

**RULES OF THE
DEPARTMENT OF MANAGEMENT SERVICES
PERSONNEL MANAGEMENT SYSTEM**

**CHAPTER 60L-34
ATTENDANCE AND LEAVE**

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60L-34.001 Scope and Purpose.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.1522, 110.219, 216.251 FS. History–New 1-1-02, Repealed 12-27-15.

60L-34.002 General Agency Responsibilities.

Each agency shall ensure compliance with Section 110.219 of the F.S., and this chapter as follows:

- (1) Monitor hours worked by employees to ensure proper compensation.
- (2) Monitor overtime to ensure compliance with the FLSA.
- (3) Maintain accurate records of attendance, leave, and overtime worked and compensated.
- (4) Report immediately to the Department any charge by an employee(s), or the U.S. Department of Labor, that the agency is or may be in violation of the FLSA or this chapter regarding overtime.
- (5) Instruct employees in the proper scheduling, use, and recording of leave and attendance, and the proper earning and recording of hours worked including overtime.
- (6) Monitor the actual duties performed by included and excluded employees to ensure continued accuracy of overtime designations. Notify the Department immediately of any change in duties that might affect the designation.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History–New 1-22-02.

60L-34.003 Work Schedules.

(1) An agency may place an employee on a permanent regular schedule of more or less than an eight-hour workday. Before implementing changes to the regular work schedule, agencies shall give written notice to all affected employees, with attention given to requirements of collective bargaining agreements.

(2) The Department may approve an extended work period under the FLSA.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History–New 1-1-02.

60L-34.0031 Regular Time and Overtime.

(1) Agencies shall pay the following at the employee's current straight time hourly regular rate of pay: the first 40 hours of work; hours in an approved extended work period; and hours in the regular work period for excluded employees, including holidays, leave with pay, and any other non-work time for which the employee is paid during these designated periods.

(2) Agencies shall refer to the FLSA regarding what constitutes compensable hours of work.

(3) Employees filling excluded positions in the selected exempt service and the senior management service are expected to work the necessary hours required, and shall not be paid overtime unless required by law or otherwise approved by the Department.

(4) In lieu of overtime payment, an employee in an included position who is eligible for overtime may, if agreed by the employee and the agency, waive cash payment for overtime, and the agency shall credit FLSA compensatory time as follows:

(a) At the end of the workweek or extended period, credit all overtime hours designated as FLSA compensatory time at the rate of one and one-half hours credit for each hour of overtime worked.

(b) Allow the employee to use the credits in increments agreed by the employee and the supervisor. Absent agreement, the supervisor may, with a minimum of five workdays notice, require the employee to use the credits at any time in increments of full workdays.

(c) The agency may allow the accrual and payment of FLSA compensatory leave credits on a biannual or annual basis. The agency shall report in writing to the Department the payment dates they have adopted.

1. An employee accruing and receiving payment biannually shall be allowed to accumulate a maximum of 80 hours of credits. At the close of business on December 31 and June 30 of each year, or two other biannual dates approved by the Department, the agency shall pay the employee for all unused credits at the employee's current straight time regular hourly rate of pay, in accordance with the FLSA.

2. An employee accruing and receiving payment annually shall be allowed to accumulate a maximum of 160 hours of credits. At the close of business on December 31 of each year, or on another annual date approved by the Department, the agency shall pay the employee for all unused credits at the employee's current straight time regular hourly rate of pay, in accordance with the FLSA.

(d) If the employee separates from the agency or moves to an excluded position with accumulated credits, pay the employee for all unused credits at the employee's current straight time regular hourly rate of pay or the rate in effect when the leave was accrued, whichever is greater, in accordance with the FLSA.

(5) Unless otherwise provided in an applicable collective bargaining agreement, when a Career Service employee is on-call pursuant to Chapter 60L-32, F.A.C., and is called back to the assigned or other designated work location beyond the employee's scheduled hours of work for that day, the employee shall be credited with actual time worked or a minimum of two hours of work, whichever is greater. Only the actual time worked during the call back shall be counted as hours worked for the purposes of computing overtime compensation.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New 1-22-02, Amended 11-5-13.

60L-34.0032 Holidays.

(1) All employees are entitled to observe the holidays identified in Section 110.117 of the F.S.; provided, that to be eligible for holiday pay, an employee must be in pay status (actual work or paid leave) for at least a portion of the workday before the holiday. If an excluded employee in a senior management service position or a selected exempt service position is unable to observe a holiday, the employee may take an alternate day off during the work period; provided, that if the employee is unable to observe the holiday, the employee is not eligible for special compensatory leave as described below.

(2) For part-time employees, agencies shall credit a prorated number of holiday hours, based on the number of hours regularly worked during the workweek, using the following formula:

$$(8 \text{ Hours} \times \text{Number of Hours Worked Per Week}) / 40 \text{ Hours} = \text{Hours of Credit for the Holiday}$$

(3) For full-time employees, agencies shall credit holidays as follows:

(a) If the holiday is observed on the employee's established workday and the employee is not required to work, credit the employee with a holiday equal to the hours in the employee's established workday. However, if the holiday falls on an established workday of less than eight hours, credit the employee with an eight-hour holiday.

