 4-15-2.2-19

Affected: IC 4-15; IC 5-10-8-7; IC 22-3-2

Sec. 17. ~~The An~~ appointing authority, ~~state personnel~~ **the** department, **the** disability determination bureau of the division of disability and rehabilitative services, or a third party administrator contracted by the state may require examination by designated physicians. Examinations by state designated physicians ~~shall be~~ **are** paid for by the state. Failure of ~~the an~~ employee to submit to a required examination or waive the patient/physician privilege results in a disqualification of eligibility for benefits. The employee is not required to waive the patient/physician privilege as to medical conditions unrelated to ~~his or her~~ **their** claim for benefits. *(State Personnel Department; 31 IAC 5-9-17; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 22. 31 IAC 5-9-20 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-20 Termination

Authority: IC 4-15-2.2-19

Affected: IC 4-15; IC 5-10-8-7; IC 22-3-2

Sec. 20. Benefits terminate when any of the following occur:

(1) ~~The An~~ employee fails to submit information necessary for claim administration, including, but not limited to, the following:

(A) Authorizing attending physicians to release information to the state and third party administrator on the employee's condition and prognosis.

(B) Timely reporting income from sources specified in section 22(a) or 25 of this rule.

(2) ~~The An~~ employee refuses to submit to an examination by a designated physician.

(3) ~~The An~~ employee's medical condition no longer meets the **disability** standard set forth in the definition of "disability" **applicable 31 IAC 5-9-1(2) or 31 IAC 5-9-9.**

(4) ~~The An~~ employee refuses to accept work assignments appropriate to the employee's

medical condition.

(5) ~~The An~~ employee returns to regular duty.

(6) ~~The An~~ employee commits fraud related to ~~his or her~~ **their** application for benefits.

(7) ~~The An~~ time specified in section 5 or 12 of this rule has expired.

(8) ~~The An~~ employee engages in activity that ~~retards~~ **hinders** the employee's rehabilitation.

(9) ~~The An~~ employee is terminated for reasons other than the employee's absence due to disability.

(State Personnel Department; 31 IAC 5-9-20; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 23. 31 IAC 5-9-26 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-26 Tortious acts within scope of employment

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 26. (a) An employee who, in the scope of state employment, is disabled by injuries resulting from the tortious act of another person, ~~shall receive~~ **is entitled to** one hundred percent (100%) of ~~his or her~~ **their** base biweekly wage. **For purposes of this rule, a correctional officer's base biweekly wage is determined using the number of hours the officer is typically scheduled to work during a pay period, excluding premium overtime.**

(b) A seven (7) calendar day elimination (~~waiting~~) period applies to **benefits under this benefit section**. During the elimination period, the employee may use accrued leave benefits.

(c) The maximum duration of benefits under this section is one (1) calendar year from the date of ~~the~~ **a** job related injury.

(d) After exhaustion of **benefits under this benefit, the section, an** employee is eligible for salary continuation under worker's compensation or long term disability. In this situation, long term disability benefits may be provided for the maximum duration allowed by section 12 of this rule, subject to the termination and other provisions of this rule.

(e) ~~The An~~ employee cannot receive both **the benefits under this benefit section** and salary continuation under worker's compensation simultaneously.

(f) The period of time an employee is eligible for temporary total disability payments or total permanent disability payments is reduced by the amount of time ~~he or she~~ **they** received benefits under this section. *(State Personnel Department; 31 IAC 5-9-26; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 24. 31 IAC 5-9-27 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-9-27 Partial disability

Authority: IC 4-15-2.2-19; IC 5-10-8-7

Affected: IC 4-15; IC 22-3-2

Sec. 27. (a) Short term and long term disability benefits ~~will be~~ **are** paid only if the disability ~~would~~ **does** not permit ~~the~~ **an** employee to perform any other job assignment and an appointing authority does not assign duties the employee is physically capable of performing, according to the determinations made in sections 16 and 17 of this rule.

(b) An employee unable to do ~~his or her~~ **their** regular job, but ~~who~~ returns to work and performs any job assignment, ~~will receive~~ **is entitled to** eighty percent (80%) of ~~his or her~~ **their** base biweekly wage or the minimum hourly rate for services performed, whichever is greater.

(c) An employee who refuses an appropriate temporary assignment ~~shall be~~ **is** terminated from employment, and benefits under this rule shall cease. *(State Personnel Department; 31 IAC 5-9-27; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 25. 31 IAC 5-10-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-10-1 Definitions

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12; IC 21-7-13-32

Sec. 1. The following definitions apply throughout this rule:

(1) "Eligible retiree" means an individual who:

- (A) has at least ten (10) years of creditable service with a state agency;
- (B) retires after June 30, 2000;
- (C) has accrued but unused and uncompensated sick, vacation, or personal leave on the employee's retirement date; and
- (D) has not previously received the benefits of converting leave under this rule.

(2) "Retire" means ~~to terminate~~ state employment at a time when ~~the~~ **an** eligible retiree is entitled to begin receiving pension benefits from a public pension plan as a consequence of the retiree's state service.

(3) "State agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include the following:

- (A) A state educational institution (as defined in ~~IC 20-12-0.5-1~~ **IC 21-7-13-32**).
- (B) A state elected official's office.
- (C) The legislative and judicial branches of state government.

