

TITLE 31 STATE PERSONNEL DEPARTMENT

ARTICLE 1. NON-MERIT EMPLOYEES

Rule 1. Definitions

31 IAC 1-1-1 Definitions

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8; IC 4-15-2

Sec. 1. As used in 31 IAC 1, unless the context requires another meaning, the following terms shall have meaning as indicated:

“Act” means the State Personnel Department Act of 1981, IC 4-15-1.8, and any amendments thereto.

“Allocation” means the assignment of an individual position to a class.

“Appointing authority” means the head of an agency, department, division, board, person or group of persons who has the power by law or by lawfully delegated authority to make appointments to positions in the non-merit service.

“Class” or “class of positions” means a group of positions in the non-merit service sufficiently alike in duties, authority and responsibility that the same qualifications may reasonably be required for, and the same schedule of pay can be equitably applied to, all positions in the group.

“Classified service” means all offices and positions of trust and employment in the state service except those placed in the unclassified service by the state personnel act IC 4-15-2.

“Day” means calendar day except where otherwise specified in a rule.

“Demotion” means the change of an employee from one (1) class to another class having a lower maximum salary.

“Director” means the state personnel director.

“Dismissal” see 31 IAC 1-10-2.

“Intermittent appointment” means an appointment to a position which requires performance on an irregular or “as needed” basis. This type of appointment is limited to 180 working days in a twelve (12) month period unless an exception is allowed in accordance with 31 IAC 1-6-4(b).

“Non-merit service” means all public services in all offices and employments, except members of boards and commissions, of all persons in the executive department of state government under the jurisdiction and direction of the governor and the department of personnel pursuant to IC 4-15-1.8-1 as amended, and except those included in the state service as defined by the state personnel act IC 4-15-2.

“Part-time appointment” means an appointment to a position which does not require full-time performance but does require performance on a regular basis, that is, a predetermined amount of time per day or per week. A part-time employee is paid a percentage of the bi-weekly salary received by comparably classified full-time employees.

“Pay period” means a time period, standardized for payroll purposes, used to compute compensation due an employee.

“Position” means a group of current duties and responsibilities, assigned or delegated by competent authority, and approved by the state personnel division, requiring the full-time or part-time employment of one (1) person.

“Promotion” means a change of an employee from one (1) class to another class having a higher maximum salary.

“Reclassification” means a change of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class in the same pay level on the basis of significant changes in the kind of work, difficulty, or responsibility of the work performed in such position. It does not involve the change of an employee from one (1) position to another.

“Suspension” see 31 IAC 1-10-2.

“Temporary appointment” means an appointment to a position for a maximum period of ninety (90) working days.

“Transfer” means the change of an employee from one (1) position to another in the same class or similar class with essentially the same basic qualifications and same maximum salary.

“Legal quarantine” means quarantine established pursuant to IC 18-1-1.5-7 [*IC 18-1 was repealed by Acts 1982, P.L.127, SECTION 2(b)*], IC 16-1-13-2 [*IC 16-1-13 was repealed by P.L.4-1988, SECTION 13, effective July 1, 1988.*], IC 16-1-3-7 [*IC 16-1 was repealed by P.L.2-1993, SECTION 209, effective April 30, 1993.*], or IC 16-1-10-9 [*IC 16-1-10 was repealed by P.L.123-1988, SECTION 31, effective July 1, 1988.*].

“Hourly employee” means an employee appointed to a position requiring less than half-time performance and for which the employee is paid on an hourly basis.

(State Personnel Department; Non-Merit Agency Personnel Rule 1, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p.

24; filed Jan 26, 1979, 2:50 pm: 2 IR 296; filed Aug 17, 1982, 3:41 pm: 5 IR 2101; filed Nov 1, 1983, 4:00 pm: 7 IR 9, eff-Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 2. Administration of Personnel Policies

31 IAC 1-2-1 Purpose of rules

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8

Sec. 1. It is the purpose of 31 IAC 1 to establish and administer uniform personnel policies within the non-merit service to the full extent of the authority vested in the State Personnel Department through the provisions of IC 4-15-1.8. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; filed Aug 17, 1982, 3:41 pm: 5 IR 2101; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-2-2 New agencies; applicability of rules

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-13-1; IC 4-15-1.8-8; IC 4-15-2

Sec. 2. Additional Agencies-Coverage. Any state agencies not currently in existence, but which upon creation are subject to the Act [IC 4-13-1] and are not included in the state service as defined by the State Personnel Act [IC 4-15-2] shall, upon such creation be included in the definition of non-merit service and shall be subject to these rules [31 IAC 1]. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-2-3 Powers of director

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-13-1; IC 4-15-1.8-8

Sec. 3. Authority of the Director. The Director is authorized to establish and enforce any administrative policies necessary for the implementation of these rules [31 IAC 1] or to prescribe and enforce any personnel policies and procedures authorized by the Act [IC 4-13-1] which are not inconsistent with these rules [31 IAC 1]. (*State Personnel Department; Non-Merit Agency Personnel Rule 2, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 3. The Classification Plan

31 IAC 1-3-1 Revision of classes

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Class Revision. Whenever the creation, abolition, subdivision, or consolidation of classes appears necessary due to the creation of a new position, change in organization, or change in functions or duties of an individual position, the Director, after conferring with the appointing authority or authorities, shall prepare class specifications for the classes affected. Affected agencies and institutions shall be notified of the proposed revision. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981,

P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-3-2 Allocation of new position

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. Position Allocation. When a new position is contemplated, the appointing authority shall request establishment of the position before it may be filled and, except as otherwise provided by these rules [31 IAC 1], no person shall be appointed to or employed in a position until the position has been allocated to a class and approved by the Director or until the classification plan has been amended to provide therefor. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 2; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-3-3 Reallocation of positions

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 3. Position Reallocation. When the duties of a position or positions are changed substantially, the Director may order a review of the position or positions involved. Upon completing the review, he may order that the position or positions be allocated to a more appropriate established class. Reallocations shall not be used to avoid restrictions pertaining to lay-offs, suspension, dismissals, demotions, and promotions. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 3; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p. 26; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-3-4 Effect of reallocation

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 4. Effect of Reallocation. The incumbent shall be continued in the position unless he is not eligible for appointment in the new class. Whenever a position is reallocated to a class in a lower pay grade, the employee holding the position at the time of the reallocation shall be paid within the established salary range for the class to which the position is reallocated provided said employee is eligible to fill the position in the new class. The Director shall determine the step within the range that the employee shall be paid. (*State Personnel Department; Non-Merit Agency Personnel Rule 3, Sec 4; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p. 27; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 4. The Pay Plan

31 IAC 1-4-1 Revision of pay plan; approval

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Whenever, as a result of changes in classes, living costs, availability of labor supply, prevailing rates of pay, or the financial policy of the State, a revision of the pay plan appears desirable, the Director after consultation with the Budget Agency shall prepare revisions to the salary schedule. The revision in pay rates are subject to approval by the State Budget Agency and the Governor, and shall be effective on the date or dates designated by the Director and the State Budget Agency. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 1; filed Feb 15, 1978, 3:25 pm; Rules and Regs. 1979, p. 27; filed Aug 17, 1982, 3:41 pm: 5 IR 2102; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department

of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-4-2 Minimum salary; advancement; change in status

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8

Sec. 2. (a) The established minimum salary for a class normally shall be 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. If a former employee is reemployed, the appointing authority shall make appointment at the same rate of pay the employee had been receiving when the employee was last in that class or a class of the same salary range or at the nearest higher dollar amount to the salary received before separation which is within the current salary range for the class.

(b) If an employee is changed to a class in a higher salary range, the starting salary for which is less than the salary he or she receives, no change need be made in his or her existing rate, unless an adjustment is necessary to place the salary in the new range or unless a salary increase is approved by the appointing authority and the director. If an employee is changed to a class in a lower salary range, he or she shall remain at his or her current salary only if it does not exceed the maximum of the new range and the director determines that salary reduction within the new range is not required.

(c) Salary advancement within the established range shall be dependent upon specific written recommendation and shall be based upon meritorious service as indicated by service ratings and other pertinent data. Whenever an employee transfers from a position under the jurisdiction of one (1) appointing authority to a position in the same class under the jurisdiction of a different appointing authority, 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 is being transferred. Salary increases granted to employees in the non-merit service shall be made on the basis of the approved increment plan and must be approved by the director and the state budget agency.

(d) Each change in status and each salary increase shall be submitted on a prescribed form for the approval of the director. Such changes may be made as of the requested effective date only if they are received in the offices of the state personnel department prior to the effective date.

(e) Any salary paid to an employee shall represent the total remuneration for the employee, not including reimbursements for official travel.

(f) Charges for subsistence or maintenance received shall be deducted from the total salary.

(g) Whenever an employee works for a period less than the regularly established number of hours a day, days a week, or days a month, the amount paid shall be governed by the rate of full-time work and shall be proportionate to the time actually employed.

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

(i) No employee in the non-merit service shall supplement any 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, or the public.

(j) No employee shall supplement any state salary through activities, engaged in or on state property, during working hours, such as:

- (1) collecting commissions;
- (2) owning and operating concessions; or
- (3) rendering personal or other services to other employees.

(k) Employees whose substitution on unrelated positions does not involve working more than the normal number of hours shall not be paid additional compensation for the additional duties. No such substitution shall exceed four (4) consecutive calendar weeks. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 27; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2102; filed May 10, 1983, 3:05 p.m.: 6 IR 1008, eff Jul 1, 1983; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1250, eff Jan 1, 1998; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-4-3 Payroll and attendance records

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7; IC 4-15-1.8-8

Sec. 3. (A) Each appointing authority shall maintain an attendance record for each employee, which record shall be subject to audit by the State Personnel Department at any time.

(B) Payroll accounts bearing the name and class title or corresponding code number and the amount to be paid every employee in the classified service shall be submitted to the State Personnel Department for certification immediately following the pay period covered. (*State Personnel Department; Non-Merit Agency Personnel Rule 4, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 28; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 5. Applications

31 IAC 1-5-1 Applications for appointment; documentation of training

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Form of Applications. (A) Application shall be made on forms prescribed by the Director. Such forms shall require information covering experience, training, and such other pertinent information as may be requested, and shall be signed by the applicant to signify that he certifies to the truth and accuracy of all statements made therein.

(B) Any individual claiming credit for or seeking to establish eligibility for appointment on the basis of training beyond the level of high school graduation may be required to submit prior to employment, an official transcript or other official document to the appointing authority certifying to the validity of such training. (*State Personnel Department; Non-Merit Agency Personnel Rule 5, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 28; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 6. Appointment

31 IAC 1-6-1 Anticipation of vacancies

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Preparation for Appointment. Insofar as practicable, vacancies should be anticipated sufficiently in advance to permit the Director to determine who may be available for appointment and whether or not the position is properly classified. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-6-2 Approval of appointments

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. Method of Appointment. All appointments to positions in the non-merit service, prior to the effective date thereof, shall be submitted to the Director on a prescribed form for his approval. No appointment shall be effective without the approval of the Director. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-6-3 Equal offers of employment

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 3. Unless otherwise authorized by these rules [31 IAC 1-6] all individuals considered for appointment to the same vacancy shall be offered appointment at the same rate of pay and working conditions. If the state personnel department ascertains that declination of offered appointment is due to unauthorized variations in offered pay rates or conditions of employment, the director may cancel such appointment. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 3; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; filed May 10, 1983, 3:05 pm: 6 IR 1009, eff Jul 1, 1983; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-6-4 Temporary and intermittent appointments

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-7

Sec. 4. (a) 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 total employment in a temporary position does not exceed ninety (90) working days in a twelve (12) month period.

(b) 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 180 working days in a twelve (12) month period unless an exception is requested by the appointing authority prior to the appointment and annually thereafter and approved by the state personnel department and state budget agency. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 4; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; filed Nov 1, 1983, 4:00 pm: 7 IR 10, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-6-5 Transfer procedures

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 5. Transfer. (A) An appointing authority may at any time assign an employee from one (1) position to another position in the same class under his 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 one division of the non-merit service to another. A promotion or demotion may be simultaneous with such a transfer. The new appointing authority shall assume all vacation and sick leave credited to the transferred employee.

(D) With the approval of the Director, an employee may transfer from a department or agency in the non-merit service to the classified service, or from a department or agency in the classified service to the non-merit service without loss of any vacation leave or sick leave.

Any employee transferring from a position in the non-merit service to a position in a department or agency in the classified service must be fully qualified for the class to which he is transferred, and must be selected from an appropriate employment list. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 5; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 29; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-6-6 Demotion

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

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Sec. 6. Demotion. A position may be filled by demotion of an employee in accordance with Rule 10, Section 10-1 [31 IAC 1-10-1], or, in the event of a necessary reduction in personnel due to lack of work or funds, an employee may accept a voluntary demotion in preference to being laid off. (*State Personnel Department; Non-Merit Agency Personnel Rule 6, Sec 6; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 7. Service Ratings

31 IAC 1-7-1 Report and substantiation of service ratings

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. The director may require each appointing authority to report at periodic intervals, service ratings for employees under his jurisdiction. The director may require that any or all ratings be substantiated, and may prescribe the manner of making such substantiation. The state personnel department shall establish procedures to assure knowledge of his rating by the employee concerned. (*State Personnel Department; Non-Merit Agency Personnel Rule 7, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; filed Aug 17, 1982, 3:41 pm: 5 IR 2103; filed May 10, 1983, 3:05 pm: 6 IR 1009, eff Jul 1, 1983; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 8. Training

31 IAC 1-8-1 Training programs

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. Responsibility. Responsibility for developing training programs for employees shall be assumed jointly by the Director and the appointing authorities. Such training programs may include lectures, courses, demonstrations, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of employees in the performance of their duties. The provisions of this rule shall not be considered as limiting the responsibilities or functions of the several appointing authorities for developing and carrying out continuing programs of staff development using the supervisory processes as a basic training method. (*State Personnel Department; Non-Merit Agency Personnel Rule 8, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-8-2 Record of completion; credit

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 2. Credit for Training. If an employee submits official documents indicating the successful completion of extension, correspondence, department in-service training, or other special training courses, to the Director, such documents shall be made a part of the employee's personnel record. (*State Personnel Department; Non-Merit Agency Personnel Rule 8, Sec 2; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 30; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 9. Hours and Leaves

31 IAC 1-9-1 Work week; shifts

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 1. The normal minimum working week shall be thirty-seven and one-half (37½) hours except as otherwise established by statute by specific ruling of the director, or by section 2(1) of this rule. Shift hours shall be established by the appointing authority. Assignment of employees to specific shifts shall be the prerogative of the appointing authority. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 1; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 30; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2103; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1970; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-2 Overtime and holidays; schedules and pay

Authority: IC 4-15-1.8-7; IC 4-15-2-6
Affected: IC 4-15-2-11

Sec. 2. (a) Overtime and holiday policy shall be as follows:

- (1) The non-merit service shall observe only such legal holidays as are established by statute or officially proclaimed by the governor.
- (2) When any of these holidays comes on a Saturday, the Friday immediately preceding shall be the legal holiday.
- (3) The first day of week, commonly called Sunday, shall not be a holiday within the meaning of this rule.
- (b) Any 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, 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 shall be scheduled by the appointing authority and must be taken within the pay period in which the holiday occurs.
- (c) Except as provided in subsections (l) and (o):
 - (1) overtime shall comprise hours of work, rounded to the nearest quarter of an hour, in excess of thirty-seven and one-half (37½) hours in a work week; and
 - (2) holidays, sick days, vacation days, personal days, leaves of absence, compensatory time off, and time spent on call or in standby status shall not constitute hours of work or hours worked for purposes of this rule.
- (d) The following are requirements for employees who are eligible for overtime payment:
 - (1) Employees in the following job categories or classifications of the non-merit service are eligible for compensation for overtime:
 - (A) Professional-administrative-technological (PAT), skill level VI.
 - (B) Clerical-office machine operators-technician (COMOT), skill levels I through VI.
 - (C) Labor-trades-crafts (LTC), skill levels I through V.
 - (D) Supervisory and managerial-COMOT, skill levels III through VIII.
 - (E) Supervisory and managerial-LTC, skill levels IV through VII.
 - (F) Protective occupations, law enforcement (POLE) conservation. Conservation officer trainee, conservation probationary officer, conservation officer, conservation senior officer, conservation master officer, conservation corporal, and conservation sergeant.
 - (G) Protective occupations-law enforcement (POLE)-excise. Excise officer trainee, excise officer, excise sergeant.
 - (H) Protective occupations-law enforcement (POLE), skill levels II through IV.
 - (I) The following PAT V level classifications:
 - Abstractor
 - Accountant
 - Administrative analyst
 - Administrative assistant
 - Artist illustrator
 - Audit examiner
 - Business administrator

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Caseworker
Chemist
Civil rights specialist
Claims deputy
Clinical associate
Code enforce official
Code review official
Commodity examiner
Correctional counselor
Correctional release coordinator
Criminal intelligence analyst
Dairy farm specialist
Dental hygienist
Disability claims adjuster
Disability veterans specialist
Electronics investigator
Employment specialist
Engineering geologist
Environmental engineer
Environmental scientist
Environmental scientist-RAD health
Field auditor
Geologist
Health educator
Hearings officer
Highway engineer
Historic site curator
Historical education specialist
Hydraulic engineer
IOSHA inspector-construction
IOSHA inspector-industrial
Industrial hygienist
Information specialist
Internal affairs officer
Inventory administrator
Labor market analyst
Legal assistant
Librarian
Livestock license coordinator
Manpower specialist
Medical records administrator
Meteorologist
Migrant consultant
Museum specialist
Nosologist
Nurse
Occupational therapist
Oil and gas inspector
Parole officer
Pension administrator
Personnel officer

Personnel specialist
Photographer
Program coordinator
Program specialist
Programmer
Programmer-specialist
Psychiatric intern
Purchasing administrator
Records analyst
Recreation leader
Recreation therapist
Rehabilitation instructor
Rehabilitation therapist
Research analyst
Right-of-way engineer
Salesperson
Sanitarian-food
Sanitarian-general
Social services specialist
Soil scientist
State investigator
Statistician
Substance abuse counselor
Surveyor
Telecommunication technician
Telecommunication specialist
Training officer
Unclassified
Veteran's representative
Vital records statistics coordinator
Vocational rehabilitation counselor
Vocational rehabilitation counselor-deaf
Water quality planner
Word processing systems administrator.

(J) The following nursing classifications:

Charge nurse III
Charge nurse supervisor V
Nurse V
Nurse IV
Nurse supervisor V
Nurse supervisor VI
Nurse supervisor VII.

(2) Employees other than those included in subdivision (1) shall not be eligible for compensation for overtime except in the following circumstances:

(A) The state personnel director, with the approval of the state budget agency, may authorize compensation for overtime worked by employees otherwise not eligible when such overtime is worked according to prescribed policy or based on a special approval.

(B) Overtime policies for exempt employees may be established by the director and state budget agency.

(C) Special approval to compensate overtime exempt employees can only be granted by the director and state budget agency.

(e) Except as provided in subsection (g), when an eligible employee has worked overtime which is compensable under this

rule, payment for such overtime shall be made with the regular payment for that period in which the overtime hours were worked as follows:

(1) Employees eligible for overtime compensation by reason of subsection (d)(2) shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked.

(2) Eligible employees whose regularly established minimum working week is thirty-seven and one-half (37½) hours or less shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked for all such overtime which comprises less than forty (40) total hours of work within the work week.

(3) Any overtime worked by an eligible employee, for which straight-time payment is not provided by this subsection, nor for which a different decision rule is provided by subsection (l) or (o), shall be paid at a time and a half rate equal to one and a half times the employee's regular hourly pay rate multiplied by the number of such overtime hours worked.

(f) Requirements for payment for additional hours of work other than overtime shall be as follows:

(1) All employees whose regularly established work schedule is less than full time shall be paid for hours worked or hours worked together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, during the pay period, which are in addition to the employee's normal work schedule but which do not exceed the total number of hours of work in the regularly established work schedules of employees working full time in comparable positions within the same agency or department. Payment for such additional hours of work shall be made with the regular payment for that pay period in which the additional hours were worked, at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(2) Employees who are eligible for overtime payments under subsection (d) and whose regularly established work schedule is full time, shall be paid for hours other than overtime, as defined in subsection (c), worked during the pay period which together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, exceeds the total number of regularly scheduled hours of work in the employee's pay period. Payment for such additional hours of work shall be made with the regular payment for that pay period in which the additional hours were worked at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(g) Requirements for compensatory time off shall be as follows:

(1) Rate of accrual to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) may be granted compensatory time off in lieu of monetary payment for anticipated or earned overtime work:

(i) for overtime normally compensable under subsection (e)(3) or (l)(10)(D), compensatory time off shall be granted at a time and a half rate; and

(ii) for additional hours of work other than overtime, that is, that which is normally compensable under subsection (e)(2), (f)(2), or (l)(10)(C), compensatory time off shall be granted at a straight-time rate.

(B) Employees eligible for overtime compensation under subsection (d)(2) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned overtime work.

(C) Employees eligible for holiday compensation under subsection (b) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned holiday work.

(2) Limitation on amount of accrual to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) and who are engaged in a public safety, emergency response, or seasonal activity may accrue no more than four hundred eighty (480) hours of compensatory time off.

(B) Employees eligible for overtime compensation under subsection (d)(1) and who are engaged in any work other than that described in clause (A) may accrue no more than two hundred forty (240) hours of compensatory time off.

(C) Compensable hours worked in excess of the limits contained in this subdivision must be compensated monetarily with the regular payment of wages for the pay period in which the time was worked.

(3) Use of compensatory time off to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) shall be granted compensatory time off as follows:

(i) Unless otherwise approved by the director and state budget agency, all compensatory time off must be scheduled and taken off prior to the end of the calendar quarter succeeding the quarter in which the additional hours were worked.

(ii) An employee who has accrued compensatory time off authorized by this rule and who has requested the use

of such compensatory time off, shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

(B) Employees eligible for overtime compensation under subsection (d)(2) shall normally be given compensatory time off rather than monetary payment. If the needs of the service make the granting of compensatory time off impracticable, the appointing authority may request approval of the director and the state budget agency to compensate monetarily at the rate provided in subsection (e)(1).

(4) Monetary payment for accrued but unused compensatory time off to include the following:

(A) If monetary compensation is paid to an employee for accrued compensatory time off, such payment shall be at the regular rate earned by the employee at the time the employee receives such payment.

(B) An employee eligible for overtime compensation, by reason of subsection (d)(1), who has accrued compensatory time off as authorized by this section shall, upon termination of employment, be paid for the unused compensatory time off at the greater of:

(i) the average regular hourly rate received by such employee during the last three (3) years of the employee's employment; or

(ii) the final regular hourly rate received by such employee.

(h) (Repealed)

(i) Any payroll containing overtime payments must be accompanied, when submitted to the director by the appointing authority, by a written justification for each occurrence of overtime which is incurred.

(j) The director is authorized to establish and enforce any policies necessary for the implementation of this rule or to prescribe and enforce any policies concerning overtime or holiday compensation which are not inconsistent with this rule notwithstanding the internal policies of an agency or institution.