(b) If the holiday is observed on the employee's established day off, credit the employee with an eight-hour holiday.

(c) For career service employees, if the holiday is observed on the employee's established workday and the employee is required to work, credit the employee with special compensatory leave equal to the time worked on the holiday, not to exceed the number of hours in the employee's established workday. However, if the holiday falls on an established workday of less than eight hours, credit the employee with an eight-hour holiday.

(4) For career service employees, for any holiday (excluding the personal holiday) observed during the workweek, approved extended work period, or regular work period for excluded employees, agencies shall credit the holiday by granting special compensatory leave credits on an hour-for-hour basis for those hours that are not necessary to bring the employee's rate of pay up to the normal rate of pay for the workweek, approved extended work period, or regular work period for excluded employees.

Rulemaking Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 110.117 FS. History—New 1-

22-02.

60L-34.004 General Requirements for Leave Earning, Approval, and Use.

(1) Leaves of absence with or without pay shall be in writing and approved before leave is taken. If an emergency prevents prior approval, the employee shall request such approval, with appropriate justification, as soon as reasonably possible.

(2) An employee granted a leave of absence, with or without pay, shall be an employee of the state while on leave. Upon termination of the approved leave of absence, the employee shall be returned to the same position or a different position in the same class and same work location, unless the agency and the employee agree in writing to other terms and conditions governing the grant of leave.

(3) Regardless of the amount of leave originally approved, including administrative leave, the employee will only be charged with or granted the amount of leave necessary to bring the employee to a forty-hour workweek, the regular hours for an approved extended work period, or regular work period for excluded employees.

(4) Approved leave may be taken only in increments of fifteen minutes or more, rounded to the nearest quarter hour.

(5) The use of paid leave shall not be authorized and taken before the time it is earned.

(6) For career service employees, leave shall be credited to the employee at the close of business on the last day of the pay period, or, in the case of separation, on the last day the employee is on the payroll. For senior management service and selected exempt service employees, leave shall be credited upon the first appointment to either of the pay plans and upon the annual anniversary date of that first appointment.

(7) If an employee moves from one agency to another within thirty-one days, the receiving agency shall pay the number of hours worked plus any approved leave with pay and any holiday falling after the employee's last day with the exiting agency.

(8) Extra hours may be offset to avoid overtime at the end of the workweek, approved extended work period, or, for excluded employees, regular work period; provided, the offset shall be made within these designated work periods.

(9) Each agency shall keep an accurate record of all hours of work performed by each (a) included employee and (b) excluded career service employee. Agencies may keep records of work performed by other employees for business reasons, e.g., federal funding, cost accounting, etc. All hours worked must be totaled at the end of the workday and the total shall be rounded to the nearest quarter of an hour.

(10) Each agency shall keep an accurate record of all authorized leaves of absence.

(11) DROP participants shall accrue leave in the same manner and at the same rate as prior to entering the DROP.

(12) An employee approved to be paid from more than one career service position in two or more agencies shall be considered to have a separate employment for each position filled. A separate leave

accrual, earning, and use account shall be established for each separate employment.

(13) Within the first thirty-one calendar days of the commencement of each term of office, an elected officer or any full-time board or commission member who has a salary fixed by the Legislature shall have the option to receive credit for annual and sick leave in accordance with this rule; provided, if the person opts to receive leave credits, the person shall be subject to the provisions of this Chapter 60L-34, F.A.C., that apply to members of the senior management service.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History–New 1-22-02.

60L-34.0041 Annual Leave.

(1) Employees in senior management service and selected exempt service positions shall be credited with 176 hours of annual leave.

(2)(a) Full-time employees in career service positions shall earn annual leave as follows. Employees shall be entitled to use all previous state government creditable service immediately upon reemployment for determining eligibility for higher annual leave credits.

Length of Service	Hours of Leave Earned During Pay Period	
	Monthly	Biweekly
Through 60 months	8.667 hours	4 hours
61 through 120 months	10.833 hours	5 hours
Over 120 months	13 hours	6 hours

(b) Career service employees who work less than a full pay period due to initial employment or separation during a pay period, part-time work, transfer between agencies, or leave of absence without pay, shall earn annual leave credits for the hours worked during that pay period as follows:

Biweekly Pay Period

Number of Hours Actually Worked	0 to 5 Years	5 to 10 Years	Over 10 Years
Less than 17	0	0	0
17 through 32.99	1	1.25	1.5
33 through 47.99	2	2.5	3
48 through 63.99	3	3.75	4.5
64 or more	4	5	6

Monthly Pay Period

Number of Hours Actually Worked	0 to 5 Years	5 to 10 Years	Over 10 Years
Less than 36	0	0	0
36 through 70.99	2.167	2.708	3.25
71 through 103.99	4.333	5.417	6.5
104 through 138.99	6.5	8.125	9.75
139 or more	8.667	10.833	13

(3) Upon reasonable notice, an agency may require an employee to use accrued annual leave.

(4)(a) At the close of business on December 31 of each calendar year, a career service employee's annual leave balance in excess of 240 hours shall be transferred to sick leave on an hour-for-hour basis. In accordance with an agency-wide plan, the employee may carry-over up to 360 hours of annual leave credits past December 31. For senior management service and selected exempt service employees, at the close of business on the day before the member's anniversary date, all annual leave credits in excess of 480 hours shall be converted to sick leave on an hour-for-hour basis.

