

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**CHAPTER 1120-06
ATTENDANCE AND LEAVE**

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1120-06-.01 RESPONSIBILITY. It is the employee's responsibility to request appropriate leave and the immediate supervisor shall be responsible for approving such leave.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.02 REGULAR WORK SCHEDULE. The regular schedule for most employees is 8:00 a.m. to 4:30 p.m., Monday through Friday. Local conditions may cause these hours to vary, but an employee scheduled to work seven and a half (7.5) hours per day, Monday through Friday, is considered to be on a regular work schedule. Any agency may use irregular work schedules and vary its work hours and work days at the discretion of the Appointing Authority. Any work schedule can be modified as necessary to provide a reasonable accommodation for an employee with a disability, as determined by the Appointing Authority. Any full-time schedules other than thirty-seven and a half (37.5) hours per week shall be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Authority: T.C.A. §§ 4-4-105, 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.03 WORKWEEK. The standard workweek for accounting purposes begins at 12:01 a.m. Sunday and runs one hundred sixty eight (168) continuous hours with seven (7) consecutive twenty-four (24) hour periods to 12:01 a.m. the following Sunday. Variation to this standard workweek shall be submitted to and approved by the Commissioner.

Authority: T.C.A. §§ 4-4-105, 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994;

(Rule 1120-06-.03, continued)

effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.04 CASH OVERTIME AND/OR ACCRUAL OF COMPENSATORY TIME. The Fair Labor Standards Act (FLSA) mandates that non-exempt employees receive additional compensation in certain circumstances. In addition, T.C.A. § 8-23-201 provides that additional compensation may be paid to certain state employees who work in excess of regularly scheduled hours at the direction of an appropriate manager. The Commissioner shall establish policy and procedures for administering overtime payments to include the following:

- (1) **Exempt Non-Compensatory Time Employees.** Employees defined as "exempt non-compensatory time" by the Commissioner shall not be eligible to receive any compensation for hours worked beyond their regular schedule. However, if an exempt non-compensatory time employee is scheduled to work on a legal holiday, the Appointing Authority may grant discretionary leave with pay equal to the hours worked on a legal holiday.
- (2) **Exempt Employees.** Employees defined as "exempt" by the FLSA may receive regular compensatory time for hours worked beyond their regular schedule provided that it was at the direction of the Appointing Authority or other appropriate supervisor or manager. The Commissioner shall determine the exempt classifications that are eligible for this regular compensatory time. Exempt employees may accumulate a maximum of four hundred and eighty (480) hours of regular compensatory time. Regular compensatory time is earned on an hour-for-hour basis and is distinct from premium compensatory time authorized by the FLSA.
- (3) **Non-Exempt Employees.** Employees defined as "non-exempt" by the FLSA shall receive compensation for all hours spent performing the principal duties assigned to them provided the assignment was at the direction of the Appointing Authority or other appropriate supervisor or manager. Non-public safety employees who are non-exempt may accumulate no more than two hundred and forty (240) hours of premium compensatory time. Their total compensatory time (regular and premium compensatory time) may not exceed four hundred and eighty (480) hours. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory time.
- (4) **Exceptions.** Individual exceptions to this rule shall be recommended by the Appointing Authority and approved in advance by the Commissioner and the Commissioner of Finance and Administration. Such recommended exceptions shall be consistent with state and federal law and established after consultation with the Comptroller of the Treasury and the Attorney General's Office.

Authority: T.C.A. §§ 8-23-201, 8-30-104, 8-30-105, 8-30-208, and 29 U.S.C. § 201, et seq.

Administrative History: (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.05 COMPENSATORY TIME. Compensatory time is leave credit earned by an exempt or non-exempt employee when hours are worked beyond their regular schedule and not compensated in cash. Compensatory time is generally accrued on a weekly basis. The Commissioner shall establish policy and procedures to include the following:

- (1) **Use of Compensatory Time.** The use of compensatory time is subject to the approval of the Appointing Authority or a designated manager in the same manner as annual leave. An employee who has accrued compensatory time and requests use of that time shall be permitted to use such time off within a reasonable period after making the request. When a request for compensatory time off is received, it shall be honored unless to do so would be

(Rule 1120-06-.05, continued)

unduly disruptive to the agency's operations. Mere inconvenience is an insufficient basis for denial. An agency should reasonably and in good faith anticipate that the employee's request would impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

A "reasonable period" shall be determined by considering the customary work practices within the agency based on the facts and circumstances in each case. Such practices include, but are not limited to, the following:

- (a) the normal schedule of work,
- (b) anticipated peak workloads based on past experience,
- (c) emergency requirements for staff and services, and
- (d) the availability of qualified substitute staff.

