

Regulatory Analysis
LSA Document #24-179

I. Description of Rule**a. History and Background of the Rule**

Indiana's rules governing State employment trace back to those adopted by the State Personnel Board on September 11, 1946, under the State Personnel Act ([IC 4-15-2](#) before its repeal). The current rules found at [31 IAC 5](#) were initially adopted in 2012 and readopted in 2018.

b. Scope of the Rule

Provision is made for governmental organization, recruitment, selection, training, pay, benefits, performance evaluation, and discipline. Amendments update existing rules and add new provisions, as described in Section IV, below.

c. Statement of Need

This rulemaking readopts the State Civil Service rules, to avoid the rules expiration, with changes in conformity with [IC 4-22-2.6-2\(2\)](#). The rules implement the Indiana's Civil Service Statute ([IC 4-15-2.2](#)), and State employee disability plan ([IC 5-10-8-7\(d\)](#) & [IC 5-10-8-25](#)).

d. Statutory Authority for the Proposed Rule

The State Personnel Director's current rulemaking authority is codified at [IC 4-15-2.2-19](#).

e. Fees, Fines, and Civil Penalties

The proposed rules impose no fees, fines, or penalties.

II. Fiscal Impact Analysis**a. Anticipated Effective Date of the Rule**

The rulemaking is effective on promulgation.

b. Estimated Fiscal Impact on State and Local Government

These rule changes will have no fiscal impact. Detailed cost analysis is provided in Section VI.

c. Sources of Expenditures or Revenues Affected by the Rule There is no change to affected sources.**III. Impacted Parties**

The Rules of the State Personnel Department apply to a governmental entity that exercises any of the executive powers of the state under the direction of the governor or lieutenant governor, and is subject to [IC 4-15-2.2](#). The Rules of the State Personnel Department do not apply to the following:

- (1) The legislative department of state government.
- (2) The judicial department of state government.
- (3) The following state elected officers and their personal staffs:
 - (A) The governor.
 - (B) The lieutenant governor.
 - (C) The secretary of state.
 - (D) The treasurer of state.
 - (E) The auditor of state.
 - (F) The superintendent of public instruction. This clause does not apply after January 10, 2021.
 - (G) The attorney general.
- (4) A body corporate and politic of the state created by state statute.
- (5) A political subdivision (as defined in [IC 36-1-2-13](#)).
- (6) An inmate who is working in a state penal, charitable, correctional, or benevolent institution.
- (7) The state police department.

Entities that are not legally required to follow these personnel rules sometimes voluntarily elect to adopt a portion of this system of personnel administration.

There are 34,338 employees on Staffing Report, of which 32,463 are active, full-time.

IV. Changes in Proposed Rule

- a.** Amends [31 IAC 5-2-1](#) to remove a requirement to submit a transcript certifying all postsecondary education.
- b.** Removes gender specific pronouns.
- c.** Amends [31 IAC 5-2-4](#) to permit requests for extension of intermittent appointments after the appointment has been made.
- d.** Amends [31 IAC 5-5-1](#) to acknowledge statutory police pay matrices, clarify the obligation to pay for work out of class, and reconcile provisions of the rule with the State Parks Inn Authority's statutory option to elect application of [31 IAC 5](#) to tipped employees.

- e. Repeals [31 IAC 5-5-2](#) which required payroll and attendance records to be maintained and certified by the appointing authority.
- f. Repeals [31 IAC 5-6](#) Employee Awards System.
- g. Amends [31 IAC 5-7-9](#) to require Fair Labor Standards Act records to be preserved, but not by the appointing authority.
- h. Amends [31 IAC 5-8-1](#) to clarify language explaining existing practice of compensation for work on a holiday.
- i. Amends [31 IAC 5-8-2](#) to permit vacation leave to accrue to full-time employees during the first six (6) months of employment, and to part-time employees during the first twelve (12) months of employment and corrects a cross reference. This change inactivates the provision in Executive Order 22-10 which grants full-time employees 22.5 hours of personal leave at time of hire, until this rule change takes effect.
- j. Amends [31 IAC 5-8-6](#) to eliminate restrictions on funeral leave and add Community Service and New Parent Leave, codifying current practice.
- k. Adds [31 IAC 5-8-6.1](#) Emergency Conditions Leave, thereby codifying a longstanding practice.
- l. Amends [31 IAC 5-8-8](#) to update military leave by using "uniformed services" nomenclature in lieu of "armed forces".
- m. Amends [31 IAC 5-9-1](#) to clarify circumstances that affect the waiting period before an employee becomes eligible for short-term disability benefits.
- n. Amends [31 IAC 5-9-2](#) to add new parent leave to the list of paid leaves available for salary continuation during the elimination period for disability benefits.
- o. Amends [31 IAC 5-9-19](#) to repeal requirement to move employees who are eligible for long term disability benefits from the employing agency's staffing report.
- p. Amends [31 IAC 5-9-20](#) to replace the phrase "definition of disability" with citations to applicable rules.
- q. Amends [31 IAC 5-9-26](#) to define a Correctional Officer's base biweekly wage as determined using the number of hours the Officer is typically scheduled to work during a pay period, excluding premium overtime, consistent with [IC 5-10-8](#).
- r. Amends [31 IAC 5-10-1](#) to update a cross reference to an amended statute.
- s. Amends [31 IAC 5-10-4](#) to reference the statutory limit on retiree leave conversion.