(b) Each December, a permanent career service employee shall be entitled, subject to the available funds, to a payout of up to twenty-four hours of unused annual leave provided:

1. After the payout, the employee's annual leave balance is at least twenty-four hours.

2. The cumulative payout shall not exceed the lifetime maximum described in paragraph 60L-34.0041(6)(a), F.A.C.

(5)(a) If an employee moves into the State Personnel System from another state government employer, the receiving agency shall credit all annual leave not paid for at the time of the transfer.

(b) If an employee moves from one position in the State Personnel System to another position in the State Personnel System in a different agency within thirty-one days, the receiving agency shall credit the employee's unused annual leave.

(c) If an employee moves from a position in the State Personnel System to a position outside the State Personnel System, the agency shall either transfer unused annual leave credits to the system into which the employee is transferring, or, if the new system will not accept the credits, pay for the credits subject to subsection 60L-34.0041(6), F.A.C. For either transfer or payment, current year credits shall be prorated.

(6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. With respect to leave payments received at the time of separation, agencies shall only include payments for separations occurring after December 31, 2001 in the calculation of the lifetime maximum. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(b) A senior management service or selected exempt service employee who separates from state government shall be paid for unused annual leave up to a maximum of 480 hours, with the current year's accrual prorated. In case of death of an employee, the 480-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(c) An employee with twelve months of service, who is being laid off, shall be paid for all unused annual leave in accordance with this section, unless the employee requests in writing that the annual leave be retained up to a maximum of one year, pending reemployment.

1. If the employee is not reemployed within one year, unused annual leave held in abeyance shall be paid for in accordance with this section.

2. If the employee is reemployed within one year, annual leave credits shall be restored if the employee so requests in writing and repays the full amount of any lump-sum payment received for accumulated annual leave credits.

(d) An employee electing to participate in DROP may request payment for accrued annual leave at the time of entry into DROP; alternatively, the employee may elect to defer payment until separation from service. If an employee elects immediate payment, then upon separation from service the employee shall be eligible for accrued annual leave payment only to the extent the employee has earned additional annual leave, which combined with the original payment does not exceed the applicable maximum amount specified in paragraph (a) or (b) of this subsection 60L-34.0041(6), F.A.C.

Rulemaking Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 121.091(13) FS. History—New 1-22-02, Amended 12-21-10.

60L-34.0042 Sick Leave.

(1) Employees in senior management service and selected exempt service positions shall be credited with 104 hours of sick leave.

(2)(a) Full-time career service employees paid on a monthly basis shall earn eight hours and forty minutes of sick leave for each full calendar month of employment. Full-time career service employees paid on a biweekly basis shall earn four hours of sick leave for each full biweekly period worked.

(b) Part-time career service employees and career service employees who work less than a full pay period due to initial employment or separation during a pay period, transfer between agencies, or leave of absence without pay, shall earn sick leave credits for the hours worked during that pay period as follows:

Biweekly Pay Period

Number of Hours Actually Worked	Hours of Sick Leave Credit
Less than 17	0
17 through 32.99	1
33 through 47.99	2
48 through 63.99	3
64 or more	4

Monthly Pay Period

Number of Hours Actually Worked	Hours of Sick Leave Credit
Less than 36	0
36 through 70.99	2.167
71 through 103.99	4.333
104 through 138.99	6.500
139 or more	8.667

(c) There shall be no limit on the number of hours of unused sick leave an employee may accrue.

(3) Sick leave shall be authorized for the following purposes:

(a) The employee's personal illness, injury, or exposure to a contagious disease that would endanger others. Personal illness shall include disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom.

(b) The employee's personal appointments with a doctor, dentist, or other recognized practitioner.

(c) Illness, injury, or well-care check-ups of the employee's spouse, the children or parents of the employee or the spouse, or a person for whom the employee or the spouse has a caretaker responsibility, when the employee's presence is necessary. Each agency shall establish an agency-wide definition of "caretaker."

(4) Upon request, an employee may use accrued sick leave credits subject to the following:

(a) An employee may use sick leave only for authorized purposes. Unauthorized use may be revealed by a pattern of absence by an employee, for example, consistent absence on the day before or after the employee's regular days off, or absence on the same day of each week or each month.

(b) After three workdays or partial workdays of absence in any thirty-day period, the agency may require medical verification of any further absence(s) due to illness or injury.

(c) After ten consecutive days of absence, the agency shall require the employee to submit medical verification from the attending physician before authorizing additional use of sick leave credits or leave without pay. If absence continues, the agency shall require, as appropriate, further medical verification for each thirty consecutive days of absence. To justify further sick leave, the medical verification must indicate that the employee is unable to perform regularly assigned duties.

(d) If an employee's medical verification is not acceptable, the agency may require the employee to submit to a medical examination, at the agency's expense, before approving further use of sick leave.

(e) An employee who refuses to comply with these rules shall not be eligible to use accrued sick leave credits, and the agency shall take the appropriate action regarding continued employment, based on the available information.