The use of compensatory time in lieu of cash payment for overtime by non-exempt employees shall be pursuant to some form of agreement or understanding between the employer and the employee (or the representative of the employee) reached prior to the performance of the work.

- (2) **Compensatory Time Transferable.** An employee's compensatory time shall be transferred between state service agencies. If an employee in a state service agency transfers to another state agency outside the state service which does not accept the employee's compensatory time balance, the state service agency shall compensate the transferring employee for the value of the employee's compensatory time balance. The value of the compensatory time accrued by an exempt employee is calculated based on the employee's regular hourly rate in the state service agency at the time of transfer.
- (3) **Use of Compensatory Time Before Annual Leave.** Accumulated compensatory time shall be used before annual leave unless an employee's accumulated annual leave balance is within two (2) days of the maximum accrual allowed for the employee as provided in these Rules.
- (4) **Payment of Compensatory Time at Separation.** Generally, an agency shall make a lump sum payment for accrued compensatory time when an employee separates from state service. If, however, a retiring employee requests terminal leave, that employee shall use accrued compensatory time prior to terminal leave. Terminal leave is the annual leave balance of a retiring employee. Any annual leave balance remaining after the employee's last working day is considered terminal leave.
- (5) **Amount Earned and Maximum Accumulation.** Non-public safety employees who are non-exempt may accumulate a maximum of two hundred and forty (240) hours of premium compensatory overtime. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory overtime. Totals for regular and premium compensatory overtime shall be added together and no employee shall be allowed to exceed a total accumulation of both regular and/or premium compensatory overtime over four hundred and eighty (480) hours. Any variation to this maximum accrual limit shall be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Any exempt or non-exempt employee who earns authorized overtime credit in excess of the maximum accrual shall be paid cash for those hours on an hour-for-hour basis unless the Fair Labor Standards Act requires payment at a premium rate.

(Rule 1120-06-.05, continued)

Non-exempt employees are permitted to receive premium (time and one-half) compensatory overtime in lieu of premium cash overtime if the agency lacks the necessary funds or if the employee requests compensatory time instead of cash and the Appointing Authority approves the request. Premium compensatory overtime occurs when a non-exempt employee, who is authorized to receive compensatory overtime in lieu of cash, physically works more than forty hours (40) during a work week. The employee shall be compensated at one and half times the hours actually worked above forty (40).

Authority: T.C.A. §§ 8-23-201, 8-30-104, 8-30-105, 8-30-406, 8-50-801, and 29 U.S.C. § 201, et seq. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.06 LUNCH PERIOD. All employees, except those specifically excluded in T.C.A. § 4-4-105, are allowed a one (1) hour unpaid lunch (meal) period. If a supervisor requires an employee to work during any part of their one (1) hour meal period, the employee is considered to be at work and shall be compensated accordingly.

The authorized meal period shall be taken during the work shift and shall not be used to alter arrival or departure time by not using the meal period or any part thereof.

Certain employees cannot be relieved of duties to have a meal period during their work shift. An employee on a "fixed post" assignment may not leave their work station. These employees are considered to be at work even if they are able to eat a meal during their work shift and shall be compensated accordingly.

Authority: T.C.A. §§ 4-4-105, 8-30-104, 8-30-105, 8-30-406, and 29 U.S.C. § 201, et seq. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.07 REST BREAKS. Appointing authorities, at their discretion, may allow their employees two (2) rest breaks, of fifteen (15) minutes duration each, during a workday. These rest breaks are a privilege and not a right and should be taken at times that do not interfere with service to the public. A rest break shall not be used to alter arrival or departure time, used in conjunction with the lunch hour, used with any type of leave, or be accumulated for usage at a later time.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.08 BREAK TIME FOR NURSING MOTHERS. An employee who needs to express breast milk for the nursing child shall be allowed a reasonable break time and a space to do so that is not a bathroom, is shielded from view, and is free from intrusion from coworkers and the public. Break time for nursing mothers shall be allowed in addition to other breaks provided for in the law and shall not be used to alter the employee's scheduled arrival or departure time.