(k) The director of the state budget agency, in such manner as he deems necessary, may regulate the amounts of overtime to be worked in any agency or institution. Such regulation of overtime work may include a requirement that any or all overtime work, prior to its assignment, must be approved by the state budget agency.

(l) The appointing authority of an employee engaged in law enforcement activities (including security personnel in correctional institutions) may, with prior written approval of the director and state budget agency, elect to establish work periods and compensate overtime eligible employees in accordance with the following in lieu of subsection (c):

(1) The following requirements concerning definition of law enforcement activities:

(A) As used in this subsection, "any employee in law enforcement activities" refers to any employee:

(i) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury and to prevent and detect crimes;

(ii) who has the power of arrest; and

(iii) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes:

(AA) physical training;

(BB) self-defense;

(CC) firearm proficiency;

(DD) criminal and civil law principles;

(EE) investigative and law enforcement techniques;

(FF) community relations;

(GG) medical aid; and

(HH) ethics.

Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing or to support activities, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury, or infirmity.

(B) Employees who do not meet each of the three (3) tests described in clause (A) are not engaged in law enforcement activities, as that term is used in this subsection. Such employees would include:

(i) building inspectors;

- (ii) health inspectors;
- (iii) animal control personnel;
- (iv) sanitarians;
- (v) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points;
- (vi) civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices;
- (vii) wage and hour compliance officers;
- (viii) equal employment opportunity compliance officers;
- (ix) tax compliance officers;
- (x) coal mining inspectors; and
- (xi) building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(C) The term “any employee in law enforcement activities” also includes security personnel in correctional institutions. A correctional institution is any government facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime. Such facilities include:

- (i) penitentiaries;
- (ii) prisons;
- (iii) prison farms;
- (iv) reformatories; and
- (v) other facilities operated by the department of correction.

Employees of correctional institutions who qualify as security personnel for purposes of this subsection are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury, or infirmity.

(D) Not included in the term “employee in law enforcement activities” are the so-called civilian employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks, and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical, and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

(2) Employees engaged in law enforcement activities may also engage in some nonexempt work unless it exceeds twenty percent (20%) of the total hours worked by the particular employee during the applicable work period.

(3) The attendance at a bona fide police academy or other training facility, when required by the employing public agency, does not constitute engagement in exempt activities unless the employee in question meets all of the tests described in subdivision (1)(A) in which event such training or further training would be incidental to, and thus part of, the employee's law enforcement activities. Only the time spent in actual training or retraining constitutes compensable hours of work. All other time, such as that spent in studying and other personal pursuits, is not compensable hours of work even in situations where the employee is confined to campus or to barracks twenty-four (24) hours a day. Attendance at training facilities and schools, which is not required but which may incidentally improve the employee's performance of his or her regular tasks or prepare the employee for further advancement, need not be counted as working time even though the public agency may pay for all or part of such training.

(4) If an employee regularly engaged in exempt law enforcement activities also works for another department or agency, such employee will lose the exemption if the other work is unrelated to law enforcement activities. If, however, such employee's other job is also exempt work, the less of the two (2) exemptions should be claimed.

(5) Requirements for law enforcement volunteers shall be as follows:

(A) Individuals who volunteer to perform law enforcement activities, usually on a part-time basis and as a public service, are not considered to be employees of the public agency which receives their services. Such individuals do not lose their volunteer status because their tuition may have been paid or they may have been reimbursed for attending special classes or other training to learn about law enforcement or because they are reimbursed for approximate out-of-pocket expenses incurred incidental to answering a call or to the cost of replacing clothing or other items of equipment which may have been consumed or damaged in responding to a call. Nor is the volunteer status of such individuals lost where the only material recognition afforded them is the holding of an annual party, the furnishing of a uniform and related equipment, or their inclusion in a retirement or relief fund, a workman's compensation plan or a life or health insurance program, or the payment of a nominal sum on a per call or other basis which may either be retained, in whole or in part, by the volunteer or donated to finance various social activities conducted by or under the auspices of the agency. Payments which average two dollars and fifty cents (\$2.50) per call will be considered nominal. Payments in excess of this amount may also qualify as nominal, depending upon the distances which must be traveled and other expenses incurred by the volunteer. For purposes of this clause, it is not necessary for the agency to maintain an exact record of expenses.

(B) Where, however, individuals engaged in law enforcement activities receive more than a nominal amount of payment on a basis which does not reasonably approximate the expenses incurred by them, they are employees rather than volunteers and must be paid in accordance with this subsection.

(C) Volunteers engaged in law enforcement activities may include individuals who are employed in some other capacity by the same public agency.

(D) Police officers of one (1) jurisdiction may engage in law enforcement activities on a voluntary basis for another jurisdiction where there is no mutual aid agreement or other relationship between the two (2) jurisdictions. Such employees cannot, however, perform law enforcement activities on a voluntary basis for their own agency, although they can engage in other activities not directly related to these primary functions. For example, a police officer could volunteer to counsel young juveniles who are members of a boy's club or other similar organizations.

(6) Rules for determining the tour of duty, work period, and compensable hours of work, generally, shall be as follows:

(A) Public agency employees engaged in law enforcement activities are unique. Therefore, computation of hours worked on the basis of a work period (which can be longer than a work week) and which bases the overtime requirements on a work period concept is permitted. Where an agency properly elects this subsection, it must be used for purposes of both the overtime requirements and hourly rate determination.

(B) If, however, any public agency chooses not to claim the partial overtime exemption provided in this subsection, but elects to pay overtime compensation as defined in subsection (c), it need not concern itself with the tour of duty or work period discussion which follows or with the special rules relating to the determination of what constitutes compensable hours of work since, in that event, overtime would be payable on a work week basis and the regular method of computing hours worked would apply. Such an agency would not, however, be able to take advantage of the special provisions relating to the balancing of hours over an entire work period and trading time.

(7) As used in this subsection, "tour of duty" means the period during which an employee is on duty. It may be a scheduled or unscheduled period. Scheduled periods refer to shifts, that is, the period of time which elapses between scheduled arrival and departure times, or to scheduled periods outside the shift, as in the case of a special detail involving crowd control during a parade or other such event. Unscheduled periods refer to time spent in court by police officers, time spent handling emergency situations, or time spent after a shift in order to complete required work. When an employee actually works fewer hours than those scheduled, the employee's tour of duty is reduced accordingly. Nothing in this subsection precludes agencies from establishing new tours of duty for their employees, provided, however, that the change is intended to be permanent at the time that it is made.

(8) Compensable hours of work generally include all of that time during which an employee is on duty, on the employer's premises, or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such hours thus include all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related and to its performance such as attending roll call or writing up and completing reports. It also includes time which an employee spends in attending required training classes. Time spent away from the employer's premises under conditions so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, a police officer who is required to remain at home until summoned to testify in a pending court case and who must be in a constant state of instant readiness is engaged in

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compensable hours of work. On the other hand, employees who are confined to barracks while attending police academies are not on duty during those times when they are not in class or at a training session since they are free to use such time for personal pursuits. Also, a police officer who has completed his or her tour of duty but who is given a patrol car to drive home and use on private business is not working simply because the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls would be compensable, except in those instances where it is miniscule and cannot, as an administrative matter, be recorded for payroll purposes.

(9) Requirements for sleeping and mealtime as compensable hours of work shall be as follows:

(A) Where the employer has elected to use this subsection, mealtime cannot be excluded from compensable hours of work unless the employee is completely relieved from duty for a bona fide meal period. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.

(B) Sleep time may be excluded in the case of law enforcement employees who are on duty for more than twenty-four (24) hours. However, sleep time shall, in no event, exceed eight (8) hours, in a twenty-four (24) hour period. If such sleep time is interrupted by a call to duty, the interruption must be counted as hours worked, and, if the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes, means at least five (5) hours), the entire time must be counted as hours of work.

(10) Requirements for the work period shall be as follows:

(A) As used in this subsection, "work period" refers to any established and regularly recurring period of work which cannot be less than seven (7) consecutive days nor more than twenty-eight (28) consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the pay period or with a particular day of the week or hour of the day. Once the beginning time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within that period. The beginning of the work period may, of course, be changed, provided that the change is intended to be permanent at the time that it is made.

(B) An agency may have one (1) work period applicable to all of its employees, or different work periods for different employees or groups of employees. The agency must, however, make some notation in its records which shows the work period for each employee and which indicates the length of that period and its starting time.

(C) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation is required unless the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred sixty (160) hours. If the ratio between the number of the days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred sixty (160) hours but is less than the ratio between twenty-eight (28) days and one hundred seventy-one (171) hours, the additional hours are paid for at the employee's regular hourly rate of pay.

(D) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation at a premium rate is required until the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred seventy-one (171) hours at which point all additional hours are paid for at one and one-half (1½) times the employee's regular rate of pay.

(E) Accordingly, overtime compensation at the rate indicated in this clause must be paid for all hours worked in excess of the following maximum hours standards:

Work Period (Days)	Straight-time	Time and a Half
	Overtime Payable for Hours in Excess of	Payable for Hours in Excess of
28	160	171
27	154	165
26	149	159
25	143	153
24	137	147
23	131	141
22	126	134
21	120	128
20	114	122
19	109	116

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18	103	110
17	97	104
16	91	98
15	86	92
14	80	86
13	74	79
12	69	73
11	63	67
10	57	61
9	51	55
8	46	49
7	40	43

(11) Another common practice or agreement among employees engaged in law enforcement activities is that of substituting for one another on regularly scheduled tours of duty (or for some part thereof) in order to permit an employee to absent himself or herself from work to attend to purely personal pursuits. This practice is commonly referred to as trading time. The practice of trading time will be deemed to have no effect on hours of work if the following criteria are met:

- (A) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer.
- (B) The reason for trading time is due, not to the employer's business operations, but to the employee's desire or need to attend to personal matter.
- (C) A record is maintained by the employer of all time traded by his employees.
- (D) The period during which time is traded and paid back does not exceed twelve (12) months.
- (E) The employees secure the approval of the appointing authority.

(m) (Repealed)

(n) (Repealed)

(o) Unless otherwise approved by the director and state budget agency, no overtime shall be paid to any employee who is employed by a nonprofit educational institution to serve as the parent of children:

- (1) who are orphans or one of whose natural parents is deceased; or
- (2) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee resides in such facilities, receives, without cost, board and lodging from the institution and is compensated on a cash basis, at an annual rate of not less than ten thousand dollars (\$10,000).

(p) The following are requirements for record keeping:

(1) Every appointing authority shall keep and preserve, for at least three (3) years, payroll or other records containing the following information and data with respect to 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 name on any time, work, or payroll records. This shall 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., or Miss).
- (E) Time of day and day of 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 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 employee or group of employees has a work week beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.
- (F)(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 which 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, 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.

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- (I) Total overtime excess compensation for the work week, that 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 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 which make up the total additions and deductions.
 - (K) Total wages paid each pay period.
 - (L) Date of payment and the pay period covered by payment.
- (2) With respect to employees working on fixed schedules, an employer 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 hours were in fact actually worked by him or her; 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 persons employed in job categories or classifications other than those enumerated in subsection (d)(1) and who did not work overtime that is compensable, as determined by this section, 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; Non-Merit Agency Personnel Rule 9, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 31; filed Aug 23, 1978, 3:35 p.m.: 1 IR 633; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1166; filed Oct 11, 1985, 8:25 a.m.: 9 IR 162; filed Feb 28, 1986, 8:15 a.m.: 9 IR 1548; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1970; errata filed Apr 4, 1995, 3:30 p.m.: 18 IR 2126; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-3 Vacation leave

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-7

Sec. 3. (a) Vacation leave with pay shall be earned by all full-time employees in the non-merit service at the rate of seven and one-half (7.5) hours for each full month of employment. Employees working at least half time, but no less than a full-time basis, shall earn vacation at the rate of three and three-fourths (3.75) hours a month. Vacation will not be credited to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(b) Eligibility for additional vacation days shall be as follows:

(1) Employees who have completed five (5) years or more of full-time employment, or ten (10) years or more of 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 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 (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 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 (97.5) additional hours) annually on their accrual date.

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

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

(c) 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.

(d) Appointing authorities shall determine the time and amount of vacation which shall be taken at any one (1) time.

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Employees shall be limited to four (4) calendar weeks of vacation at any one (1) time unless a longer period is recommended by the appointing authority and approved by the director. Employees granted special sick leave with pay shall be entitled to all earned vacation and earned overtime.

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

(f) Compensation for unused vacation, earned overtime, and holidays on separation shall be as follows:

(1) Except as otherwise provided in 31 IAC 1-12.1 or 31 IAC 4, upon separation from the service, in good standing, an employee shall be paid for unused vacation for a maximum of two hundred twenty-five (225) hours, plus overtime and holiday leave to the extent accumulated.

(2) Compensation for unused vacation in excess of six (6) calendar weeks is only permitted in cases involving payment of premiums for early retiree health insurance as provided in 31 IAC 1-12.1 or under the retiree flexible spending program described in 31 IAC 4.

(3) Payment for unused vacation leave, not to exceed two hundred twenty-five (225) hours, and all earned overtime and holiday leave shall be paid to beneficiaries of deceased employees.

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

(5) Full-time employees who resign before they have completed six (6) months of non-merit employment, or part-time employees who resign before completing one (1) year of non-merit employment, will not be paid for any vacation leave.

(g) Charging of leave shall be as follows:

(1) Vacation leave shall be charged in fifteen (15) minute increments.

(2) Vacation shall not be charged on a legal holiday.

(h) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any vacation leave that was accrued but was unused and uncompensated at the time of their resignation. However, vacation leave that was compensated under 31 IAC 1-12.1 or 31 IAC 4 shall not be reinstated.

(i) In recognition of the fact that conservation officers and excise police 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 conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
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 the conservation officer or excise police job families, 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; Non-Merit Agency Personnel Rule 9, Sec 3; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 34; filed Jan 26, 1979, 2:50 p.m.: 2 IR 296; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1169; filed Nov 1, 1983, 4:00 p.m.: 7 IR 10, eff Jan 1, 1984; filed Dec 1, 1995, 3:00 p.m.: 19 IR 610, eff Jan 1, 1996; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1251, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2402, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-4 Sick leave; definition; accrual

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 4. (a) Sick leave is defined as absence from duty of any employee because of personal illness, injury, or legal quarantine.

Sick leave may also be used for an illness or injury in the employee's immediate family that necessitates the employee's absence from work. For this purpose, "immediate family" means spouse, child, or parent who resides with, and is dependent upon, the employee for care and support. The director or appointing authority may at any time require of an employee a medical certificate from the attending physician or a designated physician, documenting the nature and extent of the disability or fitness to return to duty. The cost of such certification from a designated physician shall be the responsibility of the appointing authority. Sick leave may be granted if accrued and shall be charged in the same manner as vacation in accordance with section 3(g) of this rule.

(b) Sick leave with pay shall accrue to full-time employees in the nonmerit service at the rate of seven and one-half (7.5) hours for every two (2) full months of employment; plus seven and one-half (7.5) additional hours for every four (4) months of full-time employment. Employees working on a part-time basis shall earn sick leave at the rate of three and three-fourths (3.75) hours for every two (2) months of employment; plus three and three-fourths (3.75) additional hours for every four (4) months of employment. Sick leave will not accrue to hourly, per diem, temporary, intermittent, or contractual employees or employees working less than half time.

(c) On separation, compensation for unused sick leave is only permitted under the retiree flexible spending program described in 31 IAC 4.

(d) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated any sick leave which was unused and uncompensated at the time of their resignation.

(e) In recognition of the fact that conservation officers and excise police 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 conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
3.75	4.25
7.5	8.5

If an employee transfers into or out of the conservation officer or excise police job families, 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; Non-Merit Agency Personnel Rule 9, Sec 4; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 35; filed Aug 23, 1978, 3:35 p.m.: 1 IR 634; filed Jan 26, 1979, 2:50 p.m.: 2 IR 296; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1170; filed Aug 17, 1982, 3:41 p.m.: 5 IR 2104; filed Nov 1, 1983, 4:00 p.m.: 7 IR 11, eff Jan 1, 1984; filed Sep 8, 1992, 5:00 p.m.: 16 IR 6; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1252, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2403, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-4.5 Personal leave

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 4.5. (a) Personal leave is defined as absence from duty with pay for personal reasons.

(b) Personal leave shall accrue 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 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 account balance beyond the twenty-two and one-half (22.5) hour limit, the personal leave shall be credited to the employee's accrued sick leave balance.

(d) The 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 flexible spending program described in 31 IAC 4.

(f) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any personal leave that was accrued but unused and uncompensated at the time of their resignation.

(g) In recognition of the fact that conservation officers and excise police have a standard work day of eight and one-half (8.5)

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hours instead of seven and one-half (7.5) hours, the references to the numbers of hours in this section shall be converted for conservation officers and excise police as follows:

Hours Stated in this Section	Hours Converted for Conservation and Excise
3.75	4.25
7.5	8.5
22.5	25.5

If an employee transfers into or out of the conservation officer or excise police job families, 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 1-9-4.5; filed Apr 28, 1982, 12:55 p.m.: 5 IR 1170; filed Nov 1, 1983, 4:00 p.m.: 7 IR 11, eff Jan 1, 1984; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1253, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2404, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-5 Special sick leave (Repealed)

Sec. 5. (*Repealed by State Personnel Department; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989*)

31 IAC 1-9-6 Occupational disease or injury; adjustment of compensation payments

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-7

Sec. 6. In cases of occupational disease or injury suffered in line of duty in which the employee elects to use accumulated vacation, sick leave, personal leave, and/or overtime prior to the commencement of worker's compensation payments, the amount of leave charged shall be reduced in the ratio of worker's compensation payments to total salary. This applies to the seven (7) day waiting period if it is determined to be compensable. If vacation, sick leave, personal leave, and/or overtime is used concurrently with worker's compensation payments in order to pay full salary, the amount of leave charged shall be on the basis of the amount paid not covered by the worker's compensation payment. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 6; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 36; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2210, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3. Effective July 1, 1981.

31 IAC 1-9-7 Paid leave

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 7. Leave With Pay (General). (A) Subject to prior approval by the Director, an appointing authority may authorize leave with pay for a regular 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 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 husband, wife, father, mother, son, daughter, brother, sister, grandparent, grandchild, or the spouse of any of these, or a person living in the same household with the employee. For a married employees, these members of the spouse's family are included.

(C) Employees occupying positions in the non-merit service, except employees paid by the hour or day, who are lawfully required to report for jury duty, or to serve as witnesses before any body or agency having subpoena powers, shall be granted leaves of absence by their appointing authorities from their positions during the required absence for such duty. When such leaves of absence are granted for jury duty or to serve as witnesses in matters relating to employment with the State, they shall receive 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 in the non-merit service who are members of the Armed Forces Reserves or the National Guard shall be entitled to a leave of absence, not to exceed fifteen (15) calendar days in any calendar year, without loss of pay or vacation time. The employee shall be required to submit a written order or official statement requiring the military duty. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 7; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 36; filed Jan 26, 1979, 2:50 pm: 2 IR 296; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (3 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-8 Unpaid leave

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 8. Leave Without Pay (General). The appointing authority, with the approval of the Director, may grant an employee leave without pay for a period not to exceed two (2) years, whenever such leave is considered to be in the best interests of the non-merit service. Such leave shall be requested in writing by the employee and shall require written approval by the appointing authority and the Director. Except under unusual circumstances, voluntary separation from the service in order to accept employment not in the State Service shall not be considered by the Director as sufficient cause for the approval of a leave of absence without pay. Upon expiration of a regularly approved leave without pay, or sooner upon due notice if the interests of the service make it necessary, the employee shall be returned to a position in the same class as the position held at the time leave was granted. Employees on leave without pay due to personal illness, injury, or legal quarantine may be required to submit medical proof from a designated physician of fitness to return to work before resuming duties. Failure of an employee on leave to report for duty within five (5) working days after the appointing authority issues a written notice to return shall be deemed a resignation. At the time such notice is sent to the employee on leave, the appointing authority shall send a copy to the Director. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 8; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 37; filed Aug 23, 1978, 3:35 pm: 1 IR 634; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-9 Military leave without pay

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-7

Sec. 9. (a) Any employee, upon request, shall be granted a leave of absence without pay to cover the length of his services in the armed forces of the United States.

(b) Reinstatement from such leaves of absence will be made in accordance with the policies outlined below:

(1) An employee granted a military leave of absence will accrue his credit for length of service during his absence for promotion or for other changes in status within the service.

(2) 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 reinstated to his former class of position upon his return provided that:

(1) He was separated from the service under honorable conditions.

(2) His written application for reinstatement is made in compliance with applicable selective service provisions. The written application for reinstatement should be addressed to the appointing authority of the agency or institution in which the employee worked when leave was granted and a copy sent to the state personnel department.

(3) He is physically and mentally fit to satisfactorily perform his assigned responsibilities.

(d) An employee returning from military leave shall be reinstated in the same class as that which he held when granted the leave, unless the class has been eliminated from the state classification plan or from the organizational plan of the agency involved. The reinstatement shall be at the same or greater salary, provided that the salary is within the current range for the class. If the class has been eliminated, the appointing authority shall recommend in writing to the state personnel department reinstatement in an appropriate class in the same salary grade and employment area as the eliminated class.

If there is no vacancy in the former class and level of employment, a vacancy shall be created by demoting the employee in the appropriate class who has the least retention score. If demotion is not feasible, said employee will be laid off.

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If the employee on military leave fails to make application for return from leave in compliance with applicable selective service provisions after his compulsory tour of duty or completion of his original enlistment, such failure will be considered as an automatic resignation. If the veteran was a regular employee at the time he left for military service, he shall have reemployment rights. (*State Personnel Department; Non-Merit Agency Personnel Rule 9, Sec 9; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 37; filed Aug 17, 1982, 3:41 pm: 5 IR 2104; filed Nov 1, 1983, 4:00 pm: 7 IR 12, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-9-10 Maternity leave (Repealed)

Sec. 10. (*Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991*)

Rule 10. Disciplinary Actions and Separations

31 IAC 1-10-1 Demotion

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 1. Demotion. An appointing authority or his designee may demote an employee by filing a statement of reasons with the Director and the employee concerned. (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 1; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 39; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-10-2 Suspension

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-8

Sec. 2. (a) An appointing authority or his designee may suspend any employee without pay, for disciplinary purposes, by presenting the employee with written notice of suspension, 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 via certified mail. An appointing authority or his designee may suspend an employee without pay, for disciplinary purposes, for such time as he considers appropriate, not to exceed thirty (30) days in any twelve (12) month period.

(b) With the approval of the director, an employee may be suspended for a longer period pending an investigation or trial of any charges against him.

(c) An overtime exempt employee (that is, an employee who is ineligible for premium overtime compensation) may only be suspended, under this section, in increments of one (1) or more full calendar weeks, consistent with 29 CFR 541.118(a). (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 2; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p.39; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2798; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

31 IAC 1-10-3 Dismissal

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-1.8-7

Sec. 3. (a) An appointing authority or his designee may dismiss an employee and terminate his employment immediately 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 via certified mail. A dismissed employee shall forfeit all accrued sick, personal, and vacation leave.