(5) An agency may establish a formal sick leave transfer plan, which allows an employee to donate personal sick leave credits to another employee.

(a) The plan may limit the transfer of sick leave credits within the agency only, or allow for inter-agency transfers, provided that inter-agency transfers shall allow for both the receipt of and donation of sick leave credits. The same plan provisions and restrictions shall apply to transfers within the agency and inter-agency transfers.

(b) A plan that allows inter-agency transfers shall ensure that all requests to donate from within the agency are identified and processed before donations from other agencies are considered, except for transfer by the receiving employee's spouse and the parents, grandparents, brothers, sisters, children, and grandchildren of both the employee and the spouse.

(c) Participation in the plan shall at all times be voluntary on the part of the donating employee and the receiving employee.

(d) An employee may participate in the plan by voluntarily transferring sick leave credits, provided that a minimum of eighty hours of sick leave credits remain in the employee's account following execution of the sick leave credit transfer. The minimum transfer amount for each transaction shall be eight hours. The employee cannot cancel the donation once the agency completes the transfer.

(e) To be eligible to receive sick leave credits under the plan, an employee must meet the following conditions:

1. The employee has used all accrued sick and annual leave and all types of earned compensatory leave.

2. The employee has suffered a documented illness, accident or injury, and requires, as certified by the treating physician, absence from the workplace for a minimum of five consecutive workdays. Unless waived by the employing agency, transferred sick leave credits shall be used for absences associated with such documented conditions beginning with the sixth missed workday or partial workday or on the first day the employee has exhausted all leave credits, whichever is later. Donated leave may be used consecutively, intermittently or in increments of a quarter hour, as needed.

3. The employee is not eligible for disability leave.

4. The employee has not used more than 1040 hours of transferred sick leave credits in the preceding twelve-month period.

(f) When transferring sick leave credits, the agency shall credit the employee with only the amount of sick leave needed to bring the employee's total number of compensable hours up to the minimum number of hours for the pay period.

(g) All credits donated under the plan shall be credited to the receiving employee on a first in, first out basis. Upon documented cessation of the qualifying illness, accident or injury, any unused transferred sick leave credits shall be returned to those employees whose donated sick leave credits have not yet been drawn upon under the first-in, first-out method.

(h) Transferred sick leave credits shall have no terminal value.

(6) An agency may establish sick leave pools, subject to the following:

(a) The agency shall determine the number of pools to establish, if any, and the employees who will be eligible to participate in each pool. The agency shall designate an administrator responsible for administering each pool, and shall appoint at least three employees participating in the pool to serve as a committee. The administrator shall meet with the committee and act as liaison with the appropriate agency personnel office to review a participating employee's individual sick leave account. Each committee shall establish internal procedures that shall include, but not be limited to, the following:

1. The enrollment of participating employees in the sick leave pool.

2. Application for use of sick leave credits from the pool.

3. Initial and subsequent deductions from participating employee's sick leave accounts.

(b) Participation in a pool shall at all times be voluntary. An employee may participate in a pool after completing one year of employment with the state, provided that the employee has accumulated at least sixty-four hours of sick leave. Each full-time participating employee shall contribute eight hours of sick leave in the first month of eligibility, and thereafter, each full-time participant shall contribute eight hours each time the pool is depleted. A part-time employee shall contribute sick leave on a pro-rata basis in the first month of eligibility and each time the pool is depleted.

(c) The agency shall determine, or may delegate to the committee to determine, the following:

1. The number of hours to be deposited in the pool to activate the pool for use by eligible employees.
2. The maximum number of hours in the pool that any one employee may use.
3. The number of hours that will constitute depletion of the pool and require further contribution by participating employees.

a. At the time the pool is depleted, if a participating full-time employee's individual sick leave balance is less than eight hours, or a part-time participant's balance is less than the pro-rated amount, the employee shall contribute all hours accumulated, and shall contribute the remainder as soon as additional sick leave credits have been accrued. The employee shall not use sick leave credits until the amount owed to the pool has been contributed.

b. When a participating employee repeatedly fails to have a sufficient balance of individual sick leave credits to contribute to the pool, the administrator shall investigate the reasons and the committee, by majority vote, shall determine whether to cancel the employee's membership in the pool.

(d) At the time of retirement or separation from the State Personnel System, a participating employee may "donate" to a pool up to sixteen hours of unused or unpaid sick leave from the employee's individual sick leave balance.

(7) The following provisions govern the retention and transfer of sick leave credits.

(a) Credits shall be transferred within the State Personnel System, and may be transferred to another state government employer, depending upon whether the receiving plan accepts the employee's leave credits. If the receiving employer does not accept the credits, the employee shall be paid for the credits if eligible under Section 110.122(1), F.S.; otherwise, the credits shall expire.

(b) If an employee is laid off, the following provisions govern accrued sick leave credits.

1. If the employee has ten years or more of creditable state service and is otherwise eligible for receipt of sick leave payment pursuant to this rule, the agency shall pay for the credits at the time of layoff, unless the employee requests in writing that the agency hold the credits in abeyance pending reemployment within one year.

2. If the employee is reemployed within one year following layoff, an agency shall restore the credits to the employee, provided the employee requests restoration in writing and returns the full amount of any payment received at time of layoff for the credits.