Authority: T.C.A. §§ 4-4-105, 8-30-215, 50-1-305, and Patient Protection and Affordable Care Act (P.L. 111-148). **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.09 ABSENCE DUE TO SPECIFIC CIRCUMSTANCES. The Commissioner shall establish policy concerning absences for:

- (1) Inclement weather;
- (2) Public health emergency;
- (3) State emergency; and
- (4) Uninhabitable building.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.10 ELIGIBILITY TO ACCRUE LEAVE. An eligible employee accrues annual and sick leave based upon hours worked, excluding overtime, pursuant to T.C.A. § 8-50-801 and T.C.A. § 8-50-802.

Leave is accrued on a regular workday basis. One day of leave is equivalent to seven and one-half (7.5) hours for employees on a thirty-seven and one-half (37.5) hour per workweek schedule. One day of leave is equal to eight (8) hours for employees on a forty (40) hour per workweek schedule. Employees on other workweek schedules as approved by the Commissioner accrue based on those schedules.

Employees changing from one schedule to another shall have their hourly balances adjusted accordingly.

Employees who work sixteen hundred (1,600) hours in a year and work the major portion of the month are eligible to accrue leave, except for those listed in T.C.A. § 8-50-801(e).

Authority: T.C.A. §§ 8-23-101, 8-50-801, and 8-50-802. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.11 ANNUAL LEAVE. The Commissioner shall establish policy and procedures for administering annual leave in accordance with T.C.A. § 8-50-801.

- (1) Amount Earned and Maximum Accumulation. Annual leave is earned with maximum accumulation as follows:
 - (a) Employees with less than five (5) years of full-time service accrue annual leave at the rate of one (1) day for each month or major fraction of a month of active service and may accumulate a maximum of thirty (30) work days.
 - (b) Employees with five (5) years and less than ten (10) years of full-time service accrue annual leave at the rate of one and one-half (1 ½) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-six (36) workdays.
 - (c) Employees with ten (10) years and less than twenty (20) years of full-time service accrue annual leave at the rate of one and three-fourths (1 ¾) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-nine (39) work days.

(Rule 1120-06-.11, continued)

- (d) Employees with twenty (20) years or more of full-time service accrue annual leave at the rate of two (2) days for each month or major fraction of a month of active service and may accumulate a maximum of forty-two (42) work days.
- (2) **Creditable Service.** Any month, which was a part of a sixteen hundred (1,600) hour or greater annual schedule, in which an employee is scheduled to work a full month, and actually works one-tenth of one hour more than half the scheduled hours, shall be creditable for maximum accumulation purposes.
- (3) **Transfer of Annual Leave to Sick Leave.** Leave earned in excess of the maximum allowable accumulation based on years of service as defined in T.C.A. § 8-50-801 shall be transferred to the employee's sick leave account annually in the month of the employee's last hire date.
- (4) **Annual Leave Paid as a Lump Sum.** When separating from the state service, an employee shall be paid for any annual leave accumulation in a lump sum unless that employee is dismissed or terminated from state service for gross misconduct, or resigns from the state service to avoid dismissal for gross misconduct, or was guilty of gross misconduct prior to leaving the state service. In cases involving gross misconduct, the employee forfeits all accumulated annual leave.
- (5) **Annual Leave as Terminal Leave Prior to Retirement.** An employee may use annual leave as terminal leave when retiring from state employment or may receive a lump sum payment for annual leave balances.
- (6) **Annual Leave Shall Not Be Advanced.** Annual leave shall not be taken until earned.
- (7) **Employee Meetings.** Annual leave may be used to attend meetings of employee associations which are qualified for payroll dues deduction. Except as enumerated in T.C.A. § 8-50-110, leave allowed for this purpose cannot exceed two (2) days per year.
- (8) **Annual Leave Transferable.** Unless there is a break in service, annual leave shall be transferred to and shall be accepted from state agencies and higher education institutions, legislative and judicial branches.