(b) Except as provided in 31 IAC 3-1-14(b) or 31 IAC 3-1-27(c), an employee, eligible for benefits or subject to the elimination

period under 31 IAC 3-1, may not be dismissed from employment due to his absence which results solely from the disability. (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 3; filed Feb 15, 1978, 3:25 p.m.: Rules and Regs. 1979, p. 39; filed Nov 1, 1983, 4:00 p.m.: 7 IR 13, eff Jan 1, 1984; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2210, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3. Effective July 1, 1981.

31 IAC 1-10-4 Resignation

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 4. Resignation. Any employee wishing to leave the non-merit service in good standing shall give the appointing authority at least two (2) weeks written notice in advance of separation. Under unusual circumstances, less time may be considered as sufficient to permit the employee to leave the service in good standing. Failure to comply with this rule [*this section*] shall be entered on the service record of the employee, and may be the cause of denying future employment by the State. (*State Personnel Department; Non-Merit Agency Personnel Rule 10, Sec 4; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 39; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 11. Records (Repealed)

(*Repealed by State Personnel Department; filed Oct 16, 1984, 2:22 pm: 8 IR 135*)

Rule 12. Retirement (Repealed)

(*Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991*)

Rule 12.1. Early Retirement Benefit Program

31 IAC 1-12.1-1 Eligibility

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 1. (a) A full-time employee, who resigns in good standing, is entitled to convert accrued but unused vacation days, that were not compensated at separation, to the extent needed to pay insurance premiums for continuation of coverage under a state sponsored health insurance program if the individual meets all of the following criteria:

- (1) The employee must retire after June 30, 1995, but before January 1, 1997.
- (2) The employee must not be eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
- (3) Before April 1, 1996, or within ninety (90) days after the employee's retirement date, whichever is later, the retiree must file a written request for insurance coverage and request to utilize this rule for the purpose of paying premiums.
- (4) If the employee is a member of the public employees' retirement fund or Indiana state teachers' retirement fund, the retiring employee must be at least fifty (50) years of age and have at least fifteen (15) years of creditable service.
- (5) If the employee is a member of the state excise police and conservation enforcement officers' retirement plan, the retiring employee must be at least forty-five (45) years of age and have at least fifteen (15) years of creditable service.

(b) A retired employee who is eligible for the benefits of this rule may elect to have the retiree's spouse covered under the health insurance program and use the vacation leave conversion benefit provided by this rule to pay the spouse's premium. (*State Personnel Department; 31 IAC 1-12.1-1; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-12.1-2 Conversion of vacation leave to health insurance premiums

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

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Sec. 2. (a) For the purpose of paying early retiree health insurance premiums, the value of accrued but unused and uncompensated vacation is determined by dividing by ten (10) the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the date of separation, and multiplying the quotient by the number of vacation days that were accrued, unused, and uncompensated at the time of separation.

(b) The retiring employee has the option to receive monetary compensation for up to six (6) weeks of accrued but unused vacation leave upon separation in good standing, under 31 IAC 1-9-3(f)(1), or to forgo all or part of that monetary compensation and convert those vacation days into health insurance premium payments under this rule. The retiring employee's election under this subsection is irrevocable.

(c) For the retired employee, an amount equal to the employer's and employee's premium for an active employee covered by the state's self-insured group health insurance program will be charged against the value of the retiree's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage under a prepaid health care delivery plan.

(d) If the retired employee's spouse is covered by the state's self-insured group health insurance program, an amount equal to the employer's and employee's premium for family self-insured group health insurance coverage for an active employee will be charged against the value of the retired employee's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree family coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage for the retiree's spouse under a prepaid health care delivery plan.

(e) Requests made under section 1(a)(3) of this rule to participate in this program will only take effect prospectively. Requests for retroactive payments under this program will not be granted. (*State Personnel Department; 31 IAC 1-12.1-2; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-12.1-3 Benefit termination

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 3. (a) A retiree's eligibility to receive the early retiree benefit of converting accrued but unused and uncompensated vacation leave to pay health insurance premiums ends on the earliest of the following:

- (1) The date the retiree becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
 - (2) The date all accrued but unused and uncompensated vacation leave has been exhausted.
 - (3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.
- (b) The eligibility of the retiree's spouse to receive the benefits of this rule ends on the earliest of the following:
- (1) The date the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
 - (2) The date all of the retired spouse's accrued but unused and uncompensated vacation leave has been exhausted.
 - (3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.
 - (4) Two (2) years after the date of the retiree's death.
 - (5) The date the spouse of a deceased retiree remarries.

(*State Personnel Department; 31 IAC 1-12.1-3; filed Dec 1, 1995, 3:00 p.m.: 19 IR 611, eff Jan 1, 1996; errata filed Dec 1, 1995, 3:00 p.m.: 19 IR 674; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-12.1-4 Limitations

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 5-10-8-8

Sec. 4. This rule is not intended to create any additional rights to payment for accrued but unused vacation, other than for the payment of an early retiree's health insurance premiums as provided in this rule. Monetary payment to a former employee for accrued but unused vacation continues to be limited to six (6) weeks in accordance with 31 IAC 1-9-3(f). (*State Personnel Department; 31 IAC 1-12.1-4; filed Dec 1, 1995, 3:00 p.m.: 19 IR 612, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

Rule 13. Termination Due to Governmental Reorganization

31 IAC 1-13-1 Governmental reorganization; priority consideration for terminated employees

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-1.8-8

Sec. 1. (A) Any employee in the non-merit service whose employment is terminated as a direct result of state governmental reorganization shall be given priority consideration for employment in vacant positions which are of the same or similar class as that in which the employee was employed at the time his employment was terminated.

(B) "Governmental Reorganization" means merger, growth, transfer, discontinuance, or phasing out of state governmental functions. State governmental functions shall not include the maintenance of positions of employment in federally-funded public service employment. Transfer of state governmental functions shall not include intra-agency transfers of positions, but shall include the transfer of functions from one (1) state agency to another. Discontinuance or phasing out of state governmental functions shall not include the expiration of seasonal or temporary terms of employment.

(C) Priority consideration means that former employees who are eligible shall be given consideration for same or similar vacant positions to be filled in the following manner:

(1) If the agency in which the vacancy exists is the same agency from which the former employee was terminated, the appointing authority shall make reasonable effort to offer employment in such positions to eligible former employees prior to making any offers of employment to persons not eligible for priority consideration.

(2) If the agency in which the vacancy exists is not the same agency from which the former employee was terminated, the appointing authority shall make reasonable efforts to interview and consider the eligible former employees prior to the consideration of other persons.

(D) Procedures.

(1) To be eligible for priority consideration, the former employee must make written application to the State Personnel Director within thirty (30) days from the date of his termination. Upon receipt of such request, the Director shall determine if the employee is eligible for priority consideration as provided by this rule.

(2) If the Director certifies the former employee as eligible, the Personnel Division shall provide the following assistance:

(a) Provide personal consultation concerning employment opportunities in state government.

(b) Refer eligibles to available job openings in the non-merit service.

(E) Conditions of Eligibility. A former employee certified by the Director as eligible for priority consideration shall retain priority consideration for a period of one (1) year from the date of his termination. However, the eligible former employee shall be deemed to have waived eligibility if he declines appointment under such conditions as he has previously indicated he would accept. Failure to respond within five (5) working days to an inquiry of the Director or appointing authority, by letter or twenty-four (24) hours by telephone, or to accept appointment when offered, or to report for duty by the time prescribed by the appointing authority shall constitute declination. A former employee whose eligibility is waived due to declination of appointment shall, upon his request, be returned to eligible status unless he has waived eligibility due to declination of appointment two (2) previous times. Any former employee having so waived eligibility two (2) previous times may not be returned to eligible status. It shall be the responsibility of the eligible former employee to provide the State with a current address at which he may be contacted.

(F) Determination of Same or Similar Positions. Eligibility of former employees to priority consideration is limited to those positions which are in the same or similar job classification as that in which the eligible was employed at his termination as shall be determined by the Director.

In determining which positions are same or similar, the Director shall utilize the following criteria:

Positions which are the same are those represented by identical class codes and class titles.

For a position to be considered as similar to that held by an eligible upon his termination, the class must:

(1) Have minimum qualifications which are comparable to the former employee's class held at termination or have minimum qualifications which are generally satisfied by possession of the minimum qualifications to the class held by the former employee at termination. If no minimum qualifications are adopted by the agency, the Director shall utilize the minimum qualifications required for employment in that class within the state merit service.

(2) Both classes must be in the same or a comparable job family.

(3) The skill level of the class must be the same or lower than the skill level of the class the former employee held at termination.

(G) Implementation of Governmental Reorganization.

(1) The appointing authority of an agency anticipating or undergoing a governmental reorganization shall notify the Director

of all changes or anticipated changes as soon as possible.

(2) If an employee is terminated due to governmental reorganization, the appointing authority shall identify the termination as a lay-off and shall request the Director to consider the action as due to governmental reorganization. No lay-off due to governmental reorganization shall be effective without the approval of the Director.

(3) The Director, in anticipation of lay-offs due to governmental reorganization, may establish procedures for the transfer of employees who are anticipated to be laid off.

(H) Reinstatement of Service Credits. Eligible former employees, hired in the non-merit service during their period of eligibility, shall be:

(1) Credited as having continuous service except that time spent in out-of-pay status as a result of their termination due to governmental reorganization shall be deducted.

(2) Credited with all accumulated sick and vacation days which they held upon their termination due to governmental reorganization except accumulated vacation days for which payment was made as provided in Rule 9, Section 9-3 (F) 1 [31 IAC 1-9-3 (F)(1)].

(I) A former employee who is hired by a new agency or in a new work location, while the employee is eligible for priority consideration, shall be allowed relocation expenses in accordance with Budget Agency regulations. (*State Personnel Department; Non-Merit Agency Personnel Rule 13; filed Feb 15, 1978, 3:25 pm: Rules and Regs. 1979, p. 42; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana department of administration (25 IAC 3) to the state personnel department (31 IAC 1) by Acts 1981, P.L.30, SECTION 3 (IC 4-15-1.8-8). Effective July 1, 1981.

Rule 14. Employee Awards System

31 IAC 1-14-1 Submission and review of suggestions

Authority: IC 4-15-1.8-7

Affected: IC 4-15-1.8-8; IC 4-15-2-6

Sec. 1. Suggestions shall be submitted to the State Personnel Department on the prescribed form. The suggestion will be reviewed by the Suggestion Committee to determine if the employee submitting the suggestion is eligible to be considered for a monetary award. If the employee is eligible for an award, the suggestion will be forwarded to any agencies it would affect for a determination as to the practicality of implementing the suggestion and a cost analysis of projected savings. The affected agencies shall return the suggestion to the Suggestion Committee, with a statement of its findings as to the viability of the suggestion, whether or not the suggestion will be implemented, and an estimate of the savings to be realized in the first year after implementation. The Suggestion Committee may then authorize payment of an award to the employee submitting the suggestion. (*State Personnel Department; 31 IAC 1-14-1; filed Aug 17, 1982, 3:41 pm: 5 IR 2107; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-14-2 Amount of awards

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 2. (a) In determining the amount of award to be granted to an employee for a suggestion that will reduce costs, the Suggestion Committee may follow these guidelines:

(1) If the anticipated first year savings is \$100,000 or less, the maximum award allowable is 5% of the first year savings.

(2) If the anticipated first year savings is \$200,000 or less, but greater than \$100,000 the maximum award allowable is 2 1/2% of the first year savings plus 5% of \$100,000.

(3) If the anticipated first year savings is greater than \$200,000, the maximum award allowable is 1% of the first year savings plus 2 1/2% of \$200,000 plus 5% of \$100,000.

(4) No suggestion award shall exceed \$13,000.

(b) Intangible and Safety Awards—When a suggestion has no demonstrable cost-savings, the Suggestion Committee, considering such factors as importance, scope of application, and ingenuity, may make a monetary award. (*State Personnel Department; 31 IAC 1-14-2; filed Aug 17, 1982, 3:41 pm: 5 IR 2107; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-14-3 Duplicate, joint, and agency suggestions

Authority: IC 4-15-1.8-7

Affected: IC 4-15-1.8-8; IC 4-15-2-6

Sec. 3. (a) If more than one employee submits the same suggestion, only the first received in the office of the State Personnel Department will be considered eligible for an award.

(b) If a suggestion is made jointly, by more than one employee any award granted will be divided equally among the group.

(c) If prior consideration has been given to a suggestion or if the suggestion incorporates a recommendation made by one state agency to another, it may be grounds to deny an award. (*State Personnel Department; 31 IAC 1-14-3; filed Aug 17, 1982, 3:41 pm: 5 IR 2108; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 1-14-4 Finality of decisions

Authority: IC 4-15-1.8-7

Affected: IC 4-15-2-6

Sec. 4. The decision of the Suggestion Committee is final as to the eligibility for an award or the amount of any award. (*State Personnel Department; 31 IAC 1-14-4; filed Aug 17, 1982, 3:41 pm: 5 IR 2108; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

ARTICLE 2. MERIT EMPLOYEES

Rule 1. Definitions

31 IAC 2-1-1 Definitions

Authority: IC 4-15-2-6

Affected: IC 4-15-1.8-7; IC 4-15-2

Sec. 1. As used in 31 IAC 2, unless the context plainly requires another meaning, the following terms shall have meaning as indicated:

(a) "Act" means the State Personnel Act, IC 4-15-2 and any amendments thereto.

(b) "Classified service" means all offices and positions of trust and employment in the state service under the State Personnel Act IC 4-15-2 except those placed in the unclassified service by the Act IC 4-15-2.

(c) "Board" means the state personnel board.

(d) "Director" means the state personnel director.

(e) "Agency" means a state or county department or a division of the state service named specifically in the definition of "state service", in the Act IC 4-15-2, all positions of which are under the same appointing authority.

(f) "Position" means a group of current duties and responsibilities, assigned or delegated by competent authority, and approved by the state personnel division, requiring the full-time or part-time employment of one (1) person.

(g) "Reclassification" means a change of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class in the same pay level on the basis of significant changes in the kind, difficulty, or responsibility of the work performed in such position. It does not involve the change of an employee from one (1) position to another.

(h) "Class" means one (1) or more positions sufficiently alike in duties and responsibilities to warrant the same descriptive title, pay range and minimum qualifications.

(i) "Allocation" means the assignment of an individual position to a class.

(j) "Employment list" means an eligible list, reemployment list, promotional list, or intermittent employment list.

(k) "Reinstatement" means the return of an employee to the previous state of his employment by reason of an order of the appointing authority, director, state employees appeals commission, a properly designated arbiter, or a court.

(l) "Assembled examination" means an examination in which applicants are called together in one (1) or more designated centers to compete in a written examination according to procedures established and controlled by the examining staff.

(m) "Unassembled examination" means an examination in which applicants are subject only to general controls as to the manner in which required material is submitted to the examining staff for review and rating and usually does not involve the calling of applicants together prior to appointment.

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(n) "Starting salary" means the rate of pay, within a salary range for any classification, at which a new employee is to be hired.

(o) "Duration appointment" means an appointment made during time of war, state or national disaster, or similar circumstances resulting in a general manpower shortage, under the authority of a resolution of the state personnel board authorizing such appointments. To be eligible for a duration appointment the appointee must possess the minimum qualifications for the class to which he is given a duration appointment but not have successfully completed the required examination. Whenever an eligible list is established for the class in which the duration appointment is made, the duration appointment will be terminated.

(p) "Temporary appointment" means an appointment to a position in the merit service for a maximum period of ninety (90) working days.

(q) "Part-time appointment" means an appointment to a position which does not require full-time performance but does require at least half-time performance on a regular basis, that is, a predetermined amount of time per day or per week. A part-time employee is paid a percentage of the biweekly salary received by comparably classified full-time employees.

(r) "Intermittent appointment" means an appointment to a position which requires performance on an irregular or "as needed" basis. This type of appointment is limited to 180 working days in a twelve (12) month period unless an exception is allowed in accordance with 31 IAC 2-7-4(c).

(s) "Emergency appointment" means an appointment made whenever an emergency makes it impossible to fill a position in the classified service under any other provision of the State Personnel Act IC 4-15-2. An emergency appointment is limited to ten (10) days.

(t) "Promotion" means a change of a regular employee from one (1) class to another class having a higher maximum salary rate.

(u) "Demotion" means a change of a regular employee from one (1) class to another class having a lower maximum salary rate.

(v) "Return to status" means the change of an employee from a classification to which he has been promoted on a duration or working test basis to a classification in which he has prior permanent status.

(w) "Reemployment" means the appointment of an individual who has previously been a regular employee.

(x) "Transfer" means the change of an employee from one (1) position to another position in the same class or a similar class with essentially the same basic qualifications and same maximum salary limit.

(y) "Probationary employee" means an employee serving a working test following appointment from an employment list.

(z) "Regular employee" means an employee who has met the minimum qualifications, passed the examination, completed the working test period, and has been certified by the appointing authority for the specific classification.

(aa) "Permanent status" reflects the right or rights granted to an individual who has met the experience and training requirements of the position he occupies, passed the required examination, and successfully completed his working test period.

(bb) "Preference eligible" means (1) a veteran who has been honorably separated from the armed forces of the United States; or (2) the spouse of an honorably separated veteran with a service-connected disability; or (3) the unremarried spouse of a deceased veteran who was honorably separated from the armed forces of the United States. All of these individuals are granted additional points on their examination and other rights accorded by the State Personnel Act IC 4-15-2.

(cc) "War" means active duty service as defined in subsection (dd) of this section in either:

(1) World War I – April 6, 1917 to November 11, 1918. This period is extended to April 1, 1920 if the veteran served in Russia. For purposes of satisfying the active duty requirement in subsection (dd) of this section, the war period will be extended to July 1, 1921, if the veteran served at any time during April 6, 1917 through November 11, 1918 and completed his service prior to July 1, 1921; or

(2) World War II – December 7, 1941 to December 31, 1946; or

(3) Korean Conflict – June 27, 1950 to January 31, 1955; or

(4) Viet Nam Conflict – August 5, 1964 to May 7, 1975; or

(5) Actual combat or equally hazardous duty, regardless of time, in any foreign war, insurrection, or expedition which service is recognized by the award of a service and/or campaign medal of the United States.

(dd) "Active duty" means

(1) at least ninety (90) days or more wartime service; or

(2) ninety (90) days or more of consecutive service which began or ended during a wartime period; or

(3) at least ninety (90) days or more combined services in two (2) or more wartime periods; or

(4) if less than ninety (90) days were served, but the veteran was discharged for a disability incurred in the line of duty, this will satisfy the "active duty" requirement.

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(ee) "Provisional appointment" means an appointment authorized by the director when an appropriate list is not available. To be eligible for a provisional appointment the appointee must meet the minimum qualifications for the class, but not have successfully completed the required examination. Whenever an eligible list is established for the class in which the provisional appointment is made, the provision appointment will be terminated. However, no provisional appointee shall hold his position for more than six (6) months.

(ff) "Pay period" means a time period, standardized for payroll purposes, used to compute compensation due an employee.

(gg) "Legal quarantine" means quarantine established pursuant to IC 18-1-1.5-7 [IC 18 was repealed by Acts 1982, P.L.127, SECTION 2(b)], IC 16-1-13-2 [IC 16-1-13 was repealed by P.L.4-1988, SECTION 13, effective July 1, 1988.], IC 16-1-3-7 [IC 16-1 was repealed by P.L.2-1993, SECTION 209, effective April 30, 1993.], or IC 16-1-10-9 [IC 16-1-10 was repealed by P.L.123-1988, SECTION 31, effective July 1, 1988.].

(hh) "Hourly employee" means an employee appointed to a position requiring less than half-time performance and for which the employees [sic.] is paid on an hourly basis. (State Personnel Department; Rule 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1565; filed Apr 28, 1950, 4:30 pm: Rules and Regs. 1951, p. 243; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 191; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 109; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 499; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 645; filed Jan 10, 1979, 3:40 pm: 2 IR 136; filed Aug 17, 1982, 3:45 pm: 5 IR 2084; filed Nov 1, 1983, 4:00 pm: 7 IR 14, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 1, Sec. 1-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 2. Organization for Personnel Administration

31 IAC 2-2-1 Open meetings of personnel board

Authority: IC 4-15-2-5

Affected: IC 4-15-1-3; IC 4-15-2-35

Sec. 1. All meetings of the State Personnel Advisory Board shall be conducted in accordance with the Indiana Open Door Law. (State Personnel Department; Rule 2; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1567; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 193; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 111; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 502; filed Aug 17, 1982, 3:45 pm: 5 IR 2086; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 2, Sec. 2-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 3. The Classification Plan

31 IAC 2-3-1 Revision of classes

Authority: IC 4-15-2-5

Affected: IC 4-15-2-9

Sec. 1. Whenever the creation, abolition, subdivision, or consolidation of classes appears necessary due to the creation of a new position, change in organization, or change in functions or duties of an individual position, the Director, after conferring with the appointing authority or authorities, shall prepare class specifications for the classes affected. Affected agencies and institutions shall be notified of the proposed revision.

The State Personnel Department shall afford these agencies and institutions an opportunity to express their viewpoints concerning such revisions before action is taken. (State Personnel Department; Rule 3, Sec 3-1; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 193; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 111; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 502; filed Aug 17, 1982, 3:45 pm: 5 IR 2086; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-3-2 Allocation of new position

Authority: IC 4-15-2-5

Affected: IC 4-15-2-9; IC 4-15-2-10

Sec. 2. Position Allocation. When a new position is contemplated, the appointing authority shall request establishment of the position before it may be filled and, except as otherwise provided by these rules, no person shall be appointed to or employed in a position until the position has been allocated to a class and approved by the Personnel Director or until the classification plan has been amended to provide therefor. (*State Personnel Department; Rule 3, Sec 3-2; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 194; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 111; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 503; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-3-3 Reallocation of positions

Authority: IC 4-15-2-5

Affected: IC 4-15-2-5; IC 4-15-2-9

Sec. 3. Position Reallocation. When the duties of a position or positions are changed substantially, the Director may order a review of the position or positions involved. Upon completing the review, he may order that the position or positions be allocated to a more appropriate established class. Reallocations shall not be used to avoid restrictions pertaining to lay-offs, suspensions, dismissals, demotions, and promotions. (*State Personnel Department; Rule 3, Sec 3-3; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 194; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 111; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 503; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-3-4 Effect of reallocation

Authority: IC 4-15-2-5

Affected: IC 4-15-2-9; IC 4-15-2-10

Sec. 4. Effect of Reallocation. The incumbent shall not be continued in the position unless he is eligible for and actually receives an appointment to a position in the new class. If a position is reallocated to a class having a higher salary range, eligibility shall be determined by use of the procedure outlined in Rule 7, Section 7-5 [31 IAC 2-7-5]. If reallocation is to another class at the same salary level, eligibility shall be measured by possession of minimum qualifications for the new class.