3. If the employee is not eligible for receipt of sick leave payment at the time of layoff, the agency

shall hold the credits in abeyance and, if the employee is reemployed within one year following layoff, shall credit them to the employee upon reemployment.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.121, 110.122, 110.219 FS. History–New 1-1-02.

60L-34.0043 Regular Compensatory Leave.

(1) If an agency requires an excluded career service employee to work hours in excess of the regular work period or an approved extended work period, the employee shall, with agency approval, earn regular compensatory leave credits on an hour-for-hour basis; provided, no employee may accrue more than 240 hours.

(2) Agencies shall make reasonable efforts to allow employees to use regular compensatory leave credits. An agency may require an employee to use the credits.

(3) Leave credits shall not transfer to another agency or pay plan. Unused credits shall be forfeited upon separation from the agency or the pay plan.

(4) If an employee is laid off, the agency shall hold the credits in abeyance and, if the employee is reemployed within one year following layoff, shall credit them to the employee upon reemployment.

(5) An agency may propose for Department approval a fiscally sound agency-wide plan for the payment on an hour-for-hour basis of unused regular compensatory leave credits, subject to the following.

(a) No cash payments shall be made for any regular compensatory leave credits earned prior to the effective date of the plan.

(b) Payment shall be made at the employee's straight time regular hourly rate of pay.

(c) Payment shall be made in a lump sum, and may be made annually or at more frequent intervals as determined by the agency.

(d) An employee who becomes ineligible, or is otherwise not covered by the agency's plan, shall at that time be paid for the appropriate balance.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History–New 1-1-02, Amended 11-5-13.

60L-34.0044 Special Compensatory Leave.

(1) When an employee separates from an agency, the agency shall pay the employee for unused special compensatory leave credits at the employee's current regular hourly rate of pay, unless otherwise provided in an applicable collective bargaining agreement.

(2) Leave credits shall not transfer to another agency or pay plan. Upon the employee's transfer to another agency or pay plan, the agency shall pay the employee for unused special compensatory leave credits at the employee's current regular hourly rate of pay, unless otherwise provided in an applicable collective bargaining agreement.

(3) Upon prior notice, an agency may compel the use of all or part of an employee's accumulated special compensatory leave credits based on agency needs, provided such usage requirement is in accordance with any collective bargaining agreement provisions. An agency may also require an employee to use accumulated special compensatory leave credits prior to approving an employee's request to use other types of approved leave, with the exception of sick leave, administrative leave, FLSA compensatory leave and the personal holiday.

(4) Unused special compensatory leave credits for a Career Service employee who is laid off shall be paid in lump-sum, based on the employee's current regular hourly rate of pay at the time of layoff, unless otherwise provided in an applicable collective bargaining agreement.

(5) At the time of entry into the DROP, an employee electing to participate in the program may request payment of unused special compensatory leave that was earned within eleven months before entry into the DROP, unless otherwise provided in an applicable collective bargaining agreement.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New 1-1-02, Amended 11-5-13.

60L-34.0051 Family Supportive Work Program.

(1) Agencies are encouraged to exercise their authority under the Family Support Personnel Policies Act to balance employees' abilities to work and to devote care and attention to their families.

(2) Agencies may approve flexible work schedules to assist employees in meeting family needs, provided that work can be accomplished in an effective and efficient manner.

(3) Agencies may approve job sharing to assist employees in meeting family needs, subject to Rule 60L-33.0032, F.A.C.

(4) Agencies shall approve parental or family medical leave to assist employees in meeting family needs, subject to the following.

(a) Within one year following birth or adoption of a child, leave shall be granted for up to six months for the parent.

(b) Leave shall be granted for up to six months for a family member's serious health condition, as defined in the FMLA and implementing regulations.

(c) The agency shall acknowledge to the employee in writing the period of leave to be granted and the date the employee will return to duty.

(5) Agencies shall approve up to thirty days family leave for non-medical family responsibilities, provided that the leave has minimal impact on the employee's work unit. Family responsibilities in this area may include, but are not limited to, the following:

(a) Caring for aging parents.

(b) Involvement in settling parents' estate upon their death.

(c) Relocating dependent children into schools.

(d) Visiting family members in places that require extensive travel time.

(6) An employee granted leave under subsection (4) or (5) may request to use accrued leave credits. If the employee does not so request, the agency shall place the employee on leave without pay.

(7) Agencies may approve up to one hour of administrative leave per month for employees to participate in their child's activities at local schools and child care centers.

Rulemaking Authority 110.1055, 110.1522, 110.219(5)(g), (h) FS. Law Implemented 110.1522, 110.219(5)(g), (h), 110.221 FS. History—New 1-1-02.

60L-34.0052 Leaves of Absence Without Pay.

(1) An employee may, upon request, be granted leave without pay to cover any absence from work, for a period not to exceed twelve months, provided the agency deems such leave to be justified and not detrimental to the operations of the agency. An agency may approve the use of intermittent leave credits to maintain state benefits.

(2) In exceptional cases, leave without pay may be extended if approved by the Department.

(3) In determining excessive absenteeism, an agency may consider leave without pay when taken due to the exhaustion of other types of paid leave or when unscheduled.