Authority: T.C.A. §§ 8-50-110, 8-50-801, 8-50-803, and 8-50-807. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.12 SICK LEAVE. Sick leave is accrued by an employee at the rate of one (1) day for each month or major fraction of a month of active service. The Commissioner shall establish policy and procedures governing the use of sick leave.

- (1) **Use of Sick Leave.** An Appointing Authority may grant an eligible employee sick leave for any of the following reasons:
 - (a) personal illness;
 - (b) disability due to accident;
 - (c) exposure to a contagious disease;
 - (d) medical and dental appointments;

(Rule 1120-06-.12, continued)

- (e) illness or death in the immediate family, or others who, at the discretion of the Appointing Authority, have a relationship which merits similar consideration;
 - (f) birth and care of an infant child (up to thirty (30) work days); and
 - (g) adoption (up to thirty (30) work days).
- (2) Reinstatement of Accumulated Sick Leave. Employees who work on a full-time continuous basis for one full year or more, leave in good standing, and return to work shall be credited with and may use paid sick leave accumulated prior to separation immediately upon certification of the previous balance from the appropriate agency. Persons hired from state higher education institutions and persons who were teachers with local school boards in Tennessee are also included under this provision.
 - (3) Sick Leave Transferable. Unless there is a break in service, sick leave shall be transferred to and shall be accepted from state agencies and higher education institutions, legislative and judicial branches.
 - (4) Required Documentation. Any employee may be required to present evidence to an Appointing Authority, the Commissioner, or any other appropriate authority, to support the reason for any absence for which sick leave was taken.
 - (5) Doctor's Certification of Absence. Sick leave may not be denied to any employee who furnishes a statement of a licensed physician or accredited Christian Science practitioner in support of the reason for such absence. Additional documentation may be required if there is substantial evidence of sick leave abuse by the employee.
 - (6) Sick Leave Restrictions.
 - (a) Sick Leave During Terminal Leave. Sick leave may not be used as terminal leave. An employee presenting evidence of an illness during terminal leave may utilize sick leave up to the original separation date.
 - (b) Sick Leave Shall not be Advanced. Sick leave shall not be taken until earned.

Authority: T.C.A. §§ 4-21-408, 8-50-802, 8-50-803, 8-50-804, 8-50-806, and 8-50-807. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.13 BEREAVEMENT LEAVE.

- (1) The officers and employees of the various agencies, boards, and departments of state government shall be granted three (3) work days paid leave in the event of death of such officers' or employees' spouse, child, step-child, parents, siblings, grandparents, grandchildren, stepparents, foster parents, or parents-in-law without charge to the affected officers' or employees' accumulated leave accounts. One (1) day of leave is equivalent to seven and a half (7.5) hours for employees on a thirty-seven and a half (37.5) hour per workweek schedule. One (1) day of leave is equivalent to eight (8) hours for employees on a forty (40) hour per workweek schedule. One (1) day of leave is equivalent to twelve (12) hours for the Department of Military firefighters.
- (2) This rule shall not be construed to increase the total number of leave days provided in Rules of the Department of Human Resources for the death of a family member as defined herein.

(Rule 1120-06-.13, continued)

Authority: T.C.A. § 8-50-113. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.14 SPECIAL LEAVE. Special leave is leave without pay. At the discretion and upon recommendation of the Appointing Authority, the Commissioner may approve requests for special leave in accordance with policy and procedure.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.15 HOLIDAYS. The General Assembly, by law, establishes legal holidays which are observed by the closing of State offices. The Governor, upon request by the Commissioner, may also establish additional time off for observance of holidays. The following days have been designated by the General Assembly as legal holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

The Governor may, at his discretion, substitute the Friday after the fourth (4th) Thursday in November for Columbus Day. Employees who are ineligible to accrue leave are not eligible for holiday pay.

Authority: T.C.A. §§ 8-30-406 and 15-1-101. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.16 CIVIL LEAVE. The Commissioner shall establish policy and procedures for state employees to be excused from their job duties when involved in civil or criminal proceedings as a juror.