If a position is reallocated to a lower class, the incumbent's name shall be placed on the appropriate employment list for the class to which the position was previously allocated, and the individual shall be eligible for transfer, demotion, or return to status as provided in these rules. Further, whenever a position is reallocated to a class in a lower pay grade, the employee holding the position at the time of the reallocation shall be paid within the established salary range for the class to which the position is reallocated provided said employee is eligible to fill the position in the new class. (*State Personnel Department; Rule 3, Sec 3-4; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 194; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 112; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 503; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 645; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 4. The Pay Plan

31 IAC 2-4-1 Revision of pay plan; approval

Authority: IC 4-15-2-5

Affected: IC 4-15-2-11

Sec. 1. Whenever, as a result of changes in classes, living costs, availability of labor supply, prevailing rates of pay, or the financial policy of the State, a revision of the pay plan appears desirable, the Director, after consultation with the budget agency, shall prepare recommended revisions to the pay plan. The revision in pay rates shall take effect the next succeeding budget period

following adoption by the State Personnel Director and approval by the State Budget Agency and the Governor, unless some other effective date is designated by the State Personnel Director and the State Budget Agency. (*State Personnel Department; Rule 4, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1568; filed Apr 28, 1950, 4:30 pm: Rules and Regs. 1951, p. 245; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 195; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 143; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 112; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 503; filed Aug 17, 1982, 3:45 pm: 5 IR 2086; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 4, Sec. 4-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-4-2 Minimum salary; advancement; change in status

Authority: IC 4-15-2-6

Affected: IC 4-15-2-1

Sec. 2. (a) All regulations affecting administration of the pay plan shall be designed, in accordance with the intents and purposes of IC 4-15-2-1 of the state personnel act, as amended, to guarantee equal opportunities and equal incentives for entrance to the service, an opportunity for advancement according to fair standards of accomplishment and compliance with the Equal Pay Act (29 U.S.C. 206(d)).

(b) The established minimum for a class normally shall be 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 on certification by the appointing authority and his or her board's approval, if necessary, that such action is justified. If a former employee is reemployed, the appointing authority shall make appointment at the same rate of pay the employee had been receiving when the employee was last in that class or a class of the same salary range, or at the nearest higher dollar amount to the salary received before separation which is within the current salary range for the class.

(c) If an employee is changed to a class in a higher salary level, the starting salary for which is less than the salary he or she receives, no change need be made in his or her existing rate unless an adjustment is necessary to place the salary in the range or unless a salary increase is approved by the appointing authority and the director. If an employee is changed to a class in a lower salary level, he or she shall remain at his or her current salary only if it does not exceed the maximum of the new range and the director determines that salary reduction within the new range is not required.

(d) Salary advancement within the established range shall be dependent upon specific written recommendation and shall be based upon meritorious service as indicated by service ratings and other pertinent data. Whenever an employee transfers from a position under the jurisdiction of one (1) appointing authority to a position in the same class under the jurisdiction of a different appointing authority, 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 is being transferred. Salary increases granted to employees in the classified service shall be made on the basis of the approved increment plan.

(e) Each change in status and each salary increase shall be submitted on a prescribed form for the approval of the director. Such changes may be made as of the requested effective date only if they are received in the offices of the state personnel department prior to the effective date.

(f) Any salary paid to an employee shall represent the total remuneration for the employee, not including reimbursements for official travel.

(g) Charges for subsistence or maintenance received shall be deducted from the total salary.

(h) An employee whose substitution on unrelated positions does not involve working more than the normal number of hours shall not be paid additional compensation for the additional duties. No such substitution shall exceed four (4) consecutive calendar weeks.

(i) Whenever an employee works for a period less than the regularly established number of hours a day, days a week, or days a month, the amount paid shall be governed by the rate for full-time work and shall be proportionate to the time actually employed.

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

(k) No employee in the state service shall supplement any state salary through activities engaged in or on state property, such as the following:

(1) Collecting commissions.

(2) Owning and operating concessions.

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(3) Rendering personal or other service to patients, inmates, clients, wards, or the public.

No employee shall supplement any state salary through activities engaged in or on state property during working hours, such as collecting commissions, owning and operating concessions, or rendering personal or other services to other employees. (*State Personnel Department; Rule 4, Sec 2; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1569; filed Jun 28, 1948, 4:00 p.m.: Rules and Regs. 1949, p. 174; filed Apr 28, 1950, 4:30 p.m.: Rules and Regs. 1951, p. 246; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 195; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 143; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 112; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 504; filed Nov 14, 1977, 4:15 p.m.: Rules and Regs. 1978, p. 645; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2087; filed May 10, 1983, 3:07 p.m.: 6 IR 1005, eff Jul 1, 1983; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1978; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1253, eff Jan 1, 1998; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 4, Sec. 4-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-4-3 Payroll and attendance records

Authority: IC 4-15-2-5

Affected: IC 4-15-2-31

Sec. 3. (A) Each appointing authority shall maintain an attendance record for each employee, which record shall be subject to audit by the State Personnel Department at any time.

(B) Pay roll accounts bearing the name and class title or corresponding code number and the amount to be paid every employee in the classified service shall be submitted to the State Personnel Department for certification immediately following the pay period covered. (*State Personnel Department; Rule 4, Sec 3; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1572; filed Apr 28, 1950, 4:30 pm: Rules and Regs. 1951, p. 250; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 200; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 146; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 114; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 505; filed Aug 17, 1982, 3:45 pm: 5 IR 2088; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 4, Sec. 4-3. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 5. Applications and Examinations

31 IAC 2-5-1 Notice of examinations; residency requirement

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-17

Sec. 1. (A) The official location for posting the announcements of examinations shall be in the office of the State Personnel Department in Indianapolis.

The Director may also specify that announcements of examinations be posted in other locations.

(B) Open competitive examinations shall be limited to residents of the State except for classes in which the Director believes there would be inadequate competition.

(C) Announcements for promotional examinations shall be sent to the appointing authority involved, and he shall post such announcements in a conspicuous place accessible to all employees. (*State Personnel Department; Rule 5, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1573; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 200; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 115; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 506; filed Aug 17, 1982, 3:45 pm: 5 IR 2088; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-2 Applications; documentation of training

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-16

Sec. 2. (A) Application shall be made on forms prescribed by the Director. Such forms shall require information covering

experience, training, and such other pertinent information as may be requested in the public announcement, and shall be signed by the applicant to signify that he certifies to the truth and accuracy of all statements made therein.

(B) Any individual claiming credit for, or seeking to establish eligibility for, an examination on the basis of training beyond the level of high school graduation must submit prior to the employment an official transcript or other official document to the Personnel Department certifying to the validity of such training. (*State Personnel Department; Rule 5, Sec 2; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1573; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 201; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 115; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 506; filed Aug 17, 1982, 3:45 pm: 5 IR 2089; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-3 Educational requirements; rejection of applications

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-15; IC 4-15-2-16

Sec. 3. (a) No substitution for the minimum educational requirements will be permitted for any examination in which the state personnel department has ruled that the classification is technical, professional, or scientific.

(b) An applicant for any examination may be required by the state personnel department to furnish verification of qualifying experience. On any examination for which verification is deemed necessary, the applicant shall be required to furnish suitable evidence of the qualifying experience. Statements of relatives will not be accepted and failure to furnish verification shall be deemed sufficient cause for rejection of the application.

(c) The director may reject the application of any person, strike the name of any person from the promotional list, or refuse to certify the name of any person on a promotional list whenever it is found that such person is not a regular employee or is not an employee of the organizational unit for which the examination is given. The director may reject the application of any person, strike the name of any person from any list, or refuse to certify the name of any person on any list whenever it is found that such person does not meet the minimum training and/or experience qualifications or does not meet other requirements established in the public announcement.

(d) The cause for rejection of any application shall be entered upon the record of the application. (*State Personnel Department; Rule 5, Sec 3; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1574; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 201; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 115; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 506; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2089; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1979; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-3. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-4 Types of examinations

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-15; IC 4-15-2-16

Sec. 4. (A) Examinations may be assembled or unassembled. The State Personnel Department Director shall determine when competition through an assembled examination is impracticable.

For classes in agencies receiving grants-in-aid from the Federal Government, a practical written test will be included, except that, where exceptional qualifications of a scientific or professional character are required, or a license, certificate, or permit issued by a State licensing agency is required, and competition through an assembled examination is impractical, an unassembled examination may be held. All such examinations shall be held on a State-wide or nation-wide basis.

(B) In cases where competition is impracticable, or where positions have been upgraded for reasons other than additional duties and responsibilities, non-competitive qualifying examinations may be administered to regular employees who meet all requirements for the positions to be filled by promotion. All non-competitive qualifying examinations must be approved by the State Personnel Director. (*State Personnel Department; Rule 5, Sec 4; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1574; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 202; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 116; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 507; filed Aug 17, 1982, 3:45 pm: 5 IR 2089; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-4. NOTE: Transferred from the state personnel board (30 IAC 1) to the state

personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-5 Qualified candidates for examination; conduct of examination

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-6; IC 4-15-2-17

Sec. 5. (A) Persons shall be entitled to take an examination if they have received official notification from the State Personnel Department.

(B) The Director may designate persons to take charge locally of examinations in various parts of the State, provide for their compensation, and make arrangements for the use of public buildings in which to conduct such examinations. (*State Personnel Department; Rule 5, Sec 5; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1575; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 203; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 116; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 507; filed Aug 17, 1982, 3:45 pm: 5 IR 2090; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-5. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-6 Return from military leave; promotional examinations

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-18

Sec. 6. Promotional Examinations for Veterans Returning from Military Leave. As provided elsewhere in these rules [31 IAC 2], an employee returning from a military leave of absence shall be reinstated to a position in the same class as the position in which he served when leave was granted. If, at the time the employee left for military service, he was filling a position by virtue of having been promoted on a duration or provisional basis, he will be reinstated on the same basis. If, during the employee's absence on military leave, a promotional examination was held for the class in which he was so employed, he will be entitled, on his return from leave, to participate in the same examination held during his absence and, if successful, have his name placed on the promotional list in its proper position. This provision is not applicable if the promotional list was established more than four years prior to the date on which the veteran is available for participation. (*State Personnel Department; Rule 5, Sec 6; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1576; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 203; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 116; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 507; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 5, Sec. 5-6. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-7 Rating of examinations; passing grade

Authority: IC 4-15-2-6

Affected: IC 4-15-2-15; IC 4-15-2-18

Sec. 7. (a) In all examinations the minimum grade or rating by which eligibility shall be achieved shall be determined by the director in advance of the holding of the examination. The final examination grade shall be based upon all factors of the examination, which may include educational requirements, experience, and other qualifying elements as shown in the competitor's application or other verified information.

(b) Applicants must obtain at least a passing grade or rating in each successive weighted part of the examination in order to receive a final passing grade.

(c) Test scores are valid until:

(1) the test is revised;

(2) the applicant requests to be reevaluated or retested;

(3) the applicant is no longer available or suitable for employment, under 31 IAC 2; or

(4) one (1) year from the date of an examination, unless the applicant requests annually that the test scores remain valid for a second year and a third year.

(*State Personnel Department; Rule 5, Sec 7; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1576; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 204; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 116; filed Apr 19, 1972, 9:10 am: Rules*)

and Regs. 1973, p. 507; filed Nov 1, 1983, 4:00 pm: 7 IR 16, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)
NOTE: Alternatively cited as Rule 5, Sec. 5-7. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-5-8 Preference for veterans and spouses

Authority: IC 4-15-2-5; IC 4-15-2-18

Affected: IC 4-15-2-18

Sec. 8. (A) Any individual claiming preference as a wartime veteran or veteran of the armed services must submit to the State Personnel Department prior to the examination either:

- (1) a certified document evidencing his honorable discharge or separation; or
- (2) an official statement from the Department of Defense showing record of service.

(B) Any individual claiming preference as a disabled veteran must submit, in addition to the above documents, verification from the Veterans Administration or records of disability retirement benefits from the Department of Defense that he has a service-connected disability of ten percent (10%) or more.

(C) The spouse of a disabled veteran must establish by official record the present existence of a service-connected disability of said veteran. Such spouse shall be entitled to preference points only if the veteran is physically unable to fill a position in the state service.

(D) The unremarried spouse of a veteran must establish such status by submitting his marriage certificate, the veteran's honorable separation from the armed forces of the United States, and his death certificate.

(E) Veterans' preference points will not be granted on promotional examinations. *(State Personnel Department; Rule 5, Sec 8; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1576; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 204; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 117; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 508; filed Aug 17, 1982, 3:45 pm: 5 IR 2090; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 5, Sec. 5-8. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

Rule 6. Employment Lists and Their Use

31 IAC 2-6-1 Kinds of lists

Authority: IC 4-15-2-5

Affected: IC 4-15-2-13; IC 4-15-2-14

Sec. 1. Kinds of Lists. Employment lists shall be of four kinds – namely, eligible lists from which original appointments are made; promotional lists from which promotions are made; reemployment lists from which regular employees who were demoted or separated from their position for reasons other than fault or delinquency on their part, may be appointed; and intermittent lists from which regular, probationary, or temporary employees previously appointed in accordance with the rules may be appointed. *(State Personnel Department; Rule 6, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1577; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 205; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 146; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 117; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 508; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 6, Sec. 6-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-6-2 Establishment and use of lists

Authority: IC 4-15-2-5

Affected: IC 4-15-2-13; IC 4-15-2-14

Sec. 2. (A) Employment lists may be established by the Personnel Director on a State-wide, area, or county basis.

(B) The names of eligibles shall be placed on eligible lists in the order of their final ratings.

In the case of tie scores, the names of preference eligibles shall precede all non-preference eligibles having the same final score. The names of non-preference eligibles shall be placed in order of the rating earned in the part of the examination assigned

the greatest weight. Any remaining ties may be certified, as a group, to the appointing authority.

Preference eligibles shall not be granted preference points on promotional examinations.

(C) When a regular employee is separated from the service by lay-off, his name shall be placed on the reemployment lists:

(a) the first time a vacancy occurs in the classification for which a certification is to be made;

(b) two years from the effective date of the lay-off; or

(c) upon written request from the laid-off employee, whichever occurs first.

A regular employee separated from the service by lay-off shall be entitled to reemployment in the class and agency or institution from which he was laid-off, prior to the certification of eligibility of any other applicants.

A regular employee who separates from the service in good standing shall be entitled to have his name placed on the reemployment list if he makes a written request to the Director within two years from the effective date of the separation.

If the name of a regular employee has been placed on a promotional list before separation from the service, he shall be eligible for appointment from such list as long as such list is in existence, provided he is eligible for reemployment from the reemployment list.

With the approval of the Director, names shall be placed on reemployment lists in order determined by a combination of length and quality of service with the State.

Each name shall remain on a reemployment list for a period not to exceed one year.

(D) The Director may establish intermittent employment lists as necessary or desirable.

(E) The State Personnel Director may direct that employment lists may be made available for use by other federal and State services operating under formal merit systems and also, subject to formal written agreement, may cooperate with such agencies in the conducting of examinations to establish employment lists for use by the several cooperating agencies. (*State Personnel Department; Rule 6, Sec 2; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1577; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 206; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 146; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 117; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 508; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 647; filed Aug 17, 1982, 3:45 pm: 5 IR 2090; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 6, Sec. 6-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-6-3 Removal and bypassing of names

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 3. Removal of Names from Employment Lists. In addition to causes stated in the Act [IC 4-15-2], and elsewhere in these rules [31 IAC 2], the Director may remove names from the employment lists permanently or temporarily for any of the following reasons:

(A) Appointment through certification from such list to fill a permanent position.

(B) Appointment through certification from an eligible list or promotional list for another class at the same or higher salary. Names of persons appointed from eligible lists will automatically be removed from all lower eligible lists in the same series, but shall be returned to such lists upon written request by the employee, provided that such lists have not been cancelled.

(C) Written statement by the eligible that he is not willing to accept appointment. Such statement may be restricted to a limited period of time, or to geographic locations, or to positions involving other conditions of employment as specified. The name of the eligible shall be passed over in certification to fill any vacancy under the conditions specified as though such name did not appear on the list. An eligible may file a new statement at any time modifying for future consideration any prior statements as to the time, place, or other conditions under which appointment will be accepted.

(D) Declination of appointments under such conditions as the eligible has indicated previously he would accept. After such declination has occurred three (3) times for appointment from a particular list, the eligible's name will be removed permanently from the list for that class. It shall be necessary for the eligible to again apply for and pass the required examination in order to be restored to the list.

(E) Failure to respond within five (5) working days to an inquiry of the Director, or appointing authority, by letter, or twenty-four hours by telegram, or to report for duty by the time prescribed by the appointing authority shall result in the removal of the eligible's name from all employment lists on which his name appears. The eligible's name may be restored to any or all of those lists upon written request by the eligible, provided that such lists have not been cancelled.

(F) Falsification or attempt to practice any fraud or deception in employment application or test. Such falsification, fraud, or deception shall result in the permanent removal of the eligible's name from all employment lists on which his name appears. The eligible may not be restored to any of those lists unless he again applies for and passes the required examination; however, in order to apply for examination or re-examination in any class, the eligible must receive approval from the Director.

(G) Replacement by names of eligibles resulting from a new examination for the class. Eligibles on the old list shall be notified in sufficient time to apply for the new examination. At the discretion of the Director, according to the needs of the service, and where no fundamental change in qualifications, requirements, and class specifications have occurred, the names on the two lists may be combined according to final earned ratings as provided in these rules [31 IAC 2].

(H) Acceptable reasons for passing over names of eligibles for appointments are:

- (1) Failure to reply to a letter within five working days.
- (2) Failure to reply to telegram within twenty-four hours.
- (3) Failure to appear for scheduled interview.
- (4) Unknown at address; no forwarding address.
- (5) Failure to accept appointment when offered or to report for duty by prescribed time.
- (6) Waiver of offer of position.
- (7) Declination of salary offered.
- (8) Inability to work prescribed hours.
- (9) Physical unfitness as evidenced by physician's signed statement.
- (10) Psychological or emotional unsuitability as evidenced by physician's or psychologist's signed statement.
- (11) Addiction to habitual or excessive use of drugs or intoxicating liquor.
- (12) Criminal record or guilty of notoriously disgraceful conduct.
- (13) Dismissal from the State Service.
- (14) False statement or attempt to practice any fraud or deception in employment application or test.
- (15) Unsatisfactory employment record in the State Service.
- (16) Family relation to patient or inmate at institution where position exists.
- (17) Previous history as patient or inmate at institution where position exists.
- (18) Resignation from the State Service without adequate notice.
- (19) Unsatisfactory references with supporting evidence.
- (20) Unsuitability for a justifiable reason with supporting evidence.

(State Personnel Department; Rule 6, Sec 3; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1579; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 207; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 148; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 118; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 509; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 648; filed Jan 27, 1977, 3:30 pm: Rules and Regs. 1978, p. 640; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 6, Sec. 6-3. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 7. Certification and Appointment

31 IAC 2-7-1 Anticipation of vacancies

Authority: IC 4-15-2-5

Affected: IC 4-15-2-12; IC 4-15-2-19

Sec. 1. Preparation for Appointment. Insofar as practicable, vacancies should be anticipated sufficiently in advance to permit the Director to determine who may be available for appointment, whether or not the position is properly classified and, if necessary, to prepare class specifications and to establish a list of eligibles. *(State Personnel Department; Rule 7, Sec 7-1; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 511; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-7-2 Requisition for employee

Authority: IC 4-15-2-5

Affected: IC 4-15-2-19

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Sec. 2. Method of Appointment. Whenever a vacancy occurs in any position in the classified service or an appointing authority requests the establishment of a new position, a requisition for an employee shall be submitted to the Director on a prescribed form. The requisition shall state the number of positions to be filled, the duties thereof, the necessary and desirable qualifications of the person or persons to be appointed, and other pertinent information required by the Director. (*State Personnel Department; Rule 7, Sec 7-2; filed Apr 19, 1972, 9:10 am; Rules and Regs. 1973, p. 511; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-3 Certification for appointment; equal offers of employment

Authority: IC 4-15-2-6
Affected: IC 4-15-2-19

Sec. 3. When a vacancy occurs in an institution or agency in the classified service, the director shall certify the seven (7) highest available names in order of rank from the appropriate list. Two (2) additional names shall be certified for each additional vacancy. Beyond the foregoing, additional names will only be certified as replacements for names on the original certification who have declined appointment or who have been passed over by the appointing authority. To pass over a name on the eligible list, the appointing authority must furnish, in writing, a reason sufficient to make possible the removal of such name from the employment list.

Unless otherwise authorized by 31 IAC 2 all individuals certified as eligible for appointment to the same vacancy shall be offered appointment at the same rate of pay and working conditions. If the state personnel department ascertains that declination of offered appointment is due to unauthorized variations in offered pay rates or conditions of employment, the director shall cancel appointment from the names certified.

If a vacancy is to be filled in a county department of public welfare, the state personnel department shall, upon request from the county, certify from the appropriate employment list the names of the seven (7) highest available eligibles who are residents of the county in which the vacancy exists. If there are fewer than seven (7) local residents on the appropriate employment list, the state personnel department shall certify names from the state-wide list, to make a complete certification. If there are no local residents available, the entire certification shall be made from the state-wide list. The appointing authority may exercise his discretion in appointing any of the persons whose name was certified. (*State Personnel Department; Rule 7, Sec 7-3; filed Apr 19, 1972, 9:10 am; Rules and Regs. 1973, p. 511; filed Jan 27, 1977, 3:30 pm; Rules and Regs. 1978, p. 639; filed Aug 17, 1982, 3:45 pm: 5 IR 2091; filed May 10, 1983, 3:07 pm: 6 IR 1006, eff Jul 1, 1983; filed Nov 1, 1983, 4:00 pm: 7 IR 16, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-4 Temporary and intermittent appointments

Authority: IC 4-15-2-6
Affected: IC 4-15-1.8-7; IC 4-15-2

Sec. 4. (a) When an emergency makes it impossible to fill a position in the classified service under any other provision of the State Personnel Act IC 4-15-2, an appointing authority, in order to prevent stoppage of public business or loss of serious inconvenience to the public, may appoint any qualified person to the position, but notice shall immediately be given of the appointment to the director. Any such 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 had, or might with due diligence have had, previous knowledge, shall not be considered an emergency under which such emergency appointment may be made. No emergency appointment shall be renewed.

(b) Whenever there is urgent need of an employee for a temporary period, not to exceed ninety (90) working days, the director may select for such service any person who meets the minimum qualifications and who will accept such temporary employment. Successive temporary appointments of the same person shall not be made. However, an employee may be reappointed at a later date if his total employment in a temporary position does not exceed ninety (90) working days in a twelve (12) month period.

The acceptance or refusal by an eligible individual of a temporary appointment shall not affect his standing on any employment list, nor shall the period of temporary service be counted as a part of a working test period.

(c) Whenever there is a need of an employee for an intermittent period, the director may select for such service, any person

who meets the minimum qualifications and will accept such employment. The period of intermittent employment of an individual may not continue longer than 180 working days in any twelve (12) month period, unless exception is requested by the appointing authority prior to the appointment and annually thereafter and approved by the state personnel department and state budget agency. The acceptance or refusal by an eligible individual of intermittent appointment shall not affect his standing on any employment list, nor shall the period of intermittent employment be counted as part of the working test period.