(4) An employee on leave without pay shall not earn leave credits, unless authorized by law.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New 1-1-02.

60L-34.0061 Disability Leave.

(1) The following provisions govern job-connected disability leave with pay:

(a) An employee who sustains a job-connected disability that is compensable under Chapter 440, F.S., shall be carried in full-pay status for up to forty work hours without being required to use accrued leave, beginning immediately following the onset of the injury. This leave may be used intermittently to cover appointments to health care providers, physical therapy, and similar activities provided that these activities are directly related to the employee's Workers' Compensation injury. An employee who returns to work and has exhausted the forty hours of disability leave will, upon presentation of written confirmation from the authorized physician, be granted additional disability leave not to exceed forty-eight hours for follow-up examinations or treatment required by the authorized treating physician for a particular injury.

(b) If, as a result of the job-connected injury, the employee is unable to resume work at the end of the forty-hour period provided in paragraph (a), the employee may continue on full-pay status while covered by Workers' Compensation as follows. Continuing on full-pay status means receiving the salary being received before the disability. In no case shall the employee's salary and Workers' Compensation benefits exceed the amount of the employee's regular salary payments:

1. The employee may elect to use accrued sick, compensatory, or annual leave in an amount necessary to achieve full-pay status. The employee's annual hourly rate (annual salary/2080) shall be

used to determine the number of leave hours needed to supplement the Workers' Compensation payments.

2. If the employee elects not to use accrued leave, or after the employee has exhausted all earned leave in accordance with subparagraph 1. above, the employee shall be placed on leave without pay and shall revert to normal Workers' Compensation benefits; provided, however, that the agency may petition the Department to continue the employee on full-pay status as follows:

a. The petition shall include a medical report that gives a current diagnosis of the employee's physical condition and a prognosis regarding recovery and ability to return to work.

b. The petition shall describe (i) the type and extent of the injury, (ii) the circumstances of the injury, and (iii) the nature of the employee's duties. The petition shall explain why, in light of the foregoing, it is in the best interest of the state to continue the employee at full-pay status.

(c) An employee covered by Workers' Compensation shall continue to earn and accrue full leave credits.

(d) The following provisions apply when an employee on disability leave returns to alternate duty:

1. When the Division of Risk Management of the Department of Insurance has determined that an employee is entitled to receive a temporary partial disability benefit pursuant to Section 440.15, F.S., and there is medical certification that the employee cannot perform the duties of the employee's regular position, but the employee can perform some type of work beneficial to the agency, the agency, if appropriate, will return the employee to the payroll at regular rate of pay to perform such duties as the employee is capable of performing even if there is not an established position in which the employee can be placed.

2. If an agency returns an employee to alternate duty, the agency shall advise the employee in writing of the alternate duties to be performed, hours of work, and the expected length of time of the alternate assignment. The agency shall review the employee's performance at least quarterly. The agency shall maintain appropriate records of affected employees.

3. When the employee becomes able to perform regular position duties, the agency shall reassign the duties accordingly and return the employee to regular position. In no event shall the employee be allowed to continue performing the alternate duties once maximum medical improvement has been determined by the Division of Risk Management unless appointed to the position as provided in Chapter 60L-33, F.A.C. The agency shall maintain appropriate records of employees removed from alternate duty.

(2) The following provisions govern compulsory disability leave:

(a) An agency with reason to believe that an employee is unable to perform assigned duties, or is otherwise interfering with the operations of the work unit, due to physical or mental illness or injury, shall request a report from the employee's doctor (including psychologist) concerning the employee's abilities or require the employee to submit to an examination by a doctor selected and paid for by the agency. The agency may place the employee on compulsory disability leave pending the doctor's report. If the examination confirms that the employee is unable to perform assigned duties, the agency shall continue or place the employee on compulsory disability leave or take action to remove the employee from the position, including dismissal. The employee shall be notified in writing of the duration of the

disability leave and the conditions under which the employee will be allowed to return to employment.

(b) The employee may elect to use earned leave to cover the period of disability. If the employee does not have sufficient leave credits to cover the disability leave, or elects not to use leave credits, the leave shall be without pay.

(c) If the employee remains unable to perform at the end of an approved leave, the agency, based on a current doctor's certification, shall either request the employee's resignation for reasons of inability to perform assigned duties, or dismiss the employee for cause based on inability to perform assigned duties.

(d) If the employee refuses to submit to the doctor's examination, the agency shall decide based on the available information whether to request the employee's resignation for reasons of inability to perform assigned duties, or dismiss the employee for cause based on inability to perform assigned duties.

(e) In taking action with respect to compulsory disability, an agency shall ensure that it complies with the requirements of applicable federal and state laws.

Rulemaking Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219, 216.251 FS. History—New 1-22-02.

60L-34.0062 Military Leave.

(1) An employee, except an employee who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard, or who is employed in a temporary position or employed on a temporary basis, who is drafted or who volunteers for active military service shall be granted leave beginning with the date of induction and ending up to one year after the date of separation from the military service or from hospitalization continuing after discharge. Active military service includes active duty with any branch of the United States Army, Navy, Air Force, Marines, or Coast Guard, of the National Guard of the State, or of any other service as provided in Sections 115.08 and 115.09, F.S. The leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's personnel file.