V. Benefit Analysis

The cost/benefit analysis that preceded those policy decisions included positive impacts that result from enhancing the "employee experience", including attracting, engaging, and retaining employees. Changes remove certain administrative burdens, clarify procedures, and incorporate statutory amendments and revised practices since 2012, when [31 IAC 5](#) was adopted. Descriptions of changes in Section IV, above, and Cost Analysis, in Section VI, below, describe specific benefits. Of particular note these amendments:

- Permit accrued vacation to be used by full-time employees during the first six (6) months of employment, and by part-time employees during the first twelve (12) months of employment.
- Clarify the agency's interpretation of the waiting period before an employee becomes eligible for short-term disability benefits. Removing ambiguity surrounding when a leave of absence constitutes a "break in service" makes provision enforceable and will reduce cost.
- Include the calculation of a higher disability salary continuation benefit for Correctional Officers injured by a tortious act provides a benefit for public safety officers, consistent with legislative intent.

VI. Cost Analysis

- a. [31 IAC 5-2-1](#) Removal of transcript requirement has no cost.
- b. [31 IAC 5](#) (throughout) Removal of gender specific pronouns has no cost.
- c. [31 IAC 5-2-4](#) Permitting requests to extend intermittent appointments avoids superfluous separations & rehires to avoid costs.
- d. [31 IAC 5-5-1](#) Making reference to salary increases for sworn police officers, which result from completing another year of service (e.g., Conservation Officers per [IC 14-9-8-28](#)), makes the rule more accurate and has no cost. The clarifying language "at or above the pay range minimum for the work performed" has no cost. Reconciliation of the rule with the prospect that a new [IC 14-19-11-8](#) option could be elected has no cost.
- e. [31 IAC 5-5-2](#) Shifting responsibility for payroll and attendance records from the appointing authority to the existing PeopleSoft information storage system has no cost.
- f. [31 IAC 5-6](#) Repeal of the suggestion rule has no cost, as bonuses are now used in lieu of suggestion awards.
- g. [31 IAC 5-7-9](#) Shifting responsibility for maintenance of Fair Labor Standards Act records from the appointing authority to the existing PeopleSoft information storage system has no cost.
- h. [31 IAC 5-8-1](#) Clarification of language that describes the longstanding practice for holiday compensation has no cost.
- i. [31 IAC 5-8-2](#) implements Executive Order 22-10, Section 2.(a)(i) by allowing use of vacation leave, as it is

accrued by newly hired employees. At present, vacation leave accrues during the first six months of full-time employment or twelve months of part time employment, but it does not vest until after six or twelve months, respectively. The increased opportunity cost (of vesting and opportunity to take vacation, when accrued) is offset by inactivating the provision in Executive Order 22-10 which grants full-time employees 22.5 hours of personal leave at time of hire. Executive Order 22-10 Section 2.(a)(i) provides, that when this rule change takes effect, new hires will no longer be granted 22.5 hours of personal leave at the time of hire. Should one assert the tradeoff of personal leave for earlier vesting of vacation does have a net cost. That cost is attributable to Executive Order 22-10.

j. [31 IAC 5-8-6](#) conforms the wording of the rule to the longstanding administrative practice of allowing three (3) days of leave in conjunction with a specified relative's time of death or date of funeral. The past practice is evidenced by the August 2012 Standardizes Policy on Funeral Leave. The addition of Community Service and New Parent Leave promulgates and codifies Executive Order 17-31, Executive Order 22-10, and Standardized Policies. Because these do not change practices, there is no cost.

k. [31 IAC 5-8-6.1](#) promulgates and codifies the July 2011 Standardized Policy on Emergency Conditions Leave . Because there is no change in practice, there is no cost.

l. [31 IAC 5-8-8](#) updates military leave nomenclature. This change has no cost.

m. [31 IAC 5-9-1](#) provides a leave of absence is a "break in service". This amendment clarifies that:

- a. unauthorized leaves of absence constitute a break in service; while,
- b. an authorized leave of absence without pay tolls the active work requirement, but is not a break in service.

Because of the ambiguity in the current rule, disability benefits have not been denied on this basis. Clarifying the rule makes it enforceable and will reduce cost.

n. [31 IAC 5-9-2](#) adds new parent leave to the list of paid leaves available for salary continuation during the elimination period for disability benefits. This benefit was originally created by Executive Order 17-31. Its inclusion in the rules has no cost.

o. [31 IAC 5-9-19](#) Repealing the requirement to remove employees, eligible for long term disability benefits, from the employing agency's staffing report, has no cost.

p. [31 IAC 5-9-20](#) The phrase "definition of disability" is replaced by a citation to applicable rules. That has no cost.

q. [31 IAC 5-9-26](#) is changed to comport with [IC 5-10-8](#). Specifically, to calculate the disability benefit resulting from a tortious act, a Correctional Officer's base biweekly wage is determined using the number of hours the Officer is typically scheduled to work during a pay period, excluding premium overtime. The cost is attributable to the statutory change.

r. [31 IAC 5-10-1](#) The updated cross reference (to an amended statute) has no cost.

s. [31 IAC 5-10-4](#) Changing the dollar amount listed in a statute, to a reference to the statute, has no cost.

This promulgation neither adds nor increases any fee, fine, or civil penalty.

VII. Sources of Information

No outside sources of information were used to calculate the costs and benefits.

VIII. Regulatory Analysis

The State Personnel Director has determined that there are benefits and no net costs.

Notice of First Public Comment Period with Proposed Rule: [20240529-IR-031240179FNA](#)

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An [html](#) version of this document.