(d) Whenever receipt of federal funds for the administration of unemployment insurance is conditional upon use of temporary employees, and none of preceeding [*sic.*] methods of temporary appointment is practicable, an appointment may be made under this provision. Such appointments are limited to 180 working days in any twelve (12) month period unless an exception is requested by the appointing authority prior to the appointment and annually thereafter and approved by the state personnel department and state budget agency.

Any person who meets the minimum qualifications may be employed. The acceptance or refusal by an eligible individual of an appointment under this section shall not affect his standing on any other employment list, nor shall the period of temporary employment be counted as part of the working test period.

If a waiver of the 180 day limitation has been approved and if the employee works at least half time in a given month, he shall accrue vacation, sick, and personal leave in the same manner as do part-time employees. (*State Personnel Department; Rule 7, Sec 7-4; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 512; filed Nov 1, 1983, 4:00 pm: 7 IR 17, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-5 Promotional appointment

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 5. Promotional Appointment. Insofar as it is practicable and feasible, vacancies in the classified service shall be filled by promotion of regular employees. Promotions shall be made by competitive examinations, or non-competitive qualifying examinations in accordance with the provisions of Rule 5, Section 5-4 (B) [31 IAC 2-5-4 (B)]. (*State Personnel Department; Rule 7, Sec 7-5; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 512; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-6 Duration appointment during emergency

Authority: IC 4-15-2-5

Affected: IC 4-15-1.8-7; IC 4-15-2-12

Sec. 6. (A) A duration appointment may be made to a vacancy in the classified service whenever the Director finds there exists a war, or other emergency or a state or national emergency causing a general manpower shortage, which shortage makes it impossible to establish an eligible list in the regular manner.

(B) When an employment list is established with a sufficient number of eligibles to make a complete certification for any position in the classified service currently filled by duration appointment, the appointing authority shall, within thirty days after the date of certification of eligibles, fill the position by appointment from the employment list. (*State Personnel Department; Rule 7, Sec 7-6; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 512; filed Aug 17, 1982, 3:45 pm: 5 IR 2091; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-7 Transfer

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 7. Transfer. (A) An appointing authority may at any time assign an employee from one position to another position in the same class under his 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 and both appointing authorities, an employee may transfer from one division of the classified service to another. A promotion or demotion may be simultaneous with such a transfer. The new appointing authority shall assume all vacation, sick leave, and earned overtime credited to the transferred employee.

(D) With the approval of the Director and both appointing authorities, an employee may transfer from a State Department or Agency not included in the classified service to the classified service, or from a department or agency in the classified service to a department or agency not in the classified service without loss of any vacation leave, sick leave, or earned overtime.

Any employee transferring from a position in a State Department or Agency not in the classified service to a position in a department or agency in the classified service must be fully qualified for the class to which he is transferred, and must be selected from an appropriate register. (*State Personnel Department; Rule 7, Sec 7-7; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 512; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-8 Demotion

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 8. Demotion. A position may be filled by demotion of a regular employee in accordance with Rule 12, Section 12-1 [31 IAC 2-12-1], or, in the event of a necessary reduction in personnel due to lack of work or funds, an employee may accept demotion without the filing of charges in preference to being laid off. An employee so demoted shall be entitled to have his name placed on the reemployment list for the classification from which he was demoted. (*State Personnel Department; Rule 7, Sec 7-8; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 513; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-9 Reemployment lists

Authority: IC 4-15-2-5

Affected: IC 4-15-2-13

Sec. 9. Reemployment. A position may be filled by appointments from the appropriate reemployment list. Successive appointments of the same person may be made from the appropriate reemployment list. (*State Personnel Department; Rule 7, Sec 7-9; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 513; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-10 Provisional appointments

Authority: IC 4-15-2-5

Affected: IC 4-15-2-22

Sec. 10. Provisional Appointments. (A) No provisional appointment shall be made without the prior authorization of the Director. The Director may authorize provisional appointments when an appropriate employment list is not available for the class from which the position is being filled.

(B) Only appointees who possess the minimum qualifications for the class to which the position is assigned but who have not successfully completed the required examination are eligible for provisional appointments.

(C) When an appropriate employment list is established with a sufficient number of eligibles to make a complete certification for any position in the classified service currently filled by a provisional appointment, the Director shall notify the Appointing Authority of the establishment of such list. Within thirty (30) days of such notification, the Appointing Authority shall refill the position from the current employment list.

(D) No provisional appointment shall be held for more than six (6) months, nor shall any provisional appointment be renewed. No person shall receive more than one (1) provisional appointment in any twelve (12) month period. (*State Personnel Department; Rule 7, Sec 7-10; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 649; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

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NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-7-11 Underfilling positions in absence of qualified applicants

Authority: IC 4-15-2-5

Affected: IC 4-15-2-14; IC 4-15-2-19

Sec. 11. (a) If there is not a full list of qualified applicants on the eligible list for a class to which a position is allocated, the appointing authority, with the prior approval of the director, may underfill such position. The underfilling employee must be qualified for the class to which he or she is appointed, which shall be in the same job family as the vacant position.

(b) A position which is allocated to a classification which requires admission to the Bar may be underfilled by a student, actively enrolled in an American Bar Association approved law school, or a person whose application for admission is pending. However, an employee underfilling such a position must be admitted to the legal profession as a prerequisite to being appointed to the classification which requires admission to the Bar. Prior to admission to the Bar, the employee is prohibited from engaging in the unauthorized practice of law. (*State Personnel Department; 31 IAC 2-7-11; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2092; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1979; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) *NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

Rule 8. Working Test Period

31 IAC 2-8-1 Purpose

Authority: IC 4-15-2-5

Affected: IC 4-15-2-21

Sec. 1. Objectives. The working test period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting any employee whose performance during the period does not meet required work standards. (*State Personnel Department; Rule 8, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1584; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 213; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 151; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 123; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 513; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 650; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) *NOTE: Alternatively cited as Rule 8, Sec. 8-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-8-2 Requirement for and duration of test period

Authority: IC 4-15-2-6

Affected: IC 4-15-2

Sec. 2. (a) All appointments and promotions, other than temporary and intermittent, resulting from certification from a promotion list or an eligible list shall be subject to a working test period. The length of such working test period shall be as follows:

(1) For persons who work on a full-time basis, the working test period shall be six (6) months.

(2) For persons working less than full time, but more than half time, the working test period shall be one (1) year.

(3) For persons working less than half time, the working test period shall be eighteen (18) months.

Upon request of the appointing authority, the state personnel director may extend the working test period by an additional period not exceeding the original working test period.

(b) The requirements of a working test period shall be waived in the case of reemployment from a reemployment list.

(c) Time spent in duration or provisional status, not to exceed a period equal to the length of the original working test period, which subsequently results in appointment from an employment list, shall be credited against and deducted from the required working test period.

(d) Persons in agencies made subject to IC 4-15-2 who have been in the same positions or similar positions six (6) months or more and who have passed noncompetitive qualifying examinations, shall be accorded permanent status in the classifications to

which their positions have been allocated immediately upon appointment from the proper eligible list. (*State Personnel Department; Rule 8, Sec 2; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1585; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 214; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 151; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 123; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 513; filed Nov 14, 1977, 4:15 p.m.: Rules and Regs. 1978, p. 650; filed Nov 1, 1983, 4:00 p.m.: 7 IR 17, eff Jan 1, 1984; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1979; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 8, Sec. 8-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-8-3 Performance appraisal; report of working test period

Authority: IC 4-15-2-6
Affected: IC 4-15-2-21

Sec. 3. (a) During the working test period, the director shall require the appointing authority to prepare at least one (1) full performance appraisal of the employee's work.

(b) One (1) month prior to the end of the working test period, the personnel department will send to the appointing authority an end-of-the-working test report. Prior to the end of the working test period, the appointing authority shall complete the form, with the signature of the employee, recommending the permanent status, indicating separation of the employee, or recommending a working test extension. Specific reasons for such extension request must be specified on the working test form. (*State Personnel Department; Rule 8, Sec 8-3; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 123; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 514; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 651; filed Aug 17, 1982, 3:45 pm: 5 IR 2092; filed Nov 1, 1983, 4:00 pm: 7 IR 18, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-8-4 Permanent status

Authority: IC 4-15-2-5
Affected: IC 4-15-2-21

Sec. 4. Acquisition of Permanent Status. Except as provided in Sections 8-2(B) and 8-2(D) [31 IAC 2-8-2(B) and (D)] of this rule, no persons shall be deemed to have permanent status unless the Appointing Authority has submitted a written recommendation to the Director that such person be granted permanent status, and such recommendation has been approved by the Director. (*State Personnel Department; Rule 8, Sec 8-4; filed Nov 14, 1977, 4:15 pm: Rules and Regs. 1978, p. 651; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 9. Service Ratings

31 IAC 2-9-1 Report and substantiation of service ratings

Authority: IC 4-15-2-5
Affected: IC 4-15-2-27

Sec. 1. The director shall require each appointing authority to report at periodic intervals, on prescribed forms, service ratings for employees under his jurisdiction. The director may require that any or all ratings be substantiated, and may prescribe the manner of making such substantiation. The state personnel department shall establish procedures to assure knowledge of his rating by the employee concerned. (*State Personnel Department; Rule 9, Sec 9-1; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 124; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 514; filed Aug 17, 1982, 3:45 pm: 5 IR 2092; filed May 10, 1983, 3:07 pm: 6 IR 1006, eff Jul 1, 1983; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 10. Training

31 IAC 2-10-1 Training programs

Authority: IC 4-15-2-5
Affected: IC 4-15-2-28

Sec. 1. Responsibility for developing training programs for employees shall be assumed jointly by the the *[sic.]* Director, and the appointing authorities. Such training programs may include lectures, courses, demonstrations, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of employees in the performance of their duties. The provisions of this rule *[this section]* shall not be considered as limiting the responsibilities or functions of the several appointing authorities for developing and carrying out continuing programs of staff development using the supervisory processes as a basic training method. (*State Personnel Department; Rule 10, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1586; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 215; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 152; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 124; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 514; filed Aug 17, 1982, 3:45 pm: 5 IR 2092; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 10, Sec. 10-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-10-2 Record of completion; credit

Authority: IC 4-15-2-5
Affected: IC 4-15-2-28

Sec. 2. Credit for Training. If an employee submits records indicating the successful completion of extension, correspondence, departmental in-service training, or other special training courses, to the Director, such facts shall be made a part of the employee's record. The successful completion of specialized training courses may be established as a factor in rating experience and training in examinations for eligible or promotional lists. (*State Personnel Department; Rule 10, Sec 2; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1586; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 216; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 152; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 124; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 515; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 10, Sec. 10-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 11. Hours and Leaves

31 IAC 2-11-1 Work week; shifts

Authority: IC 4-15-2-5
Affected: IC 4-15-2-29

Sec. 1. The normal minimum working week shall be thirty-seven and one-half (37½) hours except as otherwise established by statute or by specific ruling of the state personnel director. Shift hours shall be established by the appointing authority. Assignment of employees to specific shifts shall be the prerogative of the appointing authority. (*State Personnel Department; Rule 11, Sec 11-1; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 124; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 515; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2093; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1980; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-2 Overtime and holidays; schedules and pay

Authority: IC 4-15-1.8-7; IC 4-15-2-6
Affected: IC 4-15-2-11

Sec. 2. (a) Overtime and holiday policy shall be as follows:

(1) The state service shall observe only such legal holidays as are established by statute or officially proclaimed by the governor.

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(2) When any of these holidays comes on a Saturday, the Friday immediately preceding shall be the legal holiday.

(3) The first day of week, commonly called Sunday, shall not be a holiday within the meaning of this rule.

(b) Any 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, 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 shall be scheduled by the appointing authority and must be taken within the pay period in which the holiday occurs.

(c) Except as provided in subsections (l) and (o):

(1) overtime shall comprise hours of work, rounded to the nearest quarter of an hour, in excess of thirty-seven and one-half (37½) hours in a work week; and

(2) holidays, sick days, vacation days, personal days, leaves of absence, compensatory time off, and time spent on call or in standby status, shall not constitute hours of work or hours worked for purposes of this rule.

(d) The following are requirements for employees who are eligible for overtime payment:

(1) Employees in the following job categories or classifications of the classified service are eligible for compensation for overtime:

(A) Professional-administrative-technological (PAT), skill level VI.

(B) Clerical-office machine operators-technician (COMOT), skill levels I through VI.

(C) Labor-trades-crafts (LTC), skill levels I through V.

(D) Supervisory and managerial-COMOT, skill levels III through VIII.

(E) Supervisory and managerial-LTC, skill levels IV through VII.

(F) Protective occupations, law enforcement (POLE), skill levels II through IV, correctional officer trainees, correctional officers, correctional sergeants, and security officers.

(G) The following PAT V level classifications:

Abstractor

Accountant

Administrative analyst

Administrative assistant

Artist illustrator

Audit examiner

Business administrator

Caseworker

Chemist

Civil rights specialist

Claims deputy

Clinical associate

Code enforce official

Code review official

Commodity examiner

Correctional counselor

Correctional release coordinator

Criminal intelligence analyst

Dairy farm specialist

Dental hygienist

Disability claims adjuster

Disability veterans specialist

Electronics investigator

Employment specialist

Engineering geologist

Environmental engineer

Environmental scientist

Environmental scientist-RAD health

Field auditor

Geologist
Health educator
Hearings officer
Highway engineer
Historic site curator
Historical education specialist
Hydraulic engineer
IOSHA inspector-construction
IOSHA inspector-industrial
Industrial hygienist
Information specialist
Internal affairs officer
Inventory administrator
Labor market analyst
Legal assistant
Librarian
Livestock license coordinator
Manpower specialist
Medical records administrator
Meteorologist
Migrant consultant
Museum specialist
Nosologist
Nurse
Occupational therapist
Oil and gas inspector
Parole officer
Pension administrator
Personnel officer
Personnel specialist
Photographer
Program coordinator
Program specialist
Programmer
Programmer-specialist
Psychiatric intern
Purchasing administrator
Records analyst
Recreation leader
Recreation therapist
Rehabilitation instructor
Rehabilitation therapist
Research analyst
Right-of-way engineer
Salesperson
Sanitarian-food
Sanitarian-general
Social services specialist
Soil scientist
State investigator
Statistician

Substance abuse counselor
Surveyor
Telecommunication technician
Telecommunication specialist
Training officer
Unclassified
Veteran's representative
Vital records statistics coordinator
Vocational rehabilitation counselor
Vocational rehabilitation counselor-deaf
Water quality planner
Word processing systems administrator.

(H) The following nursing classifications:

Charge nurse III
Charge nurse supervisor V
Nurse V
Nurse IV
Nurse supervisor V
Nurse supervisor VI
Nurse supervisor VII.

(2) Employees other than those included in subdivision (1) shall not be eligible for compensation for overtime except in the following circumstances:

(A) The state personnel director, with the approval of the state budget agency, may authorize compensation for overtime worked by employees otherwise not eligible when such overtime is worked according to prescribed policy or based on a special approval.

(B) Overtime policies for exempt employees may be established by the director and state budget agency.

(C) Special approval to compensate overtime exempt employees can only be granted by the director and state budget agency.

(e) Except as provided in subsection (g), when an eligible employee has worked overtime which is compensable under this rule, payment for such overtime shall be made with the regular payment for that period in which the overtime hours were worked as follows:

(1) Employees eligible for overtime compensation by reason of subsection (d)(2) shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked.

(2) Eligible employees whose regularly established minimum working week is thirty-seven and one-half (37½) hours or less shall be paid for overtime at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of overtime hours worked for all such overtime which comprises less than forty (40) total hours of work within the work week.

(3) Any overtime worked by an eligible employee, for which straight-time payment is not provided by this subsection, nor for which a different decision rule is provided by subsection (l) or (o), shall be paid at a time and a half rate equal to one and a half times the employee's regular hourly pay rate multiplied by the number of such overtime hours worked.

(f) Requirements for payment for additional hours of work other than overtime shall be as follows:

(1) All employees whose regularly established work schedule is less than full time shall be paid for hours worked or hours worked together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, during the pay period, which are in addition to the employee's normal work schedule but which do not exceed the total number of hours of work in the regularly established work schedules of employees working full-time in comparable positions within the same agency or department. Payment for such additional hours of work shall be made with the regular payment for that pay period in which the additional hours were worked, at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(2) Employees who are eligible for overtime payments under subsection (d) and whose regularly established work schedule is full time, shall be paid for hours other than overtime, as defined in subsection (c), worked during the pay period which together with sick days, vacation days, personal days, holidays, compensatory time off, or leaves of absence with pay, exceeds the total number of regularly scheduled hours of work in the employee's pay period. Payment for such additional hours of

work shall be made with the regular payment for that pay period in which the additional hours were worked at a straight-time rate equal to the employee's regular hourly pay rate multiplied by the number of additional hours worked.

(g) Requirements for compensatory time off shall be as follows:

(1) Rate of accrual to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) may be granted compensatory time off in lieu of monetary payment for anticipated or earned overtime work:

(i) for overtime normally compensable under subsection (e)(3) or (l)(10)(D), compensatory time off shall be granted at a time and a half rate.

(ii) for additional hours of work other than overtime, that is, that which is normally compensable under subsection (e)(2), (f)(2), or (l)(10)(C), compensatory time off shall be granted at a straight-time rate.

(B) Employees eligible for overtime compensation subsection (d)(2) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned overtime work.

(C) Employees eligible for holiday compensation subsection (b) may be granted compensatory time off at a straight-time rate in lieu of monetary payment for anticipated or earned holiday work.

(2) Limitation on amount of accrual to include the following:

(A) Employees eligible for overtime compensation subsection (d)(1) and who are engaged in a public safety, emergency response, or seasonal activity may accrue no more than four hundred eighty (480) hours of compensatory time off.

(B) Employees eligible for overtime compensation subsection (d)(1) and who are engaged in any work other than that described in clause (A) may accrue no more than two hundred forty (240) hours of compensatory time off.

(C) Compensable hours worked in excess of the limits contained in this subdivision must be compensated monetarily with the regular payment of wages for the pay period in which the time was worked.

(3) Use of compensatory time off to include the following:

(A) Employees eligible for overtime compensation under subsection (d)(1) shall be granted compensatory time off as follows:

(i) Unless otherwise approved by the director and state budget agency, all compensatory time off must be scheduled and taken off prior to the end of the calendar quarter succeeding the quarter in which the additional hours were worked.

(ii) An employee who has accrued compensatory time off authorized by this rule and who has requested the use of such compensatory time off, shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

(B) Employees eligible for overtime compensation under subsection (d)(2) shall normally be given compensatory time off rather than monetary payment. If the needs of the service make the granting of compensatory time off impracticable, the appointing authority may request approval of the director and the state budget agency to compensate monetarily at the rate provided in subsection (e)(1).

(4) Monetary payment for accrued but unused compensatory time off to include the following:

(A) If monetary compensation is paid to an employee for accrued compensatory time off, such payment shall be at the regular rate earned by the employee at the time the employee receives such payment.

(B) An employee eligible for overtime compensation, by reason of subsection (d)(1), who has accrued compensatory time off as authorized by this section shall, upon termination of employment, be paid for the unused compensatory time off at the greater of:

(i) the average regular hourly rate received by such employee during the last three (3) years of the employee's employment; or

(ii) the final regular hourly rate received by such employee.

(h) (Repealed)

(i) Any payroll containing overtime payments must be accompanied, when submitted to the director by the appointing authority, by a written justification for each occurrence of overtime which is incurred.

(j) The director is authorized to establish and enforce any policies necessary for the implementation of this rule, or to prescribe and enforce any policies concerning overtime or holiday compensation which are not inconsistent with this rule, notwithstanding the internal policies of an agency or institution.

(k) The director of the state budget agency, in such manner as he deems necessary, may regulate the amounts of overtime to be worked in any agency or institution. Such regulation of overtime work may include a requirement that any or all overtime work,

prior to its assignment, must be approved by the state budget agency.

(l) The appointing authority of an employee engaged in law enforcement activities (including security personnel in correctional institutions) may, with prior written approval of the director and state budget agency, elect to establish work periods and compensate overtime eligible employees in accordance with the following in lieu of subsection (c):

(1) The following requirements concerning definition of law enforcement activities:

(A) As used in this subsection, “any employee in law enforcement activities” refers to any employee:

(i) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury and to prevent and detect crimes;

(ii) who has the power of arrest; and

(iii) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes:

(AA) physical training;

(BB) self-defense;

(CC) firearm proficiency;

(DD) criminal and civil law principles;

(EE) investigative and law enforcement techniques;

(FF) community relations;

(GG) medical aid; and

(HH) ethics.

Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing or to support activities, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury, or infirmity.

(B) Employees who do not meet each of the three (3) tests described in clause (A) are not engaged in law enforcement activities, as that term is used in this subsection. Such employees would include:

(i) building inspectors;

(ii) health inspectors;

(iii) animal control personnel;

(iv) sanitarians;

(v) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points;

(vi) civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices;

(vii) wage and hour compliance officers;

(viii) equal employment opportunity compliance officers;

(ix) tax compliance officers;

(x) coal mining inspectors; and

(xi) building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(C) The term “any employee in law enforcement activities” also includes security personnel in correctional institutions. A correctional institution is any government facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime. Such facilities include:

(i) penitentiaries;

(ii) prisons;

(iii) prison farms;

(iv) reformatories; and

(v) other facilities operated by the department of correction.

Employees of correctional institutions who qualify as security personnel for purposes of this subsection are those who

have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their status as trainee, probationary, or permanent employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury, or infirmity.

(D) Not included in the term "employee in law enforcement activities" are the so-called civilian employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks, and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical, and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

(2) Employees engaged in law enforcement activities may also engage in some nonexempt work unless it exceeds twenty percent (20%) of the total hours worked by the particular employee during the applicable work period.

(3) The attendance at a bona fide police academy or other training facility, when required by the employing public agency, does not constitute engagement in exempt activities unless the employee in question meets all the tests described in subdivision (1)(A) in which event such training or further training would be incidental to, and thus part of, the employee's law enforcement activities. Only the time spent in actual training or retraining constitutes compensable hours of work. All other time, such as that spent in studying and other personal pursuits, is not compensable hours of work even in situations where the employee is confined to campus or to barracks twenty-four (24) hours a day. Attendance at training facilities and schools, which is not required but which may incidentally improve the employee's performance of his or her regular tasks or prepare the employee for further advancement, need not be counted as working time even though the public agency may pay for all or part of such training.

(4) If an employee regularly engaged in exempt law enforcement activities also works for another department or agency, such employee will lose the exemption if the other work is unrelated to law enforcement activities. If, however, such employee's other job is also exempt work, the less of the two (2) exemptions should be claimed.

(5) Requirements for law enforcement volunteers shall be as follows:

(A) Individuals who volunteer to perform law enforcement activities, usually on a part-time basis and as a public service, are not considered to be employees of the public agency which receives their services. Such individuals do not lose their volunteer status because their tuition may have been paid or they may have been reimbursed for attending special classes or other training to learn about law enforcement or because they are reimbursed for approximate out-of-pocket expenses incurred incidental to answering a call or to the cost of replacing clothing or other items of equipment which may have been consumed or damaged in responding to a call. Nor is the volunteer status of such individuals lost where the only material recognition afforded them is the holding of an annual party, the furnishing of a uniform and related equipment, or their inclusion in a retirement or relief fund, a workman's compensation plan or a life or health insurance program, or the payment of a nominal sum on a per call or other basis which may either be retained, in whole or in part, by the volunteer or donated to finance various social activities conducted by or under the auspices of the agency. Payments which average two dollars and fifty cents (\$2.50) per call will be considered nominal. Payments in excess of this amount may also qualify as nominal, depending upon the distances which must be traveled and other expenses incurred by the volunteer. For purposes of this clause, it is not necessary for the agency to maintain an exact record of expenses.