(2) An employee, who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or a member of the National Guard, shall be granted leave in accordance with Section 115.07, F.S.

(3) An employee, who is a member of the Florida National Guard, shall be granted leave in accordance with Section 250.48, F.S.

(4) An employee, except an employee employed in a temporary position or employed on a temporary basis, who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard, who is ordered to active military duty under Title 10 of the United States Code, Section 673b, shall be granted leave beginning with the day ordered to duty and ending up to thirty-one days after the date of release from the military service or from hospitalization continuing after discharge. Active military service includes active duty with any branch of the United States Army, Navy, Air Force, Marines, or Coast Guard, of the National Guard of the State, or of any other service as provided in Sections 115.08 and 115.09, F.S. The leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's

personnel file.

Rulemaking Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 115.07, 115.14, 250.48, 295.09 FS. History–New 1-1-02.

60L-34.0071 Administrative Leave.

(1) Administrative leave counts as hours of pay, but does not count as hours of work for overtime purposes.

(2) Approval of administrative leave, under subsection (3) of this rule or otherwise, is limited to an amount necessary to bring the employee to full pay for forty hours of work in the workweek, the number of approved hours in the extended work period, or the number of hours in the work period. In no case shall the approval of administrative leave cause the employee to exceed forty hours during the workweek, hours in an approved extended work period, or hours in the regular work period for excluded employees.

(3) An agency shall comply with the following provisions when granting administrative leave for the reasons described.

(a) Jury Duty:

An employee who is summoned as a member of a jury panel shall be granted administrative leave with pay for hours required for such duty not to exceed the number of hours in the employee's normal workday; however, if the jury duty does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court. If the employee's court attendance does not coincide with the employee's regular work schedule, the employee shall be granted administrative leave based on the total hours served on jury duty, not to exceed the number of hours in the employee's regular workday. Such leave shall be granted on the next scheduled work shift following each day the employee is in court. Jury fees shall be retained by the employee.

(b) Witness:

1. An employee subpoenaed as a witness, or to give a deposition, in a court or an administrative hearing, not involving personal litigation or service as a paid expert witness shall be granted administrative leave with pay, and witness fees shall be retained by the employee.

2. An employee subpoenaed in the line of duty to represent a state agency as a witness or defendant shall not be granted administrative leave, and appearance in such cases shall be considered a part of the employee's job assignment. The employee shall be paid per diem and travel expenses and shall be required to turn over to the agency any fees received from the court.

3. In no case shall administrative leave with pay be granted for court attendance when an employee is engaged in personal litigation or service as a paid expert witness.

(c) Examination for military service:

An employee who is ordered to appear for an examination for entrance into the military service shall be granted leave with pay for this purpose on the day of the examination.

(d) Death in family:

1. An employee, upon request, shall be granted two days of administrative leave with pay on the death of the employee's spouse and on the death of the parents, grandparents, brothers, sisters, children, and grandchildren of either the employee or the spouse.

2. Each employee requesting administrative leave due to death in the family shall submit a statement to the appropriate authority stating the name of, and relationship to, the deceased.

(e) Closing facilities under emergency conditions:

1. When offices are closed pursuant to Executive Order of the Governor:

a. Employees assigned to the facilities the agency has closed shall be released from duty and granted administrative leave for the period the facility is closed, unless and except for those employees the agency determines are necessary for providing essential services. Those employees whom the agency requires to report for duty to provide essential services shall be granted special compensatory leave credits for the hours worked during the period the facility is closed only if they hold a position below that of bureau chief (or bureau chief comparable as defined in Section 20.04(3)(b), F.S.).

b. An employee who is on a prior approved leave of absence or scheduled holiday during an emergency shall not have the leave of absence changed to administrative leave.

c. If the Executive Order issued by the Governor does not specify an ending time and date, the agency's authority under this subsection shall be limited to two consecutive calendar days. Any action beyond two days shall require approval by the Department.

2. Other:

In any other disaster or emergency condition that may necessitate the closing of facilities in an area, the agency shall have the authority and responsibility to determine whether agency offices or facilities, or any portion thereof, are affected by the emergency and are to be closed. The Department must approve the closing of any agency facility or portion thereof for more than two consecutive work days. The Department must approve the closing of any Department-operated state facility. In such cases, employees' attendance and leave shall be handled as prescribed in subparagraph (e)1. above.

(f) Formal investigation:

An employee under formal investigation by an agency for violation of a rule or statute for which dismissal is a penalty, shall temporarily be assigned other duties if deemed advisable by the agency, or placed on administrative leave if the employee's absence from the work location is essential to the investigation. The agency shall report in writing to the Department whenever it grants such leave.

(g) Elections:

Any employee may be granted up to one hour of leave with pay for the purpose of voting during normal working hours. An employee shall not be granted administrative leave to work at the polls during elections.

(h) Examinations and interviews:

An employee may be granted up to two hours of leave with pay for the purpose of taking examinations before a state agency, provided such examinations are pertinent to state employment or for the purpose of having interviews for positions within the State Personnel System.

