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## TITLE 31 STATE PERSONNEL DEPARTMENT

### **Proposed Rule** LSA Document #02-10

#### DIGEST

Amends 31 IAC 1-9-3, 31 IAC 1-9-4, 31 IAC 1-9-4.5, 31 IAC 2-11-3, 31 IAC 2-11-4, and 31 IAC 2-11-4.5 to reference the new leave conversion into deferred compensation plan. Adds 31 IAC 5 to provide that a portion of accrued but unused vacation and sick leave will be converted into the deferred compensation plan. Repeals 31 IAC 1-12.1, 31 IAC 2-17.1, and 31 IAC 4. Effective December 31, 2002.

<b>31 IAC 1-9-3</b>	<b>31 IAC 2-11-4</b>
<b>31 IAC 1-9-4</b>	<b>31 IAC 2-11-4.5</b>
<b>31 IAC 1-9-4.5</b>	<b>31 IAC 2-17.1</b>
<b>31 IAC 1-12.1</b>	<b>31 IAC 4</b>
<b>31 IAC 2-11-3</b>	<b>31 IAC 5</b>

SECTION 1. 31 IAC 1-9-3 IS AMENDED TO READ AS FOLLOWS:

#### **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. 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~~, **31 IAC 5**, 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~~ **31 IAC 5**.

(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 **or retires** 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 **former rules** 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.

SECTION 2. 31 IAC 1-9-4 IS AMENDED TO READ AS FOLLOWS:

**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~~ **31 IAC 5**.

(d) An employee who resigns in good standing **or retires** 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.

SECTION 3. 31 IAC 1-9-4.5 IS AMENDED TO READ AS FOLLOWS:

**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 4-31 IAC 5-5-1.~~

(f) An employee who resigns in good standing **or retires** 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) 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.*

SECTION 4. 31 IAC 2-11-3 IS AMENDED TO READ AS FOLLOWS:

### **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~~, **31 IAC 5**, 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~~ **under 31 IAC 5**.

(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.

(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 **or retires** 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 **former rules** 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.**

SECTION 5. 31 IAC 2-11-4 IS AMENDED TO READ AS FOLLOWS:

### **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-~~ **31 IAC 5.**

(d) An employee who resigns in good standing **or retires** 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.**

SECTION 6. 31 IAC 2-11-4.5 IS AMENDED TO READ AS FOLLOWS:

### **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 **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-~~ **31 IAC 5-5-1.**

(f) An employee who resigns in good standing **or retires** 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.

SECTION 7. 31 IAC 5 IS ADDED TO READ AS FOLLOWS:

## ARTICLE 5. CONVERSION OF ACCRUED LEAVE INTO DEFERRED COMPENSATION

### Rule 1. Definitions

#### 31 IAC 5-1-1 "State agency" defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5

Affected: IC 5-10-1.1-1; IC 5-10-12-3; IC 20-12-0.5-1

Sec. 1. As used in this article, "state agency" means the following:

- (1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.
- (2) A separate corporate body politic that adopts this plan.
- (3) State elected officials and their office staff.
- (4) The legislative services agency.
- (5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by IC 5-10-1.1-1.

However, the term does not include a state educational institution (as defined in IC 20-12-0.5-1) or a political subdivision. (*State Personnel Department; 31 IAC 5-1-1*)

### Rule 2. Applicability

#### 31 IAC 5-2-1 Applicability

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.7

Affected: IC 5-10-1.1-7.5; IC 5-10-12-3

Sec. 1. (a) This article applies to an employee of a state agency that participates in the Indiana deferred compensation matching plan.

(b) A state agency that does not offer the Indiana deferred compensation matching plan must amend the plan documents that establish its benefit plan to implement the provisions of IC 5-10-1.1-7.5.