(B) Where, however, individuals engaged in law enforcement activities receive more than a nominal amount of payment on a basis which does not reasonably approximate the expenses incurred by them, they are employees rather than volunteers and must be paid in accordance with this subsection.

(C) Volunteers engaged in law enforcement activities may include individuals who are employed in some other capacity by the same public agency.

(D) Police officers of one (1) jurisdiction may engage in law enforcement activities on a voluntary basis for another jurisdiction where there is no mutual aid agreement or other relationship between the two (2) jurisdictions. Such employees cannot, however, perform law enforcement activities on a voluntary basis for their own agency, although they can engage in other activities not directly related to these primary functions. For example, a police officer could

- volunteer to counsel young juveniles who are members of a boy's club or other similar organizations.
- (6) Rules for determining the tour of duty, work period, and compensable hours of work, generally, shall be as follows:
- (A) Public agency employees engaged in law enforcement activities are unique. Therefore, computation of hours worked on the basis of a work period (which can be longer than a work week) and which bases the overtime requirements on a work period concept is permitted. Where an agency properly elects this subsection, it must be used for purposes of both the overtime requirements and hourly rate determination.
- (B) If, however, any public agency chooses not to claim the partial overtime exemption provided in this subsection, but elects to pay overtime compensation as defined in subsection (c), it need not concern itself with the tour of duty or work period discussion which follows or with the special rules relating to the determination of what constitutes compensable hours of work since, in that event, overtime would be payable on a work week basis and the regular method of computing hours worked would apply. Such an agency would not, however, be able to take advantage of the special provisions relating to the balancing of hours over an entire work period and trading time.
- (7) As used in this subsection, "tour of duty" means the period during which an employee is on duty. It may be a scheduled or unscheduled period. Scheduled periods refer to shifts, that is, the period of time which elapses between scheduled arrival and departure times, or to scheduled periods outside the shift, as in the case of a special detail involving crowd control during a parade or other such event. Unscheduled periods refer to time spent in court by police officers, time spent handling emergency situations, or time spent after a shift in order to complete required work. When an employee actually works fewer hours than those scheduled, the employee's tour of duty is reduced accordingly. Nothing in this subsection precludes agencies from establishing new tours of duty for their employees, provided, however, that the change is intended to be permanent at the time that it is made.
- (8) Compensable hours of work generally include all of that time during which an employee is on duty, on the employer's premises, or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such hours thus include all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related and to its performance such as attending roll call or writing up and completing reports. It also includes time which an employee spends in attending required training classes. Time spent away from the employer's premises under conditions so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, a police officer who is required to remain at home until summoned to testify in a pending court case and who must be in a constant state of instant readiness is engaged in compensable hours of work. On the other hand, employees who are confined to barracks while attending police academies are not on duty during those times when they are not in class or at a training session since they are free to use such time for personal pursuits. Also, a police officer who has completed his or her tour of duty but who is given a patrol car to drive home and use on private business is not working simply because the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls would be compensable, except in those instances where it is miniscule and cannot, as an administrative matter, be recorded for payroll purposes.
- (9) Requirements for sleeping and mealtime as compensable hours of work shall be as follows:
- (A) Where the employer has elected to use this subsection, mealtime cannot be excluded from compensable hours of work unless the employee is completely relieved from duty for a bona fide meal period. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.
- (B) Sleep time may be excluded in the case of law enforcement employees who are on duty for more than twenty-four (24) hours. However, sleep time shall, in no event, exceed eight (8) hours, in a twenty-four (24) hour period. If such sleep time is interrupted by a call to duty, the interruption must be counted as hours worked, and, if the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes, means at least five (5) hours) the entire time must be counted as hours of work.
- (10) Requirements for the work period shall be as follows:
- (A) As used in this subsection, "work period" refers to any established and regularly recurring period of work which cannot be less than seven (7) consecutive days nor more than twenty-eight (28) consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the pay period or with a particular day of the week or hour of the day. Once the beginning time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within that period. The beginning of the work period may, of course, be changed, provided that the change is intended to be permanent at the time that it is made.

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(B) An agency may have one (1) work period applicable to all of its employees, or different work periods for different employees, or groups of employees. The agency must, however, make some notation in its records which shows the work period for each employee and which indicates the length of that period and its starting time.

(C) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation is required unless the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred fifty (150) hours. If the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred fifty (150) hours but is less than the ratio between twenty-eight (28) days and one hundred seventy-one (171) hours, the additional hours are paid for at the employee's regular hourly rate of pay.

(D) For those employees who have a work period of at least seven (7) but no more than twenty-eight (28) consecutive days, no overtime compensation at a premium rate is required until the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of twenty-eight (28) days and one hundred seventy-one (171) hours at which point all additional hours are paid for at one and one-half (1½) times the employee's regular rate of pay.

(E) Accordingly, overtime compensation at the rate indicated in this clause must be paid for all hours worked in excess of the following maximum hours standards:

Work Period (Days)	Straight-time Payable for Hours in Excess of	Overtime Payable for Hours in Excess of	Time and a Half Payable for Hours in Excess of
28	150	171	171
27	144.5	165	165
26	139.5	159	159
25	134	153	153
24	128.5	147	147
23	123.5	141	141
22	118	134	134
21	112.5	128	128
20	107	122	122
19	102	116	116
18	96.5	110	110
17	91	104	104
16	86	98	98
15	80.5	92	92
14	75	86	86
13	69.5	79	79
12	64.5	73	73
11	59	67	67
10	53.5	61	61
9	48	55	55
8	43	49	49
7	37.5	43	43

(11) Another common practice or agreement among employees engaged in law enforcement activities is that of substituting for one another on regularly scheduled tours of duty (or for some part thereof) in order to permit an employee to absent himself or herself from work to attend to purely personal pursuits. This practice is commonly referred to as trading time. The practice of trading time will be deemed to have no effect on hours of work if the following criteria are met:

- (A) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer.
- (B) The reason for trading time is due, not to the employer's business operations, but to the employee's desire or need to attend to personal matter.
- (C) A record is maintained by the employer of all time traded by his employees.
- (D) The period during which time is traded and paid back does not exceed twelve (12) months.
- (E) The employees secure the approval of the appointing authority.

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(m) (Repealed)

(n) (Repealed)

(o) Unless otherwise approved by the director and state budget agency, no overtime shall be paid to any employee who is employed by a nonprofit educational institution to serve as the parent of children:

(1) who are orphans or one of whose natural parents is deceased; or

(2) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee resides in such facilities, receives, without cost, board and lodging from the institution and is compensated, on a cash basis, at an annual rate of not less than ten thousand dollars (\$10,000).

(p) The following are requirements for record keeping:

(1) Every appointing authority shall keep and preserve for at least three (3) years, payroll or other records containing the following information and data with respect to 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 name on any time, work, or payroll records. This shall 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., or Miss).

(E) Time of day and day of 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 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 employee or group of employees has a work week beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

(F)(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 which 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, 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, 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 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 which make up the total additions and deductions.

(K) Total wages paid each pay period.

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

(2) With respect to employees working on fixed schedules, an employer 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 hours were in fact actually worked by him or her; 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 persons employed in job categories or classifications other than those enumerated in subsection (d)(1) and who did not work overtime that is compensable, as determined by this section, 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; Rule 11, Sec 11-2; filed Aug 14, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 125; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 515; filed Sep 13, 1973, 10:00 a.m.: Rules and Regs. 1974, p. 437; filed Nov 14, 1977, 4:15 p.m.: Rules and Regs. 1978, p. 651; filed Aug 23, 1978, 3:35 p.m.: 1 IR 634; filed Apr 28, 1982, 12:50 p.m.: 5 IR 1163, eff Jun 30,

1982; filed Oct 11, 1985, 8:25 a.m.: 9 IR 169; filed Feb 28, 1986, 8:15 a.m.: 9 IR 1556; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1980; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-3 Vacation leave

Authority: IC 4-15-2-6

Affected: IC 4-15-2-29; IC 4-15-2-30

Sec. 3. (a) Vacation leave with pay shall be earned by all full-time employees in the classified service at the rate of seven and one-half (7.5) hours for each full month of employment. Employees working on a part-time basis shall earn vacation at the rate of three and three-fourths (3.75) hours a month. Vacation will not be credited to hourly, per diem, temporary, intermittent, contractual, or employees working less than half time.

(b) Eligibility for additional vacation shall be as follows:

(1) Employees who have completed five (5) years or more of full-time employment, or ten (10) years or more of 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 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 (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 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 (97.5) additional hours) annually on their accrual date.

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

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

(c) 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.

(d) Appointing authorities shall determine the time and amount of vacation which shall be taken at any one (1) time. Employees shall be limited to four (4) calendar weeks of vacation at any one (1) time unless a longer period is recommended by the appointing authority and approved by the director. Employees granted special sick leave with pay shall be entitled to all earned vacation and earned overtime.

(e) For the good of service in arranging vacation schedules, the director may approve the request of an appointing authority for full-time employees to anticipate and take vacation leave not to exceed twenty-two and one-half (22.5) hours. Employees in professional teaching classes in institutional schools may anticipate vacation and overtime to the extent necessitated by the school schedule, except that no deficit leave balance shall extend beyond the school year.

(f) Compensation for unused vacation, earned overtime, and holidays on separation shall be as follows:

(1) Except as otherwise provided in 31 IAC 2-17.1 or 31 IAC 4, upon separation from the service, in good standing, an employee shall be paid for unused vacation for a maximum of two hundred twenty-five (225) hours, plus earned overtime and holiday leave to the extent accumulated.

(2) Compensation for unused vacation in excess of six (6) calendar weeks is only permitted in cases involving payment of premiums for early retiree health insurance as provided in 31 IAC 2-17.1 or the retiree flexible spending program described in 31 IAC 4.

(3) Payment for unused vacation leave, not to exceed two hundred twenty-five (225) hours, and all earned overtime and holiday leave shall be paid to beneficiaries of deceased employees.

(4) If the employee has anticipated vacation or holiday leave, and separated from the service before actually earning such leave, payment for leave used but unearned shall be deducted from the final payment of salary.

(5) Full-time employees who resign before they have completed six (6) months of merit employment, or part-time employees who resign before completing one (1) year of merit employment, will not be paid for any vacation leave.

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(g) Charging of leave shall be as follows:

(1) Vacation leave shall be charged in fifteen (15) minute increments.

(2) Vacation shall not be charged on a legal holiday.

(h) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any vacation leave that was accrued but was unused and uncompensated at the time of their resignation. However, vacation leave that was compensated under 31 IAC 2-17.1 or 31 IAC 4 shall not be reinstated. (*State Personnel Department; Rule 11, Sec 11-3; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 125; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 516; filed Apr 28, 1982, 12:50 p.m.: 5 IR 1165, eff Jun 30, 1982; filed Nov 1, 1983, 4:00 p.m.: 7 IR 18, eff Jan 1, 1984; filed Dec 1, 1995, 3:00 p.m.: 19 IR 612, eff Jan 1, 1996; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1254, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2404, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-4 Sick leave

Authority: IC 4-15-2-6

Affected: IC 4-15-2-29; IC 4-15-2-30

Sec. 4. (a) Sick leave is defined as absence from duty of an employee because of personal illness, injury, or legal quarantine. Sick leave may also be used for an illness or injury in the employee's immediate family that necessitates the employee's absence from work. For this purpose, "immediate family" means spouse, child, or parent who resides with, and is dependent upon, the employee for care and support. The director or appointing authority may at any time require of an employee a medical certificate from the attending physician or a designated physician, documenting the nature and extent of the disability or fitness to return to duty. The cost of such certification from a designated physician shall be the responsibility of the appointing authority. Sick leave may be granted if accrued and shall be charged in the same manner as vacation leave in accordance with section 3(g) of this rule.

(b) Sick leave with pay shall accrue to full-time employees in the classified service at the rate of seven and one-half (7.5) hours for every two (2) full months of employment; plus seven and one-half (7.5) additional hours for every four (4) months of full-time employment. Employees working on a part-time basis shall earn sick leave at the rate of three and three-fourths (3.75) hours for every two (2) months of employment; plus three and three-fourths (3.75) additional hours for every four (4) months of employment. Sick leave will not accrue to hourly, per diem, temporary, intermittent, or contractual employees or employees working less than half time.

(c) On separation, compensation for unused sick leave is only permitted under the retiree flexible spending program described in 31 IAC 4.

(d) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated any accrued sick leave that was unused and uncompensated at the time of their resignation. (*State Personnel Department; Rule 11, Sec 11-4; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 127; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 517; filed Jan 10, 1979, 3:40 p.m.: 2 IR 136; filed Apr 28, 1982, 12:50 p.m.: 5 IR 1166; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2093; filed Nov 1, 1983, 4:00 p.m.: 7 IR 19, eff Jan 1, 1984; filed Sep 8, 1992, 5:00 p.m.: 16 IR 6; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1255, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2405, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-4.5 Personal leave

Authority: IC 4-15-2-6

Affected: IC 4-15-2-29; IC 4-15-2-30

Sec. 4.5. (a) Personal leave is defined as absence from duty with pay for personal reasons.

(b) Personal leave shall accrue 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 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 account balance beyond the twenty-two and one-half (22.5) hour limit, the personal leave shall be credited to the employee's accrued sick leave balance.

(d) The 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 flexible spending program described in 31 IAC 4.

(f) An employee who resigns in good standing after June 30, 1982, and is subsequently rehired shall have reinstated, six (6) months after rehire, any personal leave that was accrued but unused and uncompensated at the time of their resignation. (*State Personnel Department; 31 IAC 2-11-4.5; filed Apr 28, 1982, 12:50 p.m.: 5 IR 1166, eff Jun 30, 1982; filed Nov 1, 1983, 4:00 p.m.: 7 IR 20, eff Jan 1, 1984; filed Dec 1, 1997, 4:30 p.m.: 21 IR 1256, eff Jan 1, 1998; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-5 Occupational injuries compensation payments (Repealed)

Sec. 5. (*Repealed by State Personnel Department; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989*)

31 IAC 2-11-6 Special sick leave (Repealed)

Sec. 6. (*Repealed by State Personnel Department; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989*)

31 IAC 2-11-7 Occupational disease or injury; adjustment of compensation payments

Authority: IC 4-15-2-6

Affected: IC 4-15-2-29; IC 4-15-2-30

Sec. 7. In cases of occupational disease or injury suffered in line of duty in which the employee elects to use accumulated vacation, sick leave, personal leave, and/or overtime prior to the commencement of worker's compensation payments, the amount of leave charged shall be reduced in the ratio of worker's compensation payments to total salary. This applies to the seven (7) day waiting period if it is determined to be compensable. If vacation, sick leave, personal leave, and/or overtime is used concurrently with worker's compensation payments in order to pay full salary, the amount of leave charged shall be on the basis of the amount paid not covered by the worker's compensation payment. (*State Personnel Department; Rule 11, Sec 11-7; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 127; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 518; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2210, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-8 Paid leave

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 8. (A) Subject to prior approval by the State Personnel Director, an appointing authority may authorize leave with pay for a regular 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 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 husband, wife, father, mother, son, daughter, brother, sister, grandparent, grandchild, or the spouse of any of these, or a person living in the same household with the employee. For a married employee, these members of the spouse's family are included.

(C) Employees occupying positions in the State classified service, except employees paid by the hour or day, who are lawfully

required to report for jury duty, or to serve as witnesses before any body or agency having subpoena powers, shall be granted leaves of absence by their appointing authorities from their positions during the required absence for such duty. When such leaves of absence are granted for jury duty or to serve as witnesses in matters relating to employment with the State, they shall receive 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 in the classified service who are members of the Armed Forces Reserves or the National Guard shall be entitled to a leave of absence, not to exceed fifteen calendar days in any calendar year, without loss of pay or time. The employee shall be required to submit a written order or official statement requiring the military duty. (*State Personnel Department; Rule 11, Sec 11-8; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 128; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 518; filed Jan 27, 1977, 3:30 pm: Rules and Regs. 1978, p. 639; filed Jan 10, 1979, 3:40 pm: 2 IR 136; filed Aug 17, 1982, 3:45 pm: 5 IR 2093; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-9 Unpaid leave

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 9. Leave Without Pay (General). The appointing authority, with the approval of the Director, may grant an employee leave without pay for a period not to exceed two years, whenever such leave is considered to be in the best interests of the service. Such leave shall be requested in writing by the employee and shall require written approval by the appointing authority and the Director. Except under unusual circumstances, voluntary separation from the service in order to accept employment not in the State Service shall not be considered by the Director as sufficient cause for the approval of a leave of absence without pay. Upon expiration of a regularly approved leave without pay, or sooner upon due notice if the interests of the service make it necessary, the employee shall be returned to a position in the same class as the position held at the time leave was granted. Employees on leave without pay due to personal illness, injury, or legal quarantine may be required to submit medical proof from a designated physician of fitness to return to work before resuming duties. Failure of an employee on leave to report for duty within 5 working days after the appointing authority issues a written notice to return shall be deemed a resignation. At the time such notice is sent to the employee on leave, the appointing authority shall send a copy to the Director. (*State Personnel Department; Rule 11, Sec 11-9; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 128; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 518; filed Aug 23, 1978, 3:35 pm: 1 IR 635; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-10 Military leave without pay

Authority: IC 4-15-2-6

Affected: IC 4-15-2

Sec. 10. (a) Any employee, upon request, shall be granted a leave of absence without pay to cover the length of his services in the armed forces of the United States.

(b) Reinstatement from such leaves of absence will be made in accordance with the policies outlined below.

(1) An employee granted a military leave of absence will accrue his credit for length of service during his absence for promotional examinations or for other changes in status within the service.

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

(3) An employee granted a military leave will retain his status and rank on any promotional list on which his name appears as long as the promotional list is in effect.

(c) An employee granted a military leave of absence shall be reinstated to his former class of position upon his return provided that:

(1) He was separated from the service under honorable conditions.

(2) His written application for reinstatement is made in compliance with applicable selective service provisions. The written application for reinstatement should be addressed to the appointing authority of the agency or institution in which the employee worked when leave was granted and a copy sent to the state personnel department.

(3) He is physically and mentally fit to satisfactorily perform his assigned responsibilities.

(d) An employee returning from military leave shall be reinstated in the same class as that which he held when granted the leave, unless the class has been eliminated from the state classification plan or from the organizational plan of the agency involved. The reinstatement shall be at the same or greater salary, provided that the salary is within the current range for the class. If the class has been eliminated, the appointing authority shall recommend in writing to the state personnel department reinstatement in an appropriate class in the same salary grade and employment area as the eliminated class.

If there is no vacancy in the former class and level of employment, a vacancy shall be created by demoting the employee in the appropriate class who has the least retention score. If demotion is not feasible, said employee will be laid off.

If the employee on military leave fails to make application for return from leave in compliance with applicable selective service provisions after his compulsory tour of duty or completion of his original enlistment, such failure will be considered as an automatic resignation. If the veteran was a regular employee at the time he left for military service, he shall have reemployment rights. If he was serving an original working test, he may have his name placed on the appropriate employment list or lists, if the list or lists are still in effect, by submitting a written request to the state personnel director. (*State Personnel Department; Rule 11, Sec 11-10; filed Aug 17, 1967, 8:40 am; Rules and Regs. 1968, p. 129; filed Apr 19, 1972, 9:10 am; Rules and Regs. 1973, p. 519; filed Aug 17, 1982, 3:45 pm; 5 IR 2094; filed Nov 1, 1983, 4:00 pm; 7 IR 20, eff Jan 1, 1984; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-11 Special leave without pay

Authority: IC 4-15-2-5

Affected: IC 4-15-2-29; IC 4-15-2-30

Sec. 11. Special Leave Without Pay. Subject to the approval of the Director, regular employees occupying positions in the State classified service may be granted special leaves of absence without pay to accept appointment to positions in the civil government of the State of Indiana which are not included in the State Service, as defined in the State Personnel Act [IC 4-15-2].

The special leave may be granted originally for any period of time up to a maximum of four years. Such leave may be extended annually after the end of the fourth year to cover entire period of employment in the position.

Upon termination of service in the position not in the classified service, the employee shall be returned to the same or a reasonably comparable position as the position held at the time leave was granted. The rate of pay upon return to the classified position shall be no less than that being paid at the time leave was granted unless such rate of pay is precluded due to change of salary grade or range for the class. (*State Personnel Department; Rule 11, Sec 11-11; filed Aug 17, 1967, 8:40 am; Rules and Regs. 1968, p. 130; filed Apr 19, 1972, 9:10 am; Rules and Regs. 1973, p. 520; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-11-12 Maternity leave (Repealed)

Sec. 12. (*Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991*)

Rule 12. Disciplinary Actions and Separations

31 IAC 2-12-1 Demotion

Authority: IC 4-15-2-5

Affected: IC 4-15-2-18; IC 4-15-2-30

Sec. 1. An appointing authority or his designee may demote a regular employee whose ability to perform the duties of his position falls below standard, or for disciplinary purposes, or for other good cause, by filing a statement of reasons with the Director and the employee concerned at least ten days before the effective date thereof. If the demotion is to a class within the same job family as the position from which the employee is demoted, no test is required and the employee is deemed to have status in the lower class. The appointing authority may demote an employee to a classification not in the same job family as the position from which the employee is demoted only if the employee meets the minimum qualifications for the new class and passes a noncompetitive qualifying exam. An employee may elect to receive a demotion rather than be laid off. (*State Personnel Department; Rule 12, Sec*

1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1593; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 224; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 159; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 130; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 521; filed Aug 17, 1982, 3:45 pm: 5 IR 2095; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 12, Sec. 12-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-12-2 Suspension

Authority: IC 4-15-2-6
Affected: IC 4-15-2-33

Sec. 2. (a) An appointing authority or his designee may suspend any employee without pay, for disciplinary purposes, by filing a written statement of reasons with the director. An appointing authority or his designee may suspend without pay a regular employee, for disciplinary purposes, for such time as he considers appropriate, not to exceed thirty (30) days in any twelve (12) month period.

(b) With the approval of the director, a regular employee may be suspended for a longer period pending an investigation or trial of any charges against him. If the outcome of the charges or trial of any 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 wages the employee might have earned during the suspension period from other employment.

(c) An overtime exempt employee (that is, an employee who is ineligible for premium overtime compensation) may only be suspended, under this section, in increments of one (1) or more full calendar weeks, consistent with 29 CFR 541.118(a). (*State Personnel Department; Rule 12, Sec 2; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1594; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 224; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 159; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 131; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 521; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2798; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Alternatively cited as Rule 12, Sec. 12-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-12-3 Dismissal

Authority: IC 4-15-2-6
Affected: IC 4-15-2-21; IC 4-15-2-34

Sec. 3. (a) An appointing authority or his or her designee may dismiss a regular employee and terminate his or her employment immediately by presenting the employee with a written notice of suspension without pay pending dismissal thirty (30) days following.