(State Personnel Department; 31 IAC 5-10-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)

SECTION 26. 31 IAC 5-10-4 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-10-4 Leave valuation and maximum

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 4. (a) Subject to subsection (b), for the purpose of the retiree leave conversion program, the value of accrued but unused and uncompensated sick, vacation, or personal leave is determined as follows:

STEP ONE: Divide the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the retirement date, by seventy-five (75).
STEP TWO: Multiply the quotient determined in STEP ONE by the number of hours of sick, vacation, and personal leave that the retiree had accrued but which were unused and uncompensated at the time of separation.

STEP THREE: Multiply the product of STEP TWO by the following:

- (A) Twenty percent (20%), for a retiree with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service.
- (B) Thirty-five percent (35%), for a retiree with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service.
- (C) Fifty percent (50%), for a retiree with at least twenty (20) years of creditable service.

(b) In no event is ~~the~~an eligible retiree entitled to more than ~~an aggregate of five thousand dollars (\$5,000) gross compensation under this retiree leave conversion program~~ **the amount specified in IC 5-10-12-5.** *(State Personnel Department; 31 IAC 5-10-4; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 27. 31 IAC 5-12-1 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-12-1 Demotion

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 1. An appointing authority or ~~his or her~~ **their** designee may demote an employee by presenting the employee with written notice of demotion, a copy of which ~~shall be~~ **is** filed with the director. If the employee is not available, written notice ~~shall be~~ **is** sent to the employee's last known address. *(State Personnel Department; 31 IAC 5-12-1; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA)*

SECTION 28. 31 IAC 5-12-2 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-12-2 Suspension

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2

Sec. 2. (a) An appointing authority or ~~his or her~~ **their** designee may suspend ~~any~~ **an** employee without pay for disciplinary purposes by presenting the employee with a written notice of suspension, a copy of which ~~shall be~~ **is** filed with the director. If the employee is not available, written notice ~~shall be~~ **is** sent to the employee's last known address.

(b) An appointing authority or ~~his or her~~ **their** designee may suspend ~~any~~ **an** employee without pay pending an investigation or trial of ~~any~~ **the** charges against ~~him or her~~ **the employee**. If the outcome of ~~the charges~~ or trial of ~~any~~ **the** charges is favorable to the employee, the appointing authority shall reimburse the employee for any lost wages and benefits for the suspension period less ~~any~~ **the** wages the employee ~~might~~ **may** have earned during the

suspension period from other employment. (*State Personnel Department; 31 IAC 5-12-2; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 29. 31 IAC 5-12-3 IS AMENDED TO READ AS FOLLOWS:

31 IAC 5-12-3 Dismissal

Authority: IC 4-15-2.2-19

Affected: IC 4-15-2.2-34; IC 4-15-2.2-42

Sec. 3. (a) An appointing authority or the appointing authority's designee may dismiss an employee and terminate ~~his or her~~ **their** employment by presenting the employee with a written notice of dismissal, a copy of which shall be filed with the director. If the employee is not available, written notice shall be sent to the employee's last known address.

(b) An appointing authority may dismiss an employee in a working test ~~in accordance with~~ **under** IC 4-15-2.2-34.

(c) Except as provided in 31 IAC 5-9, an employee, eligible for benefits or subject to the elimination period under 31 IAC 5-9, may not be dismissed from employment due to ~~his or her~~ **their** absence which results solely from the disability.

(d) A dismissed employee shall forfeit all accrued sick, personal, and vacation leave.

(e) An employee who is dismissed may be entitled to initiate a complaint, as provided in IC 4-15-2.2-42. (*State Personnel Department; 31 IAC 5-12-3; filed May 10, 2012, 2:32 p.m.: 20120606-IR-031110446FRA; readopted filed Jun 1, 2018, 9:50 a.m.: 20180627-IR-031180194RFA*)

SECTION 30. THE FOLLOWING ARE READOPTED: 31 IAC 5-1; 31 IAC 5-2-2; 31 IAC 5-2-3; 31 IAC 5-2-6; 31 IAC 5-2-7; 31 IAC 5-2-9; 31 IAC 5-4; 31 IAC 5-7-1; 31 IAC 5-7-2; 31 IAC 5-7-3; 31 IAC 5-7-4; 31 IAC 5-7-5; 31 IAC 5-7-6; 31 IAC 5-7-7; 31 IAC 5-7-8; 31 IAC 5-8-3; 31 IAC 5-8-5; 31 IAC 5-8-7; 31 IAC 5-8-9; 31 IAC 5-8-10; 31 IAC 5-9-3; 31 IAC 5-9-5; 31 IAC 5-9-6; 31 IAC 5-9-7; 31 IAC 5-9-8; 31 IAC 5-9-10; 31 IAC 5-9-11; 31 IAC 5-9-12; 31 IAC 5-9-13; 31 IAC 5-9-15; 31 IAC 5-9-18; 31 IAC 5-9-21; 31 IAC 5-9-22; 31 IAC 5-9-23; 31 IAC 5-9-24; 31 IAC 5-9-25; 31 IAC 5-9-28; 31 IAC 5-9-29; 31 IAC 5-9-30; 31 IAC 5-10-2; 31 IAC 5-10-3; 31 IAC 5-10-6; 31 IAC 5-11-1; 31 IAC 5-12-4.

SECTION 31. THE FOLLOWING ARE REPEALED: 31 IAC 5-5-2; 31 IAC 5-6-1; 31 IAC 5-9-19.