(i) Mentoring:

1. Each employee may be granted up to one hour of administrative leave per week, not to exceed five hours per calendar month, to participate in the Governor's Mentoring Initiative, including the following school or community voluntary activities:

a. Mentoring, tutoring, guest speaking and, when participating in an established mentoring program serving a school district, providing any related services at the direction of the program or volunteer coordinator.

b. Participating in community service programs that meet child, elder, or human needs, including Guardian Ad Litem, Big-Brother/Big Sister, Senior Corps, and Adult Literacy.

2. The supervisor may approve the aggregated use of up to four hours in any calendar month, provided the agency deems such usage appropriate for the delivery of services under sub-subparagraph a. and b. In such cases no further administrative leave shall be granted pursuant to sub-subparagraph a. or b. until one week has elapsed for every additional hour taken in the aggregate.

3. In granting administrative leave for any purpose under this section, the supervisor shall take into consideration the impact of such leave on the employee's work unit.

4. If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such leave.

Rulemaking Authority 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History--New 1-1-02, Amended 10-26-06.

60L-34.0072 Educational Leave With Pay.

(1) Agencies shall submit to the Department any program for employees to take educational leave with pay.

(2) Each agency's educational leave with pay program shall have the following as its objectives:

(a) To develop participating employees' knowledge, skills, and ability to meet known agency needs.

(b) To improve the performance level of participating employees.

(c) To provide to career State employees training that is of clearly foreseeable benefit to the agency.

(d) To enable the agency to provide improved service to the public.

(3) Each agency's program shall include provisions that educational leave with pay may be granted any employee to attend a college, university, or training academy for one or more full academic periods, if the following criteria are met:

(a) The plan objectives will be met by allowing the employee to receive the training;

(b) The employee is able to meet the entrance requirements for a planned academic program related to the needs of the agency;

(c) The employee has been employed in the State Personnel System for at least one continuous year.

(4) Each agency's program shall include a provision for the objective selection of employees to be granted educational leave with pay, the method by which they are to be selected, and assurance that selection will not be based on the age, race, sex, religion, national origin, handicap or political affiliation of the employee.

(5) The maximum number of employees granted educational leave with pay at one time shall not exceed two percent of the agency's authorized positions during any fiscal year, unless a greater number is requested by the agency and approved by the Department.

(6) The agency's expenditures for a participating employee's salary and benefits during any academic period shall not exceed the amount that would have been expended by the state for the employee's salary and benefits if the employee had remained on the job.

(7) Expenditure of funds for educational leave with pay shall be in accordance with the agency's approved budget.

(8) Each employee who is to be granted educational leave with pay must, prior to the final approval of such leave, and as a condition of receiving such leave, enter into a written agreement with the agency providing, at a minimum:

(a) That the granting of educational leave with pay is terminable by the agency prior to the end of the approved period of leave if the employee fails to make satisfactory progress in the educational program for which the leave is granted. Satisfactory progress means that the employee is achieving a passing academic grade in each course offering that is part of the educational program. Satisfactory progress shall be determined conclusively between the agency and the employee by the final grade received in each course in which academic performance is assigned a grade or by certification from the instructor in each course in which academic performance is not assigned a grade that the employee has satisfactorily completed the course; provided that, in the case where a course is of such length that a final grade or determination of satisfactory completion cannot be made within six months after beginning the course, the instructor shall certify at the end of the first six months whether the employee is then performing at least at the minimum level required to satisfactorily complete the course according to the academic measures of the institution, and such certification shall be binding between the agency and the employee for purposes of termination of the leave.

(b) That, in consideration of the granting of educational leave with pay, the employee agrees to continue employment with the agency after completion of the training for a period of time equal to the length of leave taken, and that the employee's voluntary termination of employment prior to the expiration of said period shall constitute a material breach of contract, entitling the State to liquidated damages in an amount equal to that sum which is the product of multiplying the total of all salary and benefit expenditures for the employee during the period of education leave taken by a fraction, the numerator of which is the number of days remaining to be worked at termination to complete the period of employment equal to the period of educational leave with pay, and the denominator of which is the number of days of educational leave with pay taken.

(9) An employee who is granted educational leave with pay shall be returned to the same position unless the written agreement between the agency and the employee specifically includes a provision that the employee may be returned to a different position.

(10) Employees granted educational leave with pay are still employees of the agency and the State and, as such, retain all benefits, rights, and responsibilities of an employee while on such leave; provided, however, that time spent on educational leave with pay shall not be counted toward completion of the probationary period if the employee is on probationary status when such leave is approved. Employees on approved educational leave with pay shall be granted pay adjustments in the same amount and at the time as are granted all other employees in the same class. If a competitive area differential is approved for a class, an employee on educational leave with pay shall be granted a pay adjustment only if the competitive area differential applies to the position that the employee was filling when placed on educational leave with pay.

(11) The responsibility and accountability for performance and conduct are the same for employees on educational leave with pay as for other employees. Therefore, such employees are subject to the standards of conduct and the disciplinary procedures of the State Personnel System during the period of educational leave with pay.

Rulemaking Authority 110.1055, 110.201(1), 110.219(5) FS. Law Implemented 110.219(5)(m) FS. History–New 1-1-02.