(b) A regular employee may, within thirty (30) days from the date the employee receives notice (as defined in 31 IAC 2-13-4(b)) of the action taken, initiate a complaint under 31 IAC 2-13.

(c) An appointing authority may dismiss an employee in a working test in accordance with IC 4-15-2-21.

(d) A duration employee may be dismissed at the discretion of the appointing authority.

(e) Absence from duty, without approval in accordance with this article or 31 IAC 3, for a period of five (5) working days may be considered by the appointing authority and the director as cause for dismissal.

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

(g) In cases of reinstatement:

(1) forfeited accrued sick, personal, and vacation leave; and

(2) earned overtime;

shall be restored.

(h) If subsequent to employment it is discovered that an employee has materially falsified his or her application, this act will constitute cause for dismissal.

(i) Except as provided in 31 IAC 3-1-14(b) or 31 IAC 3-1-27(c), an employee, eligible for benefits or subject to the elimination period under 31 IAC 3-1, may not be dismissed from employment due to his or her absence which results solely from the disability. (*State Personnel Department; Rule 12, Sec 3; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1594; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 224; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 159; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 131; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 521; filed Jan 27, 1977, 3:30 p.m.: Rules and Regs. 1978, p. 640; filed May 10, 1983, 3:07 p.m.: 6 IR 1006, eff Jul 1, 1983; filed Nov 1, 1983, 4:00 p.m.: 7 IR 22, eff Jan 1, 1984;*

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filed Aug 7, 1989, 3:30 p.m.: 12 IR 2211, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1988; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-12-4 Resignation

Authority: IC 4-15-2-5

Affected: IC 4-15-2-18; IC 4-15-2-25

Sec. 4. Resignation. Any employee wishing to leave the classified service in good standing shall give the appointing authority at least two weeks written notice in advance of separation. Under unusual circumstances, less time may be considered as sufficient to permit the employee to leave the service in good standing. Failure to comply with this rule shall be entered on the service record of the employee, and may be the cause of denying future employment by the State. (*State Personnel Department; Rule 12, Sec 4; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1594; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 225; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957, p. 160; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 131; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 522; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 12, Sec. 12-4. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-12-5 Layoffs

Authority: IC 4-15-2-5

Affected: IC 4-15-2-18; IC 4-15-9-3

Sec. 5. (a) An appointing authority may lay off an employee in accordance with the provisions of IC 4-15-2-18.

(b) In effecting a layoff in any classification, all employees in the class in the same agency or institution shall be considered. For purposes of this section, offices and positions of employment in each county where the division of service operates is considered one (1) autonomous unit and layoff procedures will apply within the county affected by the layoff.

(c) The order of layoff shall be as follows:

(1) Any employee not having permanent status.

(2) Permanent employees on the basis of their retention scores, beginning with the lowest score.

(d) An employee in regular status, who was reemployed from a reemployment list or rehired under 31 IAC 1-13 and/or IC 4-15-9-3, within one (1) year after being laid off, shall be considered as having had continuous creditable service, except that time in out-of-pay status due to the layoff must be deducted. Upon such reemployment or rehire, all accrued leave is restored. (*State Personnel Department; Rule 12, Sec 5; filed Sep 28, 1946, 10:00 a.m.: Rules and Regs. 1947, p. 1595; filed May 6, 1949, 9:05 a.m.: Rules and Regs. 1950, p. 137; filed Apr 27, 1950, 4:28 p.m.: Rules and Regs. 1951, p. 225; filed Sep 12, 1956, 12:30 p.m.: Rules and Regs. 1957, p. 160; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 131; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 522; filed May 10, 1983, 3:07 p.m.: 6 IR 1007, eff Jul 1, 1983; filed Sep 8, 1992, 5:00 p.m.: 16 IR 7; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 12, Sec. 12-5. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-12-6 Retention points

Authority: IC 4-15-2-5

Affected: IC 4-15-2; IC 4-15-9-3

Sec. 6. (a) For purposes of this rule, the employees' annual service ratings covering the three (3) years of service in the class immediately prior to the determination of the retention score shall be averaged and given retention points on the basis of the following groups:

Service Rating Groups	Retention Points
1-39	0
40-49	1
50-59	2

60-100

10

An employee having less than three (3) years service in the class affected shall have his or her annual service ratings averaged for his or her entire employment in the class.

(b) Retention points for seniority shall be given as follows:

(1) One (1) point for each six (6) months of creditable service.

(2) One (1) additional point for each six (6) months of creditable service in the class affected or in a higher class in the same series.

(c) Creditable service shall be considered total continuous full-time employment, including the following:

(1) In determining creditable service for any employee, the appointment date in the official records of the state personnel department shall be used.

(2) In determining creditable service, time spent on an approved leave of absence without pay shall not be counted.

(3) Merit and nonmerit service will be credited in the same manner when calculating retention scores.

(d) An employee in regular status who was reemployed from a reemployment list or rehired under 31 IAC 1-13 and/or IC 4-15-9-3, within one (1) year after being laid off shall be considered as having continuous creditable service except that time in out-of-pay status due to the previous layoffs must be deducted.

(e) An employee in regular status who voluntarily separates himself or herself from the service and subsequently is reinstated from the reemployment list within the legal time limits shall be considered as having six (6) months of creditable service prior to the date of reemployment.

(f) In the event of a tie in the number of retention points, the employee having the lowest actual average service rating score shall be laid off first. If the actual average service rating scores are also tied, the employee who was most recently appointed to a position in the class affected shall be laid off. If the date of appointment to the class affected is the same, the employee with the lowest number, comprised of the last four (4) digits of the employee's Social Security number, shall be laid off.

(g) An employee who elects to take a demotion rather than being laid off shall have his or her retention score considered with all others in such lower classification provided he or she previously served in regular status in the lower classification. The employee may be demoted to a lower class in the same series without having previously served in such class in regular status only if an actual vacancy exists in such lower classification. (*State Personnel Department; Rule 12, Sec 12-6; filed Aug 17, 1967, 8:40 a.m.: Rules and Regs. 1968, p. 132; filed Apr 19, 1972, 9:10 a.m.: Rules and Regs. 1973, p. 522; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2096; filed May 10, 1983, 3:07 p.m.: 6 IR 1007, eff Jul 1, 1983; filed Sep 8, 1992, 5:00 p.m.: 16 IR 7; filed Jun 9, 1994, 2:00 p.m.: 17 IR 2230; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 13. Employee Complaints

31 IAC 2-13-1 Filing complaints

Authority: IC 4-15-2-5

Affected: IC 4-15-2-3; IC 4-15-2-35

Sec. 1. (a) Any regular employee may file a complaint if his or her status of employment is involuntarily changed or if he or she deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in his or her status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within such time period shall render the complaint procedure unavailable to the employee.

(b) Prior to the filing of a complaint at Step I of the complaint procedure, the complaining employee shall have attained the permanent status of a regular employee within the state merit system. In compliance with 31 IAC 2-1-1(z), the employee must be one who has:

(1) met the minimum qualifications;

(2) passed the examination;

(3) completed the working test period; and

(4) been certified by the appointing authority for the specific classification.

(*State Personnel Department; Rule 13, Sec 13-1; filed Apr 2, 1974, 2:15 p.m.: Rules and Regs. 1975, p. 409; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1988; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30

IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-13-2 Settlements; investigations; hearings

Authority: IC 4-15-2-5

Affected: IC 4-15-2-35

Sec. 2. (a) Step I of the complaint procedure shall be as follows:

(1) The complaint procedure shall be initiated by a discussion of the complaint by the employee and his or her immediate supervisor. In the event the complaining employee has no immediate supervisor, his or her complaint shall immediately progress to Step II of the complaint procedure.

(2) The complaining employee may be accompanied by a fellow employee during the first step of the complaint procedure and, additionally, throughout the following Steps II and III of the procedure.

(3) In the event a mutually satisfactory settlement of the complaint is not made by the employee and his or her immediate supervisor within two (2) consecutive working days, such complaint may be submitted to Step II of the complaint procedure.

(b) Step II of the complaint procedure shall be as follows:

(1) The employee shall reduce his or her complaint to writing and present it to his or her intermediate supervisor. A copy of such complaint shall also be forwarded to the state personnel department at this time. In the event the complaining employee has no intermediate supervisor, his or her complaint shall immediately progress to Step III of the complaint procedure.

(2) Once the employee has reduced his or her complaint to writing at this step of the complaint procedure, the text of such complaint shall remain unaltered as the complaint progresses further in the complaint procedure.

(3) If a mutually satisfactory settlement of the complaint is not made by the employee and his or her intermediate supervisor within four (4) consecutive working days, such complaint may be submitted to Step III of the complaint procedure.

(c) Step III of the complaint procedure shall be as follows:

(1) At this step of the complaint procedure, the appointing authority or his or her designated representative shall hold such hearings and conduct such investigations as he or she deems necessary to render a decision as to the employee's complaint. Such decision shall be forwarded to the employee in written form within ten (10) consecutive working days.

(2) In the event a representative is designated by the appointing authority to act within this step of the complaint procedure, such designation shall be in writing and maintained on file in both the agency or institution and the state personnel department.

(3) In the event the appointing authority or his or her designated representative does not find in favor of the employee at Step III of the complaint procedure, the employee may elect to submit his or her complaint to the state personnel director. Submission to the director shall be made within fifteen (15) calendar days from receipt of the written Step III decision.

(d) Upon submission of the employee's complaint to the state personnel director, the director, or his or her designated representative may conduct any investigation deemed necessary to review the complaint and shall render a decision within fifteen (15) calendar days from the date of receipt of the complaint. Written notice of the decision of the director or his or her designated representative shall be sent to both the complaining employee and his or her appointing authority. (*State Personnel Department; Rule 13, Sec 13-2; filed Apr 2, 1974, 2:15 p.m.: Rules and Regs. 1975, p. 410; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2096; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1989; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: *Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-13-3 Limitation of actions

Authority: IC 4-15-2-5

Affected: IC 4-15-2-35

Sec. 3. (a) The statutory time limits of:

(1) two (2) consecutive working days in which to reach a mutually satisfactory settlement in Step I;

(2) four (4) consecutive working days in Step II; and

(3) ten (10) consecutive working days in Step III;

shall be strictly enforced. Failure of the immediate supervisor, the intermediate supervisor, or the appointing authority or his or her designee to answer the employee's complaint within such time periods permit the employee to submit the complaint to the next step in the complaint procedure.

(b) Failure of the employee to comply with the fifteen (15) day time limit in which to submit his or her complaint to the state

personnel director shall render such complaint void, and the complaint shall be deemed to have terminated at the third step of the complaint procedure. (*State Personnel Department; Rule 13, Sec 13-3; filed Apr 2, 1974, 2:15 p.m.: Rules and Regs. 1975, p. 411; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1989; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-13-4 Dismissals, demotions, suspensions, and layoffs; notice; complaint

Authority: IC 4-15-2-5

Affected: IC 4-15-2-35

Sec. 4. (a) Complaints concerning dismissals, demotions, suspensions, and layoffs shall be forwarded directly to the appointing authority or his or her designated representative within thirty (30) calendar days from the date the employee receives notice of the action taken. Failure on the part of the employee to file his or her complaint with the appointing authority or his or her designated representative within such time period shall render the complaint procedure unavailable to the employee.

(b) Notice of any dismissal, demotion, suspension, or lay-off action initiated by the appointing authority or his or her designee must be given to the employee. Such notice shall exist when the employee signs the official transaction indicating the action taken or when written notice of the action is duly delivered at his or her residence of record or at any other place held out by him or her as the place for the receipt of such communications or when the employee is notified in person as evidenced by a written acknowledgment showing the date of such notification. If notification is by mail, date of delivery shall be evidenced by certified mail receipt.

(c) The appointing authority may withdraw or modify the dismissal, demotion, suspension, or layoff at any time before the appeal is submitted to the state employee's appeals commission. (*State Personnel Department; Rule 13, Sec 13-4; filed Apr 2, 1974, 2:15 p.m.: Rules and Regs. 1975, p. 411; filed Jan 27, 1977, 3:30 p.m.: Rules and Regs. 1978, p. 643; filed Aug 17, 1982, 3:45 p.m.: 5 IR 2097; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1990; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 14. Records (Repealed)

(*Repealed by State Personnel Department; filed Oct 16, 1984, 2:22 pm: 8 IR 135*)

Rule 15. Statement of Policy

31 IAC 2-15-1 Political activity; prohibited application questions

Authority: IC 4-15-2-5

Affected: IC 4-15-2-40

Sec. 1. (A) No question on any application form or in any oral interview shall be so framed as to elicit information concerning race, or political, social, or religious opinions or affiliations.

(B) No member of the State Personnel Board nor employee in the classified service may be forced to make contributions for a political purpose; or be required to participate in any political activity. (*State Personnel Department; Rule 15, Sec 1; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1599; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 232; filed Sep 12, 1956, 12:30 pm: Rules and Regs. 1957; p. 165; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 136; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 527; filed Aug 17, 1982, 3:45 pm: 5 IR 2098; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 15, Sec. 15-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 16. Continuation of Standing of Employees; Earned Leaves

31 IAC 2-16-1 Standing of employees under personnel act

Authority: IC 4-15-2-5

Affected: IC 4-15-2

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Sec. 1. Standing of Employees under State Personnel Act [IC 4-15-2]. The standing of the officers and employees of the State Department of Public Welfare of Indiana, the Indiana State Board of Health and Indiana Employment Security Division, together with the classification, compensation, salary ranges, and standings of such persons, and all records and papers concerning the same, and such rules and regulations in force in said bodies which do not conflict with existing laws and rules, and all eligible lists in force, together with all sick leave, vacation leave, and overtime earned by said employees of said bodies, and existing at the time said employees were permanently taken into the Merit System, established by Chapter 139 [IC 4-15-2] of the Acts of the General Assembly of 1941, together with all provisions of the Merit System approved by the Social Security Board, the Children's Bureau, U.S. Department of Labor, and the U.S. Public Health Service, and in force in said bodies at the time the Merit System, as approved by the Social Security Board, the Children's Bureau, U.S. Department of Labor and the U.S. Public Health Service, was merged into the Merit System, established by said Chapter 139 [IC 4-15-2], are to be continued in full force and effect under the rules and regulations of the State Personnel Board. (*State Personnel Department; Rule 16, Sec 1; Filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1599; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 232; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 137; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 527; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 16, Sec. 16-1. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

31 IAC 2-16-2 Standing of employees under subsequent legislation

Authority: IC 4-15-2-5

Affected: IC 4-15-2

Sec. 2. Standing of Employees under Subsequent Legislation. The standing of all officers and employees of the State Service, as defined in I.C. 1971, 4-15-2-3, subsection (a) together with the classification, compensation, salary ranges, and standings of such persons, and all records and papers concerning the same, and such rules and regulations in force in said bodies, which do not conflict with existing laws and rules, and all eligible lists in force, together with all sick and vacation leaves and overtime earned by said employees of said bodies, divisions, departments, agencies, and bureaus constituting the State Service, and existing on March 3, 1943, at 10:20 a.m. when Chapter 101, Acts of 1943, became a law, together with all provisions of the Merit System approved by the Social Security Board, the Children's Bureau, United States Department of Labor, and the United States Public Health Service, and in force in said bodies at the time the Merit System, as approved by the Social Security Board, the Children's Bureau, United States Department of Labor, and the United States Public Health Service, was merged into the Merit System established by said Chapter 139, as amended by Chapter 101, Acts of 1943, are to be continued in full force and effect under the rules and regulations of the State Personnel Board are expressly so continued and readopted without the abrogation, nullification, or suspension of any right, status, or standing of any person lawfully appointed and now employed in the State Service. (*State Personnel Department; Rule 16, Sec 2; filed Sep 28, 1946, 10:00 am: Rules and Regs. 1947, p. 1599; filed Apr 27, 1950, 4:28 pm: Rules and Regs. 1951, p. 233; filed Aug 17, 1967, 8:40 am: Rules and Regs. 1968, p. 137; filed Apr 19, 1972, 9:10 am: Rules and Regs. 1973, p. 528; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*) NOTE: Alternatively cited as Rule 16, Sec. 16-2. NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.

Rule 17. Retirement (Repealed)

(*Repealed by State Personnel Department; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991*)

Rule 17.1. Early Retirement Benefit Program

31 IAC 2-17.1-1 Eligibility

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 4-15-2-6

Affected: IC 4-15-2-29; IC 5-10-8-8

Sec. 1. (a) A full-time employee, who resigns in good standing, is entitled to convert accrued but unused vacation days, that were not compensated at separation, to the extent needed to pay insurance premiums for continuation of coverage under a state sponsored health insurance program if the individual meets all of the following criteria:

- (1) The employee must retire after June 30, 1995, but before January 1, 1997.
- (2) The employee must not be eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(3) Before April 1, 1996, or within ninety (90) days after the employee's retirement date, whichever is later, the retiree must file a written request for insurance coverage and request to utilize this rule for the purpose of paying premiums.

(4) If the employee is a member of the public employees' retirement fund or Indiana state teachers' retirement fund, the retiring employee must be at least fifty (50) years of age and have at least fifteen (15) years of creditable service.

(5) If the employee is a member of the state excise police and conservation enforcement officers' retirement plan, the retiring employee must be at least forty-five (45) years of age and have at least fifteen (15) years of creditable service.

(b) A retired employee who is eligible for the benefits of this rule may elect to have the retiree's spouse covered under the health insurance program and use the vacation leave conversion benefit provided by this rule to pay the spouse's premium. (*State Personnel Department; 31 IAC 2-17.1-1; filed Dec 1, 1995, 3:00 p.m.: 19 IR 613, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 2-17.1-2 Conversion of vacation leave to health insurance premiums

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 4-15-2-6

Affected: IC 4-15-2-29; IC 5-10-8-8

Sec. 2. (a) For the purpose of paying early retiree health insurance premiums, the value of accrued but unused and uncompensated vacation is determined by dividing by ten (10) the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the date of separation, and multiplying the quotient by the number of vacation days that were accrued, unused, and uncompensated at the time of separation.

(b) The retiring employee has the option to receive monetary compensation for up to six (6) weeks of accrued but unused vacation leave upon separation in good standing, under 31 IAC 2-11-3(f)(1), or to forgo all or part of that monetary compensation and convert those vacation days into health insurance premium payments under this rule. The retiring employee's election under this subsection is irrevocable.

(c) For the retired employee, an amount equal to the employer's and employee's premium for an active employee covered by the state's self-insured group health insurance program will be charged against the value of the retiree's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage under a prepaid health care delivery plan.

(d) If the retired employee's spouse is covered by the state's self-insured group health insurance program, an amount equal to the employer's and employee's premium for family self-insured group health insurance coverage for an active employee will be charged against the value of the retired employee's accrued but unused and uncompensated vacation days. The entire premium established by a health maintenance organization for retiree family coverage will be charged against the value of accrued but unused and uncompensated vacation days of a retiree who elects coverage for the retiree's spouse under a prepaid health care delivery plan.

(e) Requests made under section 1(a)(3) of this rule to participate in this program will only take effect prospectively. Requests for retroactive payments under this program will not be granted. (*State Personnel Department; 31 IAC 2-17.1-2; filed Dec 1, 1995, 3:00 p.m.: 19 IR 613, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 2-17.1-3 Benefit termination

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 4-15-2-6

Affected: IC 4-15-2-29; IC 5-10-8-8

Sec. 3. (a) A retiree's eligibility to receive the early retiree benefit of converting accrued but unused and uncompensated vacation leave to pay health insurance premiums ends on the earliest of the following:

(1) The date the retiree becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date all accrued but unused and uncompensated vacation leave has been exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(b) The eligibility of the retiree's spouse to receive the benefits of this rule ends on the earliest of the following:

(1) The date the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date all of the retired spouse's accrued but unused and uncompensated vacation leave has been exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(4) Two (2) years after the date of the retiree's death.

(5) The date the spouse of a deceased retiree remarries.

(State Personnel Department; 31 IAC 2-17.1-3; filed Dec 1, 1995, 3:00 p.m.: 19 IR 614, eff Jan 1, 1996; errata filed Dec 1, 1995, 3:00 p.m.: 19 IR 674; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 2-17.1-4 Limitations

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 4-15-2-6

Affected: IC 4-15-2-29; IC 5-10-8-8

Sec. 4. This rule is not intended to create any additional rights to payment for accrued but unused vacation, other than for the payment of an early retiree's health insurance premiums as provided in this rule. Monetary payment to a former employee for accrued but unused vacation continues to be limited to six (6) weeks in accordance with 31 IAC 2-11-3(f). *(State Personnel Department; 31 IAC 2-17.1-4; filed Dec 1, 1995, 3:00 p.m.: 19 IR 614, eff Jan 1, 1996; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

Rule 18. Employee Awards System

31 IAC 2-18-1 Submission and review of suggestions

Authority: IC 4-15-2-6

Affected: IC 4-15-2-6

Sec. 1. Suggestions shall be submitted to the State Personnel Department on the prescribed form. The suggestion will be reviewed by the Suggestion Committee to determine if the employee submitting the suggestion is eligible to be considered for a monetary award. If the employee is eligible for an award, the suggestion will be forwarded to any agencies it would affect for a determination as to the practicality of implementing the suggestion and a cost analysis of projected savings. The affected agencies shall return the suggestion to the Suggestion Committee, with a statement of its findings as to the viability of the suggestion, whether or not the suggestion will be implemented, and an estimate of the savings to be realized in the first year after implementation. The Suggestion Committee may then authorize payment of an award to the employee submitting the suggestion. *(State Personnel Department; 31 IAC 2-18-1; filed Aug 17, 1982, 3:45 pm: 5 IR 2099; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-18-2 Amount of awards

Authority: IC 4-15-2-6

Affected: IC 4-15-2-6

Sec. 2. (a) In determining the amount of award to be granted to an employee for a suggestion that will reduce costs, the Suggestion Committee may follow these guidelines.

(1) If the anticipated first year savings is \$100,000 or less, the maximum award allowable is 5% of the first year savings.

(2) If the anticipated first year savings is \$200,000 or less, but greater than \$100,000 the maximum award allowable is 2 1/2% of the first year savings plus 5% of \$100,000.

(3) If the anticipated first year savings is greater than \$200,000, the maximum award allowable is 1% of the first year savings plus 2 1/2% of \$200,000 plus 5% of \$100,000.

(4) No suggestion award shall exceed \$13,000.

(b) When a suggestion has no demonstrable cost-savings, the Suggestion Committee, considering such factors as importance, scope of application, and ingenuity, may make a monetary award. *(State Personnel Department; 31 IAC 2-18-2; filed Aug 17, 1982, 3:45 pm: 5 IR 2099; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-18-3 Duplicate, joint, and agency suggestions

Authority: IC 4-15-2-6

Affected: IC 4-15-2-6

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Sec. 3. (a) If more than one employee submits the same suggestion, only the first received in the office of the State Personnel Department will be considered eligible for an award.