(c) Employees on long term disability are not eligible to convert leave into the Indiana deferred compensation matching plan. (*State Personnel Department; 31 IAC 5-2-1*)

### Rule 3. Conversion and Vesting

#### 31 IAC 5-3-1 Mandatory conversion

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5

Affected: IC 5-10-1.1; IC 5-10-12-3

Sec. 1. On December 31 of each year, the state will reduce an employee's accrued leave balance and deposit into the employee's account in the Indiana deferred compensation matching plan, the amount determined in 31 IAC 5-4. (*State Personnel Department; 31 IAC 5-3-1*)

#### 31 IAC 5-3-2 Voluntary conversion

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5

Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 2.** An employee may elect to voluntarily convert, effective December 31 of each calendar year, an amount of leave equivalent to that subject to mandatory conversion under section 1 of this rule for deposit into the employee's account in the Indiana deferred compensation matching plan. *(State Personnel Department; 31 IAC 5-3-2)*

**31 IAC 5-3-3 Vesting**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5  
Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 3.** Deposits in the Indiana deferred compensation matching plan are fully and immediately vested. *(State Personnel Department; 31 IAC 5-3-3)*

**Rule 4. Leave Valuation and Conversion**

**31 IAC 5-4-1 Leave valuation**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5  
Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 1.** For purposes of conversion, the value of sick and vacation is determined as follows:

**STEP ONE:** Divide the employee's regular biweekly salary, as reflected on the state personnel department's staffing report as of the conversion date, by seventy-five (75).

**STEP TWO:** Multiply the quotient determined in STEP ONE by the number of hours to be converted.

**STEP THREE:** Multiply the product of STEP TWO by sixty percent (60%).

*(State Personnel Department; 31 IAC 5-4-1)*

**31 IAC 5-4-2 Amount converted**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5  
Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 2. (a)** The following amount of leave must be converted annually under 31 IAC 5-3-1 and may be converted annually under 31 IAC 5-3-2:

<u>Leave Balance (in hours)</u>	<u>Hours Converted</u>
≥ 300 < 375 vacation	22.5
≥ 300 < 375 sick	22.5
≥ 375 < 525 vacation	45
≥ 375 < 525 sick	45
≥ 525 < 750 vacation	75
≥ 525 < 750 sick	75
≥ 750 vacation	120
≥ 750 sick	120

**(b)** Personal leave and special sick leave are not eligible for conversion. *(State Personnel Department; 31 IAC 5-4-2)*

**Rule 5. Election of Prior Benefit Formula**

**31 IAC 5-5-1 Election of prior benefit formula**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-1.1-7.5  
Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 1.** A person who retires between December 31, 2002, and January 1, 2008, and who would have received more money under the previous retiree flexible spending program (the former 31 IAC 4) will be paid the difference between the proceeds received under this rule and the amount they would have received under the retiree flexible spending program. *(State Personnel Department; 31 IAC 5-5-1)*



## **Rule 6. Limitations**

### **31 IAC 5-6-1 Limitations**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5

Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 1. This rule does not create any additional rights to compensation for accrued but unused vacation or sick 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, special sick, or personal leave. 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). (State Personnel Department; 31 IAC 5-6-1)**

### **31 IAC 5-6-2 Restrictions**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-1.1-7.5

Affected: IC 5-10-1.1; IC 5-10-12-3

**Sec. 2. The provisions of this rule are subject to any restrictions imposed by the Internal Revenue Service on the plan adopted for this purpose by the Indiana deferred compensation committee. (State Personnel Department; 31 IAC 5-6-2)**

SECTION 8. THE FOLLOWING ARE REPEALED: 31 IAC 1-12.1; 31 IAC 2-17.1; 31 IAC 4.

SECTION 9. SECTIONS 1 through 8 of this document take effect December 31, 2002.

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on July 31, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W161, Indianapolis, Indiana the State Personnel Department will hold a public hearing on proposed amendments to the merit and non-merit personnel rules and the adoption of a new rule. This rule promulgation hearing concerns implementation of Public Law 184-2001, which establishes a new program to convert state employees' excess accrued leave into the Indiana deferred compensation matching plan. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W161 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

D. Sue Roberson  
State Personnel Director  
State Personnel Department