Authority: T.C.A. § 22-4-106. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.17 EDUCATIONAL LEAVE. The Commissioner shall establish policy and procedures for state employees to be placed on educational leave for participation in full-time continuing education as defined in Rules of the Department of Human Resources 1120-08.

(Rule 1120-06-.17, continued)

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.18 MILITARY LEAVE.

- (1) **Military Leave with Pay.** A leave of absence with pay, not to exceed twenty (20) working days in any one year, shall be granted to employees who are members of the reserve components of the Armed Forces of the United States, including members of the Tennessee National Guard, for periods they are engaged in the performance of duty or training activities in the service of the State or the Federal Government while under orders. Holidays and scheduled off duty days do not count toward the twenty (20) days allowed. During the period of approved paid military leave, the employee incurs no loss of service time and continues to earn regular annual leave and sick leave. There shall be no loss of rights or benefits to which the employee is otherwise entitled. Military leave with pay shall not be granted for regularly scheduled monthly training for reservists or national guardsmen.
- (2) **Military Leave without Pay.** Leave without pay shall be granted for periods of active duty or training activity with the Armed Forces of the United States, its reserve components, or the Tennessee National Guard for authorized periods beyond the twenty (20) days of paid leave in a calendar year. In addition, leave without pay may be granted for regularly scheduled monthly training for reservist or national guardsmen and to employees entering the regular components of the Armed Forces of the United States as a result of military conscription or for a period of voluntary enlistment. During the period of leave without pay for military service, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate state insurance program provisions.
- (3) **Air Force Auxiliary Civil Air Patrol Leave.** A leave of absence with pay, not to exceed fifteen (15) working days in any one calendar year, shall be granted to employees who are members of the United States Air Force Auxiliary Civil Air Patrol and who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. In addition, leave without pay shall be granted to employees on Civil Air Patrol Leave. During the period of leave without pay, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate insurance program provisions.

Authority: T.C.A. § 8-33-105, 8-33-109, and 42-7-102. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.19 ADMINISTRATIVE LEAVE FOR DISASTER. A state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for a period not to exceed fifteen (15) workdays in each year to participate in special disaster relief services for the American Red Cross. The employee shall be released from work for this function upon written request of the American Red Cross for the services of that employee, and upon written approval of that employee's Appointing Authority.

(Rule 1120-06-.19, continued)

Authority: T.C.A. 8-50-810. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.20 PARENTAL LEAVE.

- (1) An employee who has been employed for at least twelve (12) consecutive months as a full-time employee, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.
- (2) An employee may use up to thirty (30) sick leave days for parental leave. In the event both parents are state employees, the aggregate sick leave used is limited to thirty (30) days.
- (3) When an employee adopts a child, an Appointing Authority has the discretion to grant additional special leave not to exceed one (1) year.
- (4) The Commissioner shall establish procedures pertaining to parental leave.

Authority: T.C.A. §§ 4-21-408, 8-30-104, 8-30-105, 8-30-406, 8-50-802, and 8-50-806. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.21 FAMILY AND MEDICAL LEAVE. The Commissioner shall establish procedures for implementing the provisions and requirements of the Family and Medical Leave Act (FMLA).

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-406, 29 U.S.C. 2601, et seq., and 29 C.F.R. Part 825. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.22 DIVISION OF CLAIMS ADMINISTRATION LEAVE. The Division of Claims Administration is responsible for determining whether an employee is eligible for workers' compensation due to a job related injury or illness.