(b) If a suggestion is made jointly, by more than one employee, any award granted will be divided equally among the group.

(c) If prior consideration has been given to a suggestion or if the suggestion incorporates a recommendation made by one state agency to another, it may be grounds to deny an award. *(State Personnel Department; 31 IAC 2-18-3; filed Aug 17, 1982, 3:45 pm: 5 IR 2100; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

31 IAC 2-18-4 Finality of decisions

Authority: IC 4-15-2-6

Affected: IC 4-15-2-6

Sec. 4. The decision of the Suggestion Committee is final as to eligibility for an award or the amount of any award. *(State Personnel Department; 31 IAC 2-18-4; filed Aug 17, 1982, 3:45 pm: 5 IR 2100; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895) NOTE: Transferred from the state personnel board (30 IAC 1) to the state personnel department (31 IAC 2) by Acts 1982, P.L.23, SECTION 41. Effective July 1, 1982.*

ARTICLE 3. SHORT AND LONG TERM DISABILITY BENEFITS FOR STATE EMPLOYEES

Rule 1. Disability Benefits

31 IAC 3-1-1 Short term disability; eligibility

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; 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 employed on a full-time basis and have six (6) months of continuous full-time employment.

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

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

(State Personnel Department; 31 IAC 3-1-1; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2211, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-2 Short term disability; elimination period

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 2. To be eligible for short term disability benefits, the 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 sought under the rules relating to vacation, sick leave, personal leave, compensatory time, previously accrued special sick leave, leave without pay, or worker's compensation. The employee may choose the order in which vacation, sick leave, personal leave, and/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 3-1-2; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2211, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-3 Short term disability; basic benefit

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 3. The basic short term disability benefit is sixty percent (60%) of the employee's base biweekly wage. *(State Personnel*

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Department; 31 IAC 3-1-3; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-4 Short term disability; augmentation of basic benefit

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; 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/her base biweekly wage by subtracting one (1) day each week from the accrued leave balance. *(State Personnel Department; 31 IAC 3-1-4; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-5 Short term disability; duration

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 5. Short term disability benefit payments may not exceed five (5) months. *(State Personnel Department; 31 IAC 3-1-5; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-6 Short term disability; recurrence, continued treatment

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 6. (a) An employee who returns to work from short term disability and returns to nonwork status within three (3) months will not begin a new benefit period or be subjected to a new elimination period if the second disability is the same as the first. The entire period of absence will be considered as one (1) continuous period resulting from the same disability.

(b) If the employee returns to work but periodically needs time off for ongoing medical treatment related to the disability, the sporadic absences for treatment may be compensated at the basic benefit rate or, at the employee's option, the employee may use accrued leave and receive full compensation. *(State Personnel Department; 31 IAC 3-1-6; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-7 Long term disability; contribution

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 7. After six (6) months continuous full-time employment, an employee contribution shall be collected through payroll deductions in the amount of one-fourth of one percent (.25%) of the employee's gross biweekly compensation. *(State Personnel Department; 31 IAC 3-1-7; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-8 Long term disability; eligibility

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 8. An employee who meets all the following criteria is entitled to long term disability benefits:

- (1) The employee must be employed on a full-time basis and have six (6) months of continuous full-time employment.
- (2) The employee must be absent due to illness, injury, or legal quarantine as evidenced by a physician's signed statement.
- (3) The employee must have been absent for a continuous period of six (6) months due to the disability.

(State Personnel Department; 31 IAC 3-1-8; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-9 Long term disability; "disability" defined

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; 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 employee is unable to perform work consistent with his/her classification.

(b) The long term disability benefit is available for a third and fourth year if the employee is unable to perform the work of any occupation for which s/he is reasonably qualified by reason of education, training, or experience. *(State Personnel Department; 31 IAC 3-1-9; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2212, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-10 Long term disability; basic benefit

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 10. (a) For the first and second year of long term disability, the basic benefit is fifty percent (50%) of the employee's base biweekly wage before disability.

(b) For the third and fourth year of long term disability, the basic benefit is forty percent (40%) of the base biweekly wage before disability. *(State Personnel Department; 31 IAC 3-1-10; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-11 Long term benefits; augmentation

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 11. (a) During the first and second year of long term disability benefits, the basic long term disability benefit may be augmented to seventy percent (70%) of the employee's base biweekly wage by pro rata charge against accrued leave balances.

(b) During the third and fourth year of long term disability benefits, the basic long term disability benefit may be augmented to sixty percent (60%) of the employee's base biweekly wage by pro rata charge against accrued leave balances. *(State Personnel Department; 31 IAC 3-1-11; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-12 Long term benefits; duration

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 12. (a) Except as otherwise provided in this section, long term disability benefit payments are limited to a maximum duration of four (4) years.

(b) Benefits will only be provided as long as the employee is deemed disabled.

(c) The maximum short term and long term benefit period for a mental and/or nervous disability is limited to twenty-four (24)

months.

(d) The maximum short term and long term benefit period for drug and/or alcohol dependency rehabilitation is limited to twenty-four (24) months.

(e) The maximum benefit period for a disability occurring on or after attained age sixty-two (62) is limited as follows:

Age at Disability	Benefit Duration
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69 +	1.00 year

(State Personnel Department; 31 IAC 3-1-12; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-13 Long term disability; recurrence, continued treatment

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 13. (a) An employee who returns to work from a long term disability and returns to nonwork status within six (6) months will not begin a new benefit period or be subject to a new elimination period if the second disability is the same as the first. The entire period of absence will be considered as one (1) continuous period resulting from the same disability.

(b) If the employee returns to work but periodically needs time off for ongoing medical treatment related to the disability, the sporadic absences for treatment may be compensated at the basic benefit rate or, at the employee's option, the employee may use accrued leave and receive full compensation. *(State Personnel Department; 31 IAC 3-1-13; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2213, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-14 Long term disability; return to work

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 14. (a) If an employee, having recovered from the long term disability, desires to return to work and the agency, in which s/he 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, retention scoring procedures shall be instituted to determine which employee is to be laid off. The retention scoring procedure is found at 31 IAC 2-12-6.

(b) When benefits cease because the disability does not meet the standard set forth in section 9(b) of this rule, the last appointing authority, for whom the employee worked before the onset of the disability, shall offer the employee the next available position, within thirty (30) miles of his/her designated work station before the onset of the disability, at the same or a lower skill level, which s/he is legally qualified to fill and physically capable of performing. The third declination of such an offer is cause for termination of employment. *(State Personnel Department; 31 IAC 3-1-14; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-15 Exclusions

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

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Sec. 15. Neither short term nor long term disability benefits are payable for a disability resulting from the following:

- (1) War, declared or undeclared.
- (2) Participation in a rebellion, insurrection, or riot.
- (3) Intentionally self-inflicted injury.
- (4) Commission, or attempt to commit, a crime.
- (5) An accident caused by intoxication due to alcohol or illicit drugs.
- (6) Willful failure to follow designated safety procedures.
- (7) Willful disregard of rules.
- (8) Willful failure to perform a stated duty.

(State Personnel Department; 31 IAC 3-1-15; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-16 Administration

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 16. (a) The application for benefits must be submitted by the employee, or some person acting on his or her behalf, to the state personnel department or, if a third party administrator is contracted by the state, to the third party administrator and must 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 employee, or some person acting on his or her 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) Applications must also be referred to the rehabilitation services bureau of the division of disability, aging, and rehabilitation services.

(e) Determination of disability and eligibility for benefits shall be made by the state personnel department in coordination with the disability determination bureau of the division of disability, aging, and rehabilitation services or by a third party administrator contracted by the state. *(State Personnel Department; 31 IAC 3-1-16; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1990; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-17 Medical examinations

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 17. The appointing authority, state personnel department, disability determination division of the bureau of the division of disability, aging, 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 paid for by the state. Failure of the 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 claim for benefits. *(State Personnel Department; 31 IAC 3-1-17; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2214, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1990; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-18 Payroll

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 18. Benefits shall be paid using the auditor's payroll system and shall be processed through the state personnel department or third party administrator. *(State Personnel Department; 31 IAC 3-1-18; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-19 Manning table location

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 19. (a) Employees on short term disability will continue to occupy an appropriately classified manning table position of the employing agency.

(b) Employees on long term disability will be removed from the manning table of the employing agency and placed on a special manning table containing the names and occupations of all persons on long term disability. The state personnel director is the appointing authority for employees on long term disability. *(State Personnel Department; 31 IAC 3-1-19; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-20 Termination

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7
Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

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

- (1) The 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 employee refuses to submit to an examination by a designated physician.
- (3) The employee's medical condition no longer meets the standard set in the definition of disability.
- (4) The employee refuses to accept work assignments appropriate to the employee's medical condition.
- (5) The employee returns to regular duty.
- (6) The employee commits fraud related to his or her application for benefits.
- (7) The time specified in section 5 or 12 of this rule has expired.

(State Personnel Department; 31 IAC 3-1-20; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-21 Continuation of benefits

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7
Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 21. (a) Group health, dental, and life insurance will be continued in force for employees on short and long term disability. Employee contributions toward the premiums shall be deducted from the disability payments.

(b) An employee who qualifies for the short or long term disability program but whose benefits would be zero (0) because of the offset provisions of section 22 of this rule, shall receive a guaranteed minimum benefit sufficient to make the employee contribution to group medical, dental, and life insurance offered by the state, that the employee was enrolled in at the time the disability began.

- (c) The long term disability premium contribution shall be waived for employees receiving the long term disability benefit.
- (d) No sick, vacation, personal, or other paid leave accrues while the employee is on short or long term disability.
- (e) Time spent on short or long term disability is credited as service for retirement fund purposes.
- (f) Retirement fund benefits will be calculated only once while the employee is on short or long term disability. Retirement

fund benefits will not be recalculated until the short and long term disability benefits cease. However, any increases in benefits granted by the Indiana general assembly will increase the employee's pension payments. (*State Personnel Department; 31 IAC 3-1-21; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2215, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 3-1-22 Offsets

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 22. (a) Short and long term disability salary continuation benefits shall be reduced, dollar for dollar, if the employee derives income, as the primary recipient, from any of the following sources:

- (1) Social Security.
- (2) Public employees' retirement fund.
- (3) Teachers' retirement fund.
- (4) Any other state supported retirement fund.
- (5) Pension disability.
- (6) Worker's compensation salary continuation benefits.
- (7) Benefits provided from another employer's group plan.
- (8) Remuneration for employment entered into after the disability was incurred.

(b) An employee receiving short or long term disability benefits shall notify the state personnel department or the third party administrator, if a third party administrator is contracted by the state, within seven (7) calendar days of receipt that income has been received from any of the sources in subsection (a).

(c) Benefits provided by an individually purchased disability insurance policy or any medical expense reimbursement will not be offset. (*State Personnel Department; 31 IAC 3-1-22; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 3-1-23 Income adjustments

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 23. (a) Short and long term disability benefits are not subject to adjustment based on increases in Social Security or pension benefits. Once the amount of Social Security and pension benefits are set, they will be treated as if they remained constant for the duration of payments under this rule, such that no further offset will be made to reduce benefits under this rule.

(b) General salary adjustments granted to all employees in the disabled employee's classification shall cause the disabled employee's base gross biweekly wage to be adjusted and will result in an increase in benefits under this rule.

(c) Performance based merit increases and bonuses will not be awarded to employees on short or long term disability. (*State Personnel Department; 31 IAC 3-1-23; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895*)

31 IAC 3-1-24 Other employment

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7

Affected: IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7; IC 22-3-2

Sec. 24. (a) An employee who accepts other employment while receiving short or long term disability payments shall give notice, within seven (7) calendar days, to the state personnel department or the third party administrator, if a third party administrator is contracted by the state.

(b) Persons receiving short or long term disability payments may be prohibited from accepting other employment outside state government which would retard their rehabilitation. (*State Personnel Department; 31 IAC 3-1-24; filed Aug 7, 1989, 3:30 p.m.: 12*

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IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; filed Mar 29, 1995, 4:30 p.m.: 18 IR 1991; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-25 Subrogation

Authority: IC 4-15-1.8-6; IC 5-10-8-7

Affected: IC 22-3-2

Sec. 25. An employee's right to recover in tort is subrogated to the state to the extent of benefits paid under this rule. If a tort claim is settled for less than the amount of benefits paid, subrogation is limited to one-half (1/2) of settlement amount. (*State Personnel Department; 31 IAC 3-1-25; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*)

31 IAC 3-1-26 Tortious acts within scope of employment

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; 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 one hundred percent (100%) of his/her base biweekly wage.

(b) A seven (7) calendar day elimination (waiting) period applies to this benefit. 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 job related injury.

(d) After exhaustion of this benefit, the employee is eligible for salary continuation under worker's compensation and/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 employee cannot receive both this benefit 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 s/he received benefits under this section. (*State Personnel Department; 31 IAC 3-1-26; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2216, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*)

31 IAC 3-1-27 Partial disability

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 27. (a) Short and long term disability benefits will be paid only if the disability would not permit the 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 through 17 of this rule.

(b) An employee unable to do his/her regular job, but who returns to work and performs any job assignment will receive eighty percent (80%) of his/her 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 terminated from employment, and benefits under this rule shall cease. (*State Personnel Department; 31 IAC 3-1-27; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*)

31 IAC 3-1-28 Other accrued leave; option

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

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Sec. 28. After the elimination period and prior to application for short and long term disability, an employee may request and the appointing authority may allow use of accrued compensatory time off, sick, vacation, personal, or special sick leave. One (1) day of accrued leave shall be charged for each day of absence. *(State Personnel Department; 31 IAC 3-1-28; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-29 Retention of previously accrued benefits

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 29. (a) Special sick leave benefits accrued by employees prior to July 1, 1989, in accordance with 31 IAC 1-9-5 [31 IAC 1-9-5 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.] or 31 IAC 2-11-6 [31 IAC 2-11-6 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.], that are unused as of June 30, 1989, remain on account for use by the employee.

(b) An employee with more than one (1) year but less than five (5) years of continuous full-time employment as of June 30, 1989, is entitled to credit with special sick leave equal to one (1) calendar week for each calendar year of continuous full-time state employment completed prior to July 1, 1989. A proportionate amount of special sick leave will be allowed for that period of continuous service in excess of complete years.

(c) After exhaustion of accumulated vacation leave, sick leave, personal leave, and compensatory time off, the special sick leave account may be used by the employee in the following circumstances:

(1) During the elimination period, prior to the beginning of disability benefits, as provided in section 2 or 26(b) of this rule.

(2) To augment short or long term disability benefits as provided in sections 4 and 11 of this rule.

(3) In lieu of short and long term disability benefits as provided in section 28 of this rule.

(State Personnel Department; 31 IAC 3-1-29; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)

31 IAC 3-1-30 Active work requirement excluding preexisting disabilities

Authority: IC 4-15-1.8-6; IC 4-15-2-6; IC 4-15-2-29; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 22-3-2

Sec. 30. This rule provides benefits for employees whose period of absence, due to disability, begins on or after July 1, 1989. An employee on sick leave, special sick leave, worker's compensation salary continuation, leave without pay, or receiving benefits under 31 IAC 2-11-5 [31 IAC 2-11-5 was repealed filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218.] on June 30, 1989, is not entitled to benefits under this rule until s/he has returned to work, but may continue to receive benefits under the plans that existed at the time the disability occurred. *(State Personnel Department; 31 IAC 3-1-30; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2217, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

31 IAC 3-1-31 Agency election

Authority: IC 4-15-1.8-6; IC 5-10-8-6; IC 5-10-8-7

Affected: IC 4-15-1.8-7; IC 5-10-8-4; IC 5-10-8-6

Sec. 31. On or before July 1, 1989, the administrative heads of the state police, conservation officers, and state excise police shall notify the state personnel director whether the provisions of this rule will apply to their employees or whether they will establish separate plans providing equal benefits under IC 5-10-8-6 and IC 5-10-8-4. *(State Personnel Department; 31 IAC 3-1-31; filed Aug 7, 1989, 3:30 p.m.: 12 IR 2218, eff Jul 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-35(F) was filed Aug 7, 1989.]; readopted filed May 4, 2001, 4:29 p.m.: 24 IR 2895)*

ARTICLE 4. RETIREE FLEXIBLE SPENDING PROGRAM

Rule 1. Definitions

31 IAC 4-1-1 “Eligible retiree” defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. As used in this article, “eligible retiree” means an individual who:

- (1) has at least ten (10) years of creditable service with a state agency;
- (2) retires after June 30, 2000; and
- (3) has accrued but unused and uncompensated sick, vacation, or personal leave on the employee’s retirement date.

(State Personnel Department; 31 IAC 4-1-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000)

31 IAC 4-1-2 “Retire” defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. As used in this article, “retire” means terminate state employment at a time when the eligible retiree is entitled to begin receiving pension benefits from a public pension plan as a consequence of the retiree’s state service. *(State Personnel Department; 31 IAC 4-1-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000)*

31 IAC 4-1-3 “State agency” defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12; IC 20-12-0.5-1

Sec. 3. As used in this article, “state agency” means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include:

- (1) a state educational institution (as defined in IC 20-12-0.5-1);
- (2) a state elected official’s office; and
- (3) the legislative and judicial branches of state government.

(State Personnel Department; 31 IAC 4-1-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000)

Rule 2. Applicability

31 IAC 4-2-1 Applicability

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. (a) This article applies to an eligible retiree who retired from a state agency that:

- (1) participates in the taxsaver cafeteria benefits plan, which is administered by the state personnel department; and
- (2) offers the medical insurance plans procured by the state personnel department.

(b) A state agency that does not offer the taxsaver cafeteria benefits plan and the state personnel department’s medical insurance offerings must amend the plan documents that establish its benefit plan to implement the provisions of IC 5-10-12. *(State Personnel Department; 31 IAC 4-2-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000)*

Rule 3. Deposits

31 IAC 4-3-1 Deposits

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. Effective January 1 of the calendar year succeeding the calendar year in which the eligible retiree retires, the state will

deposit into a flexible spending account for the eligible retiree the amount determined in 31 IAC 4-4. (*State Personnel Department; 31 IAC 4-3-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

Rule 4. Leave Valuation

31 IAC 4-4-1 Leave valuation

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 1. Subject to section 2 of this rule, for the purpose of the retiree flexible spending 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.

(*State Personnel Department; 31 IAC 4-4-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

31 IAC 4-4-2 Maximum amount

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 2. In no event is the eligible retiree entitled to more than an aggregate of five thousand dollars (\$5,000) under this retiree flexible spending program. (*State Personnel Department; 31 IAC 4-4-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

Rule 5. Election of Benefits

31 IAC 4-5-1 Open enrollment

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 1. During the open enrollment period, an eligible retiree who has amounts deposited into their flexible spending account must notify the state personnel department, or its third party administrator, how the retiree wants the funds in the flexible spending account allocated among the available qualified benefits and/or cash. (*State Personnel Department; 31 IAC 4-5-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

31 IAC 4-5-2 Benefit options

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 2. The funds in the flexible spending account may be allocated among the following options:

(1) Early retiree medical insurance premiums.

(2) Dependent care assistance account.

(3) Medical reimbursement account.

(4) Cash.

(*State Personnel Department; 31 IAC 4-5-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

31 IAC 4-5-3 Early retiree insurance option

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-7; IC 5-10-8-8; IC 5-10-12

Sec. 3. (a) To be eligible to select the option of early retiree medical insurance premiums, the eligible retiree must:

(1) meet the additional criteria established in IC 5-10-8-7 and/or IC 5-10-8-8;

(2) have actually retired from the state as the retiree's most recent employer and have begun receiving retirement benefits from PERF or TRF; and

(3) within ninety (90) days after the employee's retirement date, file a written application for insurance coverage and request to utilize amounts in the retiree's flexible spending account to pay premiums.

(b) An eligible retiree who qualifies for early retiree insurance benefits under this rule may elect to have the retiree's spouse covered under the health insurance program and use the flexible spending account to pay the spouse's premium.

(c) For the eligible retiree, an amount equal to the total of the employer's and employee's premium for an active employee covered by the same group health insurance program will be charged against the retiree's flexible spending account.

(d) If the eligible retiree's spouse is also covered by the state's health insurance program, an amount equal to the total of the employer's and employee's premium for the family group health insurance coverage selected will be charged against the retiree's flexible spending account.

(e) The election to participate in a particular health insurance plan under this rule must be made during the open enrollment period, will only take effect prospectively, and is limited to the plan year. Requests for retroactive payments under this program cannot be granted. (*State Personnel Department; 31 IAC 4-5-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000*)

Rule 6. Benefit Termination

31 IAC 4-6-1 Benefit termination

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 1. (a) A retiree's eligibility to use flexible spending account dollars to pay health insurance premiums ends on the earliest of the following:

(1) The date the retiree becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date the flexible spending account is exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(4) The end of the plan year.

(b) The eligibility of the retiree's spouse to receive the benefits of this rule ends on the earliest of the following:

(1) The date the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) The date the retiree's [*sic.*, *retiree's*] flexible spending account is exhausted.

(3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

(4) The date the spouse of a deceased retiree remarries.

(5) The end of the plan year.

(*State Personnel Department; 31 IAC 4-6-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000*)

Rule 7. Limitations

31 IAC 4-7-1 Limitations

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

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

Sec. 1. (a) This rule is not intended to create any additional rights to compensation for accrued but unused vacation, sick, or personal leave beyond those rights expressly granted in this article. Except as otherwise provided in this article, a state employee is not entitled to compensation at separation for unused sick or personal leave and payment for accrued but unused vacation continues to be limited to two hundred twenty-five (225) hours in accordance with 31 IAC 1-9-3(f) or 31 IAC 2-11-3(f).

(b) Except as otherwise provided in 31 IAC 4-8, the retired employee's elections, with respect to flexible spending account dollars, are irrevocable. Money the employee elects to allocate to the employee's early retiree medical insurance premiums, dependent care assistance account, or medical reimbursement account that is not expended for the designated purpose within the plan year is forfeited by the retiree to the state. (*State Personnel Department; 31 IAC 4-7-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000*)

Rule 8. Deceased Employees

31 IAC 4-8-1 Death before retirement

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. If an employee dies while employed by a state agency:

- (1) the beneficiary designated by the employee under the state's group term life insurance policy; or
- (2) if the employee does not have a beneficiary designated under the state's group term life insurance policy, then the employee's estate;

shall be paid an amount that would have been deposited under this article if the employee had retired effective the day the employee died. (*State Personnel Department; 31 IAC 4-8-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000*)

31 IAC 4-8-2 Death after retirement but before plan year

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. If an eligible retiree dies before January 1 of the calendar year succeeding the calendar year in which the eligible employee retired, the employee's surviving dependents may make the election under 31 IAC 4-5. (*State Personnel Department; 31 IAC 4-8-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000*)

31 IAC 4-8-3 Death during plan year

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 3. In the event either the retiree or the retiree's spouse dies during the plan year, the survivor may make a new election. In the event neither the retiree nor the retiree's spouse survives throughout the plan year, any surviving dependent's may make a new election and submit claims, to be paid from the flexible spending account, for qualified expenditures incurred during the plan year. The provisions of this section are subject to any restrictions imposed by the Internal Revenue Service. (*State Personnel Department; 31 IAC 4-8-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000*)

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