- (1) Workers' Compensation Pay. An employee may not receive workers' compensation pay for any period that the employee used sick, annual, or compensatory leave.
- (2) Effect on Anniversary Dates. Time served on Division of Claims Administration leave shall not affect the employee's longevity, salary or service anniversary date.
- (3) Assault Pay. Employees who are injured in the line of duty, as the result of an assault which disables them from performing their jobs, shall be allowed to remain on the regular payroll for a period not to exceed twenty-eight (28) calendar days subject to approval by the Commissioner. Such disability shall have occurred no later than twenty-eight (28) calendar days from the date of injury. If the same injury results in an employee being unable to perform his job for more than twenty-eight (28) calendar days and provided that a proper claim has been filed with the Division of Claims Administration within ten (10) calendar days of the date of injury, the employee may receive the difference between his regular salary and the weekly compensation rate awarded by the Division of Claims Administration for an

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additional sixty-two (62) calendar days. Thus, an employee who is disabled as a result of an assault may receive full pay through a combination of regular payroll and Division of Claims Administration compensation for a total of ninety (90) calendar days before being reduced to the usual lost time rate of the Division of Claims Administration or using accumulated sick, annual or compensatory leave.

- (4) Injured in the Line of Duty. A commissioned member of the Tennessee Department of Safety, a driver's license examiner, correctional officer or youth service officer who is injured in the line of duty, and whose injury disables him from performing his regular duties, whether such disability is temporary or permanent, shall be retained upon the regular payroll until the employee's claim for compensation for such disability is determined by the Division of Claims Administration. The Governor and the Attorney General shall approve the request of the Appointing Authority.

Authority: T.C.A. §§ 8-50-111 and 68-102-402. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 5, 2012.

1120-06-.23 TERMINAL LEAVE. A retiring employee may elect terminal leave unless the employee is retiring from state service to avoid dismissal for gross misconduct.

- (1) Employees Subject to State Retirement. Employees who are members of the Tennessee Consolidated Retirement System and are entitled to terminal leave shall be compensated for their terminal leave prior to the effective date of their retirement.
- (2) Termination of Benefits. On the date terminal leave begins, an employee shall:
- (a) Cease to be in a leave earning status.
 - (b) Cease to be eligible for salary increases or salary adjustments. The salary rate in effect on the day before the employee begins terminal leave shall be used to determine terminal leave payments.
- (3) Accounting for Terminal Leave:
- (a) Saturdays, Sundays and Legal Holidays. Saturdays, Sundays and official holidays shall not be used in computing terminal leave unless such days are considered as workdays for the employee in the employee's job assignment. To be paid for a holiday while on terminal leave an employee shall be on terminal leave past the holiday.
 - (b) Beginning and Ending of Terminal Leave Period. Terminal leave shall begin the next workday following the last day in active pay status. Active pay status is a term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank leave. The day after the last day of terminal leave shall be the employee's official date of separation.

Authority: T.C.A. §§ 8-50-801, 8-50-807, and 8-50-808. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.24 ACCRUED LEAVE BALANCES PAID AT DEATH. Leave balances of deceased employees shall be paid as lump sum payments. Any outstanding leave balance (sick, annual, or

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compensatory) will be paid to a beneficiary designated by the employee or, if none, the beneficiary designated for receipt of retirement benefits with the Tennessee Consolidated Retirement System, or, when appropriate, the deceased employee's estate.

Authority: T.C.A. §§ 8-50-807 and 8-50-808. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.25 PAID LEAVE FOR EXCUSED ABSENCES. A full-time employee may be granted leave with pay for the following excused absences:

- (1) State Assessment or State Job Interview. An agency may require written verification that the employee was at a state administered assessment or at a state job interview.
- (2) Elections. Any person entitled to vote in an election held in this state shall be granted paid leave on the day of the election not to exceed three (3) hours in accordance with established procedures. If the work schedule of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before closing of the polls of the county where the employee is registered to vote, paid leave shall not be granted. The Commissioner may specify the hours during which the employee may be absent. Application for such absence shall be made to the employee's Appointing Authority before twelve o'clock (12:00) noon of the day before the election.
- (3) Discretionary. An Appointing Authority may grant discretionary leave with pay to an employee for a period of time not to exceed ten (10) working days when it is considered necessary for the welfare of the employee or the proper operation of the agency. The Commissioner shall approve any period of discretionary leave that exceeds ten (10) working days. The Appointing Authority shall submit such requests in writing directly to the Commissioner.

Authority: T.C.A. §§ 2-1-106 and 8-30-406. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-06-.26 RESPONSIBILITY FOR RECORDS AND REPORTS. The Commissioner shall designate a manner for documenting official attendance and leave information for employees in state service.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-406, and 10-7